

**CITY OF ST. AUGUSTA**  
**CITY COUNCIL MEETING**  
**December 11, 2023**  
**8:00 pm**  
**AGENDA**

1. Call Meeting to Order – Mayor Zenzen.
2. 2024 Tobacco Licenses (Mini Mart #2, Dollar General, Augusta Cloud and Vape, SFP Liquor, Casey’s Retail Company)
3. Planning Commission Recommendation – Pleasure Land
  - 3A. Preliminary and Final Plat, Resolutions #2023-18
  - 3B. CUP, Resolution #2023-19
  - 3C. Developer’s Agreement
4. Planning Commission Recommendation – A&E Storage
  - 4A CUP/Site Plan, Resolutions #2023-14
  - 4B. Variance, Resolution #2023 – 17.
5. Adjourn.

REMINDERS:           Christmas Holiday, Monday, December 25 – City Hall Closed  
                              New Year’s Holiday, Monday, January 1 – City Hall Closed  
                              Regular City Council Meeting, Tuesday, January 2, 2024 – 7:00pm

**CITY OF ST. AUGUSTA  
COUNTY OF STEARNS**

**RESOLUTION #2023- 18**

**A RESOLUTION APPROVING A PRELIMINARY AND FINAL PLAT FOR A  
PROJECT KNOWN AS PLEASURELAND RV**

**WHEREAS**, Pearson Investments, LLC, a Minnesota limited liability company (“Developer”) is owner of certain property legally described in Exhibit A (the “Subject Property”); and

**WHEREAS**, the property is zoned Business Warehouse; and

**WHEREAS**, the Developer has requested a preliminary and final plat so as to allow the Developer to plat the Subject Property into one lot as shown on a preliminary plat for a development entitled Pleasureland RV; and

**WHEREAS**, the application was reviewed by the Planning Commission at its meeting on December 12, 2023. The Planning Commission recommended approval of the request; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby approves the application for a Final Plat subject to the following conditions:

1. All comments contained within the memo from Moore Engineering dated [REDACTED], 2023 and the memo from Collaborative Planning dated December 6, 2023 are incorporated herein (collectively referred to as the “Staff Memos”) and are to be addressed by the Developer to the satisfaction of the City.
2. The site shall be in substantial conformance with the site plan for Pleasureland prepared by Stark Engineering, LLC and dated December 4, 2023 (the “Site Plan”), except as modified to address comments within the Staff Memos. Revised plans shall be submitted for review by the City Planner and City Engineer prior to the issuance of a grading permit or release of the final plat for recording.
3. The approval of the Final Plat shall terminate unless all conditions of this resolution are completed and the Final Plat is recorded, by February 10, 2024.
4. Drainage and Utility Easements shall be included on the Final Plat in all locations where there is stormwater infrastructure. If not accessible to a public road, the drainage and utility easements shall also include an accessible access point for the City.
5. Developer or successors must maintain all storm sewer located on individual lots in good working condition at all times and must maintain ponds in good working condition at all times. Developer shall enter into a stormwater maintenance agreement with the City.
6. Developer must enter into a Site Improvement Performance Agreement with the City related to the installation of the stormwater improvements. The Final Plat shall not be

released for recording until revised plans have been approved by the City Engineer and City Planner.

7. A title commitment shall be provided for the review of the City Attorney before the plat is released for recording.
8. The Developer must reimburse the City for all costs incurred by the City and its consultants in relation to review of the proposed development plans, inspection of improvements, and the preparation of the Developer's Agreement.

Adopted by the City Council this 11th day of December, 2023.

---

Michael G. Zenzen, Mayor

Attest:

---

William R. McCabe, Clerk/Administrator

**CITY OF ST. AUGUSTA  
COUNTY OF STEARNS**

**RESOLUTION #2023- 19**

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND SITE PLAN  
FOR A PROJECT KNOWN AS PLEASURELAND FOR OPEN AND OUTDOOR SALES  
AND SERVICE**

**WHEREAS**, Pearson Investments, LLC, a Minnesota limited liability company (“Developer”) is owner of certain property legally described as follows:

Lot 1, Block 1, PLEASURELAND RV

(the “Subject Property”); and

**WHEREAS**, the property is zoned Business Warehouse; and

**WHEREAS**, the Developer has submitted an application for a Conditional Use Permit and Site Plan to bring existing Conditional Use Permit’s under one permit and to install additional outdoor sales lot, the most recent revision of said plans prepared by Stark Engineering, LLC and last updated December 4, 2023 (unless noted differently below) and containing the following sheets:

1. Site Plan
2. Demolition Plan
3. Grading and Erosion Control Plan
4. SWPPP Notes and Narrative

(the “Site Plans”); and

**WHEREAS**, the Subject Property is currently subject to two Conditional Use Permits. CUP 2000-V-02 (“2000 CUP”) was issued for property that was located within the B-2 Highway Commercial District at that time. The 2000 CUP was for the purpose of the sale and display of recreational vehicles, campers and related items including the outdoor display and sale of such items, pursuant to Section 56.06(G) of the Ventura Zoning Ordinance. CUP #2022-21 (“2022 CUP”) was issued in 2022 for an outdoor sales lot.

**WHEREAS**, the application was reviewed by the Planning Commission at its meeting on December 12, 2023. The Planning Commission recommended approval of the request; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council makes the following findings:

- A. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. *The use is*

- already in place. The purpose of the permit is to combine existing Conditional Use Permits into one permit, and to add additional sales lot area.*
- B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area. *The surrounding area contains compatible uses.*
  - C. That adequate utilities, access streets, drainage, and other necessary facilities have been or will be provided for the proposed conditional use. *As required by the 2022 CUP approved on November 15, 2022, stormwater permitting has not been completed for the Subject Property and completion is a requirement of approval. It was unknown at that time as to whether sufficient stormwater ponding and treatment was provided prior to the use of adjacent properties by the Developer. For these reasons, a condition was included in the 2022 CUP that required the Developer to submit plans to combine the properties currently and proposed to be used for Pleasureland into one lot and one Conditional Use Permit, and to provide stormwater treatment, and to meet other Zoning Ordinance requirements. This application is intended to meet that requirement of the 2022 CUP.*
  - D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed conditional use. *Parking for the building was previously constructed and has not been reviewed as part of this application.*
  - E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result from the proposed conditional use. *The site previously had variance # 2022-21 granted in November 2022 to temporarily permit the use of gravel for the surface area even though pavement is required. That variance has expired and the site is now required to be paved.*
  - F. That proper facilities are or will be provided which would eliminate any traffic generation or traffic hazard which may result from the proposed conditional use. *The conditional use does not add any additional traffic generation or traffic hazard.*
  - G. That there is a demonstrated need for the proposed use. *The product being sold is recreational vehicles, which are not practical to keep within buildings.*
  - H. That the proposed use is in compliance with any land use plan adopted by the City. *The use is generally in compliance with the land use plan.*
  - I. That the affected property does not contain any wetlands or public water over which the United States, the State of Minnesota, or their respective agencies or political subdivisions have control or jurisdiction, or which are otherwise regulated by the United States, the State of Minnesota, or their respective agencies or political subdivisions. *Impacts to any wetlands or public waters on site, if any, will be addressed as appropriate with any regulating agencies.*

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council hereby approves the application for a conditional use permit subject to the following conditions:

1. This Conditional Use Permit amends and replaces the 2000 CUP and the 2022 CUP.
2. This Conditional Use Permit permits the use of the Subject Property for open and outdoor

sales and service, which shall only occur in those locations shown on the Approved Site Plans.

3. Off-street parking spaces required under Section 20.01 of the St. Augusta Zoning Ordinance shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles unless approved by the Zoning Administrator.
4. All comments contained within the memo from Moore Engineering dated [REDACTED], 2023 and the memo from Collaborative Planning dated December 6, 2023 are incorporated herein (collectively referred to as the “Staff Memos”) and are to be addressed by the Developer to the satisfaction of the City.
5. The site shall be in substantial conformance with the site plan for Pleasureland prepared by Stark Engineering, LLC and dated December 4, 2023 (the “Site Plan”), except as modified to address comments within the Staff Memos, and this Resolution # 2023-19. Revised plans shall be submitted for review by the City Planner and City Engineer prior to the issuance of a grading permit and once approved shall be the “Approved Site Plan”.
6. To the extent that there are differences or conflicts between the Approved Site Plan and this resolution, the terms of this resolution shall be controlling.
7. The Subject property shall be in substantial conformance with all requirements of St. Augusta’s ordinances, including, but not limited to, St. Augusta’s Zoning Ordinance and Subdivision Ordinance.
8. No new signage is proposed from that existing in November 2023. Prior to new or changed signage being installed on the property, the applicant shall obtain appropriate permits from the City.
9. The installation of lighting that is in addition to that existing on site in November 2023 is not approved even though it is shown on the site plans. The submitted Site Plan did not contain sufficient lighting plan information for verification of compliance with the Zoning Ordinance. Prior to the installation of additional lighting, plans must be submitted to verify compliance with Section 4.04(H.) and Section 15.10 of the Zoning Ordinance. Plans for lighting were not submitted. Prior to lighting being installed on the property, the applicant shall obtain appropriate permits from the City.
10. A landscape plan shall be submitted for City review and approval as required by Section 15.07. The approved landscape plan shall be considered a part of the Approved Site Plan.
11. The owner shall enter into a maintenance agreement with the City for stormwater management facilities. Easements may also be required to be provided for stormwater management facilities.
12. Prior to commencement of construction, the Developer shall enter into a Site Improvement Performance Agreement with the City related to the construction of the public infrastructure.

13. The site shall be operated and maintained in compliance with all local, state and federal regulations, as may be amended from time to time. The owner shall be responsible for obtaining and complying with all necessary permits from any other governmental agencies prior to commencement of development activities on the site.
14. The sales display and parking areas shall be paved. Parking and sales display areas shall be kept in a neat and orderly manner, with drive lanes that are 36 feet wide in the locations shown on the Site Plan.

Adopted by the City Council this 11th day of December, 2023.

---

Michael G. Zenzen, Mayor

Attest:

---

William R. McCabe, Clerk/Administrator

**DEVELOPER'S AGREEMENT  
CITY OF ST. AUGUSTA  
PLEASURELAND RV**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ by and between Pearson Investments, LLC, a Minnesota limited liability company (“Developer”), and the City of St. Augusta, located in the County of Stearns, State of Minnesota (“City”);

**WITNESSETH:**

**WHEREAS**, Developer is the fee owner and developer of the real property described as Lot 1, Block 1, Pleasureland RV, Stearns County, Minnesota (“Property”) which Property is subject to that certain developer’s agreement entitled “Developer’s Agreement, City of St. Augusta, Lot 1, Block 1, White Oak Addition, Pearson 1031 Holdings LLC” dated \_\_\_\_\_, 2022 and recorded as document number \_\_\_\_\_ in the office of the Stearns County Recorder, Stearns County, Minnesota (“Original Developer’s Agreement; and

**WHEREAS**, said Original Developer’s Agreement required that the Developer construct certain Infrastructure Improvements; and

**WHEREAS**, the City requires that certain additional infrastructure improvements be installed by the Developer on and about the Property, which improvements consist of storm sewer, ponding, bituminous pavement, top-soil and ground cover to prevent erosion, grading control per lot, street cleanup during project development, erosion control, landscaping and other site-related items; and

**WHEREAS**, this Agreement is entered into for the purpose of setting forth and



memorializing for the parties and subsequent owners, the understandings and covenants of the parties concerning the development of the Property and the conditions imposed thereon.

**NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED**, in consideration of each party's promises and considerations herein set forth, as follows:

1. **Construction of Infrastructure Improvements.**

- A. Developer shall construct all on-and off-site improvements including installation of yard top soil, sod and seed in all yards, grading control per lot, bituminous or concrete driveways, bituminous parking lot, drainage swales, storm sewer, ponding, berming, street cleanup during project development, and erosion control, all as required by City ordinance and this Agreement as well as any Development Standards as on file with the City Administrator's Office and the Site Plan attached as Exhibit A. Those portions of the Property not required to be sodded may be seeded with grass seed or sodded. In all cases permanent turf or grass must be established over all areas of the lot not covered by a hard or impervious surface or ponding water. Said on- and off-site improvements shall be installed on the Property no later than October 31, 2024, with the exception of erosion control measures which shall be installed upon initial grading of the Property.
- B. Before any grading is started on any site, all erosion control measures as shown on the approved Grading and Erosion Control Plan attached as Exhibit B shall be strictly complied with. Developer shall maintain erosion control measures in accordance with MPCA's Best Management Practices at all times during the development of the Property.
- C. Developer shall install a storm water retention/water quality pond and an infiltration pond upon the Property as shown on the Grading and Erosion Control Plan attached as Exhibit B. Said pond shall be dedicated to the City and Developer shall provide the City with perpetual drainage easements over such pond as well as an access to such pond in a form acceptable to the City Attorney and City Engineer prior to use of the Property for outdoor sales or any other use. Developer shall execute the Stormwater Maintenance Agreement attached as Exhibit C which shall be recorded at the Stearns County Recorder's Office. The Property is subject to that certain stormwater maintenance agreement entitled "Stormwater BMP Maintenance Agreement Lot 1, Block 1, White Oaks Addition Plat" dated \_\_\_\_\_, 2022, and filed

\_\_\_\_\_, 2022, as Document No. \_\_\_\_\_ in the office of the Stearns County Recorder, Stearns County, Minnesota (“Prior Stormwater Agreement”). The parties hereby agree that the Stormwater Maintenance Agreement attached as Exhibit C hereto shall replace the Prior Stormwater Agreement with respect to the Property. Upon the recordation of the Stormwater Maintenance Agreement, the Prior Stormwater Agreement shall no longer be applicable to or binding on the Property and its obligations with respect to the Property shall terminate. Upon the mutual execution of this Agreement, the City agrees to execute and record against the title to the Property the release of the Prior Stormwater Agreement attached hereto as Exhibit D as evidence of such release and termination.

D. The improvements to be completed by Developer under paragraph 1.A, 1.B and 1.C. of this Agreement shall be referred to collectively herein as the “Infrastructure Improvements.”

2. **Intended Use of Lots.**

A. Developer intends to use the Property as a sales lot and service facility for recreational vehicles. Developer shall develop and use the Property consistent with the City’s zoning ordinance.

B. Developer had previously been granted a temporary variance to use the Property as an outdoor sales area. Said temporary variance shall be deemed terminated upon the completion of the Infrastructure Improvements required herein.

3. **Surety Requirements.**

A. **City Surety Requirements.** The Developer, or its designee, shall provide the City with an irrevocable letter of credit or other surety as approved by the City Attorney as security that the obligations of the Developer under this Agreement shall be performed. Said letter of credit or other surety shall be in the amount of \$\_\_\_\_\_ representing the sum of 125% of the estimated cost of the Infrastructure Improvements, and to fulfill the obligations of Developer under this Agreement. The letter of credit must meet the approval of the City Attorney as to form and issuing bank, the issuing bank must have a branch where the letter of credit can be drawn upon within 100 miles of the City of St. Augusta, and the letter of credit must be available in its entirety to fulfill the obligations of the Developer under this Agreement. The letter of credit to the City shall contain language requiring its automatic

renewal prior to December 31 of each calendar year, unless the City specifically approves cancellation of the letter of credit in writing.

The letter of credit shall automatically renew for successive one-year terms unless, at least forty-five (45) days prior to the next annual renewal date (which shall be December 31 of each calendar year), the financial institution issuing the letter of credit delivers written notice to the City that it intends to modify the terms of, or cancel, the letter of credit. Written notice is effective if delivered to, or sent by certified mail, postage prepaid, and deposited in the U.S. Mail, at least forty-five (45) days prior to the next annual renewal date addressed to, the City, as outlined in paragraph 20 of this Agreement, and is actually received by the City at least thirty (30) days prior to the renewal date.

- B. The City may draw on the letter of credit or other surety to complete work not performed by Developer (including but not limited to Infrastructure Improvements, described above, erosion control, and other such measures), to pay liens on property to be dedicated to the City, to reimburse itself for costs incurred in the drafting, execution, administration or enforcement of this Agreement, or to otherwise fulfill the obligations of Developer under this Agreement.
- C. In the event that any cash, or other surety referred to herein is ever utilized and found to be deficient in amount to pay or reimburse the City in total as required herein, the Developer agrees that upon being billed by the City, Developer will pay within thirty (30) days of the mailing of said billing, the said deficient amount. If there should be an overage in the amount of utilized security, the City will, upon making said determination, refund to the Developer any monies which the City has in its possession which are in excess of the actual costs of the project as paid by the City.
- D. Developer hereby agrees to allow the City to specially assess Developer's Property for any and all costs incurred by the City in enforcing any of the terms of this Agreement should Developer's (or its designee's) surety prove insufficient or should Developer fail to maintain said surety in the amount required above within thirty (30) days of mailing of written request by the City. The City shall release any special assessments (and any liens arising therefrom) when fully paid.
- E. In the event a surety referred to herein may become null and void prior to the

time at which all monetary or other obligations of the Developer are paid or satisfied, it is agreed that the Developer, or its designee, shall provide the City with a new surety, acceptable to the City, at least forty-five (45) days prior to the expiration of the original surety. If a new surety is not received as required above, the City may without notice to Developer declare a default in the terms of this Agreement and thence draw in part or in total, at the City's discretion, upon the expiring surety to avoid the loss of surety for the continued obligation. The City Attorney must approve the form of any surety prior to its issuance.

- F. In the event the Developer files bankruptcy or in the event a bankruptcy proceeding is filed against Developer by others and is not dismissed within sixty (60) days, or in the event a court appoints a receiver for the Developer, the City may draw on its letter of credit or surety in its full amount to secure its surety position. After all obligations of the Developer to the City under this agreement have been satisfied, the City shall then release any excess remainder of said letter of credit or surety to the bankruptcy court or receiver in the same manner that it would be required to release the letter of credit under this Agreement.

4. **Surety Release.**

- A. Periodically, as payments are made by the Developer for the completion of portions of Infrastructure Improvements and when it is reasonably prudent, the Developer, or its designee, may request of the City that the letter of credit or surety be proportionately reduced for that portion of the Infrastructure Improvements and other requirements under this Agreement which have been fully completed and payment made therefore. All such decisions to proportionately decrease the letter of credit or other surety shall be at the reasonable discretion of the City.
- B. The Developer, or its designee, may request from the City a reduction or release of any letter of credit or other surety as follows:
  - 1. When another acceptable letter of credit or surety is furnished to the City to replace a prior letter of credit or surety.
  - 2. When a portion of the Infrastructure Improvements have been installed, the letter of credit or surety will be reduced by the dollar amount attributable to that portion of the Infrastructure Improvements

so installed at such time as the Developer's licensed professional engineer has certified to the City that the construction/installation of the applicable portion of the Infrastructure Improvements have been done and performed according to the approved plans.

3. When all of the Infrastructure Improvements have been completed and the City's licensed professional engineer is reasonably satisfied that the construction/installation of the Infrastructure Improvements have been done and performed according to the approved plans, all warranty obligations have been satisfied, and all amounts owed to the City under the terms of this Agreement have been paid, the City shall release the letter of credit or other surety required hereunder, provided Developer is not in default under the terms of this Agreement. If such a default exists, the City may retain that portion of the letter of credit or other surety reasonably required to cure such default until such default is cured.
4. As to requests to proportionately decrease the letter of credit or other surety brought under paragraph 4.B.2 above, the City shall have complete discretion whether to proportionally reduce said letter of credit or surety. However, such decision to proportionally reduce the letter of credit or surety will not be unreasonably denied or delayed.

C. The costs incurred by the City in processing any reduction request shall be billed to the Developer and paid to the City within thirty (30) days of billing.

5. **Abandonment of Project - Costs and Expenses.** In the event Developer should abandon the proposed development of the Property, the City's reasonable costs and expenses related to attorney's fees, professional review, drafting of this Agreement and any other expenses undertaken in reliance upon Developer's various assertions shall be paid by said Developer within thirty (30) days after receipt of a bill for such costs from the City. In addition, in the event the Developer abandons the project, in whole or in part, ceases substantial field work for more than nine (9) months, or fails to provide sufficient ground-cover to prevent continuing soil erosion from the Property, Developer agrees to pay all costs the City may incur in taking whatever action is reasonably necessary to provide ground-cover and otherwise restore the Property to the point where undeveloped grounds are level and covered with permanent vegetation sufficient to prevent continuing soil erosion from the Property. In the event said costs are not paid, the City may withdraw funds from the above-mentioned letter of credit or other surety for the purpose of paying the costs referred

to in this paragraph.

6. **Developer to Pay City's Costs and Expenses.** It is understood and agreed that the Developer will reimburse the City for all reasonable administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, enforcement or execution of this Agreement and the processing of Developer's applications related to the Property, as well as all reasonable engineering expenses incurred by the City in approving and inspecting the Infrastructure Improvements described above. Developer agrees to pay all such costs within thirty (30) days of billing by the City. If Developer fails to pay said amounts, Developer agrees to allow the City to reimburse itself from the letter of credit or other surety required hereunder and/or assess the amount owed against any or all of the Property only if the letter of credit or other surety is inadequate. Developer has the right to request time sheets or work records to verify said billing prior to payment.
7. **Erosion and Siltation Control.** Before any grading is started on any site, all erosion control measures as shown on the approved Grading and Erosion Control Plan shall be strictly complied with as set forth in the attached Exhibit B. Before any grading is started on any site, Developer shall install all reasonable erosion control measures deemed necessary by the City Engineer.
8. **Maintain Public Property Damaged or Cluttered During Construction.** Developer agrees to assume full financial responsibility for any damage which may occur to public property including but not limited to streets, street sub-base, base, bituminous surface, curb, and utility system when said damage occurs as a result of the activity which takes place during the development of the Property. The Developer further agrees to pay all costs required to repair the streets and/or utility systems damaged or cluttered with debris when occurring as a direct or indirect result of the construction that takes place on the Property within two (2) years of the date of this Agreement.

Developer agrees to clean the streets on a daily basis if reasonably required by the City and necessary due to construction activity on the Property. Developer further agrees that any damage to public property occurring as a result of construction activity on the Property within two years of the date of this Agreement will be repaired immediately if deemed to be an emergency by the City. Developer further agrees that any damage to public property as a result of construction activity on the Property within two (2) years of the date of this Agreement will be repaired within thirty (30) days if not deemed to be an emergency by the City.

In the event the Developer fails to clean up, maintain or repair the damaged public property mentioned above, the City may immediately undertake making or causing it to be cleaned up, repaired or maintained. When the City undertakes such activity, the Developer shall reimburse the City for all of its reasonable expenses within thirty (30) days of its billing to the Developer. If the Developer fails to pay said bill within thirty (30) days, then the City may reimburse itself from letter of credit or other surety required hereunder, and, if such letter of credit or other surety is insufficient to fully reimburse the City, specially assess any such remaining costs against the Property and/or take necessary legal action to recover such costs and the Developer agrees that the City shall be entitled to reasonable attorney's fees incurred by the City as a result of such legal action.

9. **Temporary Easement Rights.** Developer shall provide access to the Property at all reasonable times to the City or its representatives for purposes of inspection or to accomplish any necessary work pursuant to this Agreement.

10. **Miscellaneous.**

- A. Developer agrees that all construction items required under this Agreement, are items for which Developer is responsible for completing and all work shall be done at Developer's expense.
- B. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Agreement.
- C. If building permits are issued prior to the completion and acceptance of the Infrastructure Improvements, the Developer assumes all liability and the costs resulting in delays in completion of Infrastructure Improvements and damage to Infrastructure Improvements caused by the City, Developer, its contractors, subcontractors, materialmen, employees, agents, or third parties.
- D. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Agreement. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- E. This Agreement shall run with the land and shall be recorded against the title

to the Property.

- F. The Developer represents to the City that to the best of Developer's knowledge, the Property complies with all applicable City, County, State and Federal laws and regulations, including but not limited to subdivision ordinances, zoning ordinances, and environmental regulations. If the City determines that the Property does not comply, the City may, at its option, refuse to allow construction or development work in the plat or refuse to issue building permits or occupancy permits until the Developer so complies. Upon the City's demand, the Developer shall cease work until there is compliance.
- G. Prior to the execution of this Agreement and prior to the start of any construction on the Property, Developer shall provide the City with evidence of good and marketable title to the entire Property. Evidence of good and marketable title shall consist of a title insurance policy or commitment from a national title insurance company, or an abstract of title updated by an abstract company registered under the laws of the State of Minnesota.
- H. Developer shall comply with all water, ponding and wetland related restrictions, if any, required by the Stearns County Environmental Services Department.
- I. Developer shall obtain all required driveway, utility and other permits as required by either the City Engineer and/or Stearns County.

11. **Violation of Agreement.**

- A. In the case of default by the Developer, its successors or assigns, of any of the covenants and agreements herein contained, the City shall give Developer thirty (30) days mailed notice thereof (via certified mail), and if such default is not cured within said thirty (30) day period, the City is hereby granted the right and the privilege to declare any deficiencies governed by this Agreement due and payable to the City in full, unless the Developer can demonstrate that said cure cannot reasonably be accomplished within such thirty-day period, in which case the Developer shall be in default at such time as the cure could reasonably have been accomplished but was not so accomplished. The thirty-day notice period shall be deemed to run from the date of deposit in the United States Mail. Upon failure to cure by Developer, the City may thence



immediately and without notice or consent of the Developer use all of the deposited cash or other surety funds to complete the Developer's obligations under this Agreement, and to bring legal action against the Developer to collect any sums due to the City pursuant to this Agreement, plus all costs and reasonable attorney's fees incurred in enforcing this Agreement.

- B. Notwithstanding the thirty day notice period provided for in paragraph 11.A. above, in the event that a default by Developer will reasonably result in irreparable harm to the environment or to public property, or result in an imminent and serious public safety hazard, the City may immediately exercise all remedies available to it under this Agreement in an effort to prevent, reduce or otherwise mitigate such irreparable harm or safety hazard, provided that the City makes good-faith, reasonable efforts to notify the Developer as soon as is practicable of the default, the projected irreparable harm or safety hazard, and the intended actions of the City to remedy said harm.
- C. Paragraph 11.A. shall not apply to any acts or rights of the City under paragraph 3.E. above, and no notice need be given to the Developer as a condition precedent to the City declaring a default or drawing upon the expiring surety as therein authorized. The City may elect to give notice to Developer of the City's intent to draw upon the surety without waiving the City's right to draw upon the surety at a future time without notice to the Developer.
- D. Breach of any of the material terms of this Agreement by the Developer shall be grounds for denial of building permits.

12. **Dedications to the City.**

- A. **Easements.** Developer shall provide the City with drainage and utility easements as required by paragraph 1.C.
- B. **Park Dedication.** There shall be no park dedication required for the Property.

13. **Indemnity.** Developer shall hold the City and its officers, employees and agents harmless from claims made by Developer and third parties for damages sustained or costs incurred resulting from Property approval and development. The Developer shall indemnify the City and its officers and employees for all costs, damages or

expenses that the City may pay or incur in consequence of such claims, including attorney's fees. Third parties shall have no recourse against the City under this Agreement.

14. **Assignment of Contract.** The obligations of the Developer under this Agreement cannot be assigned without the express written consent of the City Council through resolution, provided however that the City consents to any assignment of this Agreement to any affiliate owned and controlled by Developer.
15. **Limited Approval.** Approval of this Agreement by the City in no way constitutes approval of anything other than that which is explicitly specified in this Agreement.
16. **Professional Fees.** The Developer will pay all reasonable professional fees incurred by the City as a result of City efforts to enforce the terms of this Agreement. Said fees include attorney's fees, engineer's fees, planner's fees, and any other professional fees incurred by the City in attempting to enforce the terms of this Agreement. The Developer will also pay all reasonable attorneys and professional fees incurred by the City in the event an action is brought upon a bond or other surety furnished by the Developer as provided herein.
17. **Plans Attached as Exhibits.** All plans attached to this Agreement as Exhibits are incorporated into this Agreement by reference as they appear. Unless otherwise specified in this Agreement, Developer is bound by said plans and responsible for implementation of said plans as herein incorporated.
18. **Integration Clause, Modification by Written Agreement Only.** This Agreement represents the full and complete understanding of the parties and neither party is relying on any prior agreement or statement(s), whether oral or written. Modification of this Agreement may occur only if in writing and signed by a duly authorized agent of both parties.
19. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand (to the City Clerk for the City) or registered mail addressed as follows to the following parties:

City Clerk  
City of St. Augusta  
1914 250<sup>th</sup> Street  
St. Augusta, MN 56301

Pearson Investments, LLC  
\_\_\_\_\_  
\_\_\_\_\_

20. **Original Development Agreement.** Upon the recording of this Agreement at the Stearns County Recorder's Office, the Original Development Agreement shall no longer be applicable to or binding on the Property and shall terminate. Upon the mutual execution of this Agreement, the City agrees to execute and record against the title to the Property the release of the Original Development Agreement attached hereto as Exhibit E as evidence of such release and termination.
21. **Agreement Effect.** This Agreement shall be binding upon and extend to the representatives, heirs, successors and assigns of the parties hereto.

[Signature Page Follows]





**EXHIBIT A**

Site Plan

**EXHIBIT B**

Grading and Erosion Control Plan

**EXHIBIT C**

Storm Water Maintenance Agreement.

**EXHIBIT D**

Release of Prior Stormwater Agreement

**EXHIBIT E**

Original Developer's Agreement Release

## EXHIBIT C

### Pleasureland RV Stormwater BMP Maintenance Agreement

- I. THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of St. Augusta, MN (hereinafter referred to as the “City”) and Pearson Investments, LLC, a Minnesota Limited Liability Company (hereinafter referred to as “Owner”) with reference to the following facts and circumstances:
  - A. Owner is the fee owner of certain real property situated in the City of St. Augusta, legally described as follows:

Lots 1, Block 1, Pleasureland RV, City of St. Augusta, Stearns County, Minnesota (hereinafter referred at as the “Subject Property”)
  - B. As a condition of its approval of the development for the Subject Property, the City has required that the parties hereto enter into an agreement, which makes provision for the maintenance of the Stormwater Management Best Management Practice(s) (BMPs) located within the boundaries of the Subject Property as the same is described and depicted in those certain construction plans drawn by Stark Engineering, approved by the City and to be constructed by Owner. The Stormwater Management BMPs are located in the platted drainage and utility easements of the Subject Property.
  - C. The parties hereto desire to set forth their agreement with respect to the maintenance of the Stormwater Management BMPs and the costs of such maintenance.

II. NOW THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

- A. For the purpose of this Agreement, maintenance of the Stormwater Management BMPs shall mean the regular inspection, routine maintenance, and major maintenance as required to maintain the performance standard and function of the Stormwater Management BMPs identified within the project Stormwater Pollution Prevention Plan (SWPPP) and construction documents approved by the City and which may be approved in the future related to one or more of the lots in the Subject Property.
- B. Owner shall be solely responsible for the maintenance of the Stormwater Management BMPs, and shall bear all costs of such maintenance.
  - i. The infiltration basins on site shall be inspected semi-annually in the spring and fall. If the basins integrity is in question following inspections, maintenance shall be scheduled. Minor maintenance of infiltration basins include manual manipulation of the top surface layer (2- to 3-inches) and the replacement of media, as needed. Minor maintenance can also include picking up any buildup of trash, debris, or sediment within the infiltration basins, drainage swales, and surrounding drainage areas. Major maintenance of filtration basins include any major construction activities necessary to establish integrity of failed BMP, such as non-functioning pipes, non-functioning outlet structures, or a full replacement of soil media. Routine maintenance of filtration basins include replacing the top 2 to 5 inches of media every 3 to 5 years or when filtering capacity diminishes (water ponds for more than 48 hours), whichever occurs first.
- C. Owner shall complete an annual report, certified by a qualified individual. The report shall include written documentation of the inspection schedule, times of inspection, remedial actions taken to repair, modify, or reconstruct the BMPs, certification that the BMP is functioning in accordance with the approved plans, and notification of any planned change in responsibility for the BMPs. Owner shall retain completed annual reports for a minimum of 15 years and shall provide the City with the written documentation upon request.



- D. Owner shall grant the City or its agents or contractor the right of entry at reasonable times and in a reasonable manner upon reasonable notice by the City for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, or repairing the BMPs.
- E. Owner shall grant to the City the necessary easements and right-of-way and maintain perpetual access from public rights-of-way to the BMPs for the City or its agent or contractor.
- F. If, upon inspection, the City finds that Owner has failed to properly maintain the BMPs, the City may order the work to be performed within 14 days. In the event the work is not performed or a schedule for undertaking the work to be performed has not been provided within the specified time, Owner agrees to allow the City to enter the property and take whatever steps it deems necessary to maintain the BMPs. The cost reasonably incurred by the City for performing such maintenance shall be reimbursed to the City within 30 days by the party responsible for such maintenance and, if the responsible party does not timely reimburse the City, then the City may recover its costs by levying a special assessment against Owner's property, certifying such costs to the County Auditor to be collected with the taxes pursuant to Minn. Stat. § 366.012, or by any other means available by law.
- G. Owner, as present owner of the Subject Property, for itself and respective successors and assigns, hereby waives any statutory right which it may have to contest any such assessment or certification by the City of its maintenance costs to portions of the Subject property.
- H. The City is under no obligation to maintain or repair said BMPs, and in no event shall this Agreement be construed to impose any such obligation on the City.
- I. Owner and its heirs, administrators, executors, assigns and any other successor interest shall indemnify and hold harmless the City and its officers, agents and employees for any and all damages, accidents, casualties, occurrences, claims or attorney's fees which might arise or be asserted, in whole or in part, against the City from the construction, presence, existence, or maintenance of the BMPs

subject to the Agreement. In the event a claim is asserted against the City, its officers, agents or employees, the City shall notify Owner and Owner shall defend at Owner's expense any suit based on such claim. If any judgment or claim against the City, its officers, agents or employees, shall be allowed, Owner shall pay all costs and expenses in connection therewith. The City will not indemnify, defend or hold harmless in any fashion Owner from any claims arising from any failure, regardless of any language in any attachment or other document that the Owner may provide.

- J. No waiver of any provision of this agreement shall affect the right of any party thereafter to enforce such provisions or to exercise any right or remedy available.
- K. Owner shall provide as attachment to this agreement the required Maintenance Plan, as-built drawings, and certification that the BMP has been constructed properly as required by the City of St. Augusta's Ordinance No. 2017-04 entitled "An Ordinance Establishing Regulations of Storm Sewer Use" and the City's Stormwater Management Design Guide.
- L. The terms and conditions of the Agreement shall be binding upon, and shall insure to the benefit of, the parties hereto and their respective successors and assigns.

III. IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the day and year first above written.

**The City of St. Augusta**

---

Mike Zenzen, Mayor

---

William R. McCabe, City Administrator/Clerk



**DRAFTED BY:**

Couri & Ruppe, P.L.L.P.

P.O. Box 369

705 Central Avenue East

St. Michael, MN 55376

(763) 497-1930

**EXHIBIT D**

**RELEASE OF WHITE OAK ADDITION STORMWATER  
BMP MAINTENANCE AGREEMENT  
CITY OF ST. AUGUSTA  
WHITE OAK ADDITION**

THIS RELEASE, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between Pearson Investments, LLC, a Minnesota limited liability company (“Developer”), and the City of St. Augusta, located in the County of Stearns, State of Minnesota (“City”);

**WITNESSETH:**

**WHEREAS**, Developer is fee owner and developer of the real property described as Lot 1, Block 1, Pleasureland RV, Stearns County, Minnesota (“Property”); and

**WHEREAS**, the Property is subject to that certain stormwater maintenance agreement entitled “City of St. Augusta, Stormwater BMP Maintenance Agreement, Lot 1, Block 1, White Oaks Addition Plat” dated \_\_\_\_\_, 2022, filed \_\_\_\_\_, 2022, as Document No. \_\_\_\_\_ in the office of the Stearns County Recorder, Stearns County, Minnesota (“Prior Stormwater Agreement”); and

**WHEREAS**, Developer and the City have entered into a new stormwater maintenance agreement with respect to the Property and the Prior Stormwater Agreement is no longer required by the parties to govern the maintenance of the Property; and

**WHEREAS**, Developer and the City desire to enter into this Release to codify the termination and release of the Prior Stormwater Agreement from title of the Property.

**NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED**, in consideration of each party’s promises and considerations herein set forth, as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated into and are made a part of this Release.
2. **Termination.** The parties hereby agree that as to the Property, the Prior Stormwater Agreement is terminated and is no longer in full force and effect with respect to the Property.

3. **Miscellaneous.** This Release shall run with the land and shall be recorded against the title to the Property. This Release shall be binding upon and extend to the representatives, heirs, successors and assigns of the parties hereto.

[Signature Page Follows]







**EXHIBIT E**

**RELEASE OF DEVELOPER'S AGREEMENT  
CITY OF ST. AUGUSTA WHITE OAK ADDITION**

THIS RELEASE, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between Pearson Investments, LLC, a Minnesota limited liability company (“Developer”), and the City of St. Augusta, located in the County of Stearns, State of Minnesota (“City”);

**WITNESSETH:**

**WHEREAS**, Developer is fee owner and developer of the real property described as Lot 1, Block 1, Pleasureland RV, Stearns County, Minnesota (“Property”); and

**WHEREAS**, the Property is subject to that certain developer’s agreement entitled “Developer’s Agreement, City of St. Augusta, Lot 1, Block 1, White Oak Addition, Pearson 1031 Holdings LLC” dated \_\_\_\_\_, 2022 and recorded as document number \_\_\_\_\_ in the office of the Stearns County Recorder, Stearns County, Minnesota entered into by Developer or Developer’s predecessor-in-interest and the City (“Original Developer’s Agreement”); and

**WHEREAS**, Developer is the owner of the property that was the subject of the Original Developer’s Agreement; and

**WHEREAS**, Developer and the City have entered into a new development agreement with respect to the development of the Property and the Original Developer’s Agreement is no longer required by the parties to govern the development of the Property; and

**WHEREAS**, Developer and the City desire to enter into this Release to codify the termination and release of the Original Developer’s Agreement from title of the Property.

**NOW, THEREFORE, IT IS HEREBY AND HEREIN MUTUALLY AGREED**, in consideration of each party’s promises and considerations herein set forth, as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated into and are made a part of this Release.
2. **Termination.** The parties hereby agree that as to the Property only, the Original Developer’s Agreement is terminated and is no longer in full force and effect with respect to the Property.

3. **Miscellaneous.** This Release shall run with the land and shall be recorded against the title to the Property. This Release shall be binding upon and extend to the representatives, heirs, successors and assigns of the parties hereto.

[Signature Page Follows]





**CITY OF ST. AUGUSTA  
COUNTY OF STEARNS**

**RESOLUTION #2023-14**

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND SITE PLAN  
FOR A PROJECT KNOWN AS A & E STORAGE, LLC**

**WHEREAS**, Red Willow Properties, LLC (“Developer”) is the applicant for an application related to property legally described as follows:

Lots 4 through 6, Block 2, COUNTRY SQUARE PLAT FOUR

(the “Subject Property”); and

**WHEREAS**, the property is zoned Business Warehouse; and

**WHEREAS**, the property was previously granted a CUP and Site Plan approval on August 3<sup>rd</sup>, 2021; and

**WHEREAS**, the Developer has submitted an application for an amended Site Plan so as to allow the Developer to improve the Subject Property into mini-storage as shown in the plans for A & E Storage, LLC, the most recent revision of said plans along with those prepared by Moore Engineering Services, Inc. and dated June 1, 2021 (unless noted differently below) and containing the following sheets:

1. Title Sheet
2. Legend and Abbreviations
3. General Notes
4. SWPPP Notes
5. SWPPP Notes (cont.)
6. SWPPP Notes (cont.)
7. SWPPP Maps
8. Removal Plan
9. Dimension and Utility Plans
10. Erosion and Grading Plans
11. Details – Erosion Control
12. Details – Paving
13. Amended Site Plan
14. Revised Site Plan (computer generated in October, 2023.)

(the “Site Plans”); and

**WHEREAS**, the application was reviewed by the Planning Commission at its meeting on December 11, 2023. The Planning Commission recommended approval of the request; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council makes the following findings:

- A. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. *Immediately adjacent properties are vacant and owned by the developer, and are zoned for similar uses.*
- B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
- C. That adequate utilities, access streets, drainage, and other necessary facilities have been or will be provided for the proposed conditional use.
- D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed conditional use.
- E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result from the proposed conditional use.
- F. That proper facilities are or will be provided which would eliminate any traffic generation or traffic hazard which may result from the proposed conditional use.
- G. That there is a demonstrated need for the proposed use. .
- H. That the proposed use is in compliance with any land use plan adopted by the City.
- I. That the affected property does not contain any wetlands or public water over which the United States, the State of Minnesota, or their respective agencies or political subdivisions have control or jurisdiction, or which are otherwise regulated by the United States, the State of Minnesota, or their respective agencies or political subdivisions. .

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council hereby approves the application for a conditional use permit subject to the following conditions:

1. All comments contained within the memo from Moore Engineering dated June 23, 2021, the memo from Collaborative Planning dated July 29, 2021, and the memo from City Administrator Bill McCabe dated December 6, 2023 are incorporated herein (collectively referred to as the “Staff Memos”).
2. The site shall be in substantial conformance with the site plan for A & E Storage, LLC prepared by Moore Engineering and dated June 1, 2021 (the “Site Plan”), except as modified to address comments within the Staff Memos, the variance approved in Resolution # 2023-17 and this Site Plan/Conditional Use Permit approved as Resolution # 2023-14.
3. To the extent that there are differences or conflicts between the Site Plan and this resolution, the terms of this resolution shall be controlling.
4. Outdoor storage of cars, boats, recreational vehicles, other vehicles and materials directly related to the corresponding contractor services may occur on the areas shown as either

buildings or heavy-duty pavement on the Site Plan until such time as the buildings are constructed.

5. As buildings are constructed, the size of the area permitted to be used for outside storage shall decrease. No outside storage is permitted within      feet of any building.
6. Outside storage must be screened from view of the right of way or neighboring properties by a fence that is at least 6 feet tall and 90% opaque.
7. Plans for lighting and signage were not submitted. Prior to exterior lighting and signage being installed on the property, the applicant shall obtain appropriate permits from the City.
8. The owner shall enter into a maintenance agreement with the City for stormwater management facilities.
9. The site shall be operated and maintained in compliance with all local, state and federal regulations, as may be amended from time to time. The owner shall be responsible for obtaining and complying with all necessary permits from any other governmental agencies prior to commencement of development activities on the site.

Adopted by the City Council this 11<sup>th</sup> day of December, 2023.

---

Michael G. Zenzen, Mayor

Attest:

---

William R. McCabe, Clerk/Administrator

**CITY OF ST. AUGUSTA  
COUNTY OF STEARNS**

**RESOLUTION #2023-17**

**A RESOLUTION APPROVING A VARIANCE FOR A PROJECT KNOWN AS A & E  
STORAGE, LLC**

**WHEREAS**, Red Willow Properties, LLC (“Developer”) is the applicant for an application related to property legally described as follows:

Lots 4 through 6, Block 2, COUNTRY SQUARE PLAT FOUR

(the “Subject Property”); and

**WHEREAS**, the property is zoned Business Warehouse; and

**WHEREAS**, the Developer has submitted an application for a Site Plan so as to allow the Developer to improve the Subject Property into RV/large equipment storage along with a contractor service yard and semi-truck driver training as shown in the plans for A & E Storage, LLC, the most recent revision of said plans prepared by Moore Engineering Services, Inc. and dated June 1, 2021 and modified 8/xx/2023 (unless noted differently below) and containing the following sheets:

1. Title Sheet
2. Legend and Abbreviations
3. General Notes
4. SWPPP Notes
5. SWPPP Notes (cont.)
6. SWPPP Notes (cont.)
7. SWPPP Maps
8. Removal Plan
9. Dimension and Utility Plans
10. Erosion and Grading Plans
11. Details – Erosion Control
12. Details – Paving
13. 8/xx/2023 Modified Site Plan

(the “Site Plans”); and

**WHEREAS**, the application was reviewed by the Planning Commission at its meeting on August 2, 2021. The Planning Commission recommended approval of the request; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, the City Council makes the following findings:



1. The property owner or applicant proposes to use the property in a reasonable manner not permitted by this Ordinance as the property is larger than a typical property and the surface of the parking lot can be reasonably provided in a manner that controls dust;
2. The plight of the property owner or applicant is due to circumstances unique to the property and not created by any persons presently or formerly having an interest in the parcel of land.
3. The variance, if granted, will not alter the essential character of the locality.
4. Economic considerations alone do not constitute practical difficulties.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council hereby approves the application for a variance subject to the following conditions:

1. Outdoor storage may be permitted on non-bituminous or concrete surfaces over the area approved for outside storage in the Conditional Use Permit until such time that each permanent building is constructed in substantial conformance with the plans for A & E Storage, LLC prepared by Moore Engineering and dated June 1, 2021 (the “Site Plan”). Within 60 days of the issuance of a Certificate of Occupancy for any building, the area surrounding that building shall be paved in bituminous. The driveway entrance to the site on 66<sup>th</sup> Avenue shall be paved prior to occupancy of the site for any use.
2. By August 1, 2031, the owner shall cause one of the following to occur:
  - a. The site shall be fully developed in conformance with the Site Plan approved in Resolution # 2023-14.
  - b. All areas used for outdoor storage shall be on paved surfaces, and only within the locations approved in Resolution # 2023-14.
  - c. The owner has requested termination of the Conditional Use Permit for outdoor storage approved in Resolution # 2023-14.

The variance shall expire and be considered null and void if construction of the improvements as shown on the Site Plans has not begun by                     .

Adopted by the City Council this 11<sup>th</sup> day of December, 2023.

---

Michael G. Zenzen, Mayor

Attest:

---

William R. McCabe, Clerk/Administrator