

**MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF EAST GULL LAKE, COUNTY OF CASS, STATE OF MINNESOTA
CONTINUATION OF SEPTEMBER 6, 2016 REGULAR SESSION
September 13, 2016
6:30 PM**

Mayor Kavanaugh called the September 13, 2016 continuation of the September 6, 2016 regular Council meeting to order at 6:30 PM.

The pledge of allegiance was recited.

ROLL CALL

Present: Mayor Kavanaugh, Councilors Ruttger, Demgen and Hoffmann, SEH Engineer Jeff Ledin, City Administrator Mason, Planning Commission Chair Bruce Buxton, Wastewater Superintendent Jasmer, Administrative Assistant Schack

Absent: Councilor Lang

Audience: Rocky Waldin, Eunice Wiebolt, Jeff Ledin, David Mernin, Joel Jasmer, Jerry Stromberg, Martin Harstad, Jan B?, Jason Thiesse, Bobbi Thiesse, Tom Pearson, Steve Klein, Nancy Casswell Buckley, Zach Kaiser, John Berk, Donald Gylling, Abbey Pieper, Nancy Steen, Mick McMann, Elaine Engel, Tim Engel, Linnea Will, Jeff Will, Colleen Turner, Lee Turner, Mary Rosenberg, Gary Payne, Rick Ritter, Neil Rikes, Tom Malat, Diane, Stevens

Project: THE HARBOR – CUP/Preliminary Plat a Planned Unit Development

- 1a. Resolution 09:01-16 – Denial of requirement of EAW for THE HARBOR project
Mayor Kavanaugh noted that the continuation was because the Council needed to review the findings for the requested EAW requirement for the Harbor project. He stated that all the findings were posted on the City website on September 9, 2013. He also stated that the City Council is the RGU to decide the need for an EAW. Administrator Mason read a letter of approval of the project from Councilor Lang due to his need to be absent. City Attorney Pearson noted that the posted findings were not the decision, but the Council will decide at the meeting tonight. Councilor Hoffmann asked about the Corps of Engineers permit process. It was noted that the Corps had deferred to the DNR and is waiting for the City Council to decide the need for the EAW before giving the final permit for the dredging of the channel. City Engineer, Jeff Ledin, explained the triggers for the need for an EAW, noting that there are none for this project. Councilor Demgen asked about the wetland that remains in the area of the project. Mr. Harstad stated that they will become perpetually part of the property as wetlands as some sort of conservation easement. Councilor Ruttger made a motion to adopt Resolution 09:01-16, reading the resolution denying the need for an EAW for the Harbor project and Councilor Demgen seconded. Mayor Kavanaugh called for a roll call vote. Resolution passed, with Councilor Lang absent.

Ayes by roll call vote: Councilors, Ruttger, Demgen, Hoffmann, Mayor Kavanaugh, approval to adopt Resolution 09: 01-16 stating the denial for a need of an EAW for the Harbor project; absent: Lang

- 1b. 2016-37A – CUP: THE HARBOR
Chair Buxton addressed the Council regarding the project. He noted that the Planning and Zoning Commission recommended approval of the CUP of THE HARBOR project. Discussion ensued regarding the specifics of the storage sheds and the area around them.

Findings of Fact:

1. Part of the proposed area was already developed by Lamont Sach's and Harold Johnson of Sajon Inc. and was approved for 48 platted lots in 1962 on the newly created channel that they excavated by permit in 1962 from the US Coast Guard.
2. For a variety of reasons only seven lots and two homes were developed on the channel and the remaining 41 lots on the original development has been undeveloped since the early years.
3. A gentleman's agreement was made in the early years to allow horses to graze on the northern portion of the development. When the property was sold to Mr. Harstad, he heard of the agreement and even though he was not obligated to honor it, he has done so for many years as well as allowing the general public access to fish within the channel.
4. Our Cities Comprehensive Plan encourages PUD developments to condense the density and allow preservation of green space. This development plan allows for a very low density of .54 units per acre, association common area of 18.76 acres; Outlot area of 19.02 acres, park and utility dedication area of 2.59 acres, single family lot area of 6.28 acres, average lot size of 10,132 sq ft, street dedication of 2.59 acres.
5. East Gull Lake has very few transitional type housing units for those that do not wish to have or maintain a single family home. The East Pointe development on Steamboat Bay is a great example of a similar development to what is being proposed. The demand for the units is very high and the resale of units occurs very quickly. Residents tend to be older as they enjoy the social involvement with others and the fact the homeowners association does the tasks typically required in Single family ownership.
Our Current Comprehensive plan states on page 16: The City should encourage and support housing developments that provide for different housing options and styles. The housing currently available in the City is largely composed of detached single family homes with average prices higher than that found in the region. Residents seek to diversify the housing stock to include different housing types, such as townhomes, that will allow residents to remain in the City as they age and that will encourage younger residents to move to the City.
Our Short Term Strategies also state: Encourage a village housing concept that clusters homes and includes public trails and amenities.
6. The number of Single Family units within the development will be capped at 27 units as outlined in the DNR and COE permits for the channel enhancement as outlined in the approved DNR and COE permits for the channel enhancement.
7. Covenants and Easements have been provided by the developer for owner protection and City access to adjoining property for utilities.
8. A Phase-1 Archeological Survey was conducted in June of 2016 and is part of the public record. Comments made by the firm hired to do so include; results listed are due to the low site density and disturbed stratigraphic context, the site lacks research potential and is not considered eligible as a historic designation and no additional investigation is recommended.
9. The TEP panel which consists of personnel from the MN DNR Fisheries Department, MN DNR Hydrologist, MN DNR Wildlife, Cass County Soil and Water District, US Army Corp of Engineers, BWSR of Cass County has all reviewed the project and were a part of the approval process for the Boat Harbor.
10. A Stormwater Pollution Prevention Plan has been submitted.
11. A permit has been acquired by the developer from the MN DNR regarding expansion of the existing Coast Guard Permitted Channel from 1962. The new permit allows additional excavation of 30ft x 376ft to provide for a maximum of 27 private boat slips and also excavating the existing channel to the previously permitted depth of 5 feet and a 50 foot width. This excavation will be permitted to 50 foot beyond the last boat slip in the harbor and continue into the lake at a reasonable depth not to exceed what the US Army Corp of Engineers allows.

12. A preliminary Landscape plan has been submitted for the proposed development area with 113 trees and shrubbery provided (including approximately 35 spruce and pine trees more than 6 foot tall) The development would also be screened from the lake by existing vegetation in areas left in their natural state.
13. A Geotechnical Report has been presented to the city on 21 different boring sites for evaluating the wetland delineations and determining the best soil condition for building units.
14. Part of an earlier site plan review in August of 2014 by the planning commission, it was recommended the developer consider building storage units on site to eliminate clutter. The developer has acquired 10 acres across Squaw Point Road adjoining the parcel and has a plan for 27 storage units to be owned by the homeowners association. Rules and covenants are included in this submittal.
15. The property is 53.8 acres with approximately 1600 feet of inland channel accessing Gull Lake. The development meets the minimum parcel size of 5 acres and Lake Frontage requirement of 300 feet.
16. An extension of the Green Gables road would service 21 of the 27 units in the development; this road would be built to City standards and then dedicated to the city for future ownership and maintenance.
17. At least two major City roads including Green Gables Road and Squaw Point Road service the development and are up to city standards of 24 foot width and ditches to accept run off and snow removal.
18. The entire PUD would have 7.65% of impervious coverage including all structures, parking areas, roadways, trails, and other hard surfaces. This meets the standard of less than 25% impervious with a stormwater plan, as provided.

On computing standard density in a PUD:

1. There are approximately 53.8 usable acres for the development.
2. There are 27 proposed units.
3. The overall density of the PUD would be 0.54 units per acre.
4. The PUD covers three tiers of developments.
 - a. There is 793,961 square feet in the first tier which is the first 200 feet from the lakeshore and no units are proposed in this tier. The Impervious coverage proposed in the first tier is 1,444 sq ft or .02% impervious coverage.
 - b. There is 1,114,696 square feet in the second tier which is the next 267 feet away from the lakeshore. 66,940 square feet of impervious is proposed including 16 residential units that are proposed in the second tier. The impervious coverage is 6.0% in this tier.
 - c. There is 434,900 square feet in the third tier which is the next 267 feet away from the lakeshore. 107,719 square feet of impervious is proposed including 11 residential units and the pool complex. The impervious coverage is 24.8% in this tier.
5. The PUD meets all density requirements.

On the design criteria for a PUD:

1. The PUD proposes 27 units, which exceed the minimum requirement of three units.
2. The required 50-foot vegetative buffer around the development is indicated on the landscape plan where it is possible to achieve. There are other areas near Squaw Point Road where structures will have a landscape buffer of trees and shrubbery to enhance the approach view.
3. Based on a visual inspection of the survey, the 25 percent open space requirement has been met, which includes 50 percent of the shore impact zone the 50 foot vegetative buffer.
4. More than 50 percent of the development is common space, which exceeds the requirement. Common space includes the stormwater management ponds, the 50-foot vegetative buffer, the entire shore impact zone, and recreation facilities.
5. At least 50 percent of the shore impact zone is open space or green space.

6. The common spaces are managed by the Association created for the residential development.
7. The PUD includes a 10-year, 24-hour stormwater management plan.
8. The applicant has submitted a professionally prepared stormwater management plan.
9. The development will be connected to the City sewer system. Two individual wells will provide water on-site and comply with MN Department of Health Standards.
10. All on site lighting will pointed downward or away from neighboring properties.
11. The development is allowed up to 27 docking facilities and the channel will be dredged to a 5 foot depth and reinforced within the new marina that will be created, one slip for each unit and this will be limited to 27 slips in perpetuity.
12. All building colors will be in conformance with the City Ordinance. This is set in the Owners Covenant restrictions as well.
13. One new pool and tot lot will be added in the common area with a MN Department of Health required restroom facility provided.
14. A grading, drainage and erosion control plan has been submitted.

Conditional Use criteria:

1. The proposed PUD is a conditional use in the R -1, R-2 and R-3 Zoning Districts.
2. The proposed development does not conflict with the comprehensive plan.
3. There is no reason to believe that the proposed development would be injurious to the public health, safety, and welfare.
4. There is no reason to believe that the proposed development would be injurious to the use or diminish the enjoyment of other property nor substantially diminish or impair values in the immediate vicinity of the proposed use.
5. There is no reason to believe that the conditional use will impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
6. The developer will pay all costs for the development of public infrastructure. The units will add to the tax base and will help spread the cost of the City owned and operated sewer system across more users.
7. The proposed development will not hinder development of adjacent parcels by blocking access or create a nuisance situation.
8. At least one parking space is provided for each unit.
9. Provisions for signage identifying the property will be included in the final plat.
10. There have been no natural, scenic, or historical features of major significant identified on the site as identified with the archeological survey completed.
11. Through the submitted stormwater management plan, the development will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
12. Covenants have been submitted for the protection of the Homeowners Association.

Conditions:

1. The City Attorney shall review the covenants for the Home Owners Association to make sure they follow City code. The review shall only be to determine how the documents administer and enforce the provisions and conditions of this approval. These documents must be deemed acceptable to the City Attorney or revisions shall be made to make them acceptable.
2. The City shall be notified when erosion control measures are in place before construction so that a site inspection can take place.
3. The City Engineer shall review the sewer connections and water wells for compliance to City and State codes.
4. Upon completion of the extension of Green Gables Road to City Specifications and the completion of the Waste Water Collection system being completed according to the City

Engineers Specifications, these public facilities will be turned over to the City of East Gull Lake for future maintenance.

5. Existing vegetation shall be preserved, wherever possible. Additional screening shall be provided on property bordering Squaw Point Road as per the proposed landscape plans.
6. All structures shall conform to the City's minimum building standards for a PUD and to the state building code.
7. Any future significant changes to the Property Owners Association Covenants shall be submitted to the City for approval as a modification to the Conditional Use Permit. Significant changes will be submitted to the City Planning and Zoning Administrator.
8. Developer will grant easements on Squaw Point Road
9. Developer shall conform to all provisions of the DNR permit for the channel.
10. Developer shall pay all costs of public infrastructure.
11. Developer shall pay costs incurred by the City Attorney, Engineer and staff required to verify improvements are installed as required by approvals.
12. All infrastructure and general association improvements must be installed prior to obtaining a certificate of occupancy for any of the residential units. This would include the pool area, pool house, tot lot, screening along Squaw Point Road and Poplar Drive, landscaping to the channel, channel and docking improvements.
13. Construction of all structures shall conform to the building code of the State of Minnesota.
- ~~14. Units with direct access to Squaw Point Road shall be constructed with shared drives to minimize accesses to the roadway so close together.~~
15. All mail delivery shall be done to a centralized location on Green Gables Road as approved by the US Postal Service.
16. The execution of the appropriate Developers Agreement to ensure compliance with the conditions of approval and compliance with the relevant ordinances and statutes.
17. Wetland mitigation credits need to be purchased before construction can begin.
18. Developer must comply with Applicable Statutes and Ordinances:
19. The PUD must contain a minimum of at least three dwelling units on site
20. A Residential PUD shall meet the following open space requirements:
 - a. At least 25 percent of the total project area shall be preserved as open space
 - b. Open space shall be left in its natural state and shall be contiguous
 - c. Dwelling units or sites, road right-of-way, land covered by road surfaces, parking areas, stormwater basins, collection and treatment areas, structures and landscaped areas which are routinely maintained are developed areas and shall not be included in the computation of minimum open space.
 - d. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or un-platted cemeteries.
 - e. A landscape berm where possible to be maintained or established along the boundary of the PUD and a public road. The buffer shall be included as open space, minus areas used as accesses.
 - f. Where a wildlife corridor is present, open space shall be designed to include the corridor.
 - g. The appearance of open space areas shall be preserved by use or restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.
 - h. At least 50 percent of the shore impact zone must be maintained as open space.
21. A PUD shall develop and maintain a stormwater management plan indefinitely
 - a. Capacities of existing drainage ways shall be maintained.
 - b. Inlets and outlets to adjacent parcels shall be maintained.
 - c. All PUD's shall contain the 10-year, 24-hour storm even within the development

- d. Runoff from the parcel shall not be concentrated unless part of a city stormwater management plan
- 22. The PUD shall be connected to publicly owned water supply and sewer systems where available. On-site water and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 23. All PUD's shall develop and maintain erosion control throughout construction activities. All ground shall be restored or stabilized as soon as possible after being disturbed.
- 24. All exterior lighting shall be directed downward and shall not illuminate adjacent parcels directly or indirectly.
- 25. Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- 26. All PUD's shall meet the following building standards:
 - a. Parking and driving areas must be paved
 - b. All buildings shall be earth tone in color and shall be designed, constructed and positioned to be compatible, in color, character and mass, with the surrounding land use.
- 27. Developer is allowed to proceed with construction provided final plat is recorded prior to Certificate of Occupancy.
- 28. Minor issues with ROW will be discussed and worked out with the City Engineer at no cost to the City.

M/S/P, all ayes, Councilors Hoffmann, Ruttger to approve CUP 2016-37A, for THE HARBOR project subject to the findings of fact and conditions in the Staff Report.

- 1c. 2016-37 – Preliminary Plat a Residential Planned Unit Development: THE HARBOR
Chair Buxton addressed the Council regarding the Preliminary Plat.

Findings of Fact:

- 1. The property is properly zoned for residential PUD use.
- 2. Forty-one pre-existing non conforming lots from 1962 are included within the south and east portion of the existing plat, 7 lots have been developed by previous owners on the channel.
- 3. As a PUD, lot size dimensions are not factored in. Instead, overall density and density by tier is considered. This proposal meets the required density, which was approved under the PUD application.
- 4. The land is suitable for development without significant alteration.
- 5. All properties will be connected to the City sewer system.
- 6. There are 27 non-riparian lots included within the PUD.
- 7. The proposed subdivision includes one extension of Green Gables Road and will be engineered according to City Specifications and turned over to the public when complete.
- 8. The lot lines are at standard angles where possible and contain no unwarranted jogs or bends.
- 9. Because it is a PUD subdivision, 33 feet of public access for each lot is provided for.
- 10. Easements for public utilities and drainage are provided for.
- 11. No lots will require a variance for development based on the conditions of the PUD approval.

12. The proposal includes a small increase in City road maintenance costs, yet will increase city tax revenue. A cost-benefit analysis indicates no excessive long-term cost for the East Gull Lake taxpayer from this development.
13. The development includes a 100-year, 24 hour stormwater management system. A professionally prepared stormwater management plan has been submitted.
14. A grading, drainage and erosion control plan has been submitted.
15. The applicant has submitted:
 - a. Covenants for the Home Owners' Association
 - b. Articles of Incorporation
 - c. Bylaws for The Harbor at East Gull Lake
 - d. Landscape plan
 - e. Storm water pollution prevention plan
 - f. Sanitary sewer and water main plans
 - g. Drainage Reports
 - h. Survey Plans and Elevations
 - i. Final Soil Reports
 - j. Wetland delineation data
 - k. Archeological report for historic activity
 - l. Possible floor plans and design criteria
 - m. Design and landscape plan for Storage Unit site
 - n. MN DNR public waters works permit number 1960 - 0398 for additional excavation for the Boat Harbor

Conditions:

1. The City Attorney shall review the:
 - a. Covenants for the Home Owners' Association
 - b. The review shall be used to determine that the documents meet the requirements of the City's subdivision ordinances.
1. The City Engineer shall review the proposed sewer connections and Water Wells to meet City and State standards.
2. The city will limit the amount of homes and docking slips in "The Harbor at East Gull Lake Development" to 27 units in perpetuity.
3. Approval of the expansion of the marina to 376 foot long and 30 foot wide addition to the channel and dredging to a depth of 5 feet with a retaining wall and 27 slips is based on the Amended Public Water Work Permit number 1960-0398 issued by the Minnesota Department of Natural Resources expires on 12-31-2019.
4. Approval will be based on the execution of the appropriate Developers Agreement to ensure compliance with the conditions of approval and compliance with the relevant ordinances and statutes.
5. Developer must comply with Applicable Statutes and Ordinances: The subdivision requirements are listed in Sections 7.1 and Section 8 of the Land Use Ordinance. Section 8, Planned Unit Developments, controls the lot size and density requirements.
6. The preliminary plat shall comply with the following subdivision standards (Section 8.4): The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration. Land subject to flooding, land below the ordinary high water mark, wetlands, and areas with high water table, bluffs or land containing other significant constraints upon future intended usage, shall not be considered in the minimum lot size. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation,

important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- a. Each lot shall be served by the public sewer.
 - b. Commonly owned property or green space used for access in a planned unit development shall have a minimum of 33 feet of frontage on a public right of way.
 - c. Proposed streets shall conform to the Comprehensive Plan of the City, County, and State highway plans and existing boundary conditions.
 - i. All streets within the subdivision shall be constructed by the sub-divider. Local streets and collector streets shall be constructed according with the established minimum standards.
 - ii. Please refer to Section 8.4 of the Ordinance for specific street layout requirements.
 - d. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be the following widths at a minimum:
 - i. Watermain – 20 feet
 - ii. Sanitary Sewer – 40 feet
 - iii. Storm Sewer – 20 feet
 - iv. Electrical, telephone or cable television – 10 feet
 - v. Drainageway – 10 feet
7. Compliance with sections 8.5, 8.6, 8.7, and 8.8 describe survey standards, street improvement standards, sanitary provision standards, and water supply standards respectively. Those provisions are not listed here but can be found in the Ordinance.
8. The sub-divider shall plan for the retention of natural stormwater/snowmelt drainage patterns in the design of the proposed subdivision. The sub-divider shall be responsible to provide adequate drainage facilities for his development and upstream properties.
- a. All natural drainage ways draining properties upstream from the subject property shall be preserved, and no structures shall be less than one foot above the water level in the drainage way created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100 year, 24-hour rain event should be allowed except by Conditional Use Permit.
 - b. Wetland mitigation credits need to be purchased before construction can begin.
 - c. All streets, building sites and subsurface sanitary sites shall be drained to a natural drainage way. The sub-divider shall provide adequate grading or drainage structured so no inundation or ponding will occur from a storm of a 5-year, 24-hour rain event.
 - d. Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the sub-divider. No storage area shall be considered part of the minimum lot area requirement. All storage areas shall be vegetated and designed to lower naturally after a storm.
 - e. All drainage structures provided shall be sufficient in size to pass a 5-year, 24-hour storm to a natural drainage way and to pass a 100-year, 24-hour storm along a drainage way.
 - f. All area disturbed by grading, street construction or structure installation shall be covered with a three inch natural topsoil and seeded. Drainage ways over two percent tin gradient shall, at a minimum, be sodded.
 - g. All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silt and nutrient prior to discharge to natural drainage way or public water.
 - h. Erosion control measures shall be provided where necessary in the opinion of the City Engineer.
9. Dedications to the Public

- a. In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the sub-divider shall dedicate, to the public, lands for highway right of ways, street right of ways, utility easements, wetland easements and similar lands required for perpetual and public improvements.
 - b. In addition, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the Planning Commission, with the concurrence of the City Council, shall require either a payment to the City or a land dedication for conservation purposes or for public use as parks, recreational facilities playgrounds, trails, wetlands, utility easements or open space, of a sum not to exceed ten percent (10%), of the fair market value of the land to be subdivided. The fair market value of the land to be subdivided shall be the value as determined by the Cass County Assessor at the time of Final Plat approval by the City Council. All dedications shall be included in the dedication portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.
10. Developer is allowed to proceed with construction provided final plat is recorded prior to Certificate of Occupancy.
 11. Minor issues with row will be discussed and worked out with the City Engineer at no cost to the City.
 12. Escrow account of \$20,000 will be submitted by the developer to cover professional services prior to any work on the project.

M/S/P, all ayes, Councilors Demgen, Ruttger to approve the Preliminary Plat a Planned Unit Development, 2016-37, for THE HARBOR project subject to the findings of fact and conditions.

M/S/P, all ayes, Hoffmann, Demgen, to adjourn the meeting.

Transcribed by East Gull Lake Administrative Assistant
Kathy Schack

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