



# MAYOR & COUNCIL COMMUNICATION

**DATE:** December 2, 2014

**REGULAR**

**ITEM #** 15

**AGENDA ITEM:** EN Properties, LLC Trucking Terminal Interim Use Permit Renewal

**SUBMITTED BY:** Kyle Klatt, Community Development Director

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Nick Johnson, City Planner

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECCOMENDER:** Terry Emerson (EN Properties, LLC) is requesting that the City Council renew the interim use permit that has previously been issued for his property at 11530 Hudson Boulevard in Lake Elmo. Staff is recommending approval of a two-year extension for the interim use for this property.

**FISCAL IMPACT:** None – the City’s Interim Use Ordinance specifies that the operation of the interim use will not add additional costs to the City concerning future public improvements in this area.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to consider a request by Terry Emerson of EN Properties for the renewal of an Interim Use Permit related to his truck terminal facility located at 11530 Hudson Boulevard. The Interim Use Permit for this property was originally approved by the Council on December 9, 2008 and was reviewed little more than a year after the approval date. The applicant has received a subsequent extension for the interim use that technically expired at the end of 2012. Because there have been no changes to the site since the previous extension and because Staff is not aware of any issues or concerns associated with the operation of the facility, Staff is recommending that the City process the renewal request in accordance with the requirements for renewal of an interim use permit as specified in the Zoning Ordinance (as opposed to requiring an entirely new application).

Staff has previously conducted an on-site review of the site with the applicant, and has not observed any changes to the site since this review was conducted. Staff is recommending that the City grant a two-year renewal to allow the trucking terminal to continue operating on this location. Should the Council decide to approve the renewal request, the original Interim Use Permit agreement will need to be revised and updated to reflect the new termination date. A revised agreement is attached to this report and referenced in the draft resolution of approval.

The recommended motion to take action on the request is as follows:

***“Move to adopt Resolution No. 2014-95 granting a renewal for an Interim Use Permit to allow a bus/truck terminal at 11530 Hudson Boulevard and approving a revised consent agreement for the interim use renewal time period.”***

**LEGISLATIVE HISTORY/STAFF REPORT:** Because the Interim Use Permit is not operating under circumstances that are different than originally described in the initial permit request, Staff will not be providing the Planning Commission and City Council with a new Staff report or additional information concerning this use. The original report filed with the Council in December of 2008 is available for review, along with any of the subsequent City reviews. The City’s regulations pertaining to Interim Uses has been updated since the applicant’s permit was granted; however, the general findings and conclusions from the original report and as references in the Interim Use Agreement are still valid.

The trucking terminal currently operating from 11530 Hudson Boulevard is allowed as an Interim Use subject to the standards for a non-agricultural low impact use, and has been in operation since early 2009. If the permit is renewed by the City Council, the applicant has indicated that he is working with the Kenworth Trucking company to move into this site and operate under the requirements of the existing permit and ordinance requirements.

The City’s Interim Use Ordinance includes special requirements for the review of a renewal request that requires notification of the renewal be sent to surrounding property owners. If there are no objections to the interim use permit renewal expressed within 10 days of this notice, the City Council can approve the request by resolution. Should any objections be filed with the City, the permit must be reviewed as a new application. Staff has sent out notices in accordance with this ordinance, and the 10 day comment period will end on November 28, 2014. Staff has not received any comments to date, and will be preparing a resolution of approval for consideration by the City Council at its December 2, 2014 meeting.

As noted in previous reviews of the interim use, Staff has observed the following:

- *Traffic:* The non-agricultural low impact use standards specify that the daily vehicle trips from the site cannot exceed 6 trips per acre of agricultural land. Because the agricultural area owned by the applicant is 70 acres in size, the total number of vehicle trips cannot exceed 420 per day. The applicant has estimated that there are no more than 120 trips in and out of the site every day by trucks and employee vehicles. Staff’s own observations

during visits to the site since it began operations, in addition to daily trips along Manning Avenue, have supported this estimate.

- *Site Operation.* The daily use of the site has not changed substantially from the way it was originally run as a bus garage. Although the semi-trailers being parked on the site are generally larger than the school buses that previously were stored and serviced here, the number of daily trips is substantially lower now than in the recent past. The overall site activities, including exterior storage, light maintenance/servicing of vehicles, and refueling are very similar to past activities, but with fewer vehicles and trips into and outside of the property.
- *Landscaping.* One of the conditions of Interim Use approval stated “that additional screening be provided in all locations recommended by the City Forester in order to replace vegetation that has either died or been removed”. The applicant did plant some additional trees on the site in early 2009, and has previously replaced more trees along the northern and eastern site boundaries. Given the replanting that has occurred since the Interim Use Permit was issued, the applicant has been demonstrating a clear intent to comply with the original landscape plan since the issuance of the Interim Use Permit
- *Interim Use Permit/Consent Agreement.* The Interim Use provisions in the Zoning Ordinance (and the resolution of approval) require that an applicant for an interim use permit enter into a consent agreement with the City that clarifies the terms and requirements under which the interim use can operate. With the request for renewal, the City will need to consider and approve a revised consent agreement, which at a minimum, should reference the new termination date for the interim use.

### **BACKGROUND INFORMATION (SWOT):**

**Strengths:** The proposed IUP renewal will allow the continued operation of a business in the community that has had a limited impact in this area.

**Weaknesses:** The City will need to continue monitoring the interim use as future development projects come forward.

**Opportunities:** The interim use allows a limited use of agricultural land in advance of future development in this portion of the City.

**Threats:** The user of this site will need to be taken into account as part of future development proposals.

**RECOMMENDATION:** Based upon the above background information and Staff report, it is recommended that the City Council renew the Interim Use Permit concerning the EN Properties, LLC Trucking Terminal facility operating at 11530 Hudson Boulevard by undertaking the following action:

***“Move to adopt Resolution No. 2014-95 granting a renewal for an Interim Use Permit to allow a bus/truck terminal at 11530 Hudson Boulevard and approving a revised consent agreement for the interim use renewal time period.”***

**ATTACHMENTS:**

1. Resolution No. 2014-95
2. Location Map
3. Updated Consent Agreement