

# CITY OF TONKA BAY ITEM NO. 7A

## Tonka Bay City Council Agenda Item Executive Summary

*Title of Item:* **CONDITIONAL USE PERMIT REQUESTS:** Application from Chris and Alison Schmidt requesting a conditional use permit amendment to increase the total amount of floor area ratio beyond the previously approved amount to allow for a modification in their plans for the construction of a new home at 45 West Point Avenue – R-1A zoning – PID: 22-117-23-32-0016

*Meeting Date:* **03-12-13**

*60 Day Review deadline:* **60 day period ends 04-07-13**

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

*Summary:* The City Council approved a request from the applicant on November 27, 2012 to tear down and rebuild their existing single-family home. The applicants cited numerous reasons that necessitated the tear down, including structural problems, mold, and a growing family size as reasons for the proposed project. Since the Council's approval, construction on the property has begun, and the applicant has since realized they wish to adjust their plans slightly in layout and design. Construction of the new home, with the updated amendments to the plans, will require an amendment to the approved conditional use permit. In summary, the requested conditional use permit amendment includes:

1. A **conditional use permit amendment** to authorize a **3.3% increase** from the previously approved CUP (16.7% total increase over what is allowed) to the allowed floor area ratio totaling .467 or 46.7%.

Staff believes that the applicant has met the Statutory and City Criteria for approving a conditional use permit amendment. Staff has provided a template approval motion on page 8 as well as findings of fact for approval for the conditional use permit amendments.

City of Tonka Bay Planning Department  
**Variance Report**

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*To:* **City Council**

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

*Meeting Date:* **March 12, 2013**

*Applicant:* Chris and Alison Schmidt

*Owner:* Chris and Alison Schmidt

*Location:* **45 West Point Avenue**

*Zoning:* **R-1A**

**Introductory Information**

**Proposed Project:** The applicant is seeking to slightly modify the previously Council approved plans to tear down the existing home and build a new home at 45 West Point Avenue, which would result in an increase to the overall Floor Area Ratio (FAR).

**CUP Request:** The proposed action will require a conditional use permit amendment for:

1. A **conditional use permit amendment** to authorize a **3.3% increase** from the previously approved CUP (16.7% total increase over what is allowed) to the allowed floor area ratio totaling .467 or 46.7%.

**Findings**

**Site Data:** Lot Size – 12,763 square feet  
Existing Use – Single Family Home  
Existing Zoning – R-1A  
Property Identification Number (PID): 22-117-23-32-0016

**Comp Plan Guidance:**

- The comprehensive plan guides this lot for single family use. The corresponding zoning assigned to this property (R-1A) allows for single family homes.

**Side Yard:**

- The required side yard setback in the R-1A District is 8 feet for interior lots.
- The applicant received variances from both side yard setback requirements on November 27, 2012.

**AC Unit:**

- Mechanical equipment such as air conditioning units are required to meet principal structure setbacks.
- The side yard setback in the R-1A district is 8 feet for interior lots.
- The applicant received a variance from the required setback for their AC unit on November 27, 2012.

- Rear Yard:**
- The required rear yard setback in the R-1A district is 25 feet.
  - The applicant received a variance from this requirement on November 27, 2012 to construct their new home closer than the required setbacks.
- Front Yard:**
- The required front yard setback in the R-1A district is the greater of 50 feet or the average setback of the two adjacent principal structures.
  - The two adjacent principal structures are set back 70.83 feet and 67.58 feet, which results in an average setback of 69.2 feet.
  - The applicant received a variance on November 27, 2012 to locate their home 57.25-feet from the OHW level.
- Floodplain Buffer:**
- RFPE = 933.5; fill within 15' of the proposed renovations must be at or above 932.5.
  - There are areas within 15' of the home that are below the RFPE. In addition, there are areas within 15 feet of the structure that fall on adjacent property, which cannot be corrected. The applicant received a variance from this requirement on November 27, 2012.
- Lot Area:**
- The lot area requirement in the R-1A District is 20,000 square feet. The lot of record is 12,763 square feet.
  - The lot is a nonconforming lot of record and is allowed to be used for its intended zoning under city ordinances.
  - State Statutes require a variance for lot area on properties within the shoreland district that do not meet setback requirements or have impervious surface coverage that exceeds 25 percent. The applicant received a variance from this requirement on November 27, 2012.
- Hardcover:**
- The maximum hardcover permitted on this lot without any review is 25 percent; hardcover between 36 percent and 45 percent can be allowed provided a shoreland impact plan is submitted and conditional use permit is approved.
  - The applicants are proposing hardcover in the amount of 5,533 square feet, which is 43.4 percent of the lot, which is the same amount as approved on November 27, 2012. The total amount of hard cover did not change from what was previously approved because the applicant compensated equally for the increase in area of the home by taking it from the parking area of the driveway.
  - The applicant proposed to install a series of storm water treatment systems, thereby satisfy the requirement that storm water runoff be treated on site so long as the system design is approved by the City.
  - A Shoreland Impact Plan was submitted and approved by the developer and has been reviewed and approved by the City Engineer.
  - A conditional use permit was required and approved by the City on November 27, 2012.
- Floor Area Ratio:**
- The allowed FAR in the R-1A zoning district is 0.30.
  - Based on a lot size of 12,763 sq. ft. the maximum floor area of the home could be is 3,828.9 square feet.
  - The applicants are proposing floor area in the amount of 5,969 SF (5,510 SF previously) which equates to an FAR of .467 or 46.7% (.434 or 43.4 %

previously). This results in a 3.3% increase over what was previously approved on November 27, 2012.

- A conditional use permit amendment is required.

**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.

**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 (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.

**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.

**Regulatory Flood Protection Elevation.** 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).

**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:* **1017.06 Lot Area and Setback Requirements; subdivision (1).** Lots in the R-1A Zoning District shall have a lot area of not less than twenty thousand (20,000) square feet.

**1017.06 Lot Area and Setback Requirements; subdivision (3) b.** Principal structures in the R-1A Zoning District shall be setback not less than eight (8) feet from the side-yard lot line.

**1017.06 Lot Area and Setback Requirements; subdivision (3) c.** Principal structures in the R-1A Zoning District shall be setback not less than twenty-five (25) feet from the rear-yard lot line.

**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.

**1011.02 General Building and Performance Requirements; subdivision (4) d.** Modifications which serve to alter the average and typical natural grade of an individual lot more than two (2) feet shall require the review of the City Engineer and approval of the City Council.

**1040 Section 4.0 Permitted Uses and Standards; subdivision (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 protection elevation and shall extend at such 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).

**1070.11 Impervious Surface Coverage; subdivision (1) 2.** Where appropriate and where structures and practices are in place for the treatment of storm water, impervious surface coverage of between thirty-six (36) percent to forty-five (45) percent may be allowed provided a shoreland impact plan/conditional use permit is submitted and approved as provided for in Section 1070.16 of this Ordinance.

**1017.07 Lot Coverage and Height; subdivision (1).** 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.

**1011.04 Accessory Buildings, Structures, Uses and Equipment; subdivision**

(1) I. Accessory buildings, uses or equipment such as air conditioning cooling structures or condensers, satellite dishes and fish houses shall be located only within the principal structure setback requirements and shall be screened from view in accordance with Section 1011.05 of this Ordinance.

**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.

**CUP Reviews:** The requested conditional use permit amendment with this application is for:

1. A **3.3% increase** from the previously approved CUP (16.7% total increase) to the allowed floor area ratio (FAR) totaling .467 or 46.7%.

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.*

Request: The Comprehensive Plan guides this area for low density single family residential development between 0 and 2.9 units per acre. The plan recognizes that “housing conditions have improved and are likely to continue to improve during the next 20 years as deteriorating and obsolete units are replaced with new units.” Specific to *housing redevelopment*, the Comprehensive Plan states that the City should continue to provide a smooth transition from cottage/obsolete housing on some lots (usually small lots) to new housing.” The stated housing goal is: “Housing Quality and Preservation: Retain the highly valued neighborhood qualities and preserve the City’s housing.” One of the corresponding policies for that goal is to “support housing rehabilitation, remodeling, and some new construction through redevelopment.”

In summary, all language relating to housing shows an expectation that existing homes will continue to be replaced or rehabilitated throughout Tonka Bay in the coming years. The City’s role in this transition is to ensure that such change occurs smoothly and in a manner that protects the existing neighborhood qualities (examined below). **Provided Council finds the other CUP criteria are met, staff finds the request**

**is consistent with the goals and policies of the Comprehensive Plan.**

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

Request: Numerous homes in Tonka Bay were constructed prior to the adoption of the FAR and impervious surface requirement and are legally non-conforming. Part of the reason the home does not meet the FAR requirement is because the lot does not meet the minimum lot area requirement, which places a hardship on the property owner. The size of the home is not out of scale with the neighborhood or other homes in Tonka Bay, and the requested amendment is not significant in terms of overall size and massing. The amount of impervious surface found on the property is not changing with the proposed amendment. In the future, staff believes that other residents will make similar request to improve their homes. **Criteria met.**

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

Request: This requirement relates more to “use” requests vs. a CUP requesting a deviation from the Code. **Staff does not believe this criteria applies in this case.**

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

Request: The proposed conditional use amendment will not have any negative impact on the character of the surrounding area. There are numerous homes in Tonka Bay that were constructed prior to the FAR requirement and are legally non-conforming. The size of the proposed home with the modifications is not out of scale with the neighborhood or other homes in Tonka Bay. In addition, the net amount of impervious surface is not changing from what was previously approved. **Criteria met.**

5. *The demonstrated need for such use*

The applicants have stated that the existing home is no longer able to accommodate the size of their family. The applicants’ family has grown from three to six since the home was purchased. In addition, the home has several structural deficiencies, including poor siding, water issues, mold and poor insulation. Rather than fix everything wrong with the home, the applicants have decided that rebuilding is the more logical approach to achieve the home they desire while staying in Tonka Bay. The slight modifications to the plan for the home are to address this same need. **Criteria met**

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

The proposed construction of the home will increase the property value,

which in turn will support or boost the value of neighboring properties.  
**Criteria met.**

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

The existing home is currently utilizing city services and the FAR change will not impact the City's service capacity. In addition, because the amount of impervious surface is staying the same with the proposed project, there amount of storm water runoff will be the same as previously approved. **Criteria met.**

**Resident Concerns:**   ▪ Staff is not aware of any concerns raised to date.

**Engineering Reports:**   The City Engineer and City Administrator previously approved plans for stormwater treatment on site, as well as a Shoreland Impact Plan. An agreement has been approved between the property owner and the City of Tonka Bay for constructing and maintaining the storm water treatment system.

**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 04-07-13. An extension letter may be sent to the applicant and the home owners. A final decision MUST be made prior to 06-06-13.

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

**Template Denial Motion:**   "I move that we direct staff to prepare a resolution of denial for the requested conditional use permit amendment based on the following findings of fact:"  
*(Not Recommended)*   • (Provide findings to support conclusion)

**Template Approval Motion:**   "I move that we direct staff to prepare a resolution of approval for the requested conditional use permit amendment to exceed the allowable floor area ratio 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  
*(Recommended)*

here tonight”.

- a. The proposed use as a single-family home is consistent with the comprehensive plan.
- b. Granting the conditional use permit amendment will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the conditional use permit amendment will not increase congestion in the public street. The use of the property as a single family will stay the same and not increase congestion.
- d. Granting the conditional use permit amendment will not increase the danger of fire or endanger the public safety.
- e. Granting the conditional use permit amendment will not diminish or impair established property values in the neighborhood. Constructing a new home on the lot should increase property values in the neighborhood.
- f. Granting the conditional use permit amendment will not alter the essential character of the locality. The proposed home will fit in with other homes in the neighborhood.
- g. The proposed use as a single-family home is a reasonable use for the property. It is how the property is zoned and it is how the property is currently used.
- h. The topography of the site and the size of the parcel were not created by the current owners. These are circumstances unique to the property.
- i. The conditional use permit amendment request are in harmony with the general intent of the ordinance.
- j. Grading on the site of more than two feet is not anticipated to result in drainage impacting adjacent parcels.

***Recommended  
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 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. A sump pump inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
5. A water meter inspection must be completed by the City of Tonka Bay prior to C.O. being issued.

6. Overhangs or eaves shall not project more than two (2) feet into a required yards. The Plans must be modified accordingly prior to issuance of a building permit. Construction shall follow the survey and plans as modified or as otherwise 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 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.

RECEIVED  
FEB - 6 2013

CITY OF TONKA BAY  
CONDITIONAL USE PERMIT APPLICATION  
Phone: (952) 474-7994 Fax: (952) 474-6538  
www.cityoftonkabay.net

Application fee: \$150.00

The application fee is used to cover publication costs, County recording fees, postage and other supplies.

Escrow fee: \$1,150.00

The escrow fee is charged to cover staff expenses, engineering, planning and attorney expenses (as billed) which may be incurred because of your application. All staff time is billed at the regular employee rate plus 30% for overhead costs, which includes benefits, buildings, lights, heat, etc.

Any remaining funds, after expenses, are returned to the applicant. Expenses incurred over \$1100 will be billed to the applicant.

APPLICATION DATE 2/5/13

SITE ADDRESS (or legal description) 45 WEST POINT AVE TONKA BAY, MN 55381  
PID NUMBER \_\_\_\_\_

NAME OF PROPERTY OWNER(S) CHRIS & ALISON SCHMIDT

MAILING ADDRESS 45 WEST POINT AVE TONKA BAY MN 55381  
Street Address City State Zip

PHONE 952-401-1159 E-mail address CPSCHEMIDT45@MENSEL.COM

NAME OF APPLICANT(S) (if different from above) SAME AS ABOVE

MAILING ADDRESS SAME AS ABOVE  
Street Address City State Zip

PHONE SAME AS ABOVE E-mail address SAME AS ABOVE

Initial where indicated that you have read and understand the requirement(s).

- CS A. All property owners must sign as co-applicants.
- CS B. The property corners and proposed construction must be flagged/staked at the time of the application and maintained until the council makes a determination.
- CS C. Survey Requirements:
  1. Initial Survey  
Every application for building permit (excluding interior remodels, re-roofs, re-siding and general maintenance) shall be accompanied by a certified survey at a scale and in quantities deemed necessary by the City of Tonka Bay unless waived in accordance with the City's survey exemption policy (attached). Because the survey will be used to determine an application's conformance

with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall only authorize those land alterations identified on the associated survey. Surveys shall include all information as deemed necessary by the City to provide for the enforcement of city code. See below for more details in the "Submit with Application" section, Item #1.

2. **Foundation Survey**

Applications for new structures shall require that an as-built foundation survey be submitted by a time specified by the City (general prior to completing a foundation inspection) unless waived in accordance with the City's survey exemption policy. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide the foundation survey is in direct violation of this ordinance and expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

3. **As-Built Survey**

Applications for new structures shall require that an as-built survey be submitted upon completion of work unless waived in accordance with the City's survey exemption policy. The as-built survey shall certify the final topography of the site, verify the drainage patterns existing upon completion of work, and the distance from average ground level to the highest roof peak. Any additional information needed by the city to ensure compliance with code can also be required. The city reserves the right to withhold the certificate of occupancy for dwelling units until final grading addresses all problems that may be detrimental to adjacent properties.

D. The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed conditional use permit. See attached public hearing information sheet.

**Submit with Application:**

1. Eleven (11) to scale copies and Eleven (11) reduced (8-1/2" x 11" or 11" x 17") copies of a certified survey of the property. The survey shall include all information necessary to enforce applicable zoning regulations. Such information may include but is not limited to:
  - Location and Floor Area of existing and proposed structures
  - Lot Lines
  - Parcel size in acres and square feet
  - Building setbacks (closest point of building to each property line)
  - Low floor elevations of existing and proposed structures
  - Water features (lakeshore, wetlands, etc.)
  - Existing and proposed topography – including ground elevations at corners of existing and proposed structures.
  - General location of vegetation
  - Location of structures on adjacent lots
  - Easements
  - Existing and proposed impervious surface calculations.
  - Location of public and private sewer lines or wells.
2. Hardcover calculation – current and proposed
3. Floor area ratio – current and proposed
4. Shoreland impact plan (see following page)

5. Landscape plan and grading and drainage plan (current and proposed)
6. Payment

### **Additional Information**

1. The request shall be considered as being officially submitted and the application timeline commences when all the information requirements are in compliance.
2. The request for conditional use permits shall be placed on the agenda of the first City Council meeting occurring at least thirty (30) days from the date of official submission unless waived by the Zoning Administrator. Upon receipt of a completed application, the Zoning Administrator shall set a public hearing for a regular meeting of the City Council. The City Council shall conduct the hearing.
3. Notice of said hearing shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all property owners within three hundred fifty (350) feet of the boundary of the property in question.
4. For properties within the Shoreland, Floodway or Flood Fringe Overlay District, the City will submit to the Commissioner of Natural Resources a copy of the application for proposed conditional use permits so that the Commissioner will receive at least ten (10) days notice of the hearing.
5. A variance of the Ordinance shall be by four-fifths (4/5) vote of the entire City Council.
6. If approved, the conditional use permit shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the permit.
7. Prior to approving an application for a conditional use permit, the City will verify ownership and that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the permit application relates.

## **1070.16 SHORELAND IMPACT PLAN/CONDITIONAL USE PERMIT**

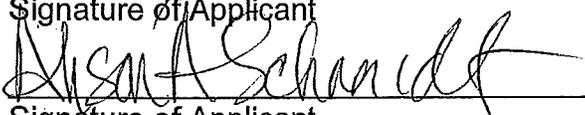
**Subd. 1. Shoreland Impact Plan.** Except for situations listed below, landowners or developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within the Shoreland District within the City of Tonka Bay shall first submit a conditional use permit 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 conditions 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.

**Subd. 2. Feasibility.** Where strict conformity with provisions of this section is not possible, the requirements specified herein may be exceeded subject to a conditional use permit and shoreland impact plan set forth in this section and with approval by the Minnehaha Creek Watershed District and the City Engineer where applicable.

**Subd. 3. Conditions.** All conditional use permits for consideration under this section shall be subject to the following conditions:

- a. 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.
- b. Storm water treatment measures including, but not limited to, sediment basins (debris basins), de-silting basins or silt traps, installation of debris guards, and microsilts 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.
- c. 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 land 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.
- d. 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.
- e. Lot coverage on a project basis shall be restricted to the provisions for maximum impervious surface coverage as provided for in this Ordinance.
- f. 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 was proposed.
- g. All projects shall be in conformance with the Shoreland Management Plan, Comprehensive Plan, and Zoning and Subdivision Ordinances of the City of Tonka Bay.
- h. All projects shall be subject to review by the Minnehaha Creek Watershed District and the City Engineer.

  
 \_\_\_\_\_  
 Signature of Applicant

  
 \_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Signature of Property Owner

\_\_\_\_\_  
 Signature of Property Owner

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$ 150.00	Application Fee	2-6-13	
\$1,150.00	Escrow Fee*	"	

October 24<sup>th</sup>, 2012  
Shoreland Impact Narrative  
45 West Point Avenue  
Tonka Bay, Minnesota 55331

RECEIVED  
FEB - 6 2013

The proposed site improvements at 45 West Point Avenue in Tonka Bay include the deconstruction and removal of the existing structures and impervious areas and propose the construction of a new single family home with attached garage, driveway and terrace. In doing so, several aspects of the site needed to be designed or analyzed to verify conformance to City requirements. Great care was taken to consider all existing site conditions and impact on the shoreland area. The following summary of the basis of design for the impervious surface coverage and storm water management along with the attached existing and proposed site plans and Architectural drawings will demonstrate the reduced impact and improvement on the shoreland area.

The property is located on Lake Minnetonka and falls within the shoreland zoning district. The shoreland ordinance states that, where appropriate and where practices are in place for the treatment of storm water, impervious surface coverage of between thirty-six (36) percent to forty-five (45) percent may be allowed. Our proposal of 43.4% impervious area falls within this criteria. With the design of the new residence this proposal reduces the existing impervious area by 2.4%. This credit in pervious area allows additional natural drainage and management of storm water on the site that was already adequately mitigated due to existing site conditions. Please refer to the proposed site plan for existing and proposed hardcover calculations and site conditions.

The storm water management will utilize the existing and proposed site conditions and will promote drainage to both the lake and the street via swales located on both the north and south side yards as well as the natural drainage of the interior yard. The goal was to prevent drainage onto the adjacent properties while still utilizing the existing drainage ways and vegetated soil surfaces to convey, store, filter, and retain storm water runoff before discharging into Lake Minnetonka and the city's water management systems. The relatively flat nature of the lot and the proposed residence being 0.7' lower than existing residence further manage storm water rate and flow by allowing adequate time for absorption and filtration. Please refer to the proposed site plan for water flow diagrams and proposed grading to help illustrate this. In addition to the above, by reducing the amount of impervious area on the site by 2.4% we have increased the amount of pervious area to further aid in managing and storing storm water.

The affect the proposed residence has on the property has little to no impact on the existing landscape and natural surroundings. In fact the proposal actually increases the amount of natural landscape by reducing the impervious area and provides more green space. In addition to this increase the landscape plan has additional trees shrubs and other vegetation proposed to tie in with the overall aesthetic as viewed from both the street and the lake. Drainage from the roof will be directed into these planting areas to add additional support to manage storm water rate and filtration. To further protect the existing site conditions, all existing significant trees will be protected and silt fence will be installed at the entire perimeter of the lot. This will manage storm water and maintain the site during construction

The Schmidt's have invested months designing, engineering, and carefully planning out the improvement of this property. The applicant has worked with the city's planning department diligently and on multiple occasions in a sincere effort to comply with its ordinances and codes. As a result of those meetings and discussions, this shoreland impact plan addresses all of the criteria outlined in section 1070.16 of the city code and supports the overall objective of the Shoreland district.

Thank you for your consideration.

Sincerely,  
Peter Eskuche, AIA  
Project Architect



Adam Burrington, Project Manager  
18318 Minnetonka Boulevard  
Deephaven, MN 55391  
O: 952.544.3844 M: 612.799.8005  
[www.eskuche.com](http://www.eskuche.com)

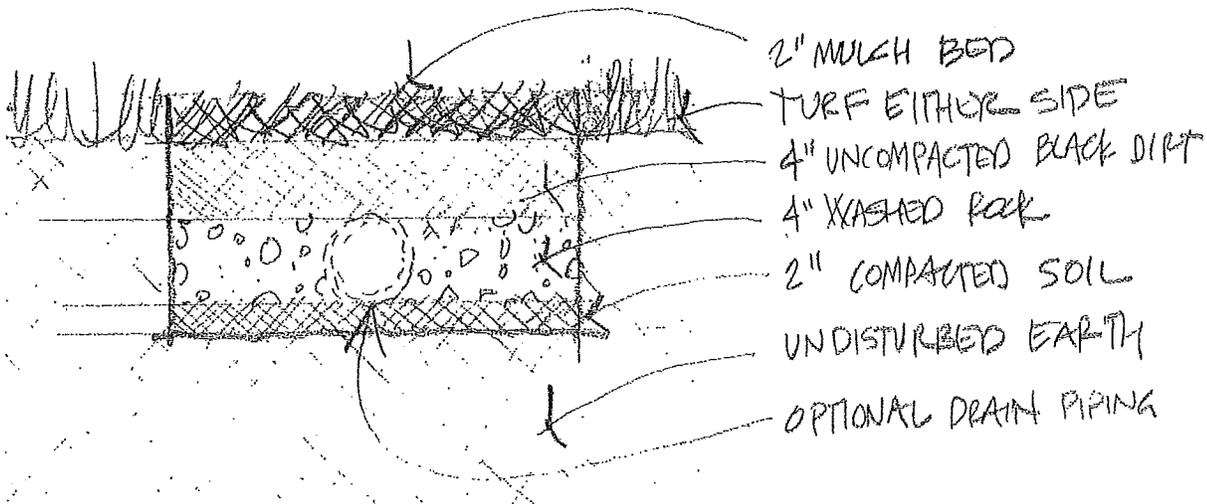
October 26<sup>th</sup>, 2012  
**Shoreland Impact Plan**  
45 West Point Avenue  
Tonka Bay, Minnesota 55331

This proposal for a replacement home with attached garage is located on Lake Minnetonka and falls within the shoreland zoning district. The shoreland ordinance states that, where appropriate and where practices are in place for the treatment of storm water, impervious surface coverage of between thirty-six (36) percent to forty-five (45) percent may be allowed. This proposal of 43.4% impervious area falls within this criteria. This proposal reduces the existing impervious area of 45.8% by 2.4%. This reduction allows additional natural drainage and management of storm water on the site. Please refer to the proposed site plan for existing and proposed hardcover calculations and site conditions. Great care has been taken to improve upon the existing site conditions and impact on the shoreland area. The following summary describes the plan proposed to reduce shoreland impact as illustrated by the attached Landscape/Site plan and drawing below.

The property has minimal topographic pitch. This provides for a greatly reduced impact on the lake, allowing more time for absorption and filtration. The proposed home is .7' lower than the existing, decreasing the slope of the yard which further improves the absorption.

The proposed residence has less impervious surface and therefore, less impact than exists today. Today, there are multiple structures and large expanses of uninterrupted paved areas causing concentrated drainage flow. The proposed impervious surfaces are distributed to allow more space for drainage, not just decreased area.

To address storm water, care was taken to design special mulch planting beds. These beds will treat and contain storm water. They provide far more than just an attractive buffer in which shrubs and native plantings can reside. They have a unique soil/granular stratification that both helps with plant survival, but also has water holding capacity for severe rain events. A sample illustration of this mulch bed is shown below:



Due to the flatness of the site, there is little need for erosion control measures even for large scale rain events. The positioning and size of the mulch beds further reduces that need. During construction, siltation fencing will be positioned at the perimeter of the construction area which will manage storm water and maintain the site during construction.

There are only three trees on the site that will be impacted by construction of the proposed residence. Two of them are within the building envelope. They are located near the center of the property making this nearly unavoidable. This proposal provides for three Maple trees to replace these. Two of the three replacement trees will line the roadway. This will provide long term shade, color and beauty to the roadway which has a significant concentration of impervious surface and building structures. In addition, there is a dying Birch tree on the lake facing side of the yard. This will be also be replaced with a native species Maple. To protect the existing site conditions, the remaining tree, which is not within the construction area will be protected from construction with orange protection fencing.

The proposed exterior materials on the house are natural. There is a combination of Stone, Natural stained cedar siding and warm, medium grey and brown accent colors. This will be in harmony with the mulch and plantings as well as the turf yard and compliment the shoreland view.

The Schmidt's have invested months designing, engineering, and carefully planning out the improvement of this property. Great care has been illustrated to mitigate shoreland runoff. The applicant has worked with the city's planning department diligently and on multiple occasions in a sincere effort to comply with its ordinances and codes. As a result of those meetings and discussions, this shoreland impact plan addresses all of the criteria outlined in section 1070.16 of the city code and supports the overall objective of the Shoreland district.

Thank you for your consideration.

Sincerely,  
Peter Eskuche, AIA  
Project Architect



Adam Burrington, Project Manager  
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**RESOLUTION NO. 13-XX**

**A RESOLUTION APPROVING AN AMENDMENT TO THE EXISTING  
CONDITIONAL USE PERMIT TO ALLOW AN INCREASE TO THE FLOOR  
AREA RATIO  
FOR CHRIS AND ALISON SCHMIDT  
AT 45 WEST POINT AVENUE**

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, Chris and Alison Schmidt ("Applicants") own 45 West Point Avenue which is legally described as follows:

The southwesterly 75 feet of Lot 9, WEST POINT, Hennepin County, Minnesota. PID #22-117-23-32-0016

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

WHEREAS, the Applicants are requesting an amendment to their existing conditional use permit to allow for a 3.3 percent increase to the previously approved Floor Area Ratio from 43.4 percent to 46.7 percent ; and

WHEREAS, Kelsey Johnson, City Planner, issued a report dated March 12, 2013 on the application made by the Applicants (Planning Report), analyzing the request made in relation to City Ordinance criteria and made recommendations if the request was approved by the City Council; and

WHEREAS, the City Council reviewed the request on March 12, 2013, and held a public hearing, following the required notices and publication; and

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

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

WHEREAS, the City Council, following the public hearing and deliberation on the request to increase the floor area ratio; 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. Granting the requested conditional use permit amendment will not impair an adequate supply of light and air to adjacent parcels.
2. Granting the requested conditional use permit amendment 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.
3. Granting the requested conditional use permit amendment will not increase the danger of fire or endanger the public safety.
4. Granting the requested conditional use permit amendment will not diminish or impair established property values in the neighborhood. The proposed reconstruction of the home should increase property values in the neighborhood.
5. Granting the requested conditional use permit amendment will not alter the essential character of the locality. The proposed home will fit in with other homes in the neighborhood.
6. The proposed use as a single-family home is a reasonable use for the property. It is how the property is zoned and it is how the property is currently used.
7. Granting the requested conditional use permit amendment will not result in an increase in impervious surface.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the requested conditional use permit amendment to allow for a 3.3 percent increase to the permitted floor area ratio from 43.4 percent to 46.7 percent; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested conditional use permit amendment 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 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. A sump pump inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
5. A water meter inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
6. Overhangs or eaves shall not project more than two (2) feet into a required yards. The Plans must be modified accordingly prior to issuance of a building permit. Construction shall follow the survey and plans as modified or as otherwise 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 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 day of March 12, 2013.

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

Roll call vote:

Ayes –

Nays –

Absent –

\_\_\_\_\_  
Gerry De La Vega, Mayor

ATTEST:

\_\_\_\_\_  
Joseph Kohlmann, Clerk/Administrator