

CITY OF TONKA BAY ITEM NO. 7A

Tonka Bay City Council Agenda Item Executive Summary

Title of Item: **VARIANCE REQUEST:** Application from Candace Gordon & Timothy McClellan requesting variances to allow for the construction of a new single family home on the property located at 220 Sunrise Avenue. – R-1B zoning, Shoreland Overlay – PID: 27-117-23-13-0003.

CONDITIONAL USE PERMIT REQUESTS: Application from Candace Gordon & Timothy McClellan requesting a conditional use permit for a shoreland impact plan with impervious surface between 36 and 45 percent on the property located at 220 Sunrise Avenue – R-1B zoning – PID: 27-117-23-13-0003.

Report Date: **01-07-16**

Meeting Date: **01-13-16**

60 Day Review deadline: **60 day period ends 01-17-16**

60-Day Extension Letter Sent: **N/A**

120-Day Review Deadline: **N/A**

Staff/Guest Reporting: Erin Perdu, AICP – City Planner
Justin Messner, PE – City Engineer

Summary: The Applicant is seeking to demolish the existing single family home and construct a new single family home on the property located at 220 Sunrise Ave. The project, as proposed, requires nine variances and three conditional use permits.

In summary, the requested variances and conditional use permits are as follows:

1. **A 10,316 sf. variance from the minimum required lot area** within the R-1B District.
2. **A 35.07 foot variance from the minimum required lot width** within the R-1B District.
3. **A 2.25 foot variance from the required front setback** within the R-1B District.
4. **A 3.9 foot variance from the required side setback** within the R-1B District.
5. **A 3.6 foot variance from the required rear setback** within the R-1B

District.

6. **A variance from floodplain Section 1040 Section 4.25**
7. **A variance from the requirement of having at least a two (2) car garage** within the R-1B District.
8. **A 13.6 foot variance from the required driveway setback from the right-of-way** within the R1-B District.
9. **A variance from the maximum height of 2 ½ stories**
10. **A conditional use permit for floodproofing as proposed**
11. **A conditional use permit for an increase in the maximum allowable FAR by 26.9%**
12. **A conditional use permit and a shoreland impact plan** for impervious surface between 36 and 45 percent (proposed impervious surface is 38.1%)

Staff believes that the applicant has met the Statutory and City Criteria for approving of the requested variances and conditional use permits. Staff has provided a template approval motion as shown on Page 12 as well as findings of fact for approvals.

City of Tonka Bay Planning Department
Variance & Conditional Use Permit Report

To: **City Council**

From: Erin Perdu, AICP – City Planner
Justin Messner, PE – City Engineer

Meeting Date: **January 12, 2016**

Applicants: Candace Gordon & Timothy McClellan

Owners: Candace Gordon & Timothy McClellan

Location: **220 Sunrise Ave.**

Zoning: **R-1B**

Introductory Information

Proposed Project: The Applicants are proposing to demolish the existing home on the property and construct a new single family home. The proposed home is 3 stories, 3,675sf. in area and includes an attached one-car garage.

Variance Request(s): The proposed action will require the following variances:

1. **A 10,316 sf. variance from the minimum required lot area** within the R-1B District for constructing a home on a lot that is 4,684 sf. in area where 15,000 sf. is required.
2. **A 35.07 foot variance from the minimum required lot width** within the R-1B District for constructing a home on a lot that is 39.93 feet wide where 75 feet is required.
3. **A 2.25 foot variance from the required front setback** for the home that sits 42.7 feet from the front lot line where a 44.95 foot setback is required.
4. **A 3.9 foot variance from the required side setback** for the location of the proposed wood steps that are 4.1 feet from the side property line where 8 feet is required.
5. **A 3.6 foot variance from the required rear setback** for the home that sits 16.4 feet from the rear lot line where a 20 foot setback is required.
6. **A variance from floodplain Section 1040 Section 4.25**
7. **A variance from the requirement of having at least a two (2) car garage.**
8. **A 3' 2" variance from the required driveway setback from the right-of-way**, 16 feet and 10 inches is proposed, where 20 feet is required.
9. **A variance from the maximum height of 2 ½ stories**

CUP Request(s):	<p>The proposed action will require the following conditional use permits:</p> <ol style="list-style-type: none"> 10. A conditional use permit for an additional an FAR exceeding the ordinance maximum to allow for an FAR of 56.9% where a maximum of 30% is allowed. 11. A conditional use permit for a Shoreland Impact Plan to allow for impervious coverage of 38.1%. 12. A conditional use permit for floodproofing as proposed
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Findings

Site Data:	<p>Lot Size – 4,684 square feet Existing Use – Single Family Home Existing Zoning – R-1B Shoreland Property Identification Number (PID): 27-117-23-13-1113</p>
Comp Plan Guidance:	<ul style="list-style-type: none"> ▪ The comprehensive plan guides this lot for single family use. The corresponding zoning assigned to this property (R-1B) allows for single family homes.
Lot Area and Width:	<ul style="list-style-type: none"> ▪ The lot area requirement in the R-1B Shoreland District is 15,000 square feet. The lot of record is 4,684 square feet and is therefore a nonconforming lot. ▪ Minnesota Statute 462.357, Subd. 1e. Nonconformities (d)(e) states that a nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from the lot size requirement, provided that: <ol style="list-style-type: none"> 1. All structure and septic system setback distance requirements can be met; 2. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer; and 3. The impervious surface coverage does not exceed 25 percent of the lot. ▪ As outlined later in this report, the impervious surface coverage exceeds 25 percent of the lot; therefore a variance from the lot area is required. ▪ The lot width requirement in the R-1B Shoreland District is 75 feet. The lot of record is 39.93 feet. Due to the amount of impervious surface and the noncompliance with State Statute, a variance from the lot width is also required.

Front-Yard Setback:

- The front-yard (lakeside) setback in the R-1B District for principal structures is the greater of 50 feet or the average setback of the two adjacent riparian principal structures on either side of a proposed building site. In the case of this property, the average setback of the two riparian principal structures is approximately 44.95 feet.
- The Applicants are proposing a front-yard setback for the proposed home of 42.7. Therefore a variance is required.

Side Yard Setback:

- The side yard setback in the R-1B District is 8 feet.
- The proposed wood steps on the northwest side of the home will be located 4.1 feet from the side property line. The wall of the home is located 7.4 feet from the side property line. Therefore a variance is required.

Rear Yard Setback:

- The rear-yard setback (street side) in the R-1B District is 25 feet.
- On lakefront homes, the rear yard is considered the opposite side of the front which is the lake side.
- The Applicant is proposing a 16.4 foot rear yard setback which does not meet the ordinance requirement, therefore a variance is required.

Driveway Setback:

- The required setback from the right-of-way is 15 feet.
- 16' 10" driveway length proposed where 20' is the required length of a parking space, and parking would occur within 15' of the street. This would require a variance from the off-street parking setback.

Garage:

- The proposed garage is 19' 8" by 16' 4" wide. Based on the minimum parking space dimensions (8 ½ wide by 20' deep), the proposed attached garage can only accommodate one car. Section 1011.06, Subd. 3.e. requires every detached dwelling unit have a two car garage. Therefore a variance is required.

Height:

- The maximum height limit within the R-1B District for principal structures is 30 feet or 2 and-a-half stories.
- The height of principal buildings is measured from the average ground level prior to construction to the top cornice line of a flat or mansard roof, to the uppermost point on a shed, round or other arch-type roof, or to the average height of the highest gable of a pitched or hipped roof.
- The existing average ground level elevation is 932.5 feet. The elevation of the proposed home is 957.7.
- The proposed new home will measure 25.2 feet and consists of three stories which does not meet the City ordinance requirement of 2 ½ stories maximum. Therefore a variance is required.

Floor Area Ratio:

- The maximum floor area ratio (FAR) permitted by code in the R-1B District is 0.30.
- The proposed home will include 3,675sf of space for a FAR of 0.569. Therefore a conditional use permit is required.

Hardcover:

- The maximum hardcover permitted on this lot without any review is 25 percent; the proposed improvements indicate hardcover of 38.1%. Therefore a conditional use permit is required.

Application Review:

**Applicable Code
Definitions:**

Building Setback. The minimum horizontal distance between the building and the lot line.

Conditional Use. Those occupations, vocations, skills, arts, businesses, professions, or uses and/or related building/structures, or improvements specifically designated in each zoning use district or by this Ordinance, which for the respective conduct or performance may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, conditions, modification, or regulations for the promotion or preservation of the general public welfare, health, convenience and the integrity of the City Comprehensive Municipal Plan and this Ordinance.

Floor Area Ratio (FAR). The floor area of a building or buildings on any lot divided by the area of such lot, or in the case of planned developments by the net site area. The floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for a building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot

Impervious Surface. Any structure or surface which interferes to any degree with the direct absorption of water into the ground, including but not limited to, roofs, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools, or any other similar surface.

Lot Area. The total land area of a horizontal plane within the lot lines.

Lot, Width. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth at the minimum required building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way.

Regulatory Flood Protection Elevation (RFPE). The regulatory flood protection elevation shall be an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway. For purposes of this paragraph “regional flood” means the same as the 100 year floodplain elevation for Lake Minnetonka which is 931.5’ (NGVD 1929).

Setback. The minimum horizontal distance between a building and street or lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such deviation will not be contrary to the public interest and where, owing to conditions unique to the individual property under consideration and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Applicable Codes:

1011.03 General Yard, Lot Area, and Building Regulations; subdivision (5).

d. For riparian lots, no principal structure or building addition shall be located closer to the ordinary high water mark than the greater of fifty (50) feet, or the average setback of the two adjacent riparian principal structures on either side of a proposed building site. In all circumstances, the setback shall be established by measuring the distance from the ordinary high water level to the part of the said principal structure that is closest to the lake.

1018.06 R-1B, Single Family Residential District, Lot Area and Setback Requirements;

Subd. 1. Lot Area. Not less than fifteen thousand (15,000) square feet.

Subd. 2. Lot Width. Not less than sixty-five (65) feet.

Subd. 3. Principal Structure Setbacks.

a. Front Yard. Not less than fifty (40) feet.

b. Side Yards.

1. Interior Lots. Not less than eight (8) feet.

c. Rear Yard. Not less than twenty (20) feet.

1018.07 R1-B, Single Family Residential District, Lot Coverage and Height; subdivision (1)

Floor Area Ratio. The maximum floor area ratio (FAR) shall be 0.30 or as allowed by conditional use permit with the conditions specified in Section 1003.01, Subd. 8 of this Ordinance.

1011.06 Subd. 3.e. Off-Street Parking and Loading General Provisions

Every detached single family dwelling unit erected after the effective date of this Ordinance shall be located on the lot so that at least a two (2) car garage, either attached or detached, in conformance with this Ordinance can be located on said lot.

Section 1011.06 Subd.8.c. Off-Street Parking and Loading General Provisions

There shall be no off-street parking within fifteen (15) feet of any street surface.

1040 General Floodplain Ordinance, Section 4.25.

All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood projection elevation and shall extend at such an elevation at least 15' beyond the limits of the structure constructed thereon. All buildings within the floodplain shall have the lowest door or window opening at an elevation of at least 933.5' (NGVD 1929).

1070.16, Shoreland Impact Plan/Conditional Use Permit; subdivision (1).

Shoreland Impact Plan. Except for situations listed below, landowners developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within the Shoreland District within the City of Tonka Bay shall first submit a conditional use permit application as regulated by Section 1003 of the Zoning Ordinance and a plan of development, hereinafter referred to as "Shoreland Impact Plan", which shall set forth

proposed provisions for sediment control, water management, maintenance of landscaped features, and any additional matters intended to set forth proposed changes requested by the applicant and affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss of change of earth ground cover, destruction of trees, grade courses and marshes. The plan shall minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the Shoreland Impact Plan shall be to eliminate potential pollution, erosion and siltation.

State Statute:

State Statute 462.357, Subdivision 1e. Nonconformities (e). A non-conforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

1. All structure and septic system setback distance requirements can be met;
2. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer; and;
3. The impervious surface coverage does not exceed 25 percent of the lot

Variance Criteria Review:

The proposed action will require the following variances:

- **A 10,316 sf. variance from the minimum required lot area** within the R-1B District for constructing a home on a lot that is 4,684 sf. in area where 15,000 sf. is required.
- **A 35.07 foot variance from the minimum required lot width** within the R-1B District for constructing a home on a lot that is 39.93 feet wide where 75 feet is required.
- **A 2.25 foot variance from the required front setback** for the home that sits 42.7 feet from the front lot line where a 44.95 foot setback is required.
- **A 3.9 foot variance from the required side setback** for the location of the proposed wood steps that sit 4.1 feet from the side property line where 8 feet is required.
- **A 3.6 foot variance from the required rear setback** for the garage that sits 16.4 feet from the rear lot line where a 20 foot setback is required.
- **A variance from floodplain buffer Section 1040 Section 4.25**
- **A variance from the requirement of having at least a two (2) car garage** as a smaller, one (1) car garage is proposed.
- **A 3'2" variance from the required driveway setback from the right-of-way** for the parking area that sits within 15 feet of the right-of-way.
- **A variance from the maximum height of 2 ½ stories**

Staff's analysis of the requested variances under the review criteria is as follows:

Statutory Criteria

- *The request is in harmony with the general purposes and intent of this*

ordinance. “To protect the public, such provisions are intended to provide for adequate light and air, safety from fire and other danger; prevent undue concentration of population; provide ample parking facilities; regulate the location and operation of businesses, industries, dwelling and buildings for other specified purposes; preserve property values by providing for orderly and compatible development of the various land uses; encourage energy conservation and the use of renewable energy resources; provide for administration of this Ordinance and all amendments hereto”

Lot Area and Width Requests:

The City’s intent of establishing minimum lot sizes is to ensure that land does not become overcrowded with structures and that the lake does not get polluted. In this instance the lot was originally platted narrower and smaller than the current ordinance requirements.

There is currently a two-story single-family home and attached garage on the property. The Applicant proposes to use the property in the same manner as it was previously. Staff finds that the newly constructed home in this location would not contribute to overcrowding and therefore is in harmony with the general purposes and intent of the ordinance. **Criteria met.**

Setback Requests:

The intent of the setbacks is to provide an adequate buffer between homes and to provide for areas of recreation/open space and stormwater drainage areas on properties. The proposed home is located on a riparian lot where the front yard is that side of the property on the lakeside. The existing home is currently located closer to the front, rear and side property lines than the proposed new home.

In particular, the side (north) side setback is being increased from a nominal 0.6 feet to 4.1 feet measured from the wood steps off the side of the house and 7.4 feet from the home’s foundation. This creates an appropriate area for open space and stormwater drainage between the properties.

Criteria met.

Floodplain buffer request: The floodplain buffer requirement is intended to ensure a property owner can access the structure in the event of a flood. The proposed home’s low floor will be at the RFPE. While the proposed buffer is smaller than is generally required by code, the home and attached garage should still be accessible in the event of a flood. **Criteria met.**

Parking requests: The dimensions of the proposed garage are minimally smaller than would be required for a two-car garage. The reduced width ensures that the side setback variance requests are minimized. The reduced depth also minimizes the rear setback variance requested.

Criteria met.

- *The variance is consistent with the comprehensive plan.*

All variance requests:

The Comprehensive Plan calls for this area of the City to be used for single family dwellings, and for the development to occur in an orderly fashion in a manner best for the community. The construction of a new single family home on this site will not change the use and is consistent with the City's Comprehensive Plan in this manner. **Criteria met.**

- *The property in question meets the "practical difficulties" test:*
- *The property owner proposes to use the property in a reasonable manner.*

All variance requests:

The property owners are proposing to continue to use the property for a single family home. The footprint of the proposed new home is somewhat smaller than the existing home on the property. The setbacks, while still requiring a variance, are an improvement over the current home. Applicants are proposing to use the property in a reasonable manner. **Criteria met.**

- *There are unique circumstances to the property not created by the landowner.*

All variance requests:

The unique circumstances on this property are largely related to the small size of this lot that pre-dated the adoption of lot area, width and setback standards. Replacing the single family home on the property is extremely difficult without the need for variances. **Criteria met.**

- *The variance will maintain the essential character of the locality.*

Lot area, width, parking and setback variance requests:

The essential character of the locality will not be negatively impacted as a result of approval of the requested variances. The proposed home fits into the character of the neighborhood. **Criteria met.**

Height request:

The portion of the home that exceeds the maximum 2 and ½ stories is the covered staircase leading to the 205 sf. attic/office space. The attic/office is constructed with an engineered gambrel roof system that meets the definition of a half-story. However, the stairs leading to that space do not. The overall height of the home is well below the maximum 30 feet and the stairwell will not negatively impact the character of the home in relation to the surrounding homes. **Criteria met.**

City Tests:

- *Will the variance impair an adequate supply of light and air to adjacent property?*

All variance requests:

No. The home should not impair an adequate supply of light and air from reaching adjacent property. As mentioned above, the height variance requested is for a small stairwell and the overall height of the structure is

below the maximum height requirement. **Criteria met.**

- *Will the variance unreasonably increase the congestion in the public street?*

All variance requests:

No. The proposed home will have no effect on congestion in the public street. **Criteria met.**

- *Will the variance increase the danger of fire or endanger the public safety?*

All variance requests:

No. The continued use of the property for a single family dwelling is not anticipated to increase the risk of fire or endanger the public safety.

Criteria met.

- *Will the variance unreasonably diminish or impair established property values within the neighborhood?*

All variance requests:

The proposed new home is not anticipated to have a negative impact on neighboring property values. **Criteria met.**

Engineering Reports:

Per Section 1070.13 Subd. 2C of the City Ordinance states that a grading and filling permit shall be required for 1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and 2) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

Prior to issuance of the building permit, a grading and fill permit shall be completed and \$1,000 escrow secured at City Hall. The escrow shall be returned to the applicant upon completion and acceptance of the proposed improvements. Similar permit will be required from the Minnehaha Creek Watershed District and MN Dept. of Natural Resources. Copies of the permit will need to be submitted to the city prior to issuance of the building permit.

CUP Review:

The proposed action will require the following conditional use permit:

1. **A conditional use permit for an additional an FAR exceeding the ordinance maximum** to allow for an FAR of 56.9% where 30% is allowed. According to code, City Council shall consider additional floor area ratios beyond this maximum using the conditions specified in Section 1003.01, Subd. 8 of this Ordinance:
 - a. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.* The use of the property will not change and the

request is therefore consistent with the comprehensive plan. **Criteria met.**

b. The proposed site is or will be compatible with present and future land uses of the area. The proposed new home does not change the pattern of use in the area and does not impede surrounding property owners from using their property for intended purposes. **Criteria met.**

c. The proposed use conforms with all performance standards contained herein. **Criteria met.**

d. The impact on character of the surrounding area. The FAR requirements are intended to ensure that the scale of buildings constructed is appropriate in relation to the size of the lot and the surrounding area. In this case, the lot on which the single family home is to be constructed is extremely small. The footprint of the proposed new home is somewhat smaller than the existing home on the property. **Criteria met.**

e. The demonstrated need for such use. There is a demonstrated need for the additional FAR. The lot is a small one and the proposed home will correct some of the current non-conformities. The footprint of the building is overall smaller, and the additional FAR space comes from the height of the building. **Criteria met.**

f. The proposed use will not tend to or actually depreciate the area in which it is proposed. The proposed home is in character with the surrounding area. Staff does not anticipate any negative impacts on surrounding property values. **Criteria met.**

g. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity. **Criteria met.**

2. A **conditional use permit for a Shoreland Impact Plan** to allow for impervious coverage of 38.1%. According to code, the City Council shall consider possible adverse effects of the proposed conditional use based upon (but not limited to) the following factors:

a. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.

The Comprehensive Plan guides this area for low density single family residential development. Approving the request will not change the current use of the property as a single family home, and will actually decrease the current impervious surface coverage on the lot. **Provided Council finds the other CUP criteria are met, staff finds the request is consistent with the goals and policies of the Comprehensive Plan.**

b. The proposed site is or will be compatible with present and future land

uses of the area.

The existing and future land use for the property is for single family residential. The proposed new home does not change the land use and is consistent with the use of the surrounding neighborhood. **Criteria met.**

c. *The proposed use conforms to all performance standards contained herein.*

Criteria met.

d. *The impact on character of the surrounding area.*

The proposed conditional use will not have any negative impact on the character of the surrounding area. **Criteria met.**

e. *The demonstrated need for such use.*

The redevelopment of the lot is consistent with the intended use of the property. **Criteria met.**

f. *The proposed use will not tend to or actually depreciate the area in which it is proposed.*

Staff does not anticipate that the proposed new home will have any negative impact to adjacent property values. **Criteria met.**

g. *The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.*

The proposed project should not have any impact on public utilities. Prior to construction, a Shoreland Impact Plan must be submitted by the applicant, and approved by the City Engineer, which should address how the property owners will mitigate the storm water impacts of the increase in impervious surface. **Criteria met.**

3. **A conditional use permit for alternative flood proofing measures** to allow the foundation grade below the first floor to be below the RFPE of 933.5. According to code, the City Council may approve special floodproofing measures for single family residential and accessory uses in flood fringe areas adjacent to and outside of floodways by a Conditional Use Permit using the conditions specified in Section 1003.01, Subd. 8 of this Ordinance:

a. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.* The use of the property will not change and the request is therefore consistent with the comprehensive plan. **Criteria met.**

b. *The proposed site is or will be compatible with present and future land uses of the area.* The existing and future land use for the property is for single family residential. The proposed improvements do not change

the land use and is consistent with the use of the surrounding neighborhood. **Criteria met.**

- c. *The proposed use conforms to all performance standards contained herein.* **Criteria met.**
- d. *The impact on character of the surrounding area.* The proposed conditional use will not have any negative impact on the character of the surrounding area. **Criteria met.**
- e. *The demonstrated need for such use.* The proposed construction allows the construction of the home within the floodplain without adding addition fill within the floodplain as well as maintaining the first floor elevation above the RFPE of 935.5. **Criteria met.**
- f. *The proposed use will not tend to or actually depreciate the area in which it is proposed.* Staff does not anticipate that the proposed improvements will have any negative impact to adjacent property values. **Criteria met.**
- g. *The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.* The proposed improvements should not have any impact on public utilities. **Criteria met.**

Resident Concerns:

Engineering Reports:

None to date.

In addition to the above criteria, per Section 1070.16 Shoreland Impact Plan/Conditional Use Permit, the following criteria are applicable to **Conditional Use Permit Requests within the Shoreland Impact Zone:**

- 1. The projects shall be analyzed to determine the impact of impervious surfaces, storm water runoff, floodplain, and water quality implications. Only those projects shall be allowed where the adverse impacts have been mitigated through approved means to the extent possible.

Criteria met.

- 2. Storm water treatment measures including, but not limited to, sediment basis (debris basins), desilting basins or silt traps, installation of debris guards, and microsilt basins on storm water inlets, oil skimming devices, etc. shall be required subject to the review of the City Engineer and Minnehaha Creek Watershed District on projects where applicable.

Criteria met.

3. Projects shall be analyzed by the City in terms of provisions for maintenance and enhancement of landscape features, change in the natural condition of the soil, removal of trees, grade courses and marshes. The plan shall also minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible. It shall further provide for the relocation or replanting as many trees as possible which are proposed to be removed. **Criteria met.**
4. Projects shall be analyzed by the City in terms of the appearance of the structure when viewed from the lake's surface. Building materials, and color shall be analyzed to determine which facade and roof materials minimize the appearance and blend the structure into the shoreland and vegetation. **Criteria met.**
5. Lot coverage on a project basis shall be restricted to the provisions for maximum impervious surface coverage as provided for in this Ordinance. **Criteria met.**
6. Residential densities on a project basis shall not be allowed to exceed the maximum allowed density of the base zoning districts for which the project is proposed. The proposed project does not increase the density allowed under the base zoning district. **Criteria met.**
7. All projects shall be in conformance with the Shoreland Management Plan, Comprehensive Plan, and Zoning and Subdivision Ordinances of the City of Tonka Bay. **Criteria met.**

All projects shall be subject to the review by the Minnehaha Creek Watershed District and the City Engineer. The City Engineer has reviewed and approved the proposed improvements along with the Minnehaha Watershed District. Copies of the MCWD approval will be recorded on the property record at City Hall. **Criteria met.**

In addition to the above criteria, per Chapter 1040, Section 4.29 – Floodproofing/Conditional Use., the following criteria are applicable to **Conditional Use Permit Requests regarding alternative floodproofing measures:**

1. *The project shall meet the requirements of Minnesota Department of Natural Resources Rule 6120.5800 Subp. 4.B and amendments thereto:*

This section of MnDNR rule relates to constructing the elevation of the finished low floor above the flood protection elevation however allows the option for alternative floodproofing or other protective measures only upon issuance of a special use permit by the local governmental

unit. **Criteria met.**

2. *The project shall meet the requirements of the Minnesota State Building Code, Chapter 1335, Parts 1335.0020 to 1335.3100 and amendments thereto:* This section of the Minnesota Building Code refer to floodproofing measures. Plans for floodproofing have been submitted to the Building Official for review and will require approval prior to issuance of the building permit. **Criteria met.**

3. *The project shall meet the requirements of 44 Code of Federal Regulations 60.3 (c) (5):* This section of the Code of Federal- Flood Plain Management Regulations states that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. **Criteria met.**

Conclusion

Council Options:

The City Council has the following options:

- A) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING THE REQUESTS (based on the applicant's submittals and findings of fact).
- B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUESTS (based on the applicant's submittals and findings of fact).
- C) TABLE THE ITEMS and request additional information.

The 60-day review period for this application expires on 01-17-16.

Recommendation:

Staff recommends approval of the requested variances and conditional use permits based on the findings detailed in the report and as outlined in the template approval motion below.

Template Approval Motion all Variances and Conditional Use Permits:

"I move that we direct staff to prepare a resolution of approval for the requested variances and conditional use permits to allow for the construction of a single family home on the property located at 4348 Manitou Rd. based on the findings of fact listed in the report. Furthermore, the approval shall include the conditions listed within the staff report as may have been amended here

tonight”.

- a. The proposed use as a single-family home will not change and is consistent with the City’s Comprehensive Plan.
- b. Granting the requested variances and Conditional Use Permits will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the variances and Conditional Use Permits will not increase congestion in the public street. The use of the property as a single family home will stay the same and not increase congestion.
- d. Granting the variances will not increase the danger of fire or endanger the public safety.
- e. Granting the variances will not diminish or impair established property values in the neighborhood.
- f. Granting the variances will not alter the essential character of the locality.
- g. The continued use of the property as a single-family home is a reasonable use of the property.
- h. The requests are in harmony with the general intent of the ordinance.
- i. There is a demonstrated need for the use.
- j. The proposed use conforms with all performance standards

***Template Denial
Motion for Variances
and Conditional Use
Permits:***

“I move that we direct staff to prepare a resolution of denial for the requested variances and conditional use permits based on the following findings of fact:”

- a. (Provide findings to support conclusion)

***Recommended
Conditions (if
approved variances
and Conditional Use
Permits):***

1. The Applicant shall submit an updated survey showing the proper establishment of the benchmark used to determine the finished grades and must be approved by the City Engineer.
2. 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).
3. 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 (if needed) shall be provided to the city prior to a building permit being authorized.
4. Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
5. 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.
6. Construction shall follow the survey and plans as submitted or as

required to be updated by the City Engineer.

7. Building of structures shall not occur within any existing or proposed easements on the property.
8. The variance shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.