

**CITY OF EAST GULL LAKE, MINNESOTA
RESOLUTION NO. 05:02-23**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
DAVID & JENNA UDE**

WHEREAS, Travis Miller, on behalf of landowners David and Jenna Ude, has requested a Conditional Use Permit (CUP) per EGL Land Use, Zoning and Subdivision Ordinance to construct a dwelling with attached and detached garages at 1436 Pike Bay Road in the City of East Gull Lake, Minnesota. This parcel is located in the R-3 zoning district and is divided by a street. A CUP is required based upon proposed project total impervious surface on lakeside portion of property exceeding 20% (proposal of 24.76%) and total impervious surface on non-lakeside portion of property exceeding 5% (proposal of 15.45%), with the total maximum impervious surfaces on the entire lot exceeding 20% (proposal of 21.5%). A CUP is also required based upon proposed grading exceeding 50 cubic yards outside the shore and bluff impact zone (net proposal of approximately 19 cubic yards of fill imported (361 cy) minus fill generated (342 cy)) and proposed grading being greater 10 cubic yards, but less than 50 cubic yards within the bluff impact zone (proposal of approximately 15 cubic yards); and

WHEREAS, the property is legally described as follows:

That part of Government Lot 3, Section 20, Township 134 North, Range 29 West, Cass County, Minnesota, described as follows: Commencing at a point on the east line of said Government Lot 3 which is the center of said Section 20 and assuming said east of Government Lot 3 bears South; thence North 87 degrees 09 minutes West 170.00 feet; thence South 54 degrees 57 minutes 38 seconds West 99.86 feet to a point hereinafter referred to as Point A; thence South 62 degrees 44 minutes 15 seconds West 100.00 feet to the point of beginning of the tract to be described; thence South 29 degrees 52 minutes 47 seconds East 290.00 feet; thence North 55 degrees 20 minutes 24 seconds East 124.97 feet; thence North 35 degrees 00 minutes 00 seconds West 276.12 feet to said Point A; thence continuing North 35 degrees 00 minutes 00 seconds West 33 feet, more or less, to the shore of Gull Lake; thence Southwesterly along said shore to the line that bears North 29 degrees 52 minutes 47 seconds West from the point of beginning; thence South 29 degrees 52 minutes 47 seconds East 30 feet, more or less, to the point of beginning.

WHEREAS, the Planning Commission has considered the Applicant's request at a duly noticed Public Hearing which took place on May 2, 2023, and has recommended approval to the City Council; and

WHEREAS, the City Council for the City of East Gull Lake has considered the Planning Commission's recommendation at its May 2, 2023 City Council Meeting;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST GULL LAKE, CASS COUNTY, MINNESOTA, that it does hereby approve the request of the Applicant for a Conditional Use Permit, based upon the following findings pursuant to MN Statute and East Gull Lake (EGL) Land Use, Zoning and Subdivision Ordinance (Ordinance). The City Council's Findings relating to the standards are as follows:

PART 1

As described in Section 8.4-3, 6 of the EGL Land Use, Zoning and Subdivision Ordinance:

Lots that are divided by a street in the R-3 zoning district, within the City of East Gull Lake, shall be considered buildable without a Conditional Use permit [subject to the following].

When a lot is divided by a street (property owner is unable to use that portion of their parcel due to the street) in the R-3 zoning district, the maximum impervious coverage shall not exceed 20% for the riparian [lacustrine] portion of the lot and the maximum impervious coverage shall not exceed 5% for the non-riparian [non-lacustrine] portion of the lot providing all setbacks, sanitary provisions for well and sewage disposal can be met.

- Parcel is divided by Pike Bay Road. The lacustrine (lakeside) partial lot area (excluding roadways) is stated to be 20,413 square feet with a proposed impervious surface total of 24.7%. This exceeds the 20% maximum impervious coverage requirement for the lacustrine portion of property. The non-lacustrine (back lot) partial lot area (excluding roadways) is stated to be 11,000 square feet with a proposed impervious surface total of 15.45%. This exceeds the 5% impervious coverage maximum for the non-lacustrine portion of property. Variance 2022-64 approved the size and placement of the detached garage on the back lot.
- All EGL Ordinance defined setbacks as related to Section 5.5-5, 6 are met with the exception of encroachment of a corner of the detached garage into Scenic Drive Right of Way (ROW). This encroachment of under 4' 6" was approved by Variance 2022-64.
- Proposed setbacks and building heights as related to EGL Ordinance Section 5.5-5, 6 are as follows:
 - Proposed OWH setback – 61' 4" (50' required minimum per Section 8.5-5, 7C)
 - Proposed dwelling side setback– 19' (10' required minimum)
 - Proposed detached garage side setback – 27' (10' required minimum)
 - Proposed collector & arterial road ROW setback – 25' 7" (30' required minimum setback; approved by Variance 2022-64)
 - Proposed local street ROW setback – 10' (10' required minimum)
 - Proposed bluff setback – outside of bluff (30' required minimum)
- Parcel has municipal sewer hookup and an existing private well.

Total maximum riparian [lacustrine]/non-riparian [non-lacustrine] is 20% impervious for the entire lot.

- The proposed total maximum lacustrine/non-lacustrine impervious is 21.5% for the entire lot which exceeds the 20% maximum impervious coverage requirement.

Property owner could split the parcel as long as have a minimum of 20,000 square feet per newly created parcel. *

- The total parcel area including roadway is 34,838 square feet (31,413 square feet excluding roadway) and is therefore too small to split.

PART 2

As described in Section 8.5-5, 7B and Section 8.4-5, 6 (Ordinance Amendment 2013-01) of the EGL Land Use, Zoning and Subdivision Ordinance:

B. Impervious Coverage. Impervious coverage may be increased by 5% through a Conditional Use permit if the following is provided:

1. A stormwater retention plan showing containment of the 5-year, 24-hour [25-year, 24-hour] storm [precipitation] event on the parcel.***
- A stormwater retention plan showing containment of a 25-year, 24-hour precipitation event on the parcel has been submitted to the City as a part of this application.
 - Variance 2022-64 approved the placement and size (1,203 square feet) of detached garage on non-lacustrine (back lot) portion of property. The total impervious coverage of 15.45% for this portion of the property was therefore approved with this variance.
 2. Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.
 - The submitted stormwater plan shows guttering on all structures, three retention areas on the lacustrine (lakeside) portion of the property and two collection areas on the non-lacustrine (back lot) along with berming techniques.

PART 3

As described in Section 8.5-5, 3 of the EGL Land Use, Zoning and Subdivision Ordinance:

3. Conditional Uses. (R-3)

Grading in a shore or bluff impact zone (greater than 10 cubic yards, but less than 50 cubic yards.)

- No proposed grading in the shore impact zone.
- Proposed grading within the bluff impact zone is greater than 10 cubic yards, but less than 50 cubic yards at approximately 15 cubic yards.

Grading greater than 50 cubic yards outside of shore or [and] bluff impact zones.

- Proposed grading outside the shore and bluff impact zones exceeds 50 cubic yards at approximately 361 cubic yards imported fill and 342 cubic yards generated fill.

PART 4

As described in Section 8.10-5, 4 of the EGL Land Use, Zoning and Subdivision Ordinance:

4. The Planning and Zoning Commission shall decide the issue with consideration to the following:

A. The following must be met:

1. The use or development is an appropriate conditional use in the Land Use zone.

- A dwelling with attached and detached garages is a reasonable use of property. It is common for property owners in the R-3 zoning district to have dwellings and accessory structures of a similar nature.
- The proposal will not create a Land Use not permitted in the zone.
 2. The use or development, with conditions, conforms to the comprehensive Land Use plan.
- Pages 6, 10 and 11 of the EGL Comprehensive Plan recognize the increase in reconstruction of lakeshore properties and indicate the city has implemented requirements concerning impervious surface coverage, stormwater run-off and maintenance of natural vegetative shoreline to prevent erosion.
 3. The use with condition is compatible with the existing neighborhood.
- The proposed construction would be compatible with the residential use of the existing neighborhood.
 4. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
- Pending adequate planning, construction and implementation of stormwater retention and erosion control measures, the proposal would not negatively impact the surrounding existing residential neighborhood or City.
 - B. The following must be considered:
 1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
- Pending adequate planning, construction and implementation of stormwater retention and erosion control measures, the proposal would not negatively impact the surrounding existing residential neighborhood or City.
 2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- The neighboring parcels are currently not vacant and are residentially developed. The conditional use proposal is contained to parcel 87-020-3125.
 3. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- N/A
 4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares.**

- The proposal contains plans for a 439 square foot concrete apron (approximately 10' x 42') for the detached garage vehicular approach and a 972 square foot asphalt approach (approximately 32' x 30') for the attached garage. The proposal indicates the detached garage is to facilitate parking to alleviate any need for on-street parking.

5. Adequate measures have been taken to provide sufficient off[-]street parking and loading space to serve the proposed use.

- The proposal contains plans for a 439 square foot concrete apron (approximately 10' x 42') for the detached garage vehicular approach and a 972 square foot asphalt approach (approximately 32' x 30') for the attached garage. The proposal indicates the detached garage is to facilitate parking to alleviate any need for on-street parking. Each garage can facilitate two vehicles (both are designated as two car garages).

6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.

- Pending adequate planning, construction and implementation of stormwater retention and erosion control measures, the proposal would not negatively impact the surrounding existing residential neighborhood or City.

7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.

- The City is unaware of any natural, scenic or historical features of major significance at this site.

8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

- Pending adequate planning, construction and implementation of stormwater retention and erosion control measures, the proposal would promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

FURTHER BE IT RESOLVED, that the following conditions of approval of the Conditional Use Permit shall be met:

- Prior to construction, a stormwater plan to contain a 25 year, 24 hour precipitation event as specified by the most recently published NOAA Atlas Point Precipitation Frequency Estimates must be approved by the City and implemented by the landowner(s) of the property in perpetuity (as long as the provisions of the related variance(s) and CUP(s) remain valid/applicable).
- Erosion control measures must be implemented during construction of this project and maintained until vegetation is adequately established as to prevent runoff/sedimentation to adjacent properties, waterbodies/waterways and roadways.

- Impacts to the bluff must be avoided outside of the direct area of construction and minimized within the area of construction. Best management practices shall be used to ensure the integrity of the bluff be maintained.
- Parked vehicles/modes of transportation shall not protrude into the roadway.
- Proof of compliance with sanitary provisions for well and sewage disposal shall be provided to the City prior to construction. Applicant/Landowner shall work with the City's Public Works Department regarding requirements of re-connection to municipal sewer.
- Applicant/Landowner must complete and submit any other required applications relating to this project, remit associated fees and obtain approval (by permit) prior to construction. This includes, but may not be limited to, completion and submission of EGL Land-Use Application and approval of permit.

Adopted by the East Gull Lake City Council this 2nd day of May, 2023.

A vote being taken on the motion, the following members of the Council voted in favor of the motion to adopt the Resolution: Mayor Dave Kavanaugh, Councilors Ruttger, Demgen, Hoffmann, and Bergin.

And the following voted against: None

WHEREUPON said resolution was declared duly approved and adopted and was signed by the Mayor and attested to by the City Administrator.


Dave Kavanaugh, Mayor


Laura Christensen, City Administrator

State of Minnesota)
 ss
County of Cass)

I, the undersigned, being the duly qualified City Administrator of the City of East Gull Lake, Minnesota, hereby certify that I have carefully compared the foregoing Resolution 05:02-23 which is found in the minutes of the City Council of the City of East Gull Lake dated May 2, 2023.

And the same is a full, true, and complete copy of said Resolution 05:02-23 as found in the City records.

Witness my hand officially as such administrator May 2, 2023.



Laura Christensen, City Administrator
East Gull Lake, Minnesota

State of Minnesota)
 ss
County of Cass)

The foregoing instrument was acknowledged before me May 2, 2023 by Laura Christensen, City Administrator of the City of East Gull Lake, Minnesota.



Kathy Schack, Notary Public
My Commission Expires January 31, 2024

