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**OFFICE OF THE COUNTY RECORDER
CASS COUNTY, MINNESOTA
CERTIFIED, FILED, AND/OR
RECORDED ON**

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**KATHRYN M. NORBY
CASS COUNTY RECORDER**

BY SF _____ Dep TX#: 192292

**CITY OF EAST GULL LAKE, MINNESOTA
RESOLUTION NO. 09:02-23**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
Kevin Close**

WHEREAS, Kevin Close (“Applicant”) has submitted an application for a Conditional Use Permit to install/construct a Hill Hiker lift system with platforms in the shore impact zone on Birch Grove Road. A CUP is required based upon total proposed impervious surfaces on the property (21.8%) falling between 20-25% in the R-3 Shoreline Residential, Medium Density zoning district. Total proposed grading/fill inside of the shore impact zone is 5 cubic yards.at [property address] in the City of East Gull Lake, Minnesota; and

WHEREAS, the property is legally described as follows:
(Document #323384)

Lot 8 and the Southwesterly 50 feet of Lot 9, Birch Grove on Gull, reserving and excepting a strip of land 4 feet wide and 300 feet deep on the southwest side of Lot 8, being the Southwest 4 feet of Lot 8, according to the plat thereof on file and of record in the office of the Register of Deed in and for said County and State.

Subject to reservations, restrictions, and easements of record, if any.

Lot 20, Birch Grove on Gull, according to the plat thereof on file and of record in the office of the Register of Deed in and for said County and State.

WHEREAS, the Planning Commission has considered the Applicant’s request at a duly noticed Public Hearing which took place on September 5, 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 September 5, 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:

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PART 1

IMPERVIOUS SURFACE

As described in Section 8.4-5, 6 of the EGL Land Use, Zoning and Subdivision Ordinance:

Developed Lots of Record: (Riparian)

- 1. 20% Impervious will be changed to 80% Green Space.
- 2. 25% Impervious will be changed to 75% Green Space with a storm water management plan handling 25-year/24-hour storm [precipitation event] on site. ***

As described in Section 8.5-5, 7B. 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.***
 - 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.
- Lakeside (riparian) portion of parcel is 45,800 square feet; Total area of parcel is 75,781 square feet.
 - Parcel 87-337-0091 is a developed lot of record proposed to contain a total of 21.8% impervious surface on the riparian portion of the property.
 - A stormwater plan proposing containment of a 25-year, 24-hour precipitation event has been submitted as a part of this application.
 - Direct runoff of stormwater to adjacent water bodies and adjacent parcels is proposed to be reduced by means of collection areas as demonstrated in the stormwater plan.

PART 2

SETBACKS

As described in Section 8.5-5, 6 of the EGL Land Use, Zoning and Subdivision Ordinance:

- Minimum right-of-way, collector, and arterial street setback – 30 feet
- Approximate proposed street setback – 255 feet
- Minimum OHW setback – 50 feet (excluding walks, steps on grade, etc.)
- Approximate proposed OHW setback – 8 feet
- Minimum bluff setback – 30 feet
- Approximate proposed bluff setback – No bluff indicated on property
- Minimum side setback – 10 feet
- Approximate proposed side setback – 10 feet and 128 feet, 5 inches

As described in Section 8.5-1, 6C. of the EGL Land Use, Zoning and Subdivision Ordinance:

There shall be no impervious coverage within 50 feet of the OHW except walks and steps on grade less than four feet wide as provided for in this Ordinance.

- A lift system with landings not exceeding 4 feet in width and 32 square feet can be inferred as applicable to this provision.

PART 3

STAIRWAYS, LIFTS AND LANDINGS

Section 8.5-5, 7G. of the EGL Land Use, Zoning and Subdivision Ordinance specifies:

- G. Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - a. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments.
- Width of lift is proposed to be 4 feet.

- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
- Two 8 feet by 4 feet (totaling 32 square feet) landing areas are proposed.
- c. Canopies or roofs are not allowed on stairways, lifts or landings.
- No canopies or roofs are proposed on lift.
- d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
- The lift is proposed to be constructed on posts above ground.
- e. Stairways, lifts, and landing[s] must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- Lift is located on a steep, vegetated slope.
- f. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with.

PART 4 USE

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 lift system to access the lake from a steep slope is a reasonable use of property. It is common for property owners in the R-3 zoning district with steep slopes and bluffs to have systems 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 project with condition(s) 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 with condition(s) 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 87-337-0091.
 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 property contains a total of 5,223 square feet of bituminous driveway with attached and detached garages.
 5. Adequate measures have been taken to provide sufficient off[-]street parking and loading space to serve the proposed use.
- The property contains a total of 5,223 square feet of bituminous driveway with attached and detached 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.

* Refer to Ordinance Amendment 2011-03, Affidavit of Publication 4/14/11.

** Refer to Ordinance Amendment 02-2010, 07/06/2010.

*** Refer to Ordinance Amendment 2013-01 An Ordinance Amending the City Code as it Relates to Impervious Surface Guidelines for the City of East Gull Lake, County of Cass, State of Minnesota.

**** Refer to Ordinance Amendment 01-2011, 01/4/2011.

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

1. 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 reviewed and approved by the City’s designated engineer. This plan is to be 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).
2. 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.
3. Impacts to the shore impact zone 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 shore area be maintained.



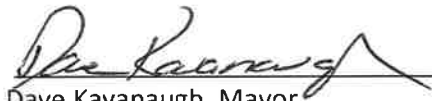
4. Applicant/Landowner must complete and submit any other required applications relating to this project, remit associated fees and obtain approval (by permit) prior to construction. This includes, but may not be limited to, completion and submission of EGL Land Use Application and approval of permit.

Adopted by the East Gull Lake City Council this 5th day of September, 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

