

DENMARK TOWN BOARD MEETING MINUTES  
November 5, 2012

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

**ABSENT:** John Kummer and Joe Moore

**STAFF PRESENT:** Attorney Gilchrist (Kennedy-Graven)

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

**AGENDA APPROVAL:** Keller added 80<sup>th</sup> Street Pipe. **Motion Keller/2<sup>nd</sup> Kramer approval of agenda as amended. All In Favor. Motion Carried 3-0.**

**CONSENT AGENDA APPROVAL:** Higgins pulled claims. **Motion Kramer/2<sup>nd</sup> Kramer approval of consent agenda items which include Minutes 10/01/2012 Board Meeting, EFT payments- PERA 228542, MN Revenue Tax 242913536, Federal Tax 1591978, payroll ending 11/01/2012 and financial reports. All In Favor. Motion Carried 3-0.**

Pulled Claims- Claim #9962 Rivertown Newspaper, amt. \$129.80 revised to \$838.56 to include current charges to date. Add Claim #9977 Washington County Recorder's Office in the amt. \$184.00. **Motion Kramer/2<sup>nd</sup> Keller approval of Claims #9958-9977 as amended. All In Favor. Motion Carried 3-0.**

**HEARING DECISIONS/ZONING ACTIONS:**

Afton Alps-6600 Peller Ave S.-Conditional Use Permit to Amend Planned Unit Development

Afton Alps representatives John Shardlow (Planner), Dick Lempke (President) and Joe Yasis (Operations Mgr) present. Mr. Shardlow prepared the 1<sup>st</sup> PUD for Afton Alps in 1989. Afton Alps is requesting a Conditional Use Permit (CUP) to Amend their Planned Unit Development (PUD), to clearly identify the permitted and prohibited uses for the Afton Alps property. Applicant has been working with both the Township and County Planners. Applicant has reviewed carefully the draft resolutions that have been prepared by the Township Attorney and find the conditions of approval acceptable.

Planner submitted 10/10/2012 report containing findings and recommended conditions if approved.

Public hearing was held on 10/15/12 and the Planning Commission recommended approval of the CUP to Amend the PUD, based on the Planner's Findings of Fact and subject to the Planner's recommended conditions.

Attorney has requested that the Applicant obtain and submit to the Township, the complete legal description of all the properties that would be subject to the permit, which would be made part of the document, for recording.

**Motion Keller/2<sup>nd</sup> Kramer approval of Resolution 2012-13 Issuing A Conditional Use Permit Approving An Amended Planned Unit Development For The Property Located At 6600 Pellar Avenue South. All In Favor. Motion Carried 3-0.**

Over the past years, a number of permits have been issued for Afton Alps property. This permit will be the only permit of use for the property and past permits will be revoked.

**Motion Kramer/2<sup>nd</sup> Keller approval of Resolution 2012-14 Revoking All Prior Conditional Use Permits And Planned unit Development Authorizations For 6600 Pellar Avenue South. All In Favor. Motion Carried 3-0.**

MRB Properties-11747 Manning Ave S-Conditional Use Permit

Planning Commission/Public Hearing for MRB Properties is continued to 11/19/12. The Planning Commission moved to extend the time requirements of the 60 Day Rule to continue the hearing to 11/19/12 in order to obtain additional information to consider the applicant's request, and to authorize the Planner to prepare an extension letter to the applicants to include the additional items requested by the Commission.

**PUBLIC COMMENT:**

**Motocross Operation-** Resident requested update regarding concerns of a commercial motocross operation on Quadrant Avenue. The motocross track is still being advertised to the public as a motocross operation. Ordinance does prohibit commercial racetracks within the Township. Grading/excavating of 50 yards or more requires a permit.

Board consensus to have the Denmark Township enforcement code officer review the property regarding the track.

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**BUSINESS ITEMS:**

**Resolution 2012-12 Summary publication Ordinance 2012-03 Composting:** Ordinance 2012-03 adopted 10/01/2012, published and effective 10/11/2012. **Motion Keller/2<sup>nd</sup> Kramer approval and ratification of Resolution 2012-12 Approving Summary Language For Publication Of An Ordinance Amending The Denmark Township Development Code Regarding Composting.** All In Favor. Motion Carried 3-0.

**Washington County All-Hazard Mitigation Plan:** The Washington County All-Hazard Mitigation Plan has been finalized. FEMA and the MN Division of Homeland Security and Emergency Management have approved the Plan. The Plan will make Denmark eligible to receive FEMA hazard mitigation assistance.

**Motion Keller/2<sup>nd</sup> Kramer approval of Resolution 2012-15 Adoption Of The Washington County All-Hazard Mitigation Plan.** All In Favor. Motion Carried 3-0.

**Buckthorn Workshop:** Washington Conservation District is inviting Denmark to take part in a Buckthorn removal workshop. WCD is proposing to do the workshop in late November. Keller will contact Wendy Griffin regarding a possible workshop in Denmark.

**Nitrate Testing:** WCD is inquiring whether Denmark would like another nitrate testing summer of 2013. Board consensus to have another nitrate testing clinic.

**Roads-additional expenditures:** Moved to December agenda.

**Tree Trimming Policy:** Moved to December agenda.

**80<sup>th</sup> Street Pipe:** *Health Department notified the Township of a large pipe protruding from the ground on 80<sup>th</sup> Street. Department questioned whether it might be an abandoned well. Higgins spoke with the Health Department and the surveyor's office. Surveyor's office thought that it may have been part of a fence line at some time. Keller will check to see if the pipe is in the Right Of Way. Keller has checked the pipe on 80<sup>th</sup> St. It is unknown whether the pipe is in the Right Of Way. Kramer will contact contractor to see if the pipe can be removed.*

**O'Connor's Park:** Keller reported that some prairie burning has been done, and that much progress has been done in the restoration process.

**Board Of Canvass:** Board Of Canvas is Scheduled for Tuesday, November 13, 2012. **Motion Keller/2<sup>nd</sup> Kramer approval to set the Board Of Canvass for 11/13/12 5:00.** All In Favor. Motion Carried 3-0.

**Legal Updates:**

**Dog Ordinance:** Attorney is working on a draft dog ordinance. Draft will be emailed to Board Members.

Attorney recommends that the Board review/update ordinances regarding definitions for non-conforming lots, racetracks, variances, etc.

8:20 PM **Motion Keller/2<sup>nd</sup> Kramer to adjourn.** All In Favor. Motion Carried 3-0.

Becky Herman  
Denmark Township Clerk/Treasurer

Addendum Resolutions 2012-12, 2012-13, 2012-14, 2012-15

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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2012-12

RESOLUTION APPROVING SUMMARY LANGUAGE FOR  
PUBLICATION OF AN ORDINANCE AMENDING THE DENMARK  
TOWNSHIP DEVELOPMENT CODE REGARDING COMPOSTING

**WHEREAS**, on October 1, 2012 the Town Board of Denmark Township ("Town") adopted "AN ORDINANCE AMENDING THE DENMARK TOWNSHIP DEVELOPMENT CODE TO ALLOW COMPOSTING AS AN ACCESSORY USE TO A PLANT NURSERY," ordinance number 2012-03, ("Ordinance");

**WHEREAS**, the Ordinance amends Chapter Two, Part 3, Section 2.32 of the Development Code by adding language to allow composting associated with a plant nursery in certain cases and imposing limitations;

**WHEREAS**, Minnesota statute, section 368.01, subdivision 21 allows the publication of a summary of an ordinance instead of publishing the entire ordinance; and

**WHEREAS**, the Town Board determines that publishing the full text of the Ordinance is not reasonably feasible and that publication of a summary is sufficient to clearly inform the public of the intent and effect of the Ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby determines to publish the following summary language, which is hereby approved, in lieu of publishing the full text of the Ordinance:

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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE DENMARK TOWNSHIP  
DEVELOPMENT CODE TO ALLOW COMPOSTING AS AN  
ACCESSORY USE TO A PLANT NURSERY

The Town Board of Denmark Township adopted Ordinance No. 2012-03 amending Chapter Two, Part 3, Section 2.32 of its Development Code by allowing composting as an accessory use to a plant nursery in the Agricultural Preserve and Agriculture Districts when composting is expressly allowed as part of the conditional use permit issued for the plant nursery. The ordinance establishes certain requirements and limitations related to the accessory use. A copy of the full ordinance is available on the Town's website, the Washington County Law Library, the Dakota County Hastings Branch Library, and can be obtained by contacting the Town Clerk-Treasurer.

Becky Herman  
Clerk-Treasurer

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**BE IT FINALLY RESOLVED**, that the Town Clerk is hereby authorized and directed to:

- Publish the above summary of the Ordinance in the Town's official newspapers;
- Maintain a copy of the full Ordinance at the Town Hall;
- Place a copy of the full Ordinance at the Dakota County Hastings Branch Public Library;
- Place a copy of the full Ordinance at the Washington County Law Library;
- Record a copy of the Ordinance with the County Recorder's office; and
- Place the Ordinance in the Town Ordinance Book within 20 days together with a copy of the affidavit of having published the approved summary language.

Adopted on the 1<sup>st</sup> day of October, 2012. **BY THE TOWN BOARD**

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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2012-13

RESOLUTION ISSUING A CONDITIONAL USE PERMIT  
APPROVING AN AMENDED PLANNED UNIT DEVELOPMENT  
FOR THE PROPERTY LOCATED AT 6600 PELLER AVENUE SOUTH

**WHEREAS**, Dick Lempke, President, submitted an application on behalf of Afton Alps, Inc. ("Applicant") for a conditional use permit for an amendment to the planned unit development approved on May 23, 1989 ("Original PUD") for the property located at 6600 Peller Avenue South, Hastings, MN and legally described in the attached Exhibit A and shown on the aerial photo attached as Exhibit B ("Property");

**WHEREAS**, the Applicant seeks to amend the Original PUD to identify the types of uses that are and are not allowed on the Property;

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested amendment to the Original PUD on October 15, 2012, heard from the Applicant and the public, and took action to recommend that the Town Board approve the requested amendment to the Original PUD with certain conditions; and

**WHEREAS**, based on the Planning Commission's recommendation, the Town Planner's report dated October 10, 2012 ("Planner's Report"), the Town Board's knowledge of the Property and its uses, and the record of this matter the Town Board hereby finds and determines as follows:

- a. The Planner's Report, which is attached hereto as Exhibit C, is incorporated herein by reference including, but not limited to, the findings contained therein. The proposed permit conditions contained in the report are superseded by the conditions contained in this Resolution;
- b. The Property is located in the Rural Residential (RR) Zoning District;
- c. The types of uses proposed for the Property are allowed in the RR District with approval of a planned unit development as requested;
- d. In order to avoid the confusion that can result from multiple permits issued for the same property at different times, the Town Board typically issues a single conditional use permit for a property seeking an amendment and repeals all previous conditional use permits issued to the property. The Town Board determines it is in the best interests of the public to take the same approach in this case and the Town Board will act by separate resolution to revoke all previous conditional use permits issued to the Property in favor of this one permit that will guide the on-going use of the Property. The revocation of the previous permits does not affect the lawful status of the structures and other improvements constructed on the Property in accordance with those previous permits;
- e. The Applicant was directly involved in setting out both the uses that are allowed under the new PUD and those that will not be allowed, and has agreed to them;
- f. This permit is intended to identify the uses allowed and not allowed on the Property. This permit does not authorize the creation of any new residential developments on the Property and no new structures or improvements may be placed or constructed on the Property without first obtaining all applicable permits; and
- g. The Town Board determines the application materials are complete and the proposed amendment to the Original PUD satisfies the criteria in the Denmark Development Code ("Ordinance") for granting a conditional use permit for the revised planned unit development.

**NOW, THEREFORE, BE IT RESOLVED**, that, based on the record of this matter and the findings and determinations contained herein, the Town Board of Denmark Township hereby approves and issues a conditional use permit approving a planned unit development for the continued operation of a recreational area and residential development on the Property provided the Applicant complies with, and remains in compliance with, all of the following conditions, limitations, and requirements:

1. Scope of Permit. This permit allows for the continued operation of the Afton Alps Ski Area and associated uses, 18-hole golf course and associated uses, and single-family residential homes on Property subject to the limitations contained herein.
  - A. Allowed Uses. The uses allowed to occur on the Property pursuant to this permit include skiing and associated winter activities, golf and related activities, and social functions including wedding receptions, family reunions, anniversary parties, business retreats, and similar social functions. Dealer/vendor/distributor retreats with associated presentation of products are also allowed. An example of such an event includes a major manufacturer of snowmobiles and ATVs inviting their vendors and distributors to an event where they present new products for the year. These types of demonstrations are considered accessory to the principal activities which occur within the buildings. Music and entertainment as an accessory use to wedding receptions and similar social events as have been occurring on the Property are allowed, providing the music or entertainment does not constitute the principal use or the primary focus of the event. The display of fireworks as part of any event will only be allowed if it is in compliance with all applicable State, County, and Town codes and ordinances.

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Action sports and adventure sports activities and competitions are also permitted to occur on the property under this permit. Action Sports are defined as sports that are focused on individual and team activities and include endurance sports and climbing sports. These activities take full advantage of the topography and terrain for running and obstacles, fitness course, mountain biking, and similar activities. Spectators and supporters may attend the events, but must adhere to applicable County and Town rules and regulations including, but not limited to, the Town's ordinance regulating large special events.

- B. Prohibited Uses. Uses not identified or described as allowed uses in this permit shall not be allowed to occur on the Property unless the use is allowed as a matter of right as a permitted use in this zoning district or an amendment to this permit is approved by the Town Board to expressly allow the use. Avoiding uses that generate excessive noise or that may be disruptive to neighboring property owners is a goal of both the Applicant and the Town. In order to help provide clarification of the types of uses that are specifically not allowed on the Property, and without expanding the scope of this permit beyond it only allowing the types of uses specifically identified herein as being allowed, the following is a nonexclusive list of the types of uses that are prohibited: motorized sports such as auto, motorcycle, ATV, or snowmobiling races; demolition derbies; tractor pulls; use of motorized vehicles for mud bogging, mud racing, mud running, mud drags, or mudding; concerts, music festivals, or similar music or entertainment focused events; adult uses, adult uses-accessory, adult uses-principal, as those terms are defined in the Denmark Township Development Code; and any event involving the discharge of firearms, shooting ranges, or similar activities.
2. Applicable Provisions. This permit is subject to the requirements of the Town's ordinances and the Applicant is required to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and to obtain such other permits and permissions as may be required.
  3. No Waiver. A failure by the Town to take action with respect to any violation of any condition, covenant or term of this permit 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.
  4. Grading, Drainage and Erosion Control. Any proposed minor modification or change to the existing grade, drainage, or erosion control structures or devices on the Property must be submitted to the Town Engineer for review and may be approved administratively by the Town Engineer. Major modifications or changes to grade, drainage, or erosion control on the Property as designated by the Town Engineer shall require review and approval by the Town Board.
  5. Landscaping / Screening Plan. Any proposed minor modification or change to the existing landscaping / screening plan on the Property must be submitted to the Town Planner for review and may be approved administratively by the Town Planner. Major modifications or changes to the landscaping / screening plan on the Property as designated by the Town Planner shall require review and approval by the Town Board.
  6. Signage. Design, locations and specifications of signs shall conform to the Washington County Zoning Ordinance and Denmark Township Development Code and are subject to the approval of the Zoning Administrator. All signs shall require a sign permit to be issued by the Town.
  7. Sewage Disposal. The Applicant shall conform with all individual sewage disposal requirements according to Washington County Individual Sewage Treatment System Ordinance related to all buildings on the property.
  8. Lighting. The Applicant shall conform to the lighting regulations of the Ordinance.
  9. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Towns for processing this permit application. In the event any fees are outstanding they will be paid by the Applicant within fourteen (14) days of receiving a bill from the Town. In the event the fees are not paid, this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Town.
  10. Inspections. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant or Owners, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this permit. Prior notice to inspect the Property is not required in the event of an emergency.
  11. Revocation. The violation of any terms or conditions of this permit including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in revocation of the permit. The Applicant shall be given written notice of any violation and reasonable time to cure the violation before a revocation of the permit may occur. Adherence to the terms of this permit shall be monitored on a complaint basis.
  12. Binding Effect. The permit and its conditions are binding on the parties, their successors and assigns, and shall run with the Property, and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership, until the permit is terminated or revoked as provided herein. The obligations of the Applicant under this permit shall also be the obligations of the current and any subsequent owners of the Property.
  13. Only Permit. This permit supersedes and replaces any other permits previously issued by the Town for the PUD use as a ski area and associated uses, golf course and associated uses, and single-family residential development on this Property, and all such previous permits have been repealed by the Town Board by separate action. The revocation of the previous permits does not affect the lawful status of those structures and other improvements constructed on the Property in accordance with the previous permits. Furthermore,

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the Applicant remains bound the terms and conditions of any development agreements entered into regarding the Property to the extent they are still operable.

14. Acceptance of Conditions. Utilization of the Property for any of the uses allowed by this permit shall automatically be deemed acceptance of, and agreement to, the terms and conditions of the permit without qualification, reservation, or exception.
15. Amended Permit. 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 beyond what is allowed by this permit, shall not be permitted unless an amended conditional use permit is obtained from the Town.

Adopted this 5<sup>th</sup> day of November, 2012. **BY THE TOWN BOARD**

DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2012-14

RESOLUTION REVOKING ALL PRIOR CONDITIONAL USE  
PERMITS AND PLANNED UNIT DEVELOPMENT  
AUTHORIZATIONS FOR 6600 PELLER AVENUE SOUTH

**WHEREAS**, the Town Board of Denmark Township ("Town") has issued at least one conditional use permit/planned unit development for the property located at 6600 Peller Avenue South, Hastings, Washington County, Minnesota, which is currently comprised of multiple lots (PID \_\_\_\_\_) and which is legally described in Exhibit A attached hereto and which is made part of this Resolution (the "Property");

**WHEREAS**, the Town Board approved a planned unit development for the Property for Afton Alps, Inc. dated May 23, 1989 ("1989 PUD") and the business continues to operate on the Property;

**WHEREAS**, because the uses occurring on the Property have expanded over the years, Dick Lempke, President ("Applicant") submitted an application to the Town for an amended planned unit development to identify those types uses that are allowed to occur on the Property and those that are prohibited from occurring on the Property;

**WHEREAS**, under the Denmark Township Development Code, planned unit developments are processed and approved as a conditional use permit;

**WHEREAS**, in order to avoid the confusion that can result from multiple conditional use permits for the same business activities on the same property, the Town Board has adopted a practice of revoking all past conditional use permits issued to a property when it is asked to issue a new or amended conditional use permit for a property in favor of a single conditional use permit that encompasses the existing and proposed business activities on a property;

**WHEREAS**, the Applicant is amenable to the revocation of the prior conditional use permits and planned unit development on the Property, and such revocation was made a condition of the conditional use permit Town Board approved by Resolution No. 2012-13 ("Current CUP") to amend the previous planned unit development issued 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, or planned unit development, that exists for the Property is the Current CUP issued by the Town Board at its meeting on November 5, 2012, which authorizes the continued existence of the recreational area and residential development on the Property.

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

1. All conditional use permits and planned unit developments approved by the Town Board of Denmark Township prior to November 5, 2012 for the Property located at 6600 Peller Avenue South, Hastings, Washington County, Minnesota, and legally described in Exhibit A to this Resolution, including, but not limited to, the 1989 PUD, are hereby revoked. Such prior conditional use permits and planned unit developments are no longer valid and may not be relied on.
2. The revocation of the previous permits does not affect the lawful status of those structures and other improvements constructed on the Property in accordance with the previous permits. Furthermore, the Applicant remains bound the terms and conditions of any development agreements entered into regarding the Property to the extent they are still operable.
3. The Town Clerk is hereby authorized and directed to record this Resolution against the Property in the office of the County Recorder.
4. 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 5<sup>th</sup> day of November, 2012. **BY THE TOWN BOARD**

DENMARK TOWN BOARD MEETING MINUTES  
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DENMARK TOWNSHIP  
WAHSINGTON COUNTY, MINNESOTA  
Resolution No. 2012-15

ADOPTION OF THE WASHINGTON COUNTY  
ALL-HAZARD MITIGATION PLAN

WHEREAS, the Denmark Township has participated in the hazard mitigation planning process as established under the Disaster Mitigation Act of 2000, and

WHEREAS, the Act establishes a framework for the development of a multi-jurisdictional County Hazard Mitigation Plan; and

WHEREAS, the Act as part of the planning process requires public involvement and local coordination among neighboring local units of government and businesses; and

WHEREAS, the Washington County Plan includes a risk assessment including past hazards, hazards that threaten the County, an estimate of structures at risk, a general description of land uses and development trends; and

WHEREAS, the Washington County Plan includes a mitigation strategy including goals and objectives and an action plan identifying specific mitigation projects; and

WHEREAS, the Washington County Plan includes a maintenance or implementation process including plan updates, integration of the plan into other planning documents and how Washington County will maintain public participation and coordination; and

WHEREAS, the Plan has been shared with the Minnesota Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency for review and comment; and

WHEREAS, the Washington County All-Hazard Mitigation Plan will make the county and participating jurisdictions eligible to receive FEMA hazard mitigation assistance grants; and

WHEREAS, this is a multi-jurisdictional Plan and cities and townships that participated in the planning process may choose to also adopt the County Plan.

NOW THEREFORE BE IT RESOLVED, that Denmark Township supports the hazard mitigation planning effort and hereby adopts the Washington County All-Hazard Mitigation Plan.

Adopted this 5th day of November, 2012. **BY THE TOWN BOARD**