CITY OF TONKA BAY
ITEM NO. 4C

RESOLUTION NO. 13-12

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW AN INCREASE TO THE ALLOWED IMPERVIOUS SURFACE FRITZ BURGESS AND LORINA BURGESS 20 CLAY CLIFFE DRIVE

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, Fritz Burgess and Lorina Burgess own 20 Clay Cliffe Drive which is legally described as follows:

Lot 6, Block 3, CLAY CLIFFE, Hennepin County, Minnesota

WHEREAS, the Property is located within the R-1A zoning district; and

WHEREAS, the Applicant is requesting the following conditional use permit:

1. A 15.6% increase over the allowed 25% impervious surface coverage

WHEREAS, Kelsey Johnson, City Planner, issued a report dated May 14, 2013 on the application made by the Applicant (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 conditional use permit request on May 14, 2013, and held a public hearing, following the required notices and publication; and

WHEREAS, no neighbors spoke on the Applicant's proposal; and

WHEREAS, the Applicant presented to the Council reasons for the proposal; and

WHEREAS, the City Council, following the public hearing and deliberation on the conditional use permit for the increase of impervious surface 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 use of the property will remain as a single-family home, which is consistent with the comprehensive plan.
2. The proposal is consistent with existing and future land use in the area.
3. If the Council approves a conditional use permit for impervious surface, all performance standards will be met with the proposed project.
4. Approval of the requested conditional use permit will not result in any negative impact on the character of the surrounding area. There are numerous homes in Tonka Bay that have pools and patios in the rear yard. In addition, some significant trees exist in the rear yard and a privacy fence will be constructed for screening.
5. The property owners wish to construct a pool, patio, and outdoor kitchen and bar area to be able to better enjoy the rear yard of the property. Given that the improvements are all permitted accessory uses, staff finds the request reasonable.
6. The proposed improvements will not have any negative impact to adjacent property values and will enhance the appearance of the rear yard for the subject property.
7. The proposed project should not have any impact on public utilities.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves a conditional use permit for impervious surface; 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 shall include the following conditions:

1. 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 a fence permit, and permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).

2. 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 building permit being authorized.

3. Silt fencing shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.

4. Construction shall follow the survey and plans as modified or as otherwise required to be updated by the City Engineer.

5. Building of structures shall not occur within any existing or proposed easements on the property.

6. The outdoor swimming pool shall be completely enclosed by a security fence or wall in compliance with Section 1011.05, Subd. 1(E) 1-5 of the Zoning Ordinance.

7. 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) Provide the City the right to ingress and egress over portions of the property in order to access the detention system for inspection and to reasonably monitor the system for performance, operational flows or defects.
   e) 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.
   f) 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.
   g) Obtain written approval from the City Engineer prior to performing any alterations or modifications to the detention system.

8. The City Engineer will verify and approve ingress and egress areas for City access to the stormwater treatment system prior to issuing a building permit.

9. 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.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 14th day of May, 2013.

Motion introduced by_____ and seconded by _____.

Roll call vote:
Ayes –
Nays –
Absent –

_____
Gerry De La Vega, Mayor

ATTEST:

_____
Joseph Kohlmann, Clerk/Administrator