

**Department of Community Planning and Economic Development – Planning  
Division**

Conditional Use Permits and Variances  
BZZ-2719

**Date:** November 28, 2005

**Applicant:** Susanne & Zenas Hutcheson, 1916 Knox Avenue South, Minneapolis, MN 55403, (612) 377-6738

**Addresses of Property:** 1940 Knox Avenue South

**Project Name:** Hutcheson Residence

**Contact Person and Phone:** Wynne Yelland, LOCUS Architecture, Ltd., 1500 Jackson Street NE, Suite 333, Minneapolis, MN 55413, (612) 706-5600 ext. 2#

**Planning Staff and Phone:** Becca Farrar, (612)673-3594

**Date Application Deemed Complete:** October 31, 2005

**End of 60-Day Decision Period:** December 29, 2005

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

**Ward: 7 Neighborhood Organization:** Lowry Hill Residents, Inc.

**Existing Zoning:** R2 (Two-family) district, SH (Shoreland) Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 18

**Lot area:** 12,470 square feet or .29 acres

**Legal Description:** See attachment.

**Proposed Use:** Construct an addition to an existing single-family home and add an outdoor pool.

**Concurrent Review:**

- Conditional Use Permit to construct an addition to an existing home, including a renovation of the existing structure and the addition of an outdoor pool, within 40 feet of the top of a steep slope.

- Variance to construct an addition to an existing home, including a renovation of the existing structure and the addition of an outdoor pool, within 40 feet of the top of a steep slope.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances & Chapter 551, Article VI, SH Shoreland Overlay District.

**Background:** The applicant proposes to construct an addition to and renovate an existing single-family home, as well as construct an outdoor pool northeast of Lake of the Isles on the property located at 1940 Knox Avenue South. The property is zoned R2 and is located within the SH (Shoreland) Overlay District.

Due to the proximity of the property to Lake of the Isles, the grades on site and the location within the SH Overlay District, the proposal requires a conditional use permit and variance to construct an addition to the existing home within 40 feet of the top of a steep slope as well as to construct an outdoor pool within 40 feet of the top of a steep slope. The SH Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

The addition/renovation of the existing home includes an extension of a dining room and family room, a new den, a new project room, new laundry room and one added bedroom over the existing garage. Proposed building alterations expand the footprint of the home by 430 square feet, and 1,500 square feet overall. The applicant plans to stucco and re-roof the residence as well as install new windows and insulation. There are basically three additions to the existing structure. A bedroom would be added within the current footprint above the garage, a new addition would be created on the south side of the existing structure and another addition would be constructed on the northwestern corner of the building. The structure would meet the 2.5 story, 35 foot maximum height threshold mandated in the R2 and SH Overlay district requirements.

Staff has not received correspondence from the Lowry Hill Residents, Inc., stating a position on the applications prior to the printing of this report.

**CONDITIONAL USE PERMIT** – (1) to construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope, and (2) to construct a new outdoor pool within 40 feet of the top of a steep slope.

### **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 the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: Staff does not generally believe that allowing the building additions to the existing single-family home within 40 feet of the top of a steep slope would endanger the public health, safety, comfort or general welfare. The proposed additions would not encroach into the area categorized as a steep slope.

To construct a new outdoor pool within 40 feet of the top of a steep slope: Staff does not generally believe that allowing an outdoor pool within 40 feet of the top of a steep slope would endanger the public health, safety, comfort or general welfare. However, the pool as designed would cantilever over an existing retaining wall which is protecting the steep slope on site. Staff would require that the pool location be modified so that it is located in the rear yard adjacent to the patio. No cantilevering over the existing retaining wall would be permitted.

**2. 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.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: Staff believes that the structure as proposed would likely not be injurious to the use and enjoyment of other property in the vicinity, nor would it likely not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district. The structure is meeting all applicable provisions of the R2 and SH Overlay district.

To construct a new outdoor pool within 40 feet of the top of a steep slope: Staff believes that the proposed outdoor pool located within 40 feet of the top of a steep slope and constructed within/over a slope could potentially be injurious to the use and enjoyment of surrounding property, however, would likely not impede the normal development of the surrounding area. Staff would suggest that the Planning Commission condition the approval for the pool based on a relocation to the rear yard adjacent to the patio area on site.

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

The applicant would be required to 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.

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

The parking requirement for the proposed development would be one off-street parking space. Two off-street parking spaces exist in an attached two-car front-loaded garage located off of Knox Avenue South. Staff believes that adequate measures would be provided.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to the *Minneapolis Plan*, the site is located in a predominately low density residential area. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

- Improve the availability of housing options for its residents.
- Work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.
- Maintain and strengthen the character of the city’s various residential neighborhoods.
- Support the development of residential dwellings of appropriate form and density.

This specific proposal is in conformance with the above noted principles and policies of the comprehensive plan.

**6. And, does 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 variances, this development would appear to meet the applicable requirements of the R2 zoning district and the SH overlay district.

The applicant 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.

**ADDITIONAL FINDINGS FOR CONDITIONAL USES (551.490) –**

**A. Evaluation Criteria**

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

The applicant would be required to prevent soil erosion and possible pollution of public waters, both during and after construction. The applicant would be required to

install a silt fence during construction and would be required to follow all applicable City requirements to prevent any type of pollution.

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

It is difficult to predict the potential for limiting visibility, however, it is likely that the residential structure would have some impacts on views as overall, the house is increasing in height.

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

Not applicable for the proposed development.

**B. Uses Allowed –**

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

The applicant has verified that the underlying material would be adequate for the existing slope conditions and soil types. The existing slope would remain intact and undisturbed throughout the entire construction process.

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

The applicant has verified that the development would not present any danger of falling rock, mud or uprooted trees and other materials. The area would be fenced off during the construction process. Silt fencing would be placed at both the top and bottom of the steep slopes subject to City requirements.

**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.**

Staff believes that the view of the developed slope from the protected water would be minimally altered and would likely be consistent with the natural appearance of the slope and with the surrounding architectural features.

**VARIANCES** - (1) to construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope, and (2) to construct a new outdoor pool within 40 feet of the top of a steep slope.

**Findings as Required by the Minneapolis Zoning Code for the Variances:**

**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.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: The current use of the property is reasonable, however, it would be difficult to modify or add to the existing structure 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. Any new construction would need to be located near the front of the lot (near or adjacent to the front yard) in order to be permitted without the variance. Due to the site constraints, Staff believes that the additions to the existing structure as proposed are a reasonable use of the property.

To construct a new outdoor pool within 40 feet of the top of a steep slope: It would be difficult to construct an outdoor pool on-site without being within 40 feet of the top of a steep slope. Due to the site constraints, it would seem reasonable to allow an outdoor pool in such a location, however, as proposed, the pool would cantilever over an existing retain wall meant to stabilize the slope. Staff would recommend that the Planning Commission require that the pool be relocated into the yard and not encroach either on to or over the existing retaining wall or within the area categorized as a steep slope.

**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.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: The circumstances could be considered unique as a major portion of the property is located within the steep slope. Staff would argue that adding relatively small additions to the house could constitute a hardship.

To construct a new outdoor pool within 40 feet of the top of a steep slope: The circumstances requiring a variance to construct an outdoor pool within 40 feet of the top of a steep slope are somewhat unique to the site as the majority of the rear yard is considered a steep slope. Staff would argue that the proposal does constitute a hardship as it would not be possible for a pool to be located anywhere else on 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.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: Staff would conclude that granting the variance to construct additions to the existing single-family home would be in keeping with the spirit and the intent of the ordinance and would likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

To construct a new outdoor pool within 40 feet of the top of a steep slope: Granting a variance to construct an outdoor pool would likely be in keeping with the spirit and intent of the ordinance and would likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

**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.**

To construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope: Granting the variance 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.

To construct a new outdoor pool within 40 feet of the top of a steep slope: Granting the variance 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 application for a conditional use permit to construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope for property located at 1940 Knox Avenue South subject to the following condition:

1. 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.

**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 application for a conditional use permit to allow an outdoor pool within 40 feet of the top of a steep slope for property located at 1940 Knox Avenue South subject to the following condition:

1. The pool shall not be permitted to cantilever over the existing retaining wall or encroach in any manner onto the retaining wall.
2. The pool shall be located in the yard adjacent to the patio and not within any portion of the steep slope.

**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 to construct an addition to an existing home, including a renovation of the existing structure within 40 feet of the top of a steep slope for property located at 1940 Knox Avenue South.

**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 to allow an outdoor pool within 40 feet of the top of a steep slope for property located at 1940 Knox Avenue South.

**Attachments:**

1. Statement of use and description of project
2. Findings
3. Correspondence
4. Zoning map
5. Plans – survey, site and proposed residence elevations
6. Additional drawings