

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-5383

Date: December 12, 2011

Applicant: Matt Cooke/Oslo Builders, 5612 Vincent Avenue South, Minneapolis, MN 55410, 612-836-0386

Address of Property: 4824 Irving Avenue South

Project Name: Knicklebine Residence

Contact Person and Phone: Matt Cooke/Oslo Builders, 612-836-0386

Planning Staff and Phone: Aaron Hanauer, Senior City Planner, (612) 673-2494

Date Application Deemed Complete: October 24, 2011

End of 60-Day Decision Period: December 16, 2011

End of 120-Day Decision Period: A 60-day extension letter was mailed on November 22, 2011, extending the 120-day decision period to February 14, 2012

Ward: 13 **Neighborhood Organization:** Lynnhurst Neighborhood Association

Existing Zoning: R1, Single Family District, SH, Shoreland Overlay District and FP, Floodplain Overlay District

Proposed Zoning: Not applicable for this development

Zoning Plate Number: 30

Lot area: 14,850 square feet or approximately .34 acres

Legal Description: Right Fifth Division Remington Park, Lots 7 and 8 also the South ½ of Lot 6, and the north 10 feet of Lot 9

Proposed Use: A new single family dwelling with an attached garage

Concurrent Review:

Conditional use permit: to allow development (new single family house) in the FP Floodplain Overlay District.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits and Chapter 530, Site Plan Review.

Background: The subject property currently contains a single-family dwelling with an attached garage. The applicant proposes to raise the existing house and construct a new single-family dwelling with an attached garage in its place. A wrecking permit has not been applied for this property. However, in a preliminary review by CPED, it appears that the wrecking permit could be approved administratively because the building/property does not meet the definition of a historic resource.

The subject property is zoned R1, Single-Family District. The property is located in the SH Shoreland Overlay District as it is located within 1,000 feet of the ordinary high water mark of Lake Harriet. The property is also located in the FP Floodplain Overlay District given its proximity to the floodplain of Minnehaha Creek. Specifically the site is located within the flood fringe district which is established by the City's Flood Insurance Rate Map (FIRM). Both the Shoreland and Floodplain overlay districts regulate several aspects of a development when located in close proximity to protected water bodies.

A new single family house would have been a permitted use (rather than a conditional use) if it could have met the permitted use requirements outlined in Section 551.630 of the Minneapolis Zoning Code. The proposed house, however, was not able to meet the requirement of having the lowest floor built at a height higher than the regulatory flood protection elevation. Even though the proposed house was not able to meet the permitted use requirements in the flood plain, it was designed to meet the conditional use requirements of the Flood Fringe District by using alternative elevation methods (Section 551.640).

In addition to meeting the conditional use requirements for building in the Floor Fringe District, the new single-family dwelling will be required to meet all other zoning code requirements including the design standards outlined in section 530.280 in the zoning ordinance.

530.280. Design standards. New single and two-family dwellings and multiple-family dwellings having three (3) or four (4) dwelling units shall comply with the applicable regulations of this zoning ordinance, including but not limited to the standards of Chapter 535, Regulations of General Applicability, related to front entrance, window area, and walkway requirements, and limitations on attached garages facing the front lot line. In addition, the zoning administrator shall ensure that such uses obtain a minimum of fifteen (15) points from Table 530-2, Single and two-family dwellings and multiple-family dwellings having three or four dwelling units. Standards used to meet the minimum requirement must remain in place for a period of not less than fifteen (15) years from the date of approval.

The applicant has not submitted an administrative site plan review. However, preliminary review indicates that with slight modifications the design could receive 15 points for the following: Providing a basement (5 points), wood siding exterior (4 points), not less than 20% windows facing Irving Avenue (3 points), roof pitch greater than 6/12 (2 points), and at least one deciduous tree in the front yard (1 point).

CPED staff consulted with City of Minneapolis Public Works colleagues to gain background information and comments on the proposal. Public Works stated that flooding has taken place in the area around the subject property during major rain events (Attachment A8). The flood levels approached or exceeded the base flood elevation of 845.00 in 1987 and 1997. Public Works also

stated that historic groundwater levels are approximately the same grade as the low point in the back yard, 840.3 feet above sea level.

CONDITIONAL USE PERMIT – to allow development (new single family house) in the FP Floodplain Overlay District

Findings as Required by the Minneapolis Zoning Code:

The Department of Community Planning and Economic Development – 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 constructing a new single-family residential building would be detrimental to or endanger the public health, safety, comfort or general welfare. The flood plain regulations govern development within the FP Floodplain Overlay District in order to minimize damage to property due to flooding and promote public health, safety and welfare. The applicant's proposal meets the following conditional use requirements for development in the Flood Fringe District (551.640):

- The proposed garage floor elevation (847.57) and first floor elevation (849.08) are built above the regulatory floodplain protection elevation of 846.2.
- There is at least one elevation of the enclosed lower level (rear elevation) that is built above grade (551.640 (1) a)
- The enclosed lower level of the house is designed to internally flood and would be constructed with flood resistant materials (551.640 (1) b).
- The lowest level is non-habitable space and used solely for building access and storage (551.640 (1) c).
- The structure's design is certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code (551.640 (1) d. 1.).

CPED recognizes that flooding has taken place in the area of the proposed development during major rain events. However, the proposed development will not substantially increase flooding of the area. The subject property has been the location of a single-family dwelling since 1958. The applicant's new construction proposal is to reuse the foundation of the existing structure and to complete minimal grading alterations. The proposed new house has an impervious surface calculation of 0.28 which is well below the 0.65 allowed for a new single family house in the R1 Zoning District. In addition, the applicant will be required to show that the site will adequately drain onto their own property.

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

The Planning Division does not believe that constructing a single-family residential building on the subject property would be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. In addition, the proposed new construction will not impact Minnehaha Creek.

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

The applicant will work 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. The applicant has also complied with the drainage requirements of alternative elevation methods.

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

The zoning code requires 1 parking space per dwelling unit. The applicant is proposing three parking spaces, which exceeds the minimum requirement and will minimize traffic congestion in the public street.

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

The Planning Division believes that the proposed development is in conformance with the following policies of *The Minneapolis Plan for Sustainable Growth*:

- Ensure appropriate transitions between uses with different size, scale, and intensity (land use policy 1.2);
- Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses (land use policy 1.8);
- Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types (housing policy 3.6);

- Strengthen the character and desirability of the city’s urban neighborhood residential areas while accommodating reinvestment through infill development (urban design policy 10.8).

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

If the conditional use permit is approved, the project will also be required to comply with all other zoning code requirements including the design standard requirements outlined in provision 530.280 of the Minneapolis zoning code.

In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following evaluation criteria for conditional uses located within the FP Floodplain Overlay District:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

The proposed construction will be located within the FP Floodplain Overlay District; however, it will be constructed in a way to minimize the impact of a 100 year flood event. The structure is elevated using alternative elevation methods prescribed in section 551.640 of the Minneapolis Zoning Code. The enclosed lower level is to be non-habitable space used solely for building access and storage. It is also designed to allow for internal flooding and will be constructed with flood resistant materials.

2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

The applicant’s proposed new construction will not increase the danger that materials will be swept onto other lands or downstream in the event of a flood. The lowest level is proposed to allow for internal flooding and be constructed with flood resistant materials and is being built solely for building access and storage.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

The existing water supply and sanitation systems will continue to be used and are functioning properly.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

The proposed house will be constructed to conform to flood proof construction guidelines and the lower level will be designed to internally flood. No habitable space would be added below the regulatory flood protection elevation.

5. The importance of the services provided by the proposed facility to the community.

The construction of safe housing stock is an important asset to the community.

6. The requirements of the facility for a waterfront location.

This property is not adjacent to any waterbodies.

7. The availability of alternative locations not subject to flooding for the proposed use.

Alternative locations on the subject property do not exist for the proposed use. The subject property has a deeper than usual front yard setback; 35'-7" compared to the R1 zoning district front yard setback of 25'. The majority of the property is located in the 100 year floodplain. The applicant's new construction proposal is to reuse the foundation of the existing structure.

8. The relationship of the proposed use to the floodplain management program for the area.

The applicant's proposal is in compliance with the floodplain management program for Minneapolis. The proposed development is in compliance with the Minneapolis Zoning Code requirements for conditional uses in the Flood Fringe District by using alternative elevation methods.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

The site is accessible from Irving Avenue South.

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

No change is expected to the height, velocity, duration, rate of rise and sediment transport of the flood waters at the site.

11. Such other factors which are relevant to the purposes of this article.

The Planning Division does not believe that the changes proposed to the site will impact the adjacent Minnehaha Creek. The proposed new residential structure is being constructed in a way to minimize the impact of a flood. The project meets the alternative elevation requirements. In addition, the applicant's proposed 28 percent impervious lot coverage is well under the 65 percent allowed by the Zoning Code for a single family house in the R1 Zoning District.

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 allow for a single family dwelling at 4824 Irving Avenue South 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.
2. Approval of the final site, elevation and landscaping plans by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by December 12, 2012, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. All electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
5. The storage, display or processing of materials that are flammable, explosive, or potentially injurious to human, animal or plant life in time of flooding shall be prohibited. Storage of other material or equipment may be allowed if readily removable from the area within the time available after flood warning in accordance with a plan approved by the city engineer.
6. Connections to the public storm drain shall not be allowed.
7. The site must adequately drain and the final site plan must detail site drainage (including roof tops) through contours or spot elevations. Stormwater may not directly run over the public sidewalk, into the sanitary sewer or onto adjacent properties.
8. The applicant shall submit an erosion and sedimentation control plan in compliance with Minneapolis Code of Ordinances § 52.100 for review by Public Works. The plan shall include all information required in the Code.
9. Any drain tile or sump discharges shall be managed on site (not adversely impacting adjacent properties).
10. The City of Minneapolis is not responsible to pump or mitigate flooding within the designated flood plain.

Attachments:

Attachment A: Materials submitted by CPED staff –

- A1-A2.1: Context maps
- A3: Contour map
- A4: Floodplain and shoreland overlay map
- A5: FEMA floodplain map
- A6-A7: Bing aerials
- A8: Public works comments

Attachment B: Materials submitted by applicant –

- B1: Statement of proposed use
- B2: Statement of findings
- B3-B4: Neighborhood and council member notification
- B5-B11: Pictures
- B12: Title page
- B13-B14: Existing and proposed site plan
- B15: Elevations
- B16-B18: Floor plans
- B19: Section detail
- B20: Engineer review of plans