

CITY OF TONKA BAY ITEM NO. 7B

Tonka Bay City Council Agenda Item Executive Summary

Title of Item: **VARIANCE REQUEST:** Application from Anderson Property Management on behalf of Tonka Village, LLC requesting variances to allow for the construction of an electronic message board sign on the property located at 5609-5663 Manitou Rd. – C-2 General Commercial, Shoreland Overlay – PID: 33-117-23-11-0076.

Report Date: **01-05-16**

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

60 Day Review deadline: **60 day period ends 02-16-16**

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 install an electronic message board sign on the south-facing wall of the existing stone pillar at the shopping center. The project, as proposed, requires two variances.

In summary, the requested variances are as follows:

1. **A 49.2 sf variance from the maximum allowable sign area for a wall sign** within the C-2 District.
2. **A variance from the maximum allowable rate that the sign copy may change** on an electronic message board.

Staff believes that the applicant has met the Statutory and City Criteria for approving of the requested variances. Staff has provided a template approval motion for the variances as shown on Pages 6 & 7 as well as findings of fact.

Staff further recommends approval of the requested sign permit.

City of Tonka Bay Planning Department
Variance Report

To: City Council

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

Meeting Date: January 12, 2016

Applicant: Anderson Property Management (Peter Knudsvig)

Owner: Tonka Village, LLC

Location: 5609-5663 Manitou Rd.

Zoning: C-2

Introductory Information

Proposed Project: The Applicant is proposing to install an electronic message board sign on the south-facing wall of the existing stone pillar at the shopping center. The message board is 98.7 sf. in area where, based on 15% of the wall area, a maximum of 49.5 sf. is allowed. The sign messages are proposed to change every 60 seconds where the maximum rate of change is once per hour.

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

1. **A 49.2 sf variance from the maximum allowable sign area for a wall sign** within the C-2 District.
2. **A variance from the maximum allowable rate that the sign copy may change** on an electronic message board.

Findings

Site Data: Lot Size – 6.29 acres
Existing Use – Commercial
Existing Zoning – C-2 Shoreland
Property Identification Number (PID): 27-117-23-13-1113

Comp Plan Guidance:

- The comprehensive plan guides this lot for mixed use. The corresponding zoning assigned to this property (C-2) allows for commercial developments such as the one already located on the property.

Sign Area:

- The maximum area of a wall sign in the C-2 district is 15% of the signable area of the wall. In this case, the signable area is the south-facing area of the pillar on which the message board is to be mounted.
- The area of the south-facing pillar is 330 sf. Based on the 15% requirement,

*Sign Message Change
Rate:*

the maximum area of a wall sign could be 49.5 sf.

- The proposed electronic message board is 98.7 sf. in area, thus requiring a variance of 49.2 sf.
- The applicants have proposed to change the message copy up to every 60 seconds in order to help promote all of the centers retail tenants to visitors. Currently the ordinance only allows changes to the electronic message up to once every hour. Thus, a variance from this requirement is necessary.

Application Review:

*Applicable Code
Definitions:*

Display Surface. The display surface is the area made available by the structure for the purpose of displaying the advertising message, or which is intended to draw attention to the advertising message by internal lighting.

Electronic Changeable Copy Signs. A sign with characteristics that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a sign or portion of a sign that displays electronic, pictorial text information in which each alpha-numeric character or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, or other illumination device within the display area. The characters for the copy or script are only available on a standard word processing keyboard and include graphics, pictures, or other items. Electronic changeable copy signs include computer programmable, microprocessor-controlled electronic displays, and messages.

Sign: Any man-made object or device or part thereof, situated outdoors or indoors and which object or device or effect produced is primarily used to advertise, announce, identify, declare, demonstrate, display, instruct, or attract attention by any mean including words, letters, fixtures, colors, motion, illumination, sound, and projecting images.

Signable Area: A continuous portion of a building wall upon which a sign is attached which is unbroken by doors and windows.

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.

Wall Sign: A sign attached to, painted on, or erected against a wall or roof of a building or structure which extends no more than 18 inches from the wall surface upon which it is attached and whose display surface is parallel to the face of the building and does not exceed the height of the building upon which it is mounted.

Applicable Codes:

330.06 Specific Zone District Sign Regulations; subdivision (2)(a) Commercial Zone Districts.

(6) Wall Signs: May not exceed 15 percent of the signable area.

330.07 Design Standards, Subd. 2.f Electronic Changeable Copy Signs;

- (1) The illumination source shall not be placed so to cause confusion or hazard to traffic, or to conflict with official or traffic signs, signals, or lights;
- (2) An Electronic Changeable Copy Sign may not change or move more often than one time per hour, except one for which changes are necessary to correct hour-and-minute, date, or temperature information;
- (3) The messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;
- (4) Electronic changeable copy and signs shall be designed and equipped to freeze the device in one position if a malfunction occurs or immediately discontinue the display. Additionally, the sign owner shall immediately stop the display if notified by the City that the sign is not complying with the standards of this;
- (5) The sign shall comply with all signage regulations.

Variance Criteria Review:

The proposed action will require the following variances:

- **A 49.2 sf variance from the maximum allowable sign area for a wall sign** within the C-2 District.
- **A variance from the maximum allowable rate that the sign copy may change** on an electronic message board.

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 provide for the orderly control of signs and outdoor advertising, to permit the use of signs and outdoor advertising necessary for adequate identification and direction in order to promote the health, safety and welfare of the citizens of Tonka Bay, and to provide for commercial advertising under appropriate conditions"* .

The purpose of the sign design standards for electronic changeable message boards is as follows: "The City finds that there is a correlation between electronic displays on signs and the distraction of drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the

end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by State or Federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in all districts where signs can adversely impact residential character. There is the potential for numerous electronic displays to exist along any roadway. If more than one electronic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If electronic displays become pervasive and there are no meaningful limitations on each sign's ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate. A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. In conclusion, electronic displays should be allowed on signs but with appropriate restrictions to minimize their proliferation and their potential threats to public safety."

Sign Area request:

The City's intent of establishing maximum sign areas is to ensure that signs are in keeping with the size and scale of the businesses they are advertising. In this case, the sign will be used to market the entire shopping center along with individual tenants. The proposed sign is of a reasonable scale with respect to the size of the shopping center. **Criteria met.**

Changeable Message request:

The applicants request to decrease the interval of each message change is understandable given the sign's purpose. While the requested 60-second interval is a quite significant departure from the ordinance requirement of one hour the sign is proposed in a location that will not create a distraction for motorists. Traffic sitting at the traffic light at the intersection of Manitou and Smithown Roads, the location of the proposed sign is not visible (from the south or west) The sign location is considerably setback from Manitou Rd. and the proposed message interval will not create an unsafe degree of distraction or sensory overload. **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 mixed use with commercial use to the north. The use of the site is not

proposed to change with the sign request. **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 commercial use. Wall signs are permitted in commercial districts, and thus staff finds that the applicant is 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 relate to the size and configuration of the pillar where the sign is to be located. The large side of the pillar faces north, which is away from the road way and the businesses the sign would be advertising. The smaller side of the pillar is the one facing south. The pillar itself is a unique feature of the existing shopping center, which is not found on other similarly zoned properties. **Criteria met.**

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

Sign Area request:

The essential character of the locality will not be negatively impacted as a result of approval of the requested sign area variance. The proposed sign is in keeping with the relative size and scale of the building to which it is attached and the sign will not contribute to sign clutter in the corridor. **Criteria met.**

Changeable Message request:

The request to decrease the interval of each message change also will not change the essential character of the area. A large parking area sits between the proposed message board and Manitou Rd. The overall character is auto-oriented commercial which is consistent with the electronic message board. The increased interval will not create an undue level of distraction for passing drivers. **Criteria met.**

City Tests:

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

All variance requests:

No. The sign variances will not impair an adequate supply of light and air from reaching adjacent property. **Criteria met.**

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

All variance requests:

No. The use of the property will not change and therefore the variances 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 commercial use 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 sign is not anticipated to have a negative impact on neighboring property values. **Criteria met.**

Engineering Reports: None.

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 2-16-15.

Recommendation:

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

Template Approval Motion for Variances:

"I move that we direct staff to prepare a resolution of approval for the requested sign area and message interval variances as well as the requested sign permit to allow for the construction of an electronic changeable message sign on the property located at 5609-5663 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 commercial shopping center will not change and is consistent with the City's Comprehensive Plan.
- b. Granting the requested variance will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the variance will not increase congestion in the public street. The use of the property as a commercial shopping center

will stay the same and not increase congestion.

- d. Granting the variance will not increase the danger of fire or endanger the public safety. The sign will be located such that the proposed message interval will not create an unsafe distraction for motorists.
- e. Granting the variance will not diminish or impair established property values in the neighborhood.
- f. Granting the variances will not alter the essential character of the locality. The location of the proposed sign will not contribute to sign clutter in the corridor.
- g. The continued use of the property as a commercial shopping center is a reasonable use of the property.
- h. The request is in harmony with the general intent of the ordinance. The size and message interval of the proposed sign will not create an unsafe distraction for motorists or adversely impact any residential areas.
- i. There is a demonstrated need for the use.
- j. The proposed use conforms to all performance standards.

***Template Denial
Motion for all
Variances:***

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

- a. (Provide findings to support conclusion)

***Recommended
Conditions (if
approved variances):***

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. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
3. The variance shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.