

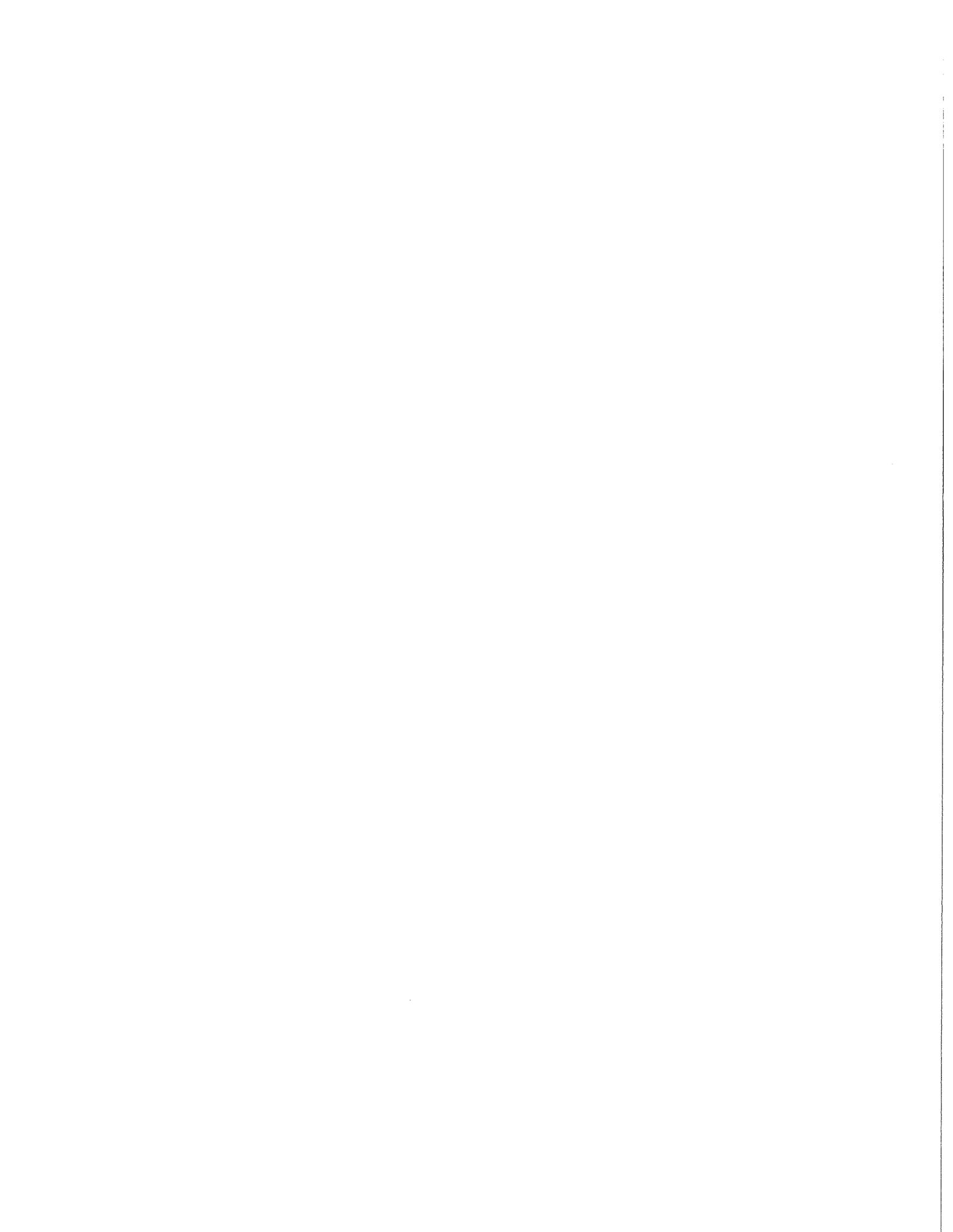
Memo

To: Honorable Mayor and City Council
From: Joe Kohlmann, City Administrator
Date: January 14, 2014
Re: Public Hearing 55331 Manitou

The following *Attachments* are included for the Public Hearing:

- 1) Staff Report
- 2) Proposed Plans
- 3) Traffic Study
- 4) Stormwater Maintenance Agreement
- 5) Resident Concern

Council Action Requested:
Public Hearing.



Tonka Bay City Council Agenda Item
Executive Summary

Title of Item: **Conditional Use Permit Amendment, Conditional Use Permit, and Variance Requests:** Application from Minnetonka Public Schools ISD 276 requesting 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.– C-2 zoning – PID: 33-117-23-11-0075

Meeting Date: **01-14-14**

60 Day Review deadline: **60 day period ended on 12-01-2013**
Extension letter issued on 11-6-13
60 day extension ends on 01-30-14
Applicants request for extension letter received 1-16-14
Final decision deadline is 3-25-14

Staff/Guest Reporting: Kelsey Johnson, AICP – City Planner
Justin Messner, PE – City Engineer

Summary: The applicant's wishes to amend the conditional use permit granted on April 25, 1995 to allow for expansion of an existing bus facility. The parking lot expansion will add approximately 15,900 square feet of parking lot to accommodate the parking of 20 additional buses on the property. New curb and gutter will be constructed and a new 6-foot chain link fence will surround the perimeter of the additional parking area. Each parking space along the east side of the additional area is planned to be 38' x 12' with six spaces on the interior being 38' x 11.75'.

As part of this, a conditional use permit and, variance is requested to exceed the total allowable impervious lot coverage by 31% for a total of 77% lot coverage where more than 46% requires a CUP and variance, and a variance to exceed the permitted occupancy of buses for a total of 100 buses where 80 buses are allowed in the C-2 District. The original permit was issued to Hanus Enterprises, the current land owner. The applicant is Minnetonka Public Schools ISD 276; the current leasee. The request was granted to Hanus in 1995 with the following conditions:

1. No more than a maximum of 80 buses are allowed for storage purposes in the entire C-2 District in Tonka Bay.
2. The use was contingent on the City obtaining a drainage easement from the owner of the plaza so that the water tower overflow can drain north to the rail road right of way.
3. In the event that the owner did not provide the necessary drainage easement, the use was contingent upon obtaining the needed easement from the applicant when and if he purchased said property for bus garage expansion.

4. The applicant agreed to provide the City a drainage easement along the easterly property line, at a width of 15 feet, for the cost of \$1.00 and other considerations.

Traffic Concerns

A public hearing was held on March 20, 1995 to discuss the approval of the original conditional use permit for the site. Increased traffic was a concern and it was determined that the project should be reviewed by a professional traffic engineer; the public hearing was continued to April 25, 1995. The traffic study reported that County Highway 19 could effectively accommodate the traffic generated by the proposal and that "vehicular access points shall create a minimum of conflict with through traffic movement".

The applicant was required to incorporate the following recommendations from the traffic engineer:

- Right turn lane must be constructed on County Highway 19 south of driveway.
- Two power poles to the south to be relocated.
- Street light fixtures to be installed.
- The applicant driveway to be widened to 30 feet.
- Construction of 40' radii on the driveway.

Since that time, these improvements have been made and an additional traffic study was prepared by a professional traffic engineer and submitted to the City. The study concluded that the intersection/site access will continue to operate at a Level of Service A, which is the highest rating possible.

Stormwater/Impervious Surface Concerns.

To address stormwater management/runoff concerns, approval for the original CUP included the following conditions:

- A storm water retention pond in the northwest corner of the lot.
- A silt fence along the west side of the site and balance of the north side.
- An increase in permanent water depth to 4 feet in the storm water basin.
- A requirement that the applicant must own and maintain the storm water basin.
- The requirement of a public drainage easement to be provided over the wetland area along the north side of the property.
- A public drainage easement to be provided for the existing sewer overflow for the elevated tank, and storm sewer connections
- The entire hard surface area has a requirement of a curb of at least six inches in height.

Concerns of Loss of Vegetation.

There was a concern about a large amount of vegetation being removed, and a \$2,000 landscape bond was required, as well as an approved landscaping plan before returning of the bond.

Administrative Regulations

The previous permit required:

- All required building permits needed to be obtained
- An agreement that the project would be reviewed annually for five years to determine if the above requirements and requirements of the permitted use were maintained.

City Code allows for Commercial Bus Storage in a C-2 district of up to 80 buses, provided that it complies with the provisions outlined in the Zoning Ordinance as detailed later in the report.

The amendment to the permit will require:

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 current conditional use permit, which exceeds the total allowable impervious surface (46% impervious surface) by **31%**.
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 CUP.

Staff believes that the applicant has met the Statutory and City Criteria for approving the conditional use permit amendment, the conditional use permit and variances associated with this application. Staff has provided a template approval motion on page 12 as well as findings of fact for approval for all variances and conditional use permits.

City of Tonka Bay Planning Department
Variance Report

To: **City Council**

From: Kelsey Johnson, AICP – City Planner
Justin Messner, PE – City Engineer

Meeting Date: **January 14, 2014**

Applicant: Paul Bourgeois, Minnetonka Public Schools ISD 276 (leasee)

Owner: Fred Hanus, Hanus Enterprises

Location: **5531 Manitou Road, Tonka Bay MN 55331**

Zoning: **C-2 General Commercial District**

Introductory Information

Proposed Project: The applicant is seeking to amend the current conditional use permit to allow for an expansion of the existing parking lot for outdoor bus storage, a conditional use permit and variance to exceed the maximum allowable impervious surface coverage on the lot by 31%, and a variance to exceed the permitted occupancy of 80 buses on the property to allow 100 buses to be located on the property.

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

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.

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

1. A conditional use permit to allow a **20% increase** to the allowed impervious surface from what was approved with the current conditional use permit, which exceeds the total allowable impervious surface (46% impervious surface) by **31%**.
2. 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 CUP.

Findings

Site Data:	Lot Size – 5.27 acres Existing Use – Commercial/ First Charter Bus Garage Existing Zoning – C-2 General Commercial District Property Identification Number (PID): 33-117-23-11-0075
Comp Plan Guidance:	<ul style="list-style-type: none">▪ The comprehensive plan guides this lot for general commercial use. The corresponding zoning assigned to this property (C-2 General Commercial District) is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region.
Lot Area:	<ul style="list-style-type: none">▪ The lot is allowed to be used for its intended purpose with a currently valid conditional use permit under city ordinances.
Hardcover:	<ul style="list-style-type: none">▪ The maximum hardcover permitted on this lot without any review is 25%; hardcover greater than 46% may be allowed provided a shoreland impact plan is submitted and conditional use permit and variance are approved.▪ The existing CUP approved April 25, 1995 stated an increase of impervious surface would allow for 57% impervious surface on the property.▪ The applicant is proposing hardcover in the amount of 175,547 square feet, which is 77% of the lot.▪ Currently hardcover on the site occupies 70% of the property according to the sheet 1 of 6 titled 2013 Parking Lot Expansion dated March 8, 2013.▪ Regardless of existing hardcover as provided by the Applicant, it appear that 57% was approved as part of the 1995 CUP and therefore the total increase is based off of that number, which results in an increase of 20% impervious surface increase (where a 7% increase is the actual increase over existing conditions as of 2013 according to the Applicant’s drawing).▪ A storm water pond was approved and constructed as part of the 1995 CUP to serve as storm water treatment for the site. The proposed increase in impervious surface will require improvements be made to accommodate the additional storm water runoff. The Applicant has proposed to construct a subsurface storm water chamber system beneath the proposed parking lot expansion to aid in storm water treatment, detention, and infiltration. The applicant. Although the proposed plan indicates the Applicant appears to be making accommodations for the increased impervious surface, the applicant must submit the criteria used to design and size the proposed storm water treatment system for verification by the City Engineer.▪ A Storm Water Facilities Maintenance Agreement has been reviewed and approved by the City Engineer and must be formally executed prior to approval of the building permit.

Application Review:

**Applicable Code
Definitions:**

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, modifications, 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.

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 (of Record). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Ordinance, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the Council.

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

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:

1024.02 Subd. 42 Commercial Bus Storage of up to 80 buses, provided that:

- a. There shall be no open and outside storage, unless approved through a conditional use permit subject to this Section and Section 1003.
- b. There shall be no repair of buses except those stored on the premises and only within an enclosed structure.
- c. Said use shall be prohibited within three hundred feet of a shopping center as defined in this Ordinance.
- d. Parking or vehicle storage space shall be screened from view of abutting residential districts.
- e. Vehicular access points shall create a minimum of conflict with through traffic movement, shall comply with Section 1011.06 of this Ordinance and shall be subject to the approval of the City Engineer.
- f. Adequate screening and landscaping from neighboring residential districts shall be provided.
- g. Adequate off-street parking and off-street loading in compliance with the requirements of Sections 1101.05 and 1011.06 of this Ordinance

shall be provided.

- h. The entire site other than that taken up by a building, structure or plantings shall be hard surfaced with a material to control dust and drainage which is subject to the approval of the City Engineer.
- i. A minimum lot area of twenty thousand (20,000) square feet and the minimum lot width of one hundred (100) feet shall be required.
- j. A drainage system subject to the approval of the City Engineer shall be installed.
- k. Any lighting 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 this Ordinance.
- l. Provisions shall be made to control and reduce noise.
- m. Whenever fuel pumps are to be installed, pump islands shall be installed.
- n. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by the State regulations for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements which are imposed for other uses of the property.

1070.11 Impervious Surface Coverage; subdivision (1) a. 3. Where appropriate and where structures and practices are in place for the treatment of storm water, impervious surface coverage 46% and over may be allowed provided a shoreland impact plan/conditional use permit and variance are submitted and approved as provided for in Section 1070.16 and Section 1070.17 of this Ordinance.

1070.13 Shoreland Alterations, Storm Water Management, subdivision (4). All development within the Shoreland Overlay District shall be consistent with the following general and specific standards:

- a. General Standards.
 - 1. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
 - 2. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible with facilities or methods used to retain sediment on the site.
 - 3. When development density, topography features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference

shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

b. Specific Standards.

1. When constructed facilities are used for storm water management, documentation shall be provided by a qualified registered engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
2. New constructed storm water outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

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

Landowners or 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.

Section 1080.07 Storm Water Management Plan Approval Procedures, subdivision (7) a., b., c., and d.

- a. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. At the discretion of the City, an applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
- b. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the

integrity or quality of the wetland or pond.

- d. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
 - (1) Natural infiltration of precipitation on-site;
 - (2) Flow attenuation by use of open vegetated swales and natural depressions;
 - (3) Storm water retention facilities; and
 - (4) Storm water detention facilities
- e. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection A above. Justification shall be provided by the applicant for the method selected.

Section 1080.07 Storm Water Management Plan Approval Procedures, subdivision (8). Storm water detention facilities constructed in the City of Tonka Bay shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

- A. A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;
- B. An average permanent pool depth of four to ten feet;
- C. A permanent pool length-to-width ratio of 3:1 or greater;
- D. A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1;
- E. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod;
- F. All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;
- G. Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the 10 year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;

All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

Variance Criteria Review:

By state statute, there are three definitive criteria that all variances must address: consistency with the ordinance, consistency with the comprehensive plan, and the establishment of "practical difficulties." Presuming a request meets the statutory criteria, city code also requires that the proposal will not impair an adequate supply of light and air to adjacent property, unreasonably

increase the congestion in the public street, increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the neighborhood.

The requested variances include:

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. Staff's analysis of these requests under the review criteria is as outlined below.

A. Statutory Criteria

1. *The request is in harmony with the general purposes and intent of this ordinance.*

Both variance requests. There is an existing bus parking area and bus operations facility on the property. The Applicant proposes to use the property in the same manner as it is currently being used. The Applicant has previously constructed stormwater management facilities to accommodate the stormwater on site thus providing for storage due to the increased impervious surface proposed with this application. Staff finds that the additional parking surface to accommodate 20 additional buses on site does not contribute to overcrowding or visual impacts as the proposed addition is on the far east and south side of the property adjacent to other commercial areas, including the City's water tower. The expansion area is bounded to the east by a wooded area and additional commercial/light industrial type development and is not perceived to have a visual impact or provide inconsistencies between uses surrounding the property. **Criteria met.**

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

Both variance requests: The Comprehensive Plan calls for this area of the City to be used for "Commercial" which provides opportunities for conducting commercial activities of varying intensities. The use of the property as a bus storage and bus operation is consistent with this land use designation. **Criteria met.**

3. *The property in question meets the "practical difficulties" test:*

- a.) *The property owner proposes to use the property in a reasonable manner.*

Both variance requests: The proposed expansion does not change the use of the property. While the additional parking space and additional buses stored on the property is proposed to increase by a maximum of 20 buses, the additional storage of buses is reasonable use of the property. Additionally, the Applicant is proposing the additional storage on the far east and southern edges of the property, thus

reducing the visual impact from County Road 19 and adjacent properties. **Criteria met.**

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

The existing use of the property is for storage of buses, which includes a paved hard surface for the buses to be located on. The impervious surface on the property already exceeds the maximum allowable amount allowed and a conditional use permit is in place as a result. Additional parking space cannot be reasonably added to the property without the issuance of a variance, as all parking areas in the City must be of a hard surface. Given the nature of the site and the limitations for alternative solutions that would not require a variance, it seems that there are unique circumstances on the property that justify the need for a variance. **Criteria met.**

c.) *The variance will maintain the essential character of the locality.*

Both variance requests: The proposed expansion does not change the use of the property. Specific screening and vegetation guidelines are prescribed through the original conditional use permit, and will continue with the proposed conditional use permits and variances if approved, to ensure the existing character is maintained. Adjacent land uses include commercial and light industrial types of uses that fit will not be impacted by the additional parking area as proposed. **Criteria met.**

B. City Tests:

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

Both variance requests: The proposed expansion does not impair the adequate supply of light and air to the adjacent property. **Criteria met.**

2.) *Will the variance unreasonably increase the congestion in the public street?*

Both variance requests: The approval of the proposed expansion increases the occupancy of the bus garage by allowing up to a maximum of 20 additional buses to be stored on the property, which exceeds the allowed occupancy of 80 buses by 20 buses (68 buses were approved in 1995). A traffic study was completed as part of this application, which discusses peak traffic hours and trip generations for the bus facility. The traffic study concluded that the proposed expansion will not unreasonably increase the congestion in the public street. **Criteria met.**

3.) *Will the variance increase the danger of fire or endanger the public safety?*

Both variance requests: The existing site is used for the storage of busses and associated equipment. The proposed expansion of the parking lot area for the storage of 20 additional buses does not increase the danger of fire or the public safety. All Federal, State, County and local regulations pertaining to storage of vehicles and liquids (e.g. fuel, oil, etc.) must be

adhered to. **Criteria met**

4.) *Will the variance unreasonably diminish or impair established property values within the neighborhood?*

The use of the property does not change from existing conditions. The proposed expansion of outdoor parking on the buses is to the south along the east side of the property which does not appear to unreasonably diminish or impair established property values within the neighborhood. Any externalities associated with an increase in hardcover are addressed in requirements to mitigate storm water runoff through design principles and vegetation requirements. **Criteria met.**

CUP Reviews:

The requested conditional use permits with this application are:

1. A conditional use permit to allow a **20% increase** to the allowed impervious surface from what was approved with the current conditional use permit, which exceeds the total allowable impervious surface (46% impervious surface) by **31%**.
2. 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 CUP.

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:

1. *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 “Commercial” land use, which provides opportunities for conducting commercial activities of varying intensities. The use of the property as a bus storage and bus operation is consistent with this land use designation. Provided Council finds the other CUP criteria are met, staff finds the request is consistent with the goals and policies of the Comprehensive Plan. **Criteria met.**

2. *The proposed site is or will be compatible with present and future land uses of the area.*

The use of the property does not change with the amendment of this conditional use permit. **Criteria met.**

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

The proposed use of a “Commercial Bus Storage of up to 80 buses” is a permitted use within the C-2 district. The Applicant is requesting a variance to allow up to 100 buses to be located on the property. This is a total of 20 buses over the allowable limit in the District. The Applicants is also requesting a conditional use permit amendment to allow “open and outside storage” of the buses as previously approved in 1995. The proposed expansion of the parking area will be required to meet the performance standards contained in the City’s code and in the

amended conditional use permit if approved. **Criteria met.**

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

The amendment does not change the use of the property; no additional structures will be added to the property. The only changes will be an increased occupancy of allowed buses (20 over what is allowed by City Code), and an increase in impervious surfaces. The properties immediately adjacent to the site are of a commercial/light industrial nature. The residential neighborhoods to the north of the site are separated by a stormwater pond, wetland and a wooded grove of trees. The addition is proposed in an area that is least impactful to the residential area along the south and eastern side of the property. There are no perceived impacts on the character of the surrounding areas.

Criteria met.

5. *The demonstrated need for such use.*

The property is used by the Minnetonka School District, ISD 276 for the purpose of transporting students to and from school. Buses are also available for renting by other agencies on an as-needed basis.

Additional buses are needed as indicated by the Applicant, and therefore additional parking spaces are being requested to house the buses on site as opposed to an alternative location off-site which would be inefficient to their operations. **Criteria met.**

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

The proposed changes do not drastically alter the use of the existing property. While additional parking of buses will occur on the property the additional spaces and use will need to comply with all applicable codes (e.g. nuisance, noise, screening, etc.). The proposed expansion is planned on the southernmost edge of the property closest to commercially zoned property with compatible land uses. **Criteria met.**

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

The property is used by the Minnetonka School District, ISD 276 for the purpose of transporting students to school and is not perceived to have an impact on the City's service capacity. The property owner previously constructed a stormwater pond on site to accommodate storm water runoff on site. The additional available buses will ultimately provide additional service options for mass transit to the community and region as a whole. **Criteria met.**

Engineering Reports:

The approval of the original conditional use permit for the site was contingent on the findings of a traffic study. An updated traffic study indicating the impacts of the proposed expansion is necessary to effectively amend the original conditional use permit. An updated traffic study completed by a professional traffic engineer was submitted by the applicant and approved by the City Engineer, which concluded that the proposed expansion will not unreasonably increase the congestion in the public street.

As noted previously, calculations for this property indicate that approximately 77 percent of the property is proposed as hardcover. This exceeds the 25 percent maximum and requires approval from the City Engineer and City Administrator. A Shoreland Impact Plan and Storm Water Facilities Maintenance Agreement has been completed by the applicant and approved by the City Engineer, and must be fully executed prior to beginning construction. The plan addresses how the property owners will offset the storm water impacts of the additional impervious surface.

The Minnehaha Creek Watershed District requires a storm water management permit for all redevelopment on sites over 1 acre. The proposed site disturbance and increase in impervious surface require the applicant to submit plans for review of volume control, rate control, phosphorous reduction, and BMPs.

Resident Concerns:

The City has received concerns from neighboring property owners who have expressed frustration of the amount of noise from the bus garage, specifically bus alarms sounding at all hours of the day. They have made formal complaints through the Hennepin County non-emergency line and through email to City staff. The addition of parking spaces for more buses and the ongoing noise concerns was raised.

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 expired on 12-01-13. An extension letter was sent to the applicant and the property owners. A final decision must be made prior to 3-25-14.

Recommendation:

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

***Template Denial Motion:
(Not Recommended)***

“I move that we direct staff to prepare a resolution of denial for the requested variance(s) and conditional use permit(s) based on the following findings of fact:”

- (Provide findings to support conclusion)

Template Approval

“I move that we direct staff to prepare a resolution of approval for the requested

Motion:
(Recommended)

conditional use permit amendment to allow the expansion of commercial bus storage that contains open and outside storage, a conditional use permit and variance to allow for a 31% increase to the allowable impervious surface on site, and a variance to allow 100 buses to be parked on the property 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 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.
- b. Granting the conditional use permit amendment, conditional use permit and variances will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the conditional use permit amendment, conditional use permit and variances will not increase congestion in the public street beyond reasonable and allowed thresholds.
- d. 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.
- e. Granting the conditional use permit amendment, conditional use permit and variances will not diminish or impair established property values in the neighborhood.
- f. Granting the conditional use permit amendment, conditional use permit, and variances will not alter the essential character of the locality.

Recommended
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.