

Denmark Township Planning Commission Meeting
Afton Apple 14421 90th St S- Amended Conditional Use Permit Public Hearing
Erin Glen 6680 St Croix Tr S- Major Subdivision
July 20, 2015

Planning Commission members present: Roger Lang, Don Schneider, Bob Barr, Charlie Grote, Steve Radke and ex-officio Kathy Higgins

Absent: None

Board Members Present: John Kummer and Joe Moore

Others Present: Attorney Troy Gilchrist (Kennedy-Graven), Planner Erin Perdu (WSB), Engineer Ryan Stempski (Focus Engineering)

7:00 PM Vice Chair Lang opened public Hearing.

Afton Apple 14421 90th St S- Amended Conditional Use Permit (CUP). PID 21.027.20.21.0001
Owner Frank Femling present.

Applicant is requesting approval to add an addition (46x80 3680 sq ft) onto the existing 8000 sq ft retail sales/banquet building.

Applicant indicated that the existing parking area would be sufficient and that there would be no grading/drainage issues associated with the project. No potential for erosion around the area. Only soil that will be disturbed would be for boring the holes for the building. Plantings exist around the building. Certificate of Survey- Applicant noted that the original CUP didn't require a certificate of survey and that the property contained over 200 acres. The Planner indicated she is okay with not receiving one.

Applicant is agreeable with the conditions, as they are mostly the same as the original CUP conditions. He was under the understanding the the CUP continues on with the land, but was unsure why that is not stated in the CUP. Higgins asked for clarification on the identification and use of the other buildings on the site.

The Applicant indicated that the well will be about 5 ft from the new building and meets Health Department requirements.

Planner submitted 07/15/15 Staff Report with Findings of Fact and recommended conditions if approved. Discussion of recommended conditions.

Condition 1) Max number of events is 50. Applicant agreeable with leaving this number. Max number of occupancy in the building will be determined by the Building Inspector. Higgins recommends having the Building Inspector review the plans and determine the max occupancy to be placed in the CUP. Applicant believes that a max number should be eliminated, because that is the only reason that the original CUP had to be amended. Attorney noted that the building is changing and the use is expanding, which would require a new CUP. The old CUP will be revoked. The resolution will include other standard conditions and updated language for some of the old conditions and will include that the CUP will run with the land.

Condition 5) Permits have already been received from the county for accesses. Planner left that condition in because it relates to the Township's right to address any changes there may be in traffic. The portion that requires county permit of access was removed.

Condition 6) Sanitary facilities- numbers will be adjusted based on the Building Inspectors review.

Condition 7) Parking spaces have been updated to reflect new project.

Condition 14) Modify language in the sign condition to require permitting if the signage is changed.

Add Condition 19) Fireworks- Town has received complaints regarding the noise and times of the fireworks displays at the orchard. Permits are usually obtained in September/October. Planning Commission would like to see fireworks end by 10 PM. Applicant in agreement.

Public Comment- None

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7:25 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission Opened.

CONDITION CHANGES

- 1) Planning Commission consensus to include Maximum Occupancy number in CUP based on Building Inspector's determination.
- 2) Planning Commission consensus to modify Planner's condition 14 to address that any changes to signage would require permits.
- 3) Planning Commission consensus to add 19th condition for fireworks displays to end by 10:00 PM.

Motion B Barr/2nd S Radke to forward the Afton Apple Amended Conditional Use Permit Application to the Board with a recommendation to approve based on the Planner's 07/15/15 Findings of Fact and subject to the following conditions (which include the Planning Commission's noted conditions):

The following are the conditions Town Staff recommends be included, in addition to the Town's standard conditions, as part of the CUP amendment approval if approved by the Town Board:

1. Applicants are allowed to use the property to host weddings, company events, picnics, meetings and reunions. A maximum number of 50 events may be conducted on the property in one calendar year. Indoor events would be held in the 6,980 square foot retail sales portion of the existing building which has a total of 11,780 square feet. The maximum number of people who may occupy the building for indoor events will be determined by the Building Inspector. Applicants may need to provide fire suppression/sprinkler system if they exceed the occupancy standard determined by the Building Inspector. Additional occupants may be allowed if the applicants make the necessary changes to the building for fire protection sprinkling and changes to the existing door hardware to meet the applicable building codes. The Building Inspector shall inspect the improvements and shall provide written verification to the Township Clerk as to the number of occupants allowed and the conditions which must be met and maintained by the applicants. The maximum occupant load shall be posted at two compliant exits as approved by the Building Inspector. Applicants shall make application for all necessary building permits before conducting the event or activities on the property.
2. Applicants are allowed to use the property for a greenhouse for propagation of nursery plants including but not limited to strawberries, raspberries, and pumpkins. It is specifically understood that any temporary greenhouse shall increase the occupant load and may require a fire code wall to be constructed between the existing building and the temporary green house or installation of fire suppression equipment. The temporary greenhouse may not be constructed without meeting the applicable fire and building code standards.
3. Applicants are allowed to provide catering for the on-site events and prepare food for off-site events. A commercial kitchen will be added to the sales/event building for baking and food preparation for catering. The commercial kitchen may require safety, equipment and building code

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upgrades. A building permit and health department permits may be required for the upgrade and all food service facilities including food preparation areas and equipment shall meet applicable Township, County and State regulations. Applicants shall apply for and be granted an amended Conditional Use Permit from Washington County, if required.

4. Applicants shall obtain and maintain applicable food licenses as required by Washington County and the State of Minnesota.
5. Applicants shall follow all recommendations and requirements of Washington County regarding the safety of the driveway access points to and from 90th street for the business use. The applicants shall monitor the traffic conditions on a regular basis and shall make any and all necessary traffic safety improvements as required by Washington County. The Township reserves the right to require traffic safety improvements which it deems necessary to address traffic and safety concerns from the operation.
6. Applicants shall provide adequate on-site portable and sanitary toilets for all events to ensure that the facilities can handle the number of people who are attending a particular event. At a minimum four (4) water closets and two (2) lav basins, one for each gender (male/female), shall be required to accommodate the occupant load set by the Building Inspector. For each additional seventy-five (75) occupants of each gender an additional one (1) water closet for each gender shall be required to be provided by applicants. For each increment of 200 additional occupants, an additional one (1) lav basin shall be required to be provided by the applicants.
7. Applicants shall provide 345 parking spaces on the site (an additional 15 spaces from the originally required 330 to accommodate the new retail space). At least 15 of the parking spaces shall be handicapped accessible parking spaces which allow an accessible route to building and or restrooms.
8. The Building Inspector has certain discretion with respect to the interpretation and enforcement of the requirements of the building code as it pertains to maximum occupant load, sanitary facilities, commercial kitchen and food licenses; and applicants shall comply with the requirements of the Building Inspector.
9. Applicants shall comply with the Township noise ordinance and no amplified equipment shall be used which will disturb the adjoining neighbors.
10. The applicants shall conform to the lighting regulations of the Township.
11. Applicants shall ensure that all appropriate permits are received from the Township Building Inspector. Any changes to the plans or the use of the premises which alters the use of the premises shall require an amendment to this permit and shall be reviewed by the Town Board and Zoning Administrator. Said alterations shall require an amended permit.
12. The waste receptacles for the facility shall be located in a manner that shall not be visible from the street.
13. All applicable provisions of the Denmark Township Zoning Ordinance concerning this permit shall be met unless waved by this permit.
14. The design, locations and specifications for any new signs shall conform with the Denmark Township Ordinance and Washington County Ordinance. A sign permit shall be issued by the Zoning

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Administrator prior to the installation of any exterior signs. Both parties acknowledge that certain signs were erected and have existed on the property prior to the issuance of any conditional use permits.

15. Adherence to the terms of the conditional use permit shall be monitored on a complaint basis and yearly as set forth below. Violation of any term of said conditional use may result in revocation of the permit.
16. Noncompliance with the conditions and attachments of this permit and any other permit necessary for the property shall be considered a violation of said permit and may result in revocation of said permit.
17. The applicant shall obtain all permits which are necessary or required from other Federal, County and Local governing bodies, including a building permit. Notice is hereby given that failure to obtain any necessary building permit for activities required by the Minnesota State Building Code is a misdemeanor and/or may result in suspension or revocation of this Conditional Use Permit.
18. Applicant shall pay all planning, engineering and legal fees and costs incurred by the Township for processing this permit application. In the event that any fees are outstanding they will be paid by the applicant within fourteen (14) days of receiving a bill from the Township. In the event the fees are not paid, this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Township.
19. Fireworks displays will end by 10:00 PM.

With All Present Voting Yes, Motion Carried 5-0-0.

7:35 PM Vice Chair Lang opened public Hearing.

Erin Glen 6680 St Croix Trail S- Major Subdivision. PID 04.027.20.41.0001 & PID 03.027.20.32.0010 Applicant's Tim Arvidson & Aaron Mages (Stonebrooke Engineering) on behalf of owners (6680 St Croix Trail S, LLC) present.

The Applicant proposes to subdivide 2 parcels totaling 51 acres into 11 buildable lots.

Tim Arvidson indicated that the proposed plat/project was approved by the Township in 2007. New property owner would like to forward the project, as it had been approved in 2007, and update certain details such as stormwater pollution prevention. Tim Arvidson requested that the project be approved based on the prior approval and questioned the need for new approval process.

Attorney noted that if a plat is not filed within a certain amount of time, it becomes null and void and that the prior approval no longer exists.

Density Units- Discussion regarding the 11 proposed density units. Property is zoned RR, 1 per 5 acres. Total property is 51.059 acres and proposed project is 11 density units. Right of Way is 3.851 acres. Applicant stated that in 2007, 11 density units were approved by the Board.

Planner- The gross area of 51.05 acres divided by 11 density units yields 1 lot per 4.64 acres, which is in excess of the maximum allowable density of 1 unit per 5 acres. Planner also noted that the proposed 11 units on these parcels was previously approved by the Town Board. Lang asked for confirmation that the previous approvals were null and void.

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Attorney noted Ordinance Ch.3, Sect.7.3, par.6- [Recording Deadline: If the final plat is not presented to the County Recorder/Registrar of Titles within 120 days after approval by the Town Board, approval of the final plat shall be considered null and void. An extension to this 120 day time frame may be requested by the applicant and submitted in writing to the Town Board. An extension must be approved by the Town Board.] Past approvals no longer exist.

Planner- calculation of density units per Ordinance. Taking the entire area of the parcel , multiply the size in acres by the maximum density per 40 acres, and then divide by 40. Road Right of Way would not have to be subtracted from the area of the parcel.

Engineer- Since the plat was created, there have been updates to road standards that would have to be made before the final plat is presented. The stub road to the north will need to be graded with the road base ready and the 66' road ROW prepared in preparation for the future route extension so that the disturbed area is restored/seeded for future development to the north.

The road extension to the west is to be made with improvements. Applicant in agreement with road requirements.

Stormwater management from 2007 needs to be updated, due to changes in SWWD and NPDES rate, volume control and water quality standards. Applicant must submit plans to SWWD for review and permit approval. Some of the stormwater ponds may need modification; infiltration basins may need to be added, and density may be impacted.

Planner- Based on changes that may need to be made, the lots may no longer meet the ordinance requirements. Planner also noted that some of the septic locations encroach into easements and that there is a discrepancy regarding street naming on the general layout and the preliminary plat. Township Attorney did a preliminary plat opinion on this but is not able to complete due to additional information needed. Attorney provided to Applicant letter detailing additional information requested.

Higgins received call from Washington County Planner who indicated that the county right of way has increased since the plat was created in 2007, which could affect the number of density units. Applicant stated that in some counties, if the Right of Way affects your density, that you can typically dedicate a highway easement to the county instead of highway Right of Way so that it doesn't take away from the property that affects the density.

Public Comment-

Matt Pflugi (St Croix Tr S) noted that a density transfer was done to allow 11 units. Attorney added that although the prior approval for the plat no longer exists, a density transfer would still be in effect. Attorney would need to review.

Toni Lewandowski (70th St S) Asked for further clarification on transfer of density units. After an explanation on transferring density units, the property owner was advised to submit an application if he felt this applies to him.

Jack Lang (65th St S) Regarding density, if prior approvals are now null and void, would prior approved density be null and void.

Attorney-final plat approval and density transfer approval are 2 different approvals. A density transfer (if there is one) would have been recorded. Void of a final plat approval would not void a density transfer approval. Attorney will review the density issue.

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John Kummer (Pt Douglas Dr S) To keep the road/addresses from becoming confusing for purposes of fire signs, postal deliveries and fire/emergency vehicles, recommends naming the road 65th St the entire way through, remove Panoramic Avenue. Another option could be to speak with county regarding the possibility of changing 67th on the west end to 65th all the way through. Applicant would be agreeable to Town's determination.

Where it ties into the cul-de-sac at the end of 65th, the existing residents have decorative landscaping on the outskirts of the cul-de-sac which will now be saw cut/removed to make a straight road, so there should be some kind of restoration upon displacement of mailboxes, sprinkler systems, etc. Applicant indicated that the only change to the existing properties would be to connect them to the straight road, not likely to affect their properties.

Harry Sieben (St Croix Tr) expressed concerns regarding the existing trees on the property, including those that may be removed and other trees that may be subject to root damage during construction, the project effect on the wildlife, invasive species management, traffic, road placement, drainage issues, project density and Homeowner's Association. Would like to have the opportunity to take part in discussions regarding the project as a whole and its effect on the existing homes.

Planner submitted 07/16/15 Staff Report with Findings of Fact and recommended conditions if approved, but given the volume of additional information and approvals needed, she recommends that the application be tabled pending submission of the materials indicated in her report.

Attorney also recommended tabling the application, to obtain the additional requested information, giving the public the opportunity to comment on additional information received.

8:17 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission Opened.

Motion Barr/2nd Radke to table Erin Glen Major Subdivision Application and continue the Public Hearing at the Planning Commission Meeting, September 21, 2015 @ 7:00 PM, in order for the Applicant to provide the requested information. With All Present Voting Yes, Motion Carried 5-0-0.

Higgins recommended Applicant provide information regarding Homeowner's Association, draft covenants and an analysis/tree survey.

APPROVAL OF MINUTES-

Motion Barr/2nd Lang approval of Minutes 05/18/15 Planning Commission/National Minerals Corporation 12271 Margo Ave S Conditional Use Permit. With all present voting yes, Motion Carried 5-0-0.

8:33 PM Motion Barr/2nd Lang to adjourn. With all present voting yes, Motion Carried 5-0-0.

Becky Herman
Denmark Township Clerk/Treasurer