



STAFF REPORT
DATE: 9/19/2023
CONSENT

TO: City Council
FROM: Sophia Jensen, City Planner
AGENDA ITEM: Country Sun Farm – Renewal of Interim Use Permit
REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney

BACKGROUND:

Country Sun Farm is located at 11211 60th Street North has been in operation since the mid 1970's. The site has a Conditional Use Permit (CUP), granted in 1984, for the agriculture entertainment uses and agriculture business on the site which has been amended and updated through the years.

On September 20th, 2011 the City Council approved an Interim Use Permit (IUP) related to agriculture business sales to allow the sale of agricultural products grown off site. On July 2nd, 2013 the City Council renewed the IUP for Country Sun Farm. In the time since the 2013 renewal the City has not received significant complaints regarding the operation of the site or been made aware of any nuisances created from the business or the offsite production and sale.

Keith Bergmann, one of the owners of Country Sun Farm, has submitted an IUP application requesting a 20-year renewal of the existing IUP as-is with no changes or expansion.

On August 30th 2023 a notice of the Country Sun Farm's request for an IUP renewal was sent to property owners within 350' of the site. No objections or concerns were raised by the surrounding property owners during the comment period. Per City Code Section 105.12.300(h) if no objections are raised, a resolution of approval outlining the conditions and stipulations of the renewal shall be brought directly to City Council for consideration.

ISSUE BEFORE THE CITY COUNCIL:

The City Council is being asked to consider and make a determination on the 20-year renewal of the Country Sun Farm's IUP and enter into the consent agreement

PROPOSAL DETAILS/ANALYSIS:

Applicant: Keith Bergmann
Property Owners: Richard and Eileen Bergmann
Location: 11211 60th St N
Request: Renew the existing IUP.
Site Area: ~ 150 acres
Existing Land Use: Agriculture
Existing Zoning: Agriculture and Rural Residential

Surrounding: North – Highway 36
 West – Lake Elmo Avenue
 South – Rural Residential (RR)
 East – Rural Residential (RR) and Open Space PUD (OP-PUD)

Comprehensive Plan: Rural Area Development (RAD)

History: Country Sun Farm has been in operation since the mid 1970's. The site has a CUP for agriculture business sales and agriculture entertainment uses on the site. The CUP was last amended in 2013. In 2011 an IUP was issued for the sale of agriculture products that were produced off site. The IUP was last renewed in 2013.

Deadline for Action: Application Complete – 8/30/2023
 IUP 30-Day Extension – 10/20/2023
 60 Day Application Deadline – 10/29/2023

Regulations: Article XI – Rural Districts
 Article V – Zoning Administration and Enforcement
 Article XXI – Design and Performance Standards

FISCAL IMPACT:

Staff has not found that the proposed renewal will have any impact to the City.

RECOMMENDATION:

Since the site has not been the subject of complaints, nuisances, or objections; and since the applicants are not proposing any changes or expansion with this IUP renewal staff is recommending the 20-year renewal request be approved subject to the conditions listed in the consent agreement.

Staff recommends the City Council approve, *as part of the consent agenda*, the renewal request and Consent agreement for Country Sun Farm. If removed from the Consent Agenda Staff suggests the following motions:

“Move to approve Resolution 2023-86 approving a 20-year renewal of the Interim Use Permit for Country Sun Farm for an agriculture business sales to allow the sale of agricultural products grown off site subject to the conditions listed in the consent agreement.”

AND

“Motion to approve and enter into the Consent Agreement between the City of Lake Elmo and Country Sun Farm for the Interim Use Permit renewal”

ATTACHMENTS:

- 1) Location Map/Site Inventory
- 2) Application
- 3) Narrative
- 4) Resolution 2023-86
- 5) Consent Agreement

ArcGIS Web AppBuilder

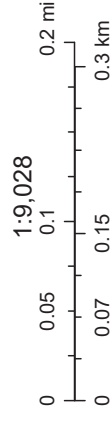


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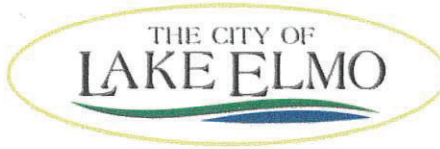
Parcels

Municipals

DNR Protected Waters ID



Date Received: _____
Received By: _____
Permit #: _____



651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

INTERIM USE PERMIT APPLICATION

Applicant: Keith Bergmann
Address: 5833 Lake Elmo Ave N
Phone #: 651-399-7423
Email Address: keithbergmann@msn.com

Fee Owner: Richard and Eileen Bergmann
Address: 5500 Lake Elmo Ave. N
Phone #: 651-468-8393
Email Address: eileenbergmann@outlook.com ~~keith~~

Engineer: _____
Address: _____
Phone #: _____
Email Address: _____

Property Location (Address): 11211 60th St. North
Complete Legal Description: E 1/2 - NW 1/4 - NW 1/4 ETC TO HWY LAKE ELMO
Section 01 Township 029 Range 021
PID#: 01.029.21.22.0002

Detailed Reason for Request: Renewal of existing Interim Use Permit

No expansion or changes

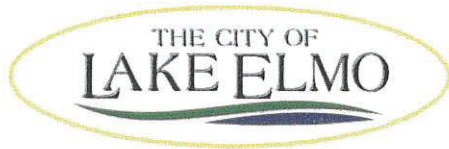
In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Keith Bergmann Date: 8/21/2023

Signature of fee owner: Eileen Bergmann Date: 8/21/23

RECEIVED
AUG 22 2023

BY:



Lake Elmo City Hall
651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name and I am the party whom the City should contact regarding any matter pertaining to this application.

I have read and understand the instructions supplied for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I will keep myself informed of the deadlines for submission of material and of the progress of this application.

I understand that this application may be reviewed by City staff and consultants. I further understand that additional information, including, but not limited to, traffic analysis and expert testimony may be required for review of this application. I agree to pay to the City upon demand, expenses, determined by the City, that the City incurs in reviewing this application and shall provide an escrow deposit to the City in an amount to be determined by the City. Said expenses shall include, but are not limited to, staff time, engineering, legal expenses and other consultant expenses.

I agree to allow access by City personnel to the property for purposes of review of my application.

Signature of applicant Richard Bergmann Date 8/21/23
Eileen Bergmann
Name of applicant Eileen + Richard Bergmann Phone 651-468-8392
(Please Print)

Name and address of Contact (if other than applicant) _____

RECEIVED
AUG 22 2023

FY: _____



Lake Elmo City Hall
651-747-3900
3800 Laverne Avenue North
Lake Elmo, MN 55042

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I **am the fee title owner** of the below described property or that I have written authorization from the owner to pursue the described action.

Name of applicant Richard & Eileen Bergmann
(Please Print)

Street address/legal description of subject property 11211 60th St. North, Lake Elmo,
Mn. 55042

Richard Bergmann
Eileen Bergmann
Signature

8/21/23
Date

If you are not the fee owner, attach another copy of this form which has been completed by the fee owner or a copy of your authorization to pursue this action.

If a corporation is fee title holder, attach a copy of the resolution of the Board of Directors authorizing this action.

If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership.

RECEIVED
AUG 22 2023

PY.

Country Sun Farm and Greenhouses IUP Statement

Country Sun Farm and Greenhouses is a family owned and operated business. The owners include:

Richard and Eileen Bergmann
5500 Lake Elmo Ave. N.,
Lake Elmo Mn 55042
651-468-8393

Keith Bergmann
5833 Lake Elmo Ave. N.,
Lake Elmo Mn 55042
651-399-7423

Chad Bergmann
11459 60th Street North,
Stillwater Mn. 55082
612-845-7378

Troy Bergmann
9850 Manning Ave. N.,
Stillwater Mn. 55082
651-324-9799

Country Sun Farm's site is located at 11211 60th Street North, Lake Elmo Mn. 55042 . The property is zoned Agricultural and Rural Residential, it encompasses 149 acres or roughly 6,490,440 square feet. The property identification numbers are as follows: 0102921120006, 0102921210008, 0102921220002, 0102921220008, 0102921230004, 0102921240001.

History of the property: The different parcels of property were purchased over the years by Richard and Eileen Bergmann starting back in 1970. Originally the site was used to grow pick your own strawberries and

raspberries, and vegetables such as sweet corn, pumpkins, squash and gourds. These were sold to retail customers in an open air market. A greenhouse was added by 1973 to facilitate vegetable production and some flowers were grown and sold as well. In 1984, the business expanded and with permission from the city, the sales building and greenhouses were built along highway 36. At this time a conditional use permit was issued by the city to allow for the sale of agricultural products which included flowers, vegetables such as pumpkins, squash and gourds, and Christmas trees. As time passed, the business moved from just Agricultural Sales to also include Agricultural Entertainment. In 2011 the city added to the original Conditional Use Permit which allowed for Agricultural Sales, to now include Agricultural Entertainment. While the business still grows and sells flowers and greenhouse products, fall Halloween items such as pumpkins, squash and gourds, Christmas trees and wreaths, it also participates in Agricultural Entertainment activities which include a Hayride, Corn Maze, Petting Zoo, Silly String fun zone, inflatable bouncers, a Corn Pit, Gem Mining, coin operated Kiddie Rides and Games, and a concession stand.

Also in 2011, an Interim Use Permit was issued to allow for the sale of agricultural items which were not grown on the contiguous property. Country Sun Farm grows all of its own pumpkins and vegetables but some crops are grown on adjacent pieces of land not contiguous to the main farm within the city of Lake Elmo, and some crops are grown on land owned by Country Sun Farm in Wisconsin. Christmas trees in the past have been grown on land leased by Country Sun Farm and from outside vendors. During times of drought or due to other crop failures, some crops have also had to be sourced from outside vendors as well.

Currently Country Sun Farm would like to ask for a 20 year interim use permit to allow the property to be used for Agricultural Sales. This would be a simple continuation of the previously approved interim use permit which allowed for “the sale of agricultural products that were grown off site, which would include flower and vegetable plants, pumpkins, squash, corn, vegetables and Christmas trees. Any other items wishing to be sold that

are not otherwise grown on site or considered an ancillary item shall require an amendment to the Interim Use Permit.”

This permit would be valid until any one of the events listed below occurs:

1. For twenty (20) years from the initial date of acceptance.
2. Upon the sale of the property or a transfer of ownership to an outside party (non-family member) - the City will review said Permit with prospective and/or new owner(s) for potential renewal without new application.
3. Until a violation of the conditions of the Consent Agreement.
4. Until a change in the City’s zoning regulations, which renders the interim use non-conforming; or
5. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City’s zoning regulations.

Country Sun Farm acknowledges that:

1. the applicant, owner, operator, tenant and/or user has no entitlement to future approval or reapproval of the interim use permit;
2. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
3. That the applicant owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.

Country Sun Farm also agrees to the following findings:

1. An interim use permit for the sale of Agricultural Goods is allowed as an interim use in the Agricultural and Rural Residential zoning districts and conforms to standard zoning regulations.

2. This permit will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety and welfare of the community.
3. This permit will not adversely impact implementation of the Comprehensive Plan.
4. Country Sun Farm agrees to all conditions that the City Council deems appropriate to establish this interim use. Which may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
5. There are no delinquent property taxes, special assessments, interest, or City utility fees due upon the subject parcels.
6. The date or event terminating the interim use shall be set by the City Council at the time of approval.

Thank you for your time and consideration in this matter,

Keith Bergmann
Country Sun Farm

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2023-86

***A RESOLUTION APPROVING THE RENEWAL OF AN INTERIM USE PERMIT TO
ALLOW AGRICULTURAL SALES ON THE PROPERTY LOCATED AT 11211 60TH
STREET NORTH (COUNTRY SUN FARM & GREENHOUSE INC.)***

WHEREAS, the City of Lake Elmo (the “City”) is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Richard J. Bergmann and Eileen Bergmann are the owners of the following properties: 0102921220003, 0102921220008, 0102921220002, 0102921230004, 0102921210008, and 0102921120006; and the Richard J. & Eileen R. Bergmann Trust is the owner of the following property: 010292124001 (collectively, the “Owners” and the “Property”); and

WHEREAS, the Property is zoned Agricultural and Rural Residential; and

WHEREAS, interim uses are allowed in the Agricultural and Rural Residential zoning districts subject to the regulations in Section 105.12.300 of the City Code; and

WHEREAS, COUNTRY SUN FARM & GREENHOUSE INC. (the “Applicant”) operates an interim agricultural sales business on the Property pursuant to an interim use permit that was issued by the City on September 20, 2011 (the “Interim Use Permit”); and

WHEREAS, the Interim Use Permit was renewed by the City on July 2, 2011 for an additional 10 years; and

WHEREAS, on August 30th, 2023, the Applicant submitted a complete application to the City to renew the Interim Use Permit for an additional 20 years; and

WHEREAS, the City Planner has sent notice of the requested renewal of the Interim Use Permit to all property owners within 350 feet of the Property; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lake Elmo as follows:

1. The Applicant’s application to renew the Interim Use Permit for an additional 20 years is hereby approved.
2. The approval of the renewal of the Interim Use Permit is conditioned upon the Applicant and the Owners executing the Consent Agreement that is attached to this Resolution as Exhibit A which contains the terms and conditions of the Interim Use

Permit. Said Consent Agreement must be fully executed within 30 days of the date of this Resolution or the City's approval of the extension of the Interim Use Permit shall automatically be rescinded.

Passed and duly adopted this 19th day of September, 2023 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Charles Cadenhead

ATTEST:

Julie Johnson, City Clerk

CONSENT AGREEMENT INTERIM USE PERMIT

1.0 Parties. This Consent Agreement/Interim Use Permit (this “Agreement”) is entered into by and among the City of Lake Elmo, a Minnesota municipal corporation (the “City”); Richard J. Bergmann and Eileen Bergmann, married to each other and the Richard J. & Eileen R. Bergmann Trust (collectively, the “Owners”); and COUNTRY SUN FARM & GREENHOUSE INC., a Minnesota corporation (the “Applicant”).

2.0 Recitals.

A. The Owners are the fee owners of 150.4 acres of property located at 11211 60th Street North as more particularly described as follows:

Richard J. Bergman and Eileen Bergmann:

Parcel IDS: 0102921220003, 0102921220008, 0102921220002,
0102921230004, 0102921210008, 0102921120006

Richard J. & Eileen R. Bergmann Trust:

Parcel ID: 0102921240001

All of the parcels are shown on the attached Exhibit A.

(the “Property”).

B. The Property is zoned Agricultural and Rural Residential.

C. Interim uses are allowed in the Agricultural and Rural Residential zoning districts subject to the regulations contained in Section 105.12.300 of the City Code.

D. The Applicant operates an interim agricultural sales use on the Property pursuant to an interim use permit that was issued by the City on September 20, 2011. Said interim use permit was renewed by the City on July 2, 2013 for an additional 10 years.

E. On the 30th day of August, 2023, Applicant submitted a complete application to the City to renew the interim use permit for an additional 20 years. The Owners consented to the application.

F. The City Planner has sent notice of the requested renewal of the interim use permit to all property owners within 350 feet of the Property.

G. On September 19, 2023, the Lake Elmo City Council approved the Applicant’s request to renew the interim use permit for an additional 20

years, and authorized the Mayor and the City Clerk to execute a consent agreement with the Applicant and the Owners that includes the new expiration date.

3.0 Terms and Conditions. The City, the Applicant, and the Owners agree that the interim agricultural sales use on the Property shall be subject to the following conditions:

- A. The Applicant, the Owners, and their heirs, successors, and assigns, shall have no entitlement to future renewal of the interim use permit by the City.
- B. The Applicant and the Owners must be able to demonstrate at all times to the City that there is sufficient access, parking, and maneuvering space on the Property, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians on the Property, and that customer parking is located away from any routes of travel by vehicles and in close proximity to the agricultural sales business.
- C. All waste materials shall be enclosed in containers provided on the Property and shall not generate any nuisance impacts on adjacent properties.
- D. All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- E. Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning district, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning district. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres. It was determined that 150.4 acres of land will be utilized for calculating trip generation.
- F. Any exterior storage of equipment and materials other than the display of products being sold or agricultural equipment currently in use on the Property shall be prohibited, unless otherwise exempted by the City Code.
- G. There shall be a minimum buffer of 100 feet between any sales areas or sales buildings and any adjacent residential property lines.
- H. Roof top or outside building mechanical equipment must be screened from view from adjacent properties and rights-of-way with an opaque material that is architecturally compatible with the building(s).

- I. Trash containers on the Property must be located indoors or screened in an acceptable manner.
- J. The interim use permit is to allow the sale of agricultural products that were grown off site, which are as follows: flower and vegetable plants, pumpkins, squash, corn, vegetables, and Christmas trees. Said products must be sold at the retail greenhouse center and growing range which is the building designated for agricultural sales on the Property. Any other items that the Applicant or the Owners would like to be sold on the Property that are not otherwise grown on site or considered an ancillary item shall require an amendment to this interim use permit.
- K. The expansion, intensification, or alteration of an existing use shall also require notification to City staff by the Applicant or the Owners prior to any change in the existing use. In addition, any new uses proposed by the Applicant or the Owners shall also require advance notice to City staff. The City Council will determine if the proposed expansion, intensification, or alteration of the existing use or a new use will require an amendment to the interim use permit or to the existing conditional use permit on the Property.
- L. The Applicant, the Owners, and their heirs, successors, and assigns, agree that in the event of a full or partial taking of the Property by a governmental unit that the value of the Property taken will be based on its highest and best use as it existed prior to the City's approval of the interim use permit.
- M. The Applicant and the Owners shall work with City staff to maintain a master inventory of all buildings and activities taking place on the Property, including any permitted agricultural activities, agricultural entertainment uses, and all other sales activities associated with the conditional use permit and the interim use permit. This inventory shall include the building sizes, locations, activities, and the dates of construction of the buildings among other relevant information.
- N. This interim use permit does not authorize the conducting of any activity that would otherwise require an interim use permit as an agricultural entertainment business.
- O. This interim use permit is valid until any one of the events listed below occurs:
 - 1. For 20 years from the expiration date of the current interim use permit (September 20, 2043);
 - 2. Upon the sale of the property or a transfer of ownership to an outside party (non-family member) - the City will review said

Permit with prospective and/or new owner(s) for potential renewal without new application;

3. Until a violation of any of the conditions of this Agreement;
4. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
5. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.

P. The Applicant and the Owners agree to work in good faith with Washington County in efforts to address planning and identification of easement/right-of-way needs for long-term improvements to Trunk Highway 36 and associated intersections, especially those that minimize impacts on the usage of the rest of the Property.

- 4.0 Renewal of Interim Use Permit. The interim use permit may be renewed by the Council upon the occurrence of either of the events listed in Section 3.0, paragraphs (O)(1) or (O)(2) above. A renewal application must be requested in accordance with Section 105.12.300 (h) of the City Code.
- 5.0 Acknowledgement of the Conditional Use Permit. Any conditional use permit that was previously issued by the City for the Property is allowed to continue in conjunction with this interim use permit.
- 6.0 Acknowledgement and Consent. The Applicant and the Owners acknowledge that this is a legally binding agreement and that Applicant and the Owners have had an opportunity to review the Agreement with legal counsel. The Applicant and the Owners consent to the terms of this Agreement and its restrictions on the use of the Property.
- 7.0 Effective Date. This Agreement shall be effective upon execution by all parties.

Date: September 19, 2023

CITY OF LAKE ELMO

By: _____
Charles Cadenhead

Its: Mayor

By: _____
Julie Johnson

Its: City Clerk

APPLICANT:

**COUNTRY SUN FARM &
GREENHOUSE, INC.**

By: _____

Its: _____

OWNERS:

By: _____
Richard J. Bergmann

By: _____
Eileen Bergmann

RICHARD J. & EILEEN BERGMANN TRUST

By: _____

Its: _____

EXHIBIT A

Map of the Property

