

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits and Variance
BZZ-3804

Date: November 13, 2007

Applicant: Bill and Michelle Pohlad

Address of Property: 2520 and 2528 West Lake of the Isles Parkway

Project Name: Lake of the Isles private residence

Contact Person and Phone: Tim Alt with Altus Architecture, (612) 333-8095

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: October 16, 2007

End of 60-Day Decision Period: December 15, 2007

End of 120-Day Decision Period: Not applicable for this application

Ward: 7 Neighborhood Organization: Kenwood Isles Area Association

Existing Zoning: R1A, Single-family District and SH Shoreland Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 17

Legal Description: Not applicable for this application

Proposed Use: Single-family dwelling

Concurrent Review:

Conditional use permit: to increase the height of a single-family dwelling to 3 stories/33 feet in the Shoreland Overlay District

Conditional use permit: to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District

Variance: to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(17) “to permit development in the SH Shoreland Overlay District on a steep slope of bluff, or within forty (40) feet of the top of a steep slope or bluff”.

Background: The applicants own the properties located at 2520 and 2528 West Lake of the Isles Parkway. Both of these properties were once occupied by single-family dwellings. The house located at 2528 West Lake of the Isles Parkway was destroyed by a fire in 2005. The remains of the structure, including its foundation, were removed. The house located at 2520 West Lake of the Isles Parkway was recently demolished after the applicants received approval of a demolition permit from the Heritage Preservation Commission. The applicants are proposing to build a new single-family home which would extend over both of the properties.

The site is located within 1,000 feet of the ordinary high water mark of Lake of the Isles and therefore the development is subject to the regulations of the SH Shoreland Overlay District. The SH Shoreland Overlay District regulates several aspects of a development when located in close proximity to the protected water. In this case, the development is located on a steep slope and within 40 feet of the top of a steep slope and exceeds the height limitation of the overlay district.

The Zoning Administrator has interpreted that where building height is limited to two-and-a-half stories that the definition of half-story must be referenced. In determining whether a half-story exists, both parts of the two-part test must be met. First, the half-story must be under a gable or hip roof that extends to all corners of the home. Second, the habitable floor area of the half-story may not exceed fifty percent of the floor area below it. The majority of the proposed dwelling is two stories in height except that the south portion of the home is three stories in height as it is located underneath a roof that does not extend to all corners of the structure.

If the project is approved, the single-family home will need to be administratively reviewed for compliance with the standards for single and two family dwellings and multiple-family dwellings having three or four dwelling units as required by Chapter 530, Site Plan Review.

CONDITIONAL USE PERMIT - to increase the height of a single-family dwelling to 3 stories/33 feet in the Shoreland Overlay District

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The site is located in the R1A zoning district which allows buildings up to two-and-a-half stories or 30 feet in height. However, the site is also located within 1,000 feet of the high-water mark of Lake of the Isles and is therefore located within the SH Shoreland Overlay District which limits the height of buildings to two-and-a-half-stories or 35 feet. In this case the overlay district standards supersede the zoning district standards so the overall height limitation is 35 feet.

The purpose of the SH Shoreland Overlay District is established to “preserve and enhance the environmental qualities of the surface waters and the natural and economic values of Shoreland areas

within the city, to provide for the efficient and beneficial utilizations of those waters and Shoreland area, to comply with the requirements of state law regarding the management of Shoreland areas, and to protect the public health, safety and welfare”.

The Planning Division does not believe that increasing the height of the dwelling from two-and-a-half-stories/35 feet to three stories/33 feet would be detrimental to or endanger the public health, safety, comfort or general welfare. The development site and the edge of Lake of the Isles are approximately 300 feet away from one another. In between the site and the lake are a public street and a vast amount of open space. The dwelling is being designed with a series of green roofs which will help control stormwater runoff. In addition, the majority of the site not occupied by the building is proposed to be green space with the exception being the driveway and a front walkway.

2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The Planning Division does not believe that increasing the height of the building from two-and-a-half-stories/35 feet to three stories/33 feet would be injurious to the use and enjoyment of other property in the area. The area is made up of primarily single-family dwellings ranging from one-and-a-half to three stories in height.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

Increasing the height of the building will have no impact on utilities, access roads or drainage.

4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.

Increasing the height of the building will have no impact on traffic congestion in the public streets.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support the development of residential dwellings of appropriate form and density (Policy 9.5).
- Work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment (Policy 9.6).
- Maintain and strengthen the character of the city’s various residential areas (Policy 9.8).
- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings (Implementation Step for Policy 9.8).

The Planning Division believes that the proposed development is in conformance with the policies of *The Minneapolis Plan*. The dwelling has been designed so it follows the topography of the site by placing the shortest portion on the northern end of the site and the tallest portion on the southern end of

the site. In addition, the required setbacks on all four sides are being met and the exterior materials are proposed to be stone, metal and glass which can be found on homes in the area.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permits and variance this development will meet the applicable regulations of the R1A zoning district.

In addition to the conditional use permit standards, the Planning Commission shall consider, but not be limited to, the following factors when determining the maximum height:

1. Access to light and air of surrounding properties.

Increasing the height of the proposed building should not have an impact on the amount of light and air that surrounding properties receive. The portion of the structure that exceeds the height limitation of the SH Shoreland Overlay District is located on the south end of the property and is setback significantly from the property to the west. The Planning Division believes that if the applicants had designed a true two-and-a-half story house with a pitched or gabled roof that the amount of light and air surrounding properties receive would be diminished.

2. Shadowing of residential properties or significant public spaces.

Although no shadow study was submitted as part of this application the Planning Division does not believe that increasing the height of the proposed dwelling will cast any significant shadows on any of the surrounding residential structures or Lake of the Isles and its surrounding park land and parkway.

3. The scale and character of surrounding uses.

The area is made up of primarily single-family dwellings ranging from one-and-a-half to three stories in height.

4. Preservation of views of landmark buildings, significant open spaces or water bodies.

The City's Heritage Preservation Commission and the Minneapolis Park and Recreation Board have conducted surveys of the area for purposes of designating the area as either a local historic district or a national historic district or both. To date, neither has occurred. Constructing a dwelling either two-and-a-half stories/35 feet in height or three stories/33 feet in height would block views of Lake of the Isles and its surrounding park land and parkway from the properties to the west given the height of those properties.

In addition to the conditional use permit standards, the Planning Commission shall consider the following in the Shoreland Overlay District:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The subject property is approximately 300 feet from the edge of Lake of the Isles. It is unlikely that construction on the site will impact or pollute the lake. As with any development, Public Works will review and approve an erosion control plan and a stormwater management plan prior to the issuance of building permits. The dwelling is being designed with a series of green roofs which will help control stormwater runoff.

2. Limiting the visibility of structures and other development from protected waters.

The Planning Division does not believe that the requested height increase would increase the visibility of the development from Lake of the Isles. Given the topography of the area and the scale of the existing structures the proposed dwelling will blend in with the other homes in the neighborhood.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

This development will not impact watercraft usage on Lake of the Isles.

CONDITIONAL USE PERMIT - to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Planning Division does not believe that allowing the applicants to construct a series or retaining walls on a steep slope and a new single-family dwelling within 40 feet of the top of a steep slope would be detrimental to or endanger the public health, safety, comfort or general welfare. The site has been occupied by two single-family dwellings since the early 1900s. Both of the original homes on the site were located within 40 feet of the top of the steep slope.

2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The Planning Division does not believe that allowing the applicants to construct a series or retaining walls on a steep slope and a new single-family dwelling within 40 feet of the top of a steep slope would be injurious to the use and enjoyment of other property in the area. The houses located immediately to the north of the site are located within 40 feet of the top of the steep slope.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.

The parking requirement for the proposed development would be one parking space. The applicant is providing three enclosed parking spaces in an attached garage. The garage will be accessed from the existing alley on the block. The steep slopes on the property will not impact access to the garage.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support the development of residential dwellings of appropriate form and density (Policy 9.5).
- Work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment (Policy 9.6).
- Maintain and strengthen the character of the city's various residential areas (Policy 9.8).
- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings (Implementation Step for Policy 9.8).

The Planning Division believes that the proposed development is in conformance with the policies of *The Minneapolis Plan*. The dwelling has been designed so it follows the topography of the site by placing the shortest portion on the northern end of the site and the tallest portion on the southern end of the site. In addition, the required setbacks on all four sides are being met and the exterior materials are proposed to be stone, metal and glass which can be found on homes in the area.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permits and variance this development will meet the applicable regulations of the R1A zoning district.

The development must comply with the grading and filling regulations of Section 551.510, including employing best management practices to prevent erosion and trap sediment. Additionally, removal of vegetation on the steep slope shall be prohibited except as authorized by the zoning administrator in section 551.520 of the zoning code.

In addition to the conditional use permit standards, the Planning Commission shall consider the following in the Shoreland Overlay District:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The subject property is approximately 300 feet from the edge of Lake of the Isles. It is unlikely that construction on the site will impact or pollute the lake. As with any development, Public Works will review and approve an erosion control plan and a stormwater management plan prior to the issuance of building permits. The dwelling is being designed with a series of green roofs which will help control stormwater runoff.

2. Limiting the visibility of structures and other development from protected waters.

Given the topography of the area and the scale of the existing structures the Planning Division believes that the proposed dwelling will blend in with the other homes in the neighborhood.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

This development will not impact watercraft usage on Lake of the Isles.

In addition to the conditional use permit standards, the Planning Commission shall consider the following when development in on a steep slope or within 40 feet of the top of a steep slope in the Shoreland Overlay District:

1. The foundation and underlying material shall be adequate for the slope condition and soil type.

The Planning Division believes that the foundation and underlying material will be adequate for the slope condition and soil type given that both of the original homes on the site were built on the present soil without any noticeable problems.

2. The development shall present no danger of falling rock, mud, uprooted trees or other materials.

The applicant has indicated that during construction erosion control measures will be in place to prevent falling rock, mud, uprooted trees and other materials. After construction is complete the site will be landscaped to prevent such dangers from occurring.

3. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.

Based on the submitted drawings the view of the developed slope from the protected water will be consistent with the appearance of the slopes on adjoining properties. The applicants are proposing to terrace the steepest portion of the front yard with two-foot high retaining walls spaced every seven feet apart. The remainder of the yard will be left open although the retaining wall that surrounds the southern portion of the site will be rebuilt.

VARIANCE - to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

Construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District: The applicant is seeking a variance to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District. The Planning Division believes that it would be difficult to put the property to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. The top of the steep slope on site is based on the existing contours of the site and is therefore, irregular. The buildable area on the site is limited to approximately the western one-third of the site and would require that the majority of any new construction be located adjacent to the rear lot line.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District: The Planning Division believes that the circumstances are unique to warrant the granting of the variance and have not been created by any persons presently having an interest in the property.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District: The Planning Division believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the area. The applicant has demonstrated that it is possible to build on the steep slope and within 40 feet of the top of the steep slope without harming the protect water. In addition, the houses located immediately to the north of the site are located within 40 feet of the top of the steep slope so the new dwelling will not appear to be out of character with its surroundings.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District: Granting the setback variance to allow development on a steep slope or within 40 feet of the top of a steep slope would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to increase the height of a single-family dwelling to 3 stories/33 feet in the Shoreland Overlay District located at 2520 and 2528 West Lake of the Isles Parkway subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District located at 2520 and 2528 West Lake of the Isles Parkway subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to allow construction on a steep slope and within 40 feet of the top of a steep slope in the Shoreland Overlay District located at 2520 and 2528 West Lake of the Isles Parkway.

Attachments:

1. Statement of proposed use
2. Conditional use permit and variance findings
3. GIS maps and a survey of the site
4. September 28, 2007, letter to Council Member Goodman and the Kenwood Isles Area Association
5. June 5, 2007, Heritage Preservation Commission staff report and actions
6. Zoning Map
7. Development plans
8. Photographs of the site and surrounding area