

**City of East Gull Lake
Planning and Zoning
Regular Meeting**

Tuesday, March 28, 2023 – 6:30 PM

I. Call to order

Chairman Bruce Buxton called to order the regular meeting of the City of East Gull Lake Planning and Zoning Commission at 6:30 PM on Tuesday, February 28, 2023 at City Hall.

II. Pledge of Allegiance

III. Roll Call

Present: Bruce Buxton (Chair), Commission: Marty Halvorson, Paul Tollefson, Rocky Waldin, Gene Bridges
Absent: Commissioner Wiebolt

Staff Present: City Administrator Christensen, Administrative Assistant Schack
Council Liaison: Carol Demgen

Audience: Albie Kuschel, Jodi Kuschel, Jed Harting, Zack Kadus, Steve Arhart, Pat Brennan, Ben Thuringer, Therese Nelson, Steven Nelson, Glen Kraemer, Elaine Kraemer, Noelle Wallace, Brad & Lori Kohorst, Gary Scheeler, Mary Ann Anderson, (two more illegible signatures)

IV. Adoption of Agenda/Additions or Deletions to the Agenda

Motion by Commissioner Tollefson and seconded by Commissioner Halvorson to approve the agenda as presented. All present voted in favor thereof. Motion carried.

V. Approval of Minutes

Motion by Commissioner Halvorson, second by Commissioner Waldin to approve the minutes of the Tuesday, February 28, 2023 meeting. All present voted in favor thereof. Motion carried.

VI. Open Forum

None

VII. Public Hearings

A. Kohorst Variance Application #2023-07

Administrator Christensen read the staff report for the request. Brad Kohorst addressed the Planning Commission stating that he was concerned about the stormwater runoff requirements. The public hearing was closed as there were no comments from the residents in attendance. The Planning Commission discussed the stormwater issue. It was noted that the DNR has not responded with any direction. It was noted the Commission would like to wait for an answer from the DNR before making any changes to the design. Discussion ensued regarding the retention ponds and pervious pavers/asphalt to address storm water runoff. It was noted the Commission has no problem with the construction of the house as presented.

Findings:

Findings related to practical difficulties in complying with the Ordinance:

a. REASONABLENESS:

- A dwelling with an attached garage is a reasonable use of property. It is common for property owners adjacent to water to build dwellings for year-round and seasonal use. The proposed construction of dwelling would maintain the character of both the surrounding neighborhood and shoreline areas on Gull Lake which is classified as a General Development Lake.
- The variance will not create a Land Use not permitted in the zone.

b. UNIQUE CIRCUMSTANCE:

- Topographic characteristics of the property including a bluff feature creates an irregular shaped building envelope when imposing Ordinance setbacks.

c. ESSENTIAL CHARACTER OF LOCALITY:

- The proposed dwelling remains reasonably consistent with the surrounding properties with special regard to scale and placement of dwelling.
- The proposed construction of dwelling would maintain the character of both the surrounding neighborhood and shoreline areas on Gull Lake which is classified as a General Development Lake.

The proposal is in harmony with the general purposes and intent of the EGL Land Use, Zoning and Subdivision Ordinance.

- A dwelling with attached garage is consistent with the residential character of the Medium Density, Shoreline Residential zoning district (R-3) on a General Development Lake.
- The EGL Land Use, Zoning and Subdivision Ordinance recognizes the construction of dwellings in the R-3 zoning district.

The proposed variance is consistent with the comprehensive plan.

- Page 6 of the EGL Comprehensive Plan recognizes the increase in reconstruction of lakeshore properties and indicates the city has implemented requirements concerning impervious surface coverage, stormwater run-off and maintenance of natural vegetative shoreline to prevent erosion.
- Pending adequate planning, construction and implementation of stormwater retention and bluff protection measures, the proposed dwelling would not negatively impact the surrounding existing residential neighborhood. Rather, it would be consistent with the surrounding shoreline properties.

Conditions:

1. Prior to construction, applicant must successfully complete Conditional Use Permit Process pending projected total impervious surfaces on property remain between 20-25% followed by approval of Land-Use Application.
2. Prior to construction, applicant must successfully complete Conditional Use Permit Process pending total grading falls between 10-50 cubic yards inside the shore and/or bluff impact zone(s). During this process, applicant must specify the amount of grading (including fill to and from property) to occur inside the shore and bluff impact zones.
3. Prior to construction, applicant must successfully complete Conditional Use Permit Process pending total grading exceeds 50 cubic yards outside of the shore and/or bluff impact zone(s). During this process, applicant must specify the amount of grading (including fill to and from property) to occur outside of the shore and/or bluff impact zone(s).
4. 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 at the time of application must be created and implemented in perpetuity (as long as the provisions of the related variance and CUP remain valid/applicable)
5. Impacts to the bluff must be avoided outside of the direct area of construction and minimized within the construction area.
6. Plans are to be designed, implemented and maintained to assure the integrity of the bluff will not be compromised as result of project.
7. DNR approval of the storm water plan design
8. Stormwater Plan to be reviewed and approved by the City Administrator

Motion by Commissioner Bridges and seconded by Commissioner Halvorson to recommend approval of Variance 2023-07 subject to the findings and conditions as presented by City Staff with the additional conditions of DNR approval and revision of the stormwater plan to be reviewed and approved by the City Administrator. All present voted in favor thereof. Motion carried.

B. Cragun’s Rezone

Chair Buxton noted the rezone for the properties has been tabled due to missing information in the applications. The residents addressed the Commission regarding the issue of Cragun’s buying houses and short-term renting them. PJ Brennan gave information regarding the issue and presented a petition signed by the residents in his neighborhood. Albie Kuschel addressed the Commission with his opposition of the rezone providing information regarding the homes Cragun’s has transformed into rental properties. Gary Scheeler questioned the enforcement of violations. Jim Eisler questioned what direction the city would like to go. He noted security is an issue. Nate Tuomi apologized about the traffic generated by his new golf course. Commissioner Tollefson noted there should be action taken now. Noelle Wallace addressed the Commission regarding the changes in the city. The issue of the Sub Surface Treatment System (SSTS) properties that are being transformed are more than likely overusing their septic systems. Mary Anderson addressed the issue of enforcement within the city and asked how the city will handle this situation. Chair Buxton noted a recommendation to the Council regarding this issue. Multiple residents shared their concern of commercial use coming into residential area.

Motion by Commissioner Halvorson and seconded by Commissioner Bridges to recommend a meeting with the management from Cragun’s and the City regarding this issue within the next week. All present voted in favor thereof. Motion carried.

VIII. Planning and Zoning Administrator’s Report

A. Statistics

New Permits:	11
New Variances:	0
New Conditional Use:	1
Inspections:	15
Completion Letters:	0
New Violations:	0
Total 2023 Permits to date:	20

B. Prior Years’ Existing Permits Update

- 62 open out of 83 total 2022 permits
- 34 open out of 108 total 2021 permits
- 2 open out of 96 total 2020 permits

Administrator Christensen reviewed the inspections that took place during the last month.

IX. Old Business

A. Airport Discussion/Resolution

Chair Buxton stated his disappointment as to where the issue has progressed. He read a resolution he wrote that he would like to see recommended to City Council. (See Exhibit A) Discussion ensued including the concerns from both those who opposed and those who approved the updating of the airport to include the construction of hangars on the property.

Motion by Commissioner Bridges and seconded by Commissioner Tollefson to approve the recommendation written by Chair Buxton to be presented to the Council. All present voted in favor thereof. Motion carried.

X. New Business

A. Kenbrook sketch plan, PID 87-376-0316

No report was given as there were no representatives in attendance.

IX. Adjournment

Motion by Commissioner Halvorson and seconded by Commissioner Bridges to adjourn. All present voted in favor thereof. Motion carried.

These minutes are paraphrased and are not written word for word.

EXHIBIT A

Planning Commission Recommendation Re: AIRPORT

WHEREAS, Madden Corporation deeded the property on which the airport is located to the City of East Gull Lake, with some covenants and restrictions,

AND

WHEREAS, Minnesota Statutes 500.20 DEFEASIBLE ESTATES provides that covenants are voided and become unenforceable after a period of 30 years, if not specifically renewed prior to expiration,

AND

WHEREAS, the covenants were not renewed prior to said expiration,

AND

WHEREAS, the City obtained a legal opinion advising them that the covenants are no longer enforceable,

AND

WHEREAS, the wants, needs and desires of some in the aviation community have changed since the creation of the public airport,

AND

WHEREAS, the Planning Commission is tasked with planning for the future of the City, and foresees changing technologies providing new and different opportunities appropriate to the airport and aviation community,

AND

WHEREAS, the Planning Commission therefore requested that the City prepare an Airport Layout Plan (ALP) to address the existing and future use with facilities and amenities meeting the current and potential future needs of the aviation community,

AND

WHEREAS, the City Council took action to begin that planning process through the hiring of a consultant and authorizing application of a grant to assist in paying for the planning process,

AND,

WHEREAS, upon hearing of this action, Madden Corporation asserted that the covenants had not expired,

AND

Whereas, Madden Corporation has previously asserted they were created to provide for a green space available for the use of the public in East Gull Lake,

AND

WHEREAS, Madden Corporation has now filed a claim to protect their rights under the terms of the deed,

AND

WHEREAS, the City has incurred many years of unreimbursed costs in the operation and maintenance of the Airport facilities, with the primary benefit going to the Madden Resort.

NOW THEREFORE BE IT THE RECOMMENDATION OF THE PLANNING COMMISSION AS FOLLOWS:

1. The City Council, prior to taking any further action relative to the airport, meet with the City attorney, or other experienced attorney, to determine if the claim put forth by Madden Corporation is valid.
2. If the advice given the City is the claim is not valid, we recommend The City Council move forward with previous Planning Commission recommendations, that is to pursue the Airport Layout Plan and authorize hangars at the airport.

3. If the City is advised the claim is valid, we recommend the City either close the airport immediately AND declare it a City park to protect the public green space as desired by the Madden Corporation, thereby eliminating any further unreimbursed airport operation and maintenance costs to the City, OR
4. The City deed the property on which the airport is located, back to the Madden Corporation subject to renewed covenants and restrictions AND subject to easements for the existing trails constructed on the property in accordance with the restrictions, thereby
 - a. Eliminating any further unreimbursed airport operation and maintenance costs to the City,
 - b. Putting the property back on the tax rolls,
 - c. Requiring Madden Corporation to operate and maintain the existing airport with no additional amenities or facilities in accordance with the covenants and restrictions, OR
 - d. Requiring Madden Corporation to close the airport facility and retain the land as a public green space as asserted in their legal opinion with no development of any kind during the life of the newly extended covenants.

The motion was made by Commissioner Bridges and seconded by Commissioner Tollefson and passed by a vote of five out of five. on March 28, 2023.