

**Recommendation for Council Action – Backup
Floodplain Variance Request – 13108 Travis View Loop**

SUMMARY OF FINDINGS:

1. THE DEVELOPMENT DOES NOT CAUSE ADVERSE FLOODING ON OTHER PROPERTY. City of Austin staff have determined that the addition does not increase flood heights.
2. THE PROPOSED LOWEST FLOOR DOES NOT MEET THE MINIMUM REQUIRED ELEVATION. The lowest floor elevation of the house and addition is 0.6 feet below the 100-year floodplain elevation and 1.6 feet below the City's Land Development Code required finished floor elevation. Because the addition does not constitute a substantial improvement it is not in violation of the Federal minimum requirements of the National Flood Insurance Program.
3. NO SAFE ACCESS. The property is partially within the 100-year floodplain of Lake Travis. The depth of water at the front of the house is 1.1 feet and the front of the lot and street is approximately eight feet above the 100-year floodplain.
4. HARDSHIP CONDITIONS FOR THE PROPERTY DO NOT EXIST. There is an existing 2,667 square foot single-family house on the property, which could continue without the addition. Additionally, while the existing development lacks safe access it would be possible to redevelop the property in a way that complies with the City's safe access requirements.

APPLICABLE CODE AND VARIANCES REQUESTED

- I. LDC Section 25-12-243, (Local Amendments to the Residential Code), Section R322.2.1 Elevation Requirements establishes the minimum elevation for buildings in a floodplain to be 1 foot above the 100-year floodplain.

VARIANCE REQUESTED: *The applicant requests a variance to Residential Code Section R322.2.1 to allow an addition to a single-family residential building elevated 1.6 feet below the required elevation.*

- II. LDC Section 25-12-243, (Local Amendments to the Residential Code), Section R322.2.6 Means of Egress provides that normal access to a building shall be by direct connection with an area that is a minimum of one foot above the design flood elevation.

VARIANCE REQUESTED: *The applicant requests a variance to Residential Code Section R322.2.6, to allow an addition to a single-family residential building be permitted without normal access, either vehicular or pedestrian, to an area that is a minimum of one foot above the design flood elevation. The lot is partially in the 100-year floodplain of Lake Travis. The depth of the 100-year floodplain at the house is 1.1 feet. The front of the lot is elevated approximately 8 feet above the 100-year floodplain.*

- III. LDC Section 25-7-152 Dedication of Easements and Rights-of-Way requires that the owner of real property proposed to be developed dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.

VARIANCE REQUESTED: *The applicant requests a variance to exclude the footprint of the buildings from the requirement to dedicate a drainage easement to the full extent of the 100-year floodplain.*

- IV. LDC Section 25-12-3 G102.3 Nonconforming Uses prohibits alteration or enlargement of nonconforming uses in ways which increase the nonconformity.

VARIANCE REQUESTED: *The applicant requests a variance to Building Code Section G102.3 to allow the finished floor elevation of the proposed addition to be below the required elevation of one foot above the 100-year floodplain and to allow enlarging the total conditioned area on the property that does not have safe access out of the floodplain.*

PREREQUISITES FOR GRANTING VARIANCES AND FINDINGS:

Per LDC Section 25-12-3, Technical Codes, Section G105.7 Variances, variances shall only be issued upon consideration of the following prerequisites:

PREREQUISITE

1) A technical showing of good and sufficient cause based on the unique characteristics of the size, configuration or topography of the site.

Insufficient causes for issuing a variance may include the following:

- *Less than a drastic depreciation of property.*
- *Convenience of property owner.*
- *Circumstances of owner not land.*
- *To obtain better financial return.*
- *Property similar to others in neighborhood.*
- *Hardship created by owner's own actions.*

2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;

The location of the floodplain on the property is a characteristic of the land. Hardship refers to the effect of the floodplain status of the land on its use; it does not refer to personal or financial

FINDING

1) **CONDITION IS NOT MET.** The applicant has not shown good and sufficient cause for the variances. It is possible to develop the property in a way which complies with the freeboard and safe access requirements of the City of Austin Land Development Code.

2) **CONDITION IS NOT MET.** While construction of the addition has already been started and failure to grant the variance would result in a financial hardship, that does not constitute an exceptional hardship. Failure to grant the variance would in no way prohibit the existing use of the property or render the lot undevelopable.

circumstances of the current owner of the land. In fact financial hardship, inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one's neighbors do not qualify as exceptional hardships. The applicant has the burden of proving exceptional hardship. FEMA advises that the reasons for granting floodplain management variances must be substantial and the proof compelling. The claimed hardship must be exceptional, unusual and peculiar to the property involved.

3) A determination that granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing laws or ordinances.

4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Relief is defined as respite from unnecessary hardship. Unnecessary hardship is defined as:

- *Loss of all beneficial or productive use.*
- *Deprivation of reasonable return on property.*
- *Deprivation of all or any reasonable use.*
- *Rendering property valueless.*
- *Inability to develop property in compliance with the regulations.*
- *Reasonable use cannot be made consistent with the regulation.*

5) Notification to the applicant in writing over the signature of the building official that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

3) **CONDITION IS MET.** The addition does not cause an increase in flood levels. The addition does represent a 14 percent increase in conditioned space below the 100-year flood elevation of Lake Travis, but does not add an additional dwelling to be notified or evacuated during a flood event.

4) **CONDITION IS NOT MET.** There is already an established reasonable use on the property which could be continued without granting the variance.

5) **CONDITION IS MET.** The applicant has been made aware of these consequences. However, notification to the applicant in writing over the signature of the building official will be provided in the event the requested variances are granted.