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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. 09:05-23**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR
TIM ANDERSON**

WHEREAS, Tim Anderson (“Applicant”) has submitted an application for a Conditional Use Permit. A CUP is required based upon total proposed impervious surfaces on the property (23.72%) falling between 20-25% in the R-3 Shoreline Residential, Medium Density zoning district. Total proposed grading/fill outside of the shore impact zone exceeds 50 cubic yards (200 cubic yards). at 11132 Pine Beach Peninsula Road in the City of East Gull Lake, Minnesota; and

WHEREAS, the property is legally described as follows:

The North 129.55 feet of the South 345.55 feet of Lot B-20, Auditors Plat of Pine Beach, Cass County, Minnesota.

WHEREAS, the Planning Commission has considered the Applicant’s request at a duly noticed Public Hearing which took place on June 6, 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 June 6, 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:





FINDINGS:

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) [Lacustrine]:

- 1. Lake side – (currently meeting impervious coverage requirements)
 - a. 20% Impervious will be changed to 80% Green Space.
 - b. 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.
- Total area of parcel is 43,865 square feet.
 - Parcel 87-376-0240 is a developed lot of record containing 17.92% total impervious surfaces. Proposal would increase the total impervious surfaces on the property to approximately 23.72%.
 - A stormwater plan proposing containment of a 25-year, 24-hour precipitation event must be submitted and approved by the city prior to construction.

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 – 82.7 feet
Minimum OHW setback – 75 feet
- Approximate proposed OHW setback – 220 feet
Minimum bluff setback – 30 feet
- Approximate proposed bluff setback – No bluff indicated on property
Minimum side setback – 10 feet
- Approximate proposed side setback – 33.5 and 64.4 feet
Maximum accessory structure building height – 24 feet
- Approximate proposed building height – 21 feet

As described in Section 8.5-5, 7C. of the EGL Land Use, Zoning and Subdivision Ordinance:

C. Setback from OHW. On parcels with municipal sanitary sewer service, if a structure exists on either side of a proposed structure, the waterfront setback may be altered without variance to conform to the adjoining setbacks provided that the building site is not in a bluff impact zone or the setback less than 50 feet minimum. If no structure exists on either side, a new structure may encroach up to a 50-foot setback from the OHW.



- Parcel is required to utilize municipal sewer service hookup. Proposed structure is indicated at a setback of 220 feet from the OHW.

PART 3

GRADING/FILL

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

3. Conditional Uses. (R-3)

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

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

- No proposed grading within the shore impact zone.
- Proposed grading/fill outside the shore and bluff impact zones exceeds 50 cubic yards at approximately 200 cubic yards.

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 detached garage is a reasonable use of property. It is common for property owners in the R-3 zoning district to have 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 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 87-376-0240.
 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 an additional three stall garage and 1,269 square foot approach to existing attached garage and driveway.
 - 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 an additional three stall garage and 1,269 square foot approach to existing attached garage and driveway.
 - 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:

CONDITIONS:

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 submitted and approved by the City. 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 is to provide proof of compliance with wetland laws and regulations (WCA, etc.) prior to approval of Land-Use permit.
5. 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



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 06:03-23 which is found in the minutes of the City Council of the City of East Gull Lake dated June 6, 2023.

And the same is a full, true, and complete copy of said Resolution 06:03-23 as found in the City records.

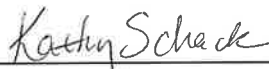
Witness my hand officially as such administrator June 6, 2023.



Laura Christensen, City Administrator
East Gull Lake, Minnesota

State of Minnesota)
 ss
County of Cass)

The foregoing instrument was acknowledged before me June 6, 2023 by Laura Christensen, City Administrator of the City of East Gull Lake, Minnesota.



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

