



CITY OF TONKA BAY MEMORANDUM

To: City Council Members
Lindy Crawford, City Administrator

From: Addison Lewis, Assistant City Planner
Justin Messner, City Engineer

Date: December 23, 2016
City Council Regular Meeting for January 10, 2016

WSB Project No. 01987-720

Request: **Request for a conditional use permit for the roof peak height 2.1 feet higher than permitted to construct a new single-family home at 60 West Point Avenue – R-1A zoning, Shoreland Overlay – PID: 22-117-23-32-0020**

RECOMMENDATION

Based on the findings outlined in this report, staff recommends approval of the following request:

- A conditional use permit (CUP) to allow for the roof peak 2.1 feet higher than permitted

GENERAL INFORMATION

Applicant: Gordon James Construction

Owners: Phil & Judy Rolchigo

Location: 60 West Point Avenue

Existing Land Use / Single-family Residential; zoned R-1A with a Shoreland Overlay

Surrounding Land Use / Zoning:
 North: Lake Minnetonka
 West: Single-family; zoned R-1A, Shoreland Overlay
 South: Single-family; zoned R-1A, Shoreland Overlay
 East: Single-family; zoned R-1A, Shoreland Overlay

Comprehensive Plan: The Tonka Bay 2009-2030 Comprehensive Plan guides this lot for Single-family Residential use.

Deadline for Agency Action:

Application Date:	11/28/16
60 Days:	1/27/17
Extension Letter Mailed:	N/A

CONSIDERATIONS RELATING TO THE REQUEST

1. Overview.

At the December 13, 2016 City Council meeting, the Applicants requested a variance of 7,499 square feet from the minimum lot size, a variance of 2.25 feet from the required maximum structure height, a variance of 1.535 feet from the west side yard setback, a variance of 0.035 feet from the east side yard setback, a variance of 10 feet from the finished fill elevation buffer, a conditional use permit for roof peak height 3.135 feet higher than permitted and a conditional use permit for floor area ratio proposed at 0.377. The City Council directed staff to prepare a resolution of approval for the requested lot size, structure height, and finished fill elevation buffer variances and the conditional use permit for floor area ratio. Staff recommended denial of the side yard setback variances and the conditional use permit for roof peak height due to the required criteria for approval not being met. One of the required conditions for the roof peak height CUP is that for each additional one (1) foot or fraction thereof increase over the threshold established above, front and side yard setback requirements shall be increased by one (1) foot. Since the Applicant was requesting a CUP for roof peak height 3.135 feet higher than permitted, an 11.135 foot side yard setback is required rather than the typical 8 foot side yard setback. The Applicant was not proposing to meet the required side yard setbacks and was requesting variances. Therefore, this condition of the required criteria was not being met. The City Council tabled the requests for side yard setback variances and the conditional use permit for roof peak height to allow the Applicants an opportunity to revise the plans. The Applicants have revised the plans so that the roof peak is only 2.1 feet above the height permitted and therefore a 10.1 foot side yard setback is required and variances from the side yard setback requirements are no longer necessary. The Applicants have withdrawn the request for the setback variances and it appears that all required criteria are being met for the requested CUP for roof peak height.

2. Ordinance Authority.

1011.03 General Yard, Lot Area and Building Regulations; subdivision 3 states that the top peak of any portion of roof shall not exceed the allowable building height in the applicable zoning district by more than five (5) feet without a conditional use permit subject to the following:

- 1. For each additional one (1) foot or fraction thereof increase over the threshold established above, front and side yard setback requirements shall be increased by one (1) foot.*
- 2. The construction does not limit solar access to abutting and/or neighboring properties.*
- 3. The provisions of Section 1003.01.8 conditional uses, are considered satisfactorily met.*

Since the City Council has approved a variance for structure height proposed at 2.25 feet, the roof peak height may not exceed 37.25 feet without a conditional use permit. The roof peak height is proposed at 39.35 feet so a CUP for roof peak height 2.1 feet higher than permitted is necessary.

3. Conditional Use Permit Review

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 requested conditional use permit appears consistent with the Comprehensive Plan. **Criteria met.**

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

The requested conditional use permit should not cause the site to be incompatible with present or future land uses of the area. **Criteria met.**

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

Variances were granted for minimum lot size, structure height, and the finished fill elevation buffer. The proposed use conforms to all other performance standards contained in the City Code. **Criteria met.**

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

The proposed house is similar in size and character to other homes within the neighborhood. The requested conditional use permit should not have an impact on the character of the surrounding area. **Criteria met.**

5. *The demonstrated need for such use.*

The Applicant has stated that in order to construct the proposed home, the proposed roof peak height is as low as possible. **Criteria met**

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

The requested conditional use permit should not tend to or actually depreciate the area. **Criteria met.**

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

The request should have no impact on public services and will not overburden the City's service capacity. **Criteria met.**

Additional Criteria for Roof Peak Height

- a. *For each additional one (1) foot or fraction thereof increase over the threshold established above, front and side yard setback requirements shall be increased by one (1) foot.*

With the roof peak 2.1 feet higher than permitted, a 10.1 foot side yard and a 52.1 foot front yard setback is required. The Applicants are proposing to meet all required front and side yard setbacks. **Criteria met.**

- b. *The construction does not limit solar access to abutting and/or neighboring properties.*

It is believed that the construction will not limit solar access to abutting or neighboring properties. **Criteria met.**

c. *The provisions of Section 1003.01.8 conditional uses, are considered satisfactorily met.*

As stated previously in this report, it appears the provisions of Section 1003.01.8 are satisfactorily met. **Criteria met.**

4. Resident Concerns. None to date.

5. Engineering Considerations. None.

POTENTIAL ACTION

- A) ADOPT A RESOLUTION APPROVING THE REQUEST based on the Applicant's submittals and findings of fact (resolution of approval is attached).
- B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUEST based on the Applicant's submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

The 60-day review period for this application expires on January 27, 2016. If the Council fails to preliminarily approve or disapprove the request within the review period, the application is deemed preliminarily approved.

RECOMMENDATION

Based on the findings of fact in this report, staff recommends the following:

Approval of the following request:

- A conditional use permit to allow for the roof peak 2.1 feet higher than permitted, subject to the following conditions:
 - The roof peak height may not exceed 39.35 feet.
 - Failure to comply with the conditions of this Conditional Use Permit may result in revocation of the Conditional Use Permit by the City of Tonka Bay.

The recommended actions are outlined in the template motion below.

"I move that we adopt Resolution 17-05 approving the requested conditional use permit to allow for the roof peak height 2.1 feet higher than permitted for property located at 60 West Point Ave. based on the findings of fact listed in the report."

- a. The request is consistent with the comprehensive plan.
- b. The proposed site is or will be compatible with present and future land uses of the area.
- c. The proposed use conforms to all performance standards contained herein.
- d. The requested conditional use permit should not have an impact on the character of the surrounding area.
- e. There is a demonstrated need for such use.

- f. The proposed use will not tend to or actually depreciate the area in which it is proposed.
- g. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- h. The construction does not limit solar access to abutting and/or neighboring properties.