

CONSENT AGREEMENT INTERIM USE PERMIT

1.0 Parties. This Consent Agreement/Interim Use Permit ("Agreement") is entered into by and between the City of Lake Elmo, a Minnesota statutory ("City"); and E & E Properties, LLC, a Minnesota limited liability corporation ("Applicant").

2.0 Recitals.

A. Applicant is the record fee owner of the following described property situated in Lake Elmo, MN ("Property"):

That part of the South Half of the Southeast Quarter of Section 36, Township 29 North, Range 21 West, Washington County, Minnesota lying easterly of the West 33.00 feet (2 rods) thereof, EXCEPT that part designated as Parcel 44 on Minnesota Department of Transportation Right of Way Plat No. 82-35, State Project No. 8292 (94-392) 904, recorded as Document No. 424557 in the office of the County recorder, Washington County, Minnesota.

Subject to highway easements in favor of Washington County described in Book 258 of Deeds, page 91 and Book 309 of Deeds, page 831, of record, and on file in said office of the County Recorder.

Also, subject to highway easements in favor of the State of Minnesota as described in Book 109 of Deeds, page 622, Book 109 of Deeds, page 638, and Book 220 of Deeds, page 11, of record and on file in said office of the County Recorder.

B. The Property is zoned HD-A-BP.

C. Interim uses are allowed in the HD-A-BP zoning district subject to the regulations contained in Lake Elmo City Code Section 154.019.

D. Applicant has requested that the City allow a portion of the Property to be used as a bus/truck terminal as illustrated on the Site Plan attached as Exhibit A (Site Plan):

E. On the 30th day of October 2008, Applicant submitted a completed application for an Interim Use Permit.

- F. On the 10th day of November, 2008, the Lake Elmo Planning Commission, at a public hearing, reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and recommended approval of the interim bus/truck terminal use subject to certain conditions.
 - G. On the 1st day of December, 2008, and on the 9th day of December, 2008, the Lake Elmo City Council reviewed the Interim Use Permit application, city staff comments and reports, Applicant's comments and reports, public comments, and the recommendations of the Lake Elmo Planning Commission, and agreed to authorize the interim use subject to the terms and conditions as specified in Section 154.019 of the Zoning Ordinance and Resolution 2008-056 approving the interim use permit.
 - H. On the 2nd day of February, 2010, the Lake Elmo City Council completed a one-year review of the interim use permit and granted an extension of the Interim Use.
 - I. On the 2nd day of December 2014 the Lake Elmo City Council considered a request to renew the interim use permit and authorized the Mayor to execute a consent agreement with the Applicant.
- 3.0 Terms and Conditions. The Lake Elmo City Council hereby authorizes and Applicant, for itself, and its successors and assigns, agree that the interim bus/truck terminal use shall be subject to the following conditions:
- A. The Applicant, and its successors and assigns, shall have no entitlement to future re-approval of the Interim Use Permit.
 - B. Applicant and its 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 approval of the Interim Use Permit.
 - C. The interim use shall be located on that portion of the Applicant's Property illustrated on the Site Plan. The remainder of Applicant's Property shall continue to be used for agricultural purposes.
 - D. Applicant shall replace any trees that have died or been removed from the site in order to maintain the site landscaping as depicted on the original Site Plan for the property.
 - E. The Interim Use Permit is valid until the first occurring following event:

1. For two (2) years from the date of the renewal of the Interim Use Permit (December 2, 2014);
 2. Until a violation of the conditions of this Consent Agreement;
 3. Until a change in the City's zoning regulations, which renders the interim use non-conforming; or
 4. Until the redevelopment of the Property for a permitted or conditional use as allowed by the City's zoning regulations.
- 4.0 Rescission of the Conditional Use. The Conditional Use Permit, which was previously issued for the Property is hereby rescinded and replaced by this Consent Agreement/Interim Use Permit.
- 5.0 Acknowledgement and Consent. Applicant acknowledges that this is a legally binding agreement and that Applicant has had an opportunity to review the Agreement with legal counsel. Applicant consents to the terms of this Agreement and its restrictions on the use of the Property and the Interim Use Area.
- 6.0 Effective Date. This Consent Agreement/Interim Use Permit shall be effective upon execution by all parties.

Date: 12/2/14

CITY OF LAKE ELMO

By: _____
Mike Pearson
Mayor

E and E Properties, LLC

By: _____
Terry Emerson

Its: _____