

**CITY OF TONKA BAY
ITEM NO. 4B**

RESOLUTION NO. 14-03

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO EXPAND THE MINNETONKA BUS GARAGE FACILITY, A CONDITIONAL USE PERMIT AND VARIANCE TO EXCEED THE PERMITTED IMPERVIOUS SURFACE LOT COVERAGE, AND A VARIANCE TO EXCEED THE PERMITTED OCCUPANCY OF BUSES ON THE PROPERTY LOCATED AT 5531 MANITOU ROAD – PID 33.117.23.11.0075

WHEREAS, the City of Tonka Bay is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Tonka Bay has adopted zoning regulations in the Municipal Code to promote orderly development and utilization of land within the city; and

WHEREAS, Paul Bourgeois and the Minnetonka Public Schools ISD 276 (“Applicants”) lease the property from Fred Hanus Et Al of Hanus Enterprises (“Owners”) located at 5531 Manitou Road which is legally described as follows:

BEG AT NE COR OF TRACT A TH S ALONG E LINE THOF DIST 490 FT TH W AT R/AS TO THE INTERSECTION WITH E LINE OF W 210 FT TH N ALONG SAID E LINE TO ITS INTERSECTION WITH A LINE DRAWN E AT R/AS FROM A PT ON W LINE OF TRACT A DIST 536 FT S FROM NW COR THOF TH W TO LAST SAID PT TH N ALONG SAID W LINE TO A PT DIST 100 FT S OF NW COR THOF TH N TO LAST SAID NE COR TH ELY ALONG N LINE OF TRACT A TO BEG

WHEREAS, the Applicants’ Property is located within the C-2 zoning district; and

WHEREAS, the Applicants are requesting the following:

1. A 31% variance from the maximum allowable impervious surface to allow for greater than 46 percent impervious surface for a total of 77% impervious surface on the property;
2. A variance to allow for 20 additional buses, for a total of 100 buses, to be located on the property where 80 buses are permitted in the C-2 Zoning District;
3. A conditional use permit to allow a 20% increase to the allowed impervious surface from what was approved with the original conditional use permit, which exceeds the total allowable impervious surface (46%) by 31%; and
4. A conditional use permit amendment to allow the expansion of the parking lot and to exceed the maximum occupancy of buses as outlined as conditions of approval in the existing conditional use permit.

WHEREAS, Kelsey Johnson, City Planner, and Justin Messner, City Engineer, issued a report dated January 28, 2014 on the application made by the Applicants (Planning Report), analyzing the request made in relation to City Ordinance criteria and made recommendations if the requests were approved by the City Council; and

WHEREAS, the City Council reviewed the requests on January 28, 2013, and held a public hearing, following the required notices and publication; and

WHEREAS, neighbors spoke on the Applicant's proposal; and

WHEREAS, the Applicants presented to the Council reasons for their proposal; and

WHEREAS, the City Council, following the public hearing and deliberation on the variance to allow for the installation of a swimming pool in the front yard (lakeside) of the property directed staff to prepare a resolution for its consideration, and having considered the application, the Planning Report, the resolution prepared by staff, makes the following findings of fact and conclusions:

1. The proposed expansion of the parking lot for outdoor storage is consistent with the Comprehensive Plan as the property will be used for a commercial use for which the Plan guides the property for.
2. Granting the conditional use permit amendment, conditional use permit and variances will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the conditional use permit amendment, conditional use permit and variances will not increase congestion in the public street beyond reasonable and allowed thresholds.
4. Granting the conditional use permit amendment, conditional use permit and variances will not increase the danger of fire or endanger the public safety as the site already has storage of buses and associated equipment and liquids and is required to meet Federal, State, County and Local requirements for such operations.
5. Granting the conditional use permit amendment, conditional use permit and variances will not diminish or impair established property values in the neighborhood.
6. Granting the conditional use permit amendment, conditional use permit and variances will not alter the essential character of the locality.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the conditional use permit amendment, conditional use permit and variances to allow for the expansion of the parking lot for outdoor bus storage; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested conditional use permit amendment, conditional use permit and variances shall include the following conditions:

1. No more than 100 buses are allowed for open and outside storage on the premises.
2. There shall be no repair of buses except those stored on the premises and only within an enclosed structure.
3. Adequate screening and landscaping from neighboring residential districts shall be provided where feasible.
4. Additional lighting of the newly created parking area for the open and outside storage of buses shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1011.02 of the City's Zoning Ordinance.
5. Provisions shall be made to control and reduce noise associated with storage and operations of the buses and other vehicles on the property at all times.
6. The standards and requirements imposed by the State regulations for motor fuel stations shall apply for any dispensing or storage of motor fuels and/or oil on the property.
7. The applicant shall obtain all necessary permits and approvals from the City of Tonka Bay and other applicable entities with jurisdiction prior to any construction. This includes, but shall not be limited to permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).
8. The MCWD shall review and approve the final grading plans approved by the City Engineer prior to any work being authorized. Proof of MCWD approval shall be provided to the city prior to a permit being authorized.
9. Silt fencing shall be shown on the grading permit plans and shall be subject to review and approval by the City Engineer.
10. The entire hard surfaced area is required to have a curb of at least six inches in height unless otherwise approved by the City Engineer.
11. Per the Stormwater Facilities Maintenance Agreement and Restrictive Covenant, the applicant shall:
 - a) Agree to construct and maintain a stormwater collection and detention system on his/her property as shown on the Detention System Drawing.
 - b) Maintain and preserve the detention system until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.

- c) Not to dismantle, revise, alter or remove part of the system except as necessary for maintenance, repair or replacement.
 - d) Be responsible for inspecting and maintaining the detention system, on an annual basis. The property owner will provide a letter to the City Engineer by September 1st of each year, stating that inspection and maintenance have been completed.
 - e) Assume all responsibility for the cost of any maintenance and for repairs to the detention system. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.
 - f) Obtain written approval from the City Engineer prior to performing any alterations or modifications to the detention system.
12. The City Engineer shall inspect the property at the property owner's expense during the construction process to ensure on-going compliance with all engineering requirements.
13. In the event that the parking lot expansion does not occur, the conditional use permit amendment, conditional use permit variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this day of _____, 2014.

Motion introduced by _____ and seconded by _____.

Roll call vote:

Ayes –

Nays –

Absent –

Gerry De La Vega, Mayor

ATTEST:

Joseph Kohlmann, Clerk/Administrator