

CONSENT AGREEMENT

By and Between
Lee's Family Trailer Acquisitions LLC
and
The Town of Windham

WHEREAS Lee's Family Trailer Acquisitions ("Owner") is the current owner of record of certain real estate located at 480 Roosevelt Trail in the Town of Windham, Cumberland County, State of Maine, and identified as Map 15, Block 1, Lot A ("the Property");

WHEREAS, the Town of Windham Code Enforcement Officer issued Owner a Notice of Violation and Stop Work Order dated December 15, 2020 in which it was noted that Owner had expanded a nonconforming use (automobile / recreational vehicle sales) without approval from the Zoning Board of Appeals, and had constructed a new 170,500 square foot parking area ("the parking lot") without site plan approval and appropriate erosion control measures;

WHEREAS, Owner has taken steps to remedy the above-referenced violations;

WHEREAS, The Town of Windham and Owner acknowledge that there is an inherent benefit to each other by reaching a settlement of these matters;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

AGREEMENT

1. Owner has submitted an application for expansion of the nonconforming use to the Town of Windham Zoning Board of Appeals pursuant to Section 203 of the Land Use Ordinance, which application remains pending as of the date of this Agreement. Owner shall fulfill all procedures necessary to obtain approval of the expansion of use and, if approved, shall conform to all conditions placed by the Board of Appeals.
2. Owner shall, within 14 days of this Agreement, submit an erosion control permit application to the Code Enforcement Officer. Owner shall continue to monitor the site and shall use best engineering practices to stabilize the site during and following the performance of all work on the site.
3. Owner shall obtain approval from the Department of Environmental Protection of a Site Location of Development permit.
4. Owner shall, within 14 days of this Agreement, submit an application to the Town of Windham Planning Board in accordance with Section 800 of the Land Use Ordinance for site plan approval of the new parking lot and any other changes to or improvements of the site.

Owner must satisfy Paragraphs (1) and (3) of this Agreement before the Planning Board may approve the site plan application.

5. If any of the above-required permits or approvals is denied by the relevant board or agency, or if Owner fails to comply with any conditions of approval, Owner shall remove the parking lot within 30 days of written notice from the Code Enforcement Officer.

6. Owner has, as of the date of this Agreement, removed from the Property all recreational vehicles that had been placed on the parking lot. Owner shall not place any additional recreational vehicles on the Property, except in previously existing parking areas, between the date of this Agreement and final approval of all state and local permits and approvals outlined above as well as all post-approval requirements (including but not limited to signed plan, payment of inspection fee, submission of performance guarantee and pre-construction meeting).

7. As a condition of the execution of this Agreement, Owner has presented payment to the Town of Windham in the amount of \$5,000 as a penalty for the violations noted herein and to offset the Town's legal fees related to this matter.

8. The Town of Windham agrees not to prosecute any violation related to the violations described herein and in the December 15, 2020 Notice of Violation, provided Owner or its successors or assigns fully comply with each of the conditions agreed to herein.

9. The Town of Windham reserves the right to enforce all of its ordinances regarding the Property and reserves the right to prosecute any violations of the Town of Windham Land Use Ordinance or of this Agreement and to seek any recoverable costs or penalties, should any of the above conditions not be met. Violations of this Agreement will be as set forth in 30-A M.R.S. § 4452 with penalties ranging from \$100 to \$2,500 per violation, per day.

Seen and agreed to this 27 day of January, 2021:

BY THE TOWN OF WINDHAM
through its Town Manager:



Barry Tibbetts

Dated: 1/28/21

BY OWNER, LEE'S FAMILY ACQUISITIONS LLC

By: Daniel P. Cuffey