

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

**SUPERVISORS PRESENT:** Kathy Higgins, Steve Kramer, Joe Moore, Jim Keller

**ABSENT:** Gary Dixon

**STAFF PRESENT:** Attorney Gilchrist, Planner Buss, Engineer Geheren

**CALL TO ORDER:** Meeting called to order @ 7:00 PM by Chair Higgins

**AGENDA APPROVAL:** Kramer added town Hall Mowing and Rumpca Gravel Pit. Moore added Turbine Ordinance Amendment. Higgins added Warrior Dash and Homestead Estates. **Motion Moore/2<sup>nd</sup> Keller approval of agenda as amended. All In Favor. Motion Carried 4-0.**

**CONSENT AGENDA APPROVAL: Motion Keller/2<sup>nd</sup> Moore approval of consent agenda items which include 5/02/2011 Board Meeting Minutes, Claims #9646-9662, EFT payments- PERA 175975, MN Revenue Tax 99112656319, Fed Tax 60562893, payroll ending 06/01/2011 and financial reports. All In Favor. Motion Carried 4-0.**

**HEARING DECISIONS/ZONING ACTIONS:**

**Ace Trailer/RCM Specialties (12090 Margo Ave S) amended Conditional Use Permit- Continuation**

From 05/02/11 Board Meeting. *Discussion Re: Combining lots 2 and 3 as one parcel. Steve Teitjen owns Ace Trailer. His is only 1 of the owners of the lots (Foursight, LLC.) and would need to speak with the other owners.*

*Attorney recommendation to continue the 60 day rule to allow owner to discuss with other owners the option of combining lots 2 & 3 and for staff to consider/make recommendations addressing the new information regarding the sales of pothole paving equipment.*

*Motion Moore/2<sup>nd</sup> Kramer to extend the 60 day rule for another 60 day extension to allow time for the owners to discuss option of combining the lots 2 & 3, and for Town staff to consider/make recommendations addressing the additional information received regarding the sales of pothole paving equipment. All In Favor. Motion Carried 5-0.*

Marc Tietjen (owner) present. Owners are willing to combining lots 2 and 3 as one parcel.

Options would be to replat or to combine parcels through County Tax procedures. Town Ordinances and County procedures would not allow separation of combined parcels without Town approval. Board not aware of any other parcels that have been required to go through the replatting process when combining 2 lots as one parcel.

Attorney submitted draft amended conditional use permit for Board review. The amended CUP allows the operation of the existing Ace Trailer Sales business and RCM Specialties roadway repair business, including the proposed accessory structure on the property and the incidental sale to others of the equipment and materials used to repair roads. The amended CUP also includes the requirement to combine lots 2 and 3.

**Motion Keller/2<sup>nd</sup> Kramer to adopt Resolution 2011-04 Resolution Revoking All Prior Conditional Use Permits For 12090 Margo Avenue South. All In Favor. Motion Carried 4-0.**

**Motion Keller/2<sup>nd</sup> Kramer to adopt Resolution 2011-05 Resolution Approving An Amended Conditional Use Permit For The Property Located At 12090 Margo Avenue South. All In Favor. Motion Carried 4-0.**

**Crashed Toys (12260 Margo Ave S) Amended Conditional Use Permit**

*The items were not submitted in time for the May Board Meeting, so there was a 60 day extension executed, with a request for the submittals to be received by 05/23/11 for a 06/06/11 Board Review.*

Bud Honn (property manager) and Paul Heuer (Bonestroo) present. Crashed Toys is currently operating with the existing CUP issued in 2009 at 12260 Margo Ave S- est.6.74 acres (Parcel A pid 06.026.20.23.0004).

Applicant requests to amend its conditional use permit in order to add a parcel to the business operation, to construct a storage building, to build a gravel parking lot enclosed with a fence, and store vehicles on the parking lot. JJJP Holdings (property owner) is in the process of acquiring the adjacent est. 3.46 acre property (Parcel B pid 06.026.20.23.0010) owned by Specialized Acres (Ken Cordes).

The Planning Commission recommended approval of the CUP, with the request that the applicant submit an inventory storage area plan showing the storage areas and fire access lane locations for both parcels, approved by the Fire Marshall and a revised grading, drainage and erosion control plan that addresses the Engineer's 04/14/11 memo. Additional submittals were received 05/23/11 and reviewed by the Planner and Engineer. Planner submitted 04/14/11 and 05/27/11 reports and recommends conditional approval of amended CUP. Engineer submitted 04/14/11 and 05/27/11 memos. Attorney submitted draft CUP for Board review. CUP requires applicant to acquire Parcel B and to combine Parcel A and Parcel B into one tax parcel.

Re: requirement of paved parking lot. The Denmark Ordinance does require parking lots to be bituminous, however, the Ordinance was amended to allow the Town Board the flexibility to waive the requirements of a paved lot, if it determines that under the particular circumstances, that paving is not necessary or would create an undue hardship for the owner. Discussed if paved lot would be more appropriate if motorized vehicles would be parked on it due to possibility of leakage. Possibility

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

that a hard surface may also allow leakage to runoff and go into the water table or holding pond. Applicant stated that anything wrecked and may leak would have already been taken care of before Crashed Toys received the vehicles. SWWD has approved the plan for paved or gravel surfaced lot. Applicant confirmed that all the drainage areas will be entirely fenced as indicated on the site plan. CUP will be revised so that condition #15 states that the drainfield areas must be fenced. Applicant stated that if the 2 lots are combined, they may want the option to eliminate 1 of the drainfields. Applicant stated that they were not asking of this now, but may explore the issue in the future. Attorney recommended that the Board deal with and proceed with the applicants' proposal before them at this time. Honn stated that they were in the process of exploring other options around the area and would like 360 days to acquire the adjacent property instead of 90 days and would like the Board to hold off on the approval of their application requests. Applicant requested that it be approved upon purchase of the lot, so that the current 2009 CUP would not be revoked should the purchase not occur. Board consensus that a 360 day hold on Board action is not favorable. Attorney recommended that the applicant request/submit another written 60 day extension from the 60 day rule, to continue from the current extension ending 07/26/11, if they want to hold off Board action. **Motion Keller/2<sup>nd</sup> Kramer to table Crashed Toys amended Conditional Use Permit request for another 60 day extension from the 60 day rule, following the extension ending 07/26/11 at the applicant's request. All In Favor. Motion Carried 4-0.**

**PUBLIC COMMENT:**

Resident noticed leaves on some of the new trees are starting to wilt. Kramer will handle.

Eagle's Watch Resident: Thanked Board for acting promptly regarding resolution toward issue of tree cutting in the development.

80<sup>th</sup> St Resident: Resident inquired if Supervisor Dixon has advised the Board of a change to his residency status. Board has received no such information.

**BUSINESS ITEMS:**

**AT&T Proposal:** Steve Stulz, agent for AT&T Wireless addressed the Board. AT&T has been working extensively with Town and County staff on their proposal to construct a 150 foot cell tower on the property of Afton Alps, who has signed a lease agreement with them. After looking at a number of sites in the area AT&T feels this will be the best site for their purposes. AT&T plans to present a formal application to the Town within the next few weeks. AT&T has reviewed the Afton Sheriff's tower and cannot get the site need to produce the coverage needed. Other towers to the south do not provide adequate coverage going north. It would be much less expensive to place the antennas on an existing structure rather than to construct a new tower, but there are no existing towers in the area that are anywhere near the 150 feet needed for adequate coverage.

**Eagle's Watch:** Bruce Tschida (Eagle's Watch Homeowners Association) addressed Board regarding restoration plan for the tree cutting at Eagle's Watch. Homeowner's Association will proceed with Washington County Conservation District's recommendations on a restoration plan. Plan includes planting 4 inch or larger trees of native species to occur in the fall. Number of trees to be planted pending. Placement areas will be marked and Board will have opportunity to view the placement/restoration plan for approval.

**Denmark Comp Plan Amendments:** Met Council has made changes to their 2030 Transportation and Parks Policy Plans. This requires the Township to amend the Comp Plan. Process requires Planning Commission and Board approval. Transportation plan will be to acknowledge the Red Rock Corridor and to make the appropriate changes to the map. Parks Plan proposed a new regional trail (Pt. Douglas Regional Trail Search Corridor). Residents have raised concerns regarding the plan using 87<sup>th</sup> in its route. Board consensus to include text with response to include concerns on record with the Town (Resolution 2005-05).

**Met Council 2010 Generalized Land Use Map:** Met Council is requesting Town review/comment of their Generalized Land Use Map. The Met Council Map divides lots and specifically indicates uses within each lot. The presentation and interpretation of their map does not reflect and is not consistent with the Denmark Land Use Map or the Township Ordinances which guide the land uses. Board consensus for Planner to send letter of comment on the Met Council 2010 Generalized Land Use Map regarding its errors and its inconsistencies with policies and Ordinances of Denmark Township.

**2011 Road Projects:**

Board consensus to authorize Engineer to evaluate roads inventory for Board review, e.i. life cycle cost on 80<sup>th</sup>, longer range projections on staging of pavement projects to see how it would work out on annual basis, sealcoating and gravel/maintenance costs on annual basis as opposed to maintaining pavement.

Engineer submitted map and Street Inventory documents for Board review. Engineer's conclusion: Sealcoating on a yearly basis is a low cost maintenance process that would be worth budgeting for each year. It would appear that the maintenance process that Denmark has been using has been using, (shape/pave followed by sealcoating) would be a better option than

## DENMARK TOWN BOARD MEETING MINUTES June 6, 2011

putting more money into a full reconstruction of a road. Reviewing the Town records, the cost of maintenance of gravel roads is very low compared to cost and maintenance of paved roads.

Additional assessment needed for 80<sup>th</sup> Street.

Engineer to check with MN DOT regarding damage of detour route of 120<sup>th</sup> St during Hwy 61 construction.

**Town Celebration Board Contact:** 2011 Town Celebration Board contact is Joe Moore.

**Town Hall Mowing:** Newly planted turf grass is tall enough to be mowed. Planner will contact Washington Conservation District regarding maintenance/mowing guidelines for the prairie plantings in the Town Hall Park.

**Rumpca Gravel Pit:** Blasting was done on Tuesday, 5/31/11. Neighboring property owners were notified by phone and letters on Friday, 05/27/11. Kramer stated that a machine was placed on his property without his permission. Would like to see clearer guidelines on noticing and other procedures carried out for future blasting. Questioned the equipment parked around the pit, monitoring of activities in the pit, and the deterioration of Oakgreen Ave.

Attorney- Rumpca contacted the Township for clarification regarding noticing requirements. CUP requires that landowners be notified by phone at least 24 hrs in advance of blasting. Phone numbers were not available for all property owners. Property owners without phone numbers were mailed notices. Attorney was trying to make recommendations in keeping with the intent of the Conditional Use Permit. The CUP is not specific to unforeseeable issues outside of the permit conditions and there are portions of the CUP that are vague.

Keller and Moore will meet with Rumpca regarding clarification of notification (preferably by letter) and blasting procedures.

**Turbine Ordinance Amendment:** Washington County Advisory Commission met on 04/26/2011 to consider a Denmark resident's request to amend the Washington Development Code pertaining to wind energy conversion systems. County Advisory Commission voted to recommend that the Washington County Board of Commissioners Deny the application request based on the following:

- 1) It would not be appropriate to amend the WECS ordinance in a way that would only impact Agricultural A-2 Zoning Districts, which are currently only found in Denmark Township. It would be a bad precedent to make changes to County ordinances that only impact a particular zoning district and a particular Township.
  - 2) An amendment to the WECS ordinance should be implemented on a county-wide basis.
  - 3) A larger WECS might be appropriate for the Applicant's property based on its size and other factors specific to the property, but would not be appropriate on smaller properties even though located in A-2 Zoning Districts.
  - 4) The WECS ordinance was intended to allow property owners to build systems to produce sufficient electricity to meet their own personal need, rather than wind farms or large turbines generating power for commercial use.
  - 5) The applicant could install a WECS that would meet the existing ordinance standards or could install a WECS with a minimal increase over ordinance standards which could be allowed by means of a variance.
- Washington County will hear the request in July.

**Warrior Dash:** Board received updated layout of warrior dash event at Afton Alps 07/23- 07/24/11.

**Homestead Estates:** Frank Femling has requested a refund of his escrow balance. Acceptance of the Roads does not occur until 9 lots have been occupied. The 2 yr warranty period starts after roads are accepted by the Town. Escrow balance of \$2500 is required until warranty period ends.

### LEGAL UPDATES

**Eisenmenger Lot Line Adjustment:** In 2006 Howe executed a lot line adjustment in order to combine 2 separate lots, identified by PID11.027.20.34.0002 (11.02 acres) and PID11.027.20.34.0006 (3.22 acres) into 1 newly created parcel with a new legal description (14.24 acres). These parcels were combined on 04/21/2011. Applicant is proposing to acquire 3.046 acres from Eisenmenger property PID 11.027.20.34.0003 (19.9 acres) that is adjacent to the Howe property. Applicants will be required to enter into a Development agreement with the Town. A requirement of the DA will be for the 3.046 acres to be combined and recorded on the same deed with the existing 14.24 acre parcel, creating a single 17.286 acre parcel. Board would like to assure that all prior parcels involved have been combined. Legal has requested and has not yet received the following items from Howe/Eisenmenger: 1) Legal descriptions of the original parcels and the new lot line adjustment parcels; and 2) A certificate of survey showing the original parcels and the new lot line adjustment parcels. **Motion Keller/2<sup>nd</sup> Kramer to extend the 60 day rule for a 60 day extension (to 08/19/11) to allow time to receive additional requested materials and to determine which parcels would be inclusive in the requested lot line adjustment.** All In Favor. Motion Carried 4-0. Attorney will send extension letter to Eisenmenger.

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

**Universal Services:** Received Universal Services agreement unrecorded back from recorder's office. Property that this agreement was to be recorded against is owned by Hartung Enterprises and not by Universal Services. Dan Hartung is President of Universal and owner of Hartung Enterprises. Agreement was redone to reflect correct name for property owner (Hartung Enterprises). A new letter of Credit reflecting correct name was also requested. Board consensus that existing letter of credit in Universal Services name is sufficient, as Hartung Enterprises is dba Universal Services.

**Keene RLS:** Request for Town approval of registered land survey. Attorney has spoken with County regarding requirement of Town approval. Chair authorized to sign approval.

**Variance-Ordinance Amendment:** Ordinance amendment process will be necessary to incorporate new language legislation has placed in the variance process. Board consensus to authorize attorney to draft amendment language.

**Winter Roads Maintenance documents:** Attorney will work on for July Board review.

**Parcel Combination Provision:** Denmark ordinance does not reflect a provision for parcel combination requirements. Attorney will review and advise Board.

10:44 PM **Motion Keller/2nd Moore to adjourn.** All In Favor. Motion Carried 4-0.

Becky Herman  
Denmark Township Clerk/Treasurer

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2011-04

RESOLUTION REVOKING ALL PRIOR CONDITIONAL  
USE PERMITS FOR 12090 MARGO AVENUE SOUTH

**WHEREAS**, the Town Board of Denmark Township has issued several conditional use permits for the property located at 12090 Margo Avenue South, Hastings, Washington County, Minnesota, which is currently comprised of two lots (PID 0602620220005 and PID 0602620220006) and which is legally described in Exhibit A attached hereto and which is made part of this Resolution (the "Property");

**WHEREAS**, in 2003 the Town Board issued a conditional use permit to Foursight, LLC and Tietjen Family, Inc. (doing business as Ace Trailer Sales, Inc.) to erect a 14,400 square foot commercial building and to operate a trailer sales and servicing business from the Property, said permit having been recorded in the office of the Washington County Recorder on August 8, 2006 as Document Number 1169665 ("2003 CUP"). This business is still in operation;

**WHEREAS**, in 2004 the Town Board approved a conditional use permit for the Property to Midwest Recreational Clearinghouse, LLC, a leaseholder of a portion of the Property, which was recorded in the office of the Washington County Recorder on January 7, 2005 as Document Number 3491075, to allow the retail sale of ATV's, motorcycles, snowmobiles, boats, travel trailers, and recreational vehicles in the northern portion of the Ace Trailer Sales, Inc. building (the "2004 CUP"). This business is no longer in operation;

**WHEREAS**, Frank Connelly, RCM Specialties, Inc. ("Applicant") is leasing a portion of the Property and submitted an application to the Town for an amended conditional use permit to allow the erection of an 1,800 square foot accessory building and to operate a roadway repair services business from the Property, which the Town Board granted at its meeting on June 6, 2011 ("Current CUP");

**WHEREAS**, in order to avoid the confusion that can result from multiple conditional use permits for different business activities on the same property, which may or may not still be in operation, the Town Board has adopted a practice of revoking all past conditional use permits on a property when it is asked to issue a new or amended conditional use permit for a property and replace it with a single conditional use permit that encompasses the existing and proposed business activities on a property;

**WHEREAS**, the owner of the Property is amenable to the revocation of the prior conditional use permits on the Property, and such revocation was made a condition of the Current CUP approved for the Property; and

**WHEREAS**, this Resolution is intended to put future purchasers of the Property on notice that as of the date of this Resolution the only conditional use permit that exists for the Property is the Current CUP issued by the Town Board at its meeting on June 6, 2011, which authorizes the continued existence of the current trailer sales business (Ace Trailer Sales, Inc.) and the Applicant's roadway repair services business.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of Denmark Township as follows:

1. All conditional use permits approved by the Town Board of Denmark Township prior to June 6, 2011 for the Property located at 12090 Margo Avenue South, Hastings, Washington County, Minnesota, and legally described in Exhibit A to this Resolution, including, but not limited to, the 2003 CUP and the 2004 CUP, are hereby revoked. Such prior conditional use permits are no longer valid and may not be relied on.
2. The Town Clerk is hereby authorized and directed to record this Resolution against the Property in the office of the County Recorder.
3. The Town Board Chair, Town Board Members, and Town staff and consultants are hereby authorized and directed to take any and all additional steps and actions necessary or convenient in order to accomplish the intent of this Resolution.

Adopted this 6<sup>th</sup> day of June 2011.

**BY THE TOWN BOARD**

**EXHIBIT A**

Legal Description of the Property

Lots 2 and 3, Block 1, Specialized Acres, according to the plat thereof and on file with the Washington County Recorder, County of Washington, State of Minnesota.

**DENMARK TOWN BOARD MEETING MINUTES**  
June 6, 2011

**DENMARK TOWNSHIP**  
**WASHINGTON COUNTY, MINNESOTA**  
**RESOLUTION NO. 2011-05**

**RESOLUTION APPROVING AN AMENDED CONDITIONAL USE**  
**PERMIT FOR THE PROPERTY LOCATED AT 12090 MARGO AVENUE SOUTH**

**WHEREAS**, in 2003 Denmark Township ("Town") issued a conditional use permit to Foursight, LLC and Tietjen Family, Inc. (doing business as Ace Trailer Sales, Inc.) for the property located at 12090 Margo Avenue South, which is legally described as Lots 2 and 3, Block 1, Specialized Acres, according to the plat thereof and on file with the Washington County Recorder, County of Washington, State of Minnesota (PID 0602620220005 and PID 0602620220006) (collectively the "Property" or referred to individually as "Lot 2" or "Lot 3"), to erect a 14,400 square foot commercial building and to operate a trailer sales and servicing business from the Property, said permit having been recorded in the office of the Washington County Recorder on August 8, 2006 as Document Number 1169665 ("2003 CUP");

**WHEREAS**, in 2004 the Town Board approved a conditional use permit for the Property to Midwest Recreational Clearinghouse, LLC, a leaseholder of a portion of Lot 2, which was recorded in the office of the Washington County Recorder on January 7, 2005 as Document Number 3491075, to allow the retail sale of ATV's, motorcycles, snowmobiles, boats, travel trailers, and recreational vehicles in the northern portion of the Ace Trailer Sales, Inc. building ("2004 CUP"). The retail sales business allowed by the 2004 CUP has been discontinued and the sale of recreational vehicles is no longer occurring on the Property;

**WHEREAS**, Frank Connelly, RCM Specialties, Inc. ("Applicant") is leasing a portion of the Property and submitted an application to the Town for an amended conditional use permit to allow the erection of an 1,800 square foot accessory building on Lot 2 and to operate a roadway repair services business from the Property. The Applicant proposes to locate and operate the business from Lot 2;

**WHEREAS**, in the planning report dated April 12, 2011, the Town Planner identified that the maximum impervious lot coverage allowed in the Commercial/Industrial District is 65% and that the current estimated lot coverage of Lot 2 is approximately 82%;

**WHEREAS**, the Denmark Planning Commission held a hearing on the application on April 18, 2011 and voted to forward the application to the Town Board with a recommendation that it be approved with a condition to require Lot 2 to be brought into compliance if Lot 3 is ever sold (Option 4 from the Planner's Report); and

**WHEREAS**, the Town Board considered this matter and hereby finds and determines as follows:

- a. The Property is located in the Town's Commercial/Industrial District;
- b. The Property contains approximately 5.1 (2.5 acres in Lot 2 and 2.6 acres in Lot 3);
- c. Pursuant to the 2003 CUP, the owner constructed a building on Lot 2 that is approximately 11,932 square feet in size and is being used for the Ace Trailer business ("Existing Building");
- d. The proposed roadway repair services business falls within the definition of Light Manufacturing, which is allowed in the C/I District with the issuance of a conditional use permit;
- e. The construction of an accessory structure on the Property for the proposed business is allowed under Chapter 2, Part 3, Section 1.2(4) of the Denmark Township Development Code ("Ordinance") with the issuance of a conditional use permit;
- f. The Town Board determines that the lot coverage requirements of the Ordinance are to be applied to lots individually so that each are required to comply with the Ordinance even though a business is currently using two lots. Separate lots may not be calculated together to determine compliance of the lot coverage limits;
- g. Allowing the Applicant to proceed as recommended by the Planning Commission would not be consistent with the lot coverage limits under the Ordinance and no undue hardship exists that would allow the Town to issue a variance to allow the lot coverage limit to be exceeded on either lot;
- h. Allowing the Applicant to proceed as requested based on a condition that Lot 2 be brought into compliance upon the sale of Lot 3 would place too great of a burden on the Town as it would require it to monitor Lot 3 to determine if it has been sold and then institute an enforcement action to ensure the Applicant, or whoever else may own the business at that time, to take action to remove the accessory structure and restore enough of Lot 2 to pervious surface to satisfy the 65% limit;
- i. The Property is currently not in compliance with the coverage limit and needs to be brought into compliance with the Ordinance by either combining Lot 2 and Lot 3, or by locating a sufficient amount of the business activities and related impervious surface area to Lot 3 and restoring Lot 2 pervious surface area to comply with the 65% limit. Because the Applicant and owner indicated they did not wish to relocate the business operations and restore Lot 2 to come into compliance with the coverage limits, combining Lot 2 and Lot 3 remains the only viable option for complying with the Ordinance. The Town Board will be examining how best to approach lot combinations in the future, but for now it determines that requiring the owner to complete the County's process to combine real estate parcels into one tax parcel will be sufficient for the purposes of the current permit. This decision does not constitute a waiver of any requirement of the Ordinance and does not limit what the Town may require of the owner if an amended or new conditional use permit is sought for any portion of the Property in the future;
- j. With the exception of the lot coverage limit, the Town Planner and Town Engineer have reviewed the proposed use and have determined it satisfies the requirements of the Ordinance;
- k. The conditions and requirements contained within this conditional use permit are needed in order to reasonably protect the public health, safety, and welfare; and

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

1. In order to avoid the confusion that can result from multiple conditional use permits existing for the same property, the Town has adopted a process of issuing a single conditional use permit that includes the uses remaining on the property as well as the new or changed use, and at the same time revoking all previous conditional use permits for the property. The Town Board determines it is in the best interest of the public to follow the same process in this matter.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of Denmark Township, based on the record, staff reports, and the findings and determinations contained herein, hereby approves an amended conditional use permit for the Property to allow the operation of the following two types of businesses on the Property at the same time:

(a) A trailer sales business to display, service, and sell trailers within the Existing Building in accordance with the plans submitted in conjunction with the 2003 CUP and consistent with the operation of the current Ace Trailer Sales business, to the extent such operation was consistent with the conditions imposed on the 2003 CUP ("Trailer Sales Business").

(b) A roadway repair services business as proposed by the Applicant, including the erection of the proposed accessory structure on the Property for the storage of aggregate material used as part of the roadway repair activities ("Roadway Repair Business"). The Roadway Repair Business includes the incidental sale to others of the equipment and materials used to repair roads.

This amended conditional use permit is issued with the following conditions, which must be complied with by both business operations (to the extent applicable) and across the entire Property:

1. The 2003 CUP, 2004 CUP, and all other conditional use permits previously issued for the Property are hereby revoked and are replaced by this conditional use permit ("Current CUP"). The Town Board will memorialize the revocation of the previous conditional use permits by adopting a resolution that it will record in the office of the County Recorder, which will serve as notice of such revocation.
2. The owner of the Property is required to combine Lot 2 and Lot 3 into a single tax parcel with the County within 20 days of the date of this CUP. Pursuant to Section 2.2(2) of the Ordinance and the County's procedures, no portion of the Property may be separated from the single tax parcel without obtaining prior written approval from the Town Board and obtaining an amended conditional use permit from the Town. The Town will not approve any such division of the single tax parcel unless such division is consistent with the provisions of the Ordinance and each of the lots are brought into compliance with the Ordinance including, but not limited to, the lot coverage limitations. This CUP applies across both Lot 2 and Lot 3 and is not separable. Any proposed separation of the lots, or portion thereof, for a use other than expressly provided herein, or for sale to another person or entity, shall require the owner to obtain an amended CUP from the Town for the existing business operations on the remaining portion of the Property and for any new use as required by the Ordinance. If a lot or portion thereof is separated and sold to another, the purchaser shall be required to obtain a new conditional use permit, or other permit as may be required, for its use of its lot consistent with the requirements of the Ordinance.
3. The Existing Building may continue to be used for the Trailer Sales Business and may also be used for the Roadway Repair Business. The allowed uses of the building are limited to the businesses allowed by this Current CUP and include, but are not necessarily limited to, office, showroom, display, and service areas.
4. An accessory structure, not exceed 1,800 square feet in size, may be constructed on the Property in compliance with the Ordinance. The structure is to have a concrete base with a covered metal truss and is to be used as part of the Roadway Repair Business.
5. All improvements constructed on the Property pursuant to the requirements of the 2003 CUP shall be used consistent with their originally intended purposes and must be adequately maintained.
6. All stormwater detention and drainage areas identified on the plans for the Property shall be maintained so they continue to function as designed. No storage may occur on these stormwater detention and drainage areas.
7. All septic system areas identified on the site plans for the businesses shall be preserved. No storage may occur in these areas and no other activity may occur in these areas that may interfere with their use for septic system purposes.
8. There shall be no access to CSAH 61.
9. All loading and unloading associated with the Trailer Sales Business shall occur on the Property.
10. There shall be no exterior storage outside of the fenced area set forth in the site plan for the Trailer Sales Business.
11. All waste receptacles for the Property shall be located inside the Existing Structure or enclosed with an opaque fence.
12. Any signs erected on the Property must comply with the Ordinance and a permit obtained from the Town if required.
13. All lighting on the Property shall be installed so that it is downcast and shielded to prevent off-site glare.

DENMARK TOWN BOARD MEETING MINUTES  
June 6, 2011

14. The Applicant and owner will ensure the Property has proper drainage and will make any necessary corrections as required by the Town's engineer.
15. This Current CUP is issued for the businesses and structures identified herein. Any proposal to use the Property for a different purpose or in a way that is not consistent with the plans submitted for the Trailer Sales Business in conjunction with the 2003 CUP, or the plans submitted for the Roadway Repair Business in conjunction with the current application process, shall require an amended conditional use permit.
16. All fees and escrow amounts must be paid to fully reimburse the Town for its costs to process and act on the application.
17. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this Current CUP shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term.
18. Any alteration of the use of the Property, or of any plans submitted related to those uses, including, but not limited to, expansion of the use, shall not be permitted unless an amended conditional use permit is issued by the Town Board.
19. This permit is subject to the requirements of the Ordinance and the Applicant and owner are required to comply with all applicable federal, state and local laws, rules and ordinances, and to obtain such other permits as may be required.
20. The Town may inspect the Property at all reasonable times for purposes of ensuring compliance with the conditions of this current CUP.
21. The Applicant or owner shall correct all defects on Property which violate any of these conditions immediately, but in no case more than 30 days of receipt of written notice from the Town.
22. The conditions of this Current CUP shall run with the Property and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership of the properties and all references to Applicant or owner herein shall include all successors and assigns.
23. Pursuant to the Ordinance, periodic review of this Current CUP is imposed as a condition of its grant. Adherence to the terms of this CUP may be reviewed annually at the Annual Town Meeting. If any complaints are received which require Town review, the Town Clerk shall notify the permit holder of the date of the review at least ten days prior to the review hearing.

Adopted this 6th day of June, 2011

**BY THE TOWN BOARD**