

CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA

RESOLUTION 2002- 062

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR A
NON-AGRICULTURAL LOW IMPACT USE FOR
EN PROPERTIES, LLC**

WHEREAS, EN Properties, LLC ("**EN**") represents that it is the fee owner of approximately seventy (70) acres of agriculturally zoned property ("**Major Parcel**") located in the City of Lake Elmo; and

WHEREAS, EN has represented to the City that it has leased or is in the process of leasing approximately four (4) acres ("**CUP Area**") of the Major Parcel to Laidlaw Transit ("**Laidlaw**") for use as a School Bus Terminal; and

WHEREAS, the Major Parcel and the CUP Area are defined and illustrated as part of Exhibit A attached; and

WHEREAS, pursuant to the City's Development Regulations, a School Bus Terminal is considered a Non-Agricultural - Low Impact use of agriculturally zoned property which is allowed through the issuance of a Conditional Use Permit ; and

WHEREAS, on May 13, 2002, the Lake Elmo Planning Commission held a public hearing to review the application for a School Bus Terminal; and

WHEREAS, on May 29, 2002, the Lake Elmo Planning Commission recommended approval of a Conditional Use Permit for a School Bus Terminal subject to various conditions; and

WHEREAS, on June 18, 2002, the Lake Elmo City Council reviewed the application, the comments and recommendations of the Planning Commission, and directed staff to prepare a resolution approving the a Conditional Use Permit for a School Bus Terminal subject to various conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Lake Elmo City Council that a Conditional Use Permit for a School Bus Terminal is hereby approved for the CUP Area of the Major Parcel subject to the conditions contained herein.

1. The CUP Area may be utilized for the following uses:
 - a. A school bus office, shop and equipment storage facility.
 - b. A school bus refueling area which shall be located to safely accommodate traffic flow.
 - c. A school bus washing facility to be use only for the exterior of the school buses.
 - d. No other uses are allowed without additional review and approval by the City of Lake Elmo.
2. The CUP area shall not exceed 4 percent of the Major Parcel.
3. The impervious surface within the CUP Area shall not exceed 1.5 percent of the Major Parcel applicant's property.
4. The water run-off from any existing or proposed buildings in the CUP Area shall meet the City's "1 Percent Rule" as to rate and volume, as determined by the City Engineer.
5. The emission of diesel fumes from buses shall comply with the Federal Clean Air Act and all uses of the CUP Area shall be in compliance with applicable federal and state regulations.
6. Buildings, site improvements, parking, operating procedures and outside storage within the CUP Area shall be located and maintained in accordance with the approved site plan attached as part of Exhibit "A".
7. No exterior lighting beyond that which was approved for the prior Non-Agricultural Conditional Use will be allowed.
8. Outside storage of vehicles, equipment, or goods shall be screened from adjacent property and public rights-of-way. Screening shall include berming and landscaping shown on the revised landscape plan attached as part of Exhibit A. No buses shall be parked or stored on the west side of the building.
9. The site may not generate more than 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based upon design capacity of the facility, whichever is more restrictive.

10. The Major Parcel, including the CUP Area, shall remain in an agricultural zone as long as this Conditional Use Permit is effective.
11. In the event that EN, or its successors or assigns, initiates a Comprehensive Plan Amendment and/or rezoning of the Major Parcel or any part thereof from agricultural to a more intensive use, this Conditional Use Permit shall terminate and all non-conforming structures shall be removed within one year from the date of the City Council's adoption of the Comprehensive Plan Amendment and Rezoning. This condition shall not apply if the City initiates rezoning or if the landowners are forced to transfer title to any part of the Major Parcel due to Eminent Domain.
12. The City recognizes that the Non-Agricultural Low Impact Use permitted by this resolution allows the applicants the economic means to preserve and maintain approximately 67 acres of agriculturally zoned land. If the City, without the property owners concurrence, should take any action to make this a legal non-conforming use under the zoning ordinance, the City hereby agrees to allow the reconstruction of any non-conforming structures in the CUP Area that may become damaged beyond 50 percent of their replacement cost, so long as all other conditions of this resolution are in compliance.
13. It is expressly understood by EN that any hazard to the health or welfare of the City could and would be grounds for revocation of this permit.
14. The City of Lake Elmo shall be notified by mail no less than sixty (60) days prior to the termination of the Laidlaw lease. The Laidlaw lease is attached as part of Exhibit "A". Termination of the Laidlaw lease and the reuse of the CUP Area without obtaining a new or revised Conditional Use Permit is prohibited.
15. Conditional Use Permit Area may not be occupied by the School Bus Terminal until:
 - a. EN Properties provides the City with evidence of title for the Major Parcel including the CUP Area.
 - b. All buildings, equipment, trailers, machinery, and unspecified material relative to the business of E&H Earth Movers located at the Northwest quadrant of County Road 15 and 10th Street ("**Emerson Site**") shall be removed by EN prior to July 25, 2002 or the City shall be allowed to remove such material and assess EN 150% of the City's cost of the removal and disposal of such material. This condition is imposed because the original Conditional Use Permit for the CUP Area was issued in conjunction with an agreement to eliminate the builders'

equipment storage yard on the Emerson Site.

- 16. Laidlaw operates a similar facility in the City of Afton. None of the buses utilizing the Afton Site can be fueled or refueled in the CUP Area.
- 17. EN will install a dry-charged sprinkler system for the workshop area of the building.
- 18. All prior Conditional Use Permits issued for this CUP Area are hereby rescinded.

Adopted by the Lake Elmo City Council this 2nd day of July, 2002.

Lee Hunt
Lee Hunt, Mayor

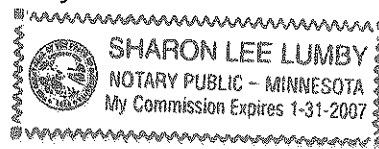
Attest:

Mary Kueffner
Mary Kueffner, City Administrator

STATE OF MINNESOTA)
COUNTY OF Washington) ss.

On this 16th day of July, 2002, before me, a notary public within and for said county, personally appeared Lee Hunt and Mary Kueffner, to me known to be respectively the Mayor and City Administrator of the City of Lake Elmo, and they executed the foregoing instrument and acknowledged that they executed the same by authority of and on behalf of City of Lake Elmo.

Sharon Lumby
Notary Public



ACCEPTANCE OF CONDITIONS

EN Properties, LLC for itself, its successors and assigns, hereby accepts the conditions imposed by the issuance of this Conditional Use Permit.

EN Properties, LLC

DATED: 7-16-02

By: Terry Emerson

Its: President

STATE OF MINNESOTA)

COUNTY OF Washington) ss.

On this 16th day of July, 2002, before me, a notary public within and for said county, personally appeared Terry Emerson to me known to be President of EN Properties, LLC and he/she executed the foregoing instrument and acknowledged that it was executed by authority of EN Properties, LLC.

Sharon Lumbly
Notary Public

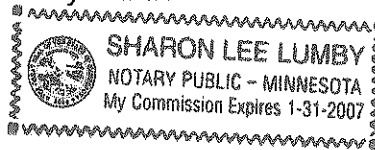


EXHIBIT 'A'