

## ITEM NO. 4D

### RESOLUTION NO. 16-25

#### A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A DRIVE-THROUGH USE ON THE PROPERTY LOCATED AT 5420 MANITOU RD – PID 33.117.23.12.0050

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, John Studer (“Applicant”) submitted an application on behalf of Matt Midboe, MJM Properties (“Property Owner”); and

WHEREAS, the Property Owner owns the property located at 5420 Manitou Road which is legally described as follows:

THAT PART OF THE NW 1/4 OF THE NE 1/4 SEC 33 T 117 R 23 LYING NLY OF RR R/W AND WLY OF CO RD NO 19 AND ELY AND SELY OF THE FOL DESC LINE COM AT THE NW COR OF SAID NW 1/4 OF THE NE 1/4 TH E ALONG THE N LINE THOF DIS 519.9 FT TH DEF RIGHT 89 DEG 33 MIN TO THE NLY LINE OF RR R/W AND THE PT OF BEG TH NLY ALONG LAST DESC LINE DIS 60 FT TH DEF RIGHT 50 DEG 17 MIN TO THE WLY LINE OF SAID CO RD NO 19 AND SAID LINE THERE TERMINATING, City of Tonka Bay, Hennepin County, Minnesota, and reserving easements of record.

WHEREAS, the Property Owners’ Property is located within the C-2 Commercial Shoreland Overlay zoning district; and

WHEREAS, the Applicants are requesting the following:

1. **A conditional use permit for a drive-through use** within the C-2 District.

WHEREAS, Erin Perdu, City Planner, and Justin Messner, City Engineer, issued a report dated June 15, 2016 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 June 28, 2016, and held a public hearing, following the required notices and publication; and

WHEREAS, the City Council tabled the drive-through request at the June 28, 2016 meeting and discussed the request again at the July 12, 2016 meeting; 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 Conditional Use Permit request to allow for a drive-through use 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 use of the property for commercial use is consistent with the City's Comprehensive Plan.
2. Granting the requested conditional use permit will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the conditional use permit will not unreasonably increase congestion in the public street.
4. Granting the conditional use permit will not diminish or impair established property values in the neighborhood.
5. Granting the conditional use permit 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 request, to allow for a drive-through use; 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. Adequate off-street parking and off-street loading in compliance with the requirements of Sections 1011.05 and 1011.06 of the Tonka Bay Zoning Ordinance is provided.
2. No more than 6 cars shall be stacked at the drive through at any given time. Additional stacked cars will be considered a violation of the off-street parking requirements of the zoning ordinance.
3. All signing and informational or visual communication devices shall be in compliance with Section 330 of the Tonka Bay City Code.
4. The provisions of Section 1003, Subd. 8 of the Tonka Bay Zoning Ordinance are considered and satisfactorily met.
5. The existing dumpsters shall be moved to the rear of the building, in a location that is shielded from view from Manitou Rd. and the Lake Minnetonka Regional Trail.
6. This Conditional Use Permit may be revoked by the Tonka Bay City Council if the Applicant fails to comply with any of the conditions set forth herein.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 26<sup>th</sup> day of July, 2016.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll call vote:  
Ayes –  
Nays –  
Absent –

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Gerry De La Vega, Mayor

ATTEST:

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Lindy Crawford, Clerk/Administrator