

**Department of Community Planning and Economic Development**  
Conditional Use Permit  
BZZ-5970

**Date:** April 22, 2013

**Applicant:** Heather Cox

**Address of Property:** 75 Forest Dale Road

**Project Name:** Cox Residence

**Contact Person and Phone:** Jim Scott with Quartersawn Design Build, 612-929-1157

**Planning Staff and Phone:** Janelle Widmeier, Senior City Planner, (612) 673-3156

**Date Application Deemed Complete:** March 25, 2013

**End of 60-Day Decision Period:** May 24, 2013

**Ward:** 13                    **Neighborhood Organization:** Fulton Neighborhood Association

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

**Proposed Zoning:** Not applicable for this project

**Zoning Plate Number:** 35

**Legal Description:** Not applicable for this project

**Lot Area:** 12,851 square feet

**Proposed Use:** Addition to a single family dwelling

**Concurrent Review:** Conditional use permit to construct a structure using an alternative elevation method (vehicle parking below elevating living space above) in the Floodplain Overlay District to allow an addition to an existing single-family dwelling.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits and Chapter 551, Overlay Districts.

**Background:** The subject property currently contains a single-family dwelling with an attached garage. The applicant proposes to add onto the existing garage and build a sunroom above it. The footprint of the proposed addition, extending from the back of the dwelling, is 13 feet by 14 feet 8 inches, or 192

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square feet in area. Because of its proximity to the floodplain of Minnehaha Creek, the property is located in the SH Shoreland Overlay District and partially located in the FP Floodplain Overlay District. Specifically, the part of the site that is located in the FP overlay district is located within the Flood Fringe District which is established by the City's Flood Insurance Rate Map (FIRM). Both the SH and FP overlay districts regulate several aspects of a development when located in close proximity to protected water bodies.

As shown on the survey, a portion of the existing residence is located in the Flood Fringe District. The proposed addition would be located outside of the flood fringe. However, any additions to structures located in the FP overlay district are subject to the requirements of the district.

A structural addition would be 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. However, the addition was not able to meet the requirement of having the lowest floor built at or above the regulatory flood protection elevation.<sup>1</sup> Although the addition is 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 allowed by Section 551.640 below:

**551.640. Conditional uses in the Flood Fringe District.** Conditional uses in the Flood Fringe District shall be those uses listed as conditional uses in the underlying primary zoning district and all uses listed as permitted uses in the underlying primary zoning district that cannot comply with the elevation, floodproofing or fill standards for permitted uses, as specified in section 551.630 above. In addition to the standards of section 551.650, conditional uses shall be subject to the following:

- (1) *Alternative elevation methods.* Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include but are not limited to the use of stilts, pilings or parallel walls, or above grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if all of the following apply:
  - a. The enclosed area is above grade on at least one (1) side of the structure.
  - b. The enclosed area is designed to internally flood and is constructed with flood resistant materials.
  - c. The enclosed area is used solely for parking of vehicles, building access or storage.
  - d. In addition, the structure shall be subject to the following:
    1. *Design and certification.* The structure's design and as-built condition shall be certified by a registered professional engineer or architect as being in compliance

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<sup>1</sup> The zoning code defines regulatory flood protection elevation as "An elevation not less than one (1) foot above the water surface elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. Within the AO Zones designated on the Flood Insurance Rate Map, this elevation shall be at least one (1) foot greater than the elevation of the highest ground surface adjacent to the proposed structure prior to construction next to the proposed walls of any structure or addition to be constructed." Regulatory flood protection elevation can also be described as one foot above the 100-year or base flood.

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with the general design standards of the State Building Code. 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.

2. *Specific standards for above-grade, enclosed areas.* Above grade, fully enclosed areas such as crawl spaces or tuck under garages shall be subject to the following:
  - a. The enclosed area shall be designed to internally flood. Design plans shall show the minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention
  - b. The enclosed area shall be constructed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code.
  - c. The enclosed area shall be used only for parking vehicles, storage or building access.

Upon approval of the conditional use permit, the actions must be recorded with Hennepin County as required by state law. The Public Works Department reviewed the site plan for this proposal and did not identify any issues. As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

**CONDITIONAL USE PERMIT:** to construct a structure using an alternative elevation method (vehicle parking below elevating living space above) in the Floodplain Overlay District to allow an addition to an existing single-family dwelling.

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

The Department of Community Planning and Economic Development 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.**

The addition would not be detrimental to or endanger the public health, safety, comfort or general welfare. The subject property has been the location of a single-family dwelling since 1954. The addition would expand the existing 1,654 square foot building footprint by 192 square feet. The

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proposed development would have minimal effect on flooding of the area. 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:

- The enclosed area (tuck under garage) would be used solely for the parking of vehicles, building access, and storage, would be above grade on at least one side of the structure, is designed to internally flood with two openings, and would be constructed of flood resistant materials (concrete).
- The proposed first floor elevation of approximately 857.5 feet would be built above the regulatory floodplain protection elevation of 851 feet.
- The two automatic openings designed to allow internal flooding would be located on two sides of the structure and would be no higher than one foot above grade. The area of the openings is equivalent to one square inch for every square foot subject to flooding. They would also be equipped with screens.
- The applicant has indicated that 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.
- The applicant has also indicated that the enclosed area shall be constructed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code.

At the writing of this staff report, the structure's design and as-built condition has not been certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code. A registered professional engineer or architect will need to certify the plans before building permits can be obtained.

**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 subject property is located in a predominantly single-family area. Increasing the footprint of the existing single-family dwelling by 192 square feet on the subject property would 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 proposed development would have minimal effect on flooding of the area. No additional fill will be brought to the site. In addition, the proposed new construction will not impact Minnehaha Creek.

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

The site is served by existing infrastructure. The tuck under garage is designed to internally flood.

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

The zoning code requires one parking space per dwelling unit. The applicant is proposing to expand the existing garage resulting in two enclosed parking spaces. Adequate measures have been taken to minimize traffic congestion in the public streets.

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

*The Minneapolis Plan for Sustainable Growth* states:

Minneapolis has a tradition of valuing its lakes, streams, wetlands and the Mississippi River. As it is defined by its surface waters, the city manages its water resources to maintain the quality of life of the city's residents, support the city's continued economic prosperity, and address emerging and existing regulatory challenges. The health and vitality of the city's lakes, urban streams and groundwater are linked to how each resident and business owner manages their property as well as to how the City manages its infrastructure systems. Through integrated efforts on a watershed scale, the City is working toward a future free from flooding and water quality degradation.

The proposed addition is designed to mitigate any effect on Minnehaha Creek.

**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 permit, the addition would comply with the applicable regulations of the district in which it is located.

**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 of the addition is to be non-habitable space used solely for parking of vehicles, 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 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 parking of vehicles, 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 enclosed lower level of the addition is to be non-habitable space used solely for parking of vehicles, building access and storage. It is also designed to allow for internal flooding and will be constructed with flood resistant materials.

**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 located on a waterfront.

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

Alternative locations on the subject property do not exist for an addition as the entire property is less than the regulatory floodplain protection elevation. However, the proposed location of the addition is outside of the FP overlay district.

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

The proposed development is in compliance with the floodplain management program for Minneapolis, 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 will continue to be accessed from Forest Dale Road.

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

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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 changes proposed to the site will not impact Minnehaha Creek. The proposed addition is being constructed in a way to minimize the impact of a flood. The project meets the alternative elevation requirements. In addition, the proposed 29 percent impervious lot coverage is well under the 65 percent allowed by the zoning code for a single-family dwelling located in the R1 zoning district.

**RECOMMENDATION**

**Recommendation of the Department of Community Planning and Economic Development for the Conditional Use Permit:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit to construct a structure using an alternative elevation method (vehicle parking below elevating living space above) in the Floodplain Overlay District to allow an addition to an existing single-family dwelling located at the property of 75 Forest Dale Road, 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 two years of approval.
2. As required by section 551.640 of the zoning code, the structure's design and as-built condition shall be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code.

**Attachments:**

- Applicant's statement of proposed use and responses to findings
- Zoning maps
- FEMA Flood Insurance Rate Map
- Aerial
- Site, floor, elevation and section detail plans
- Pictures