Receipt:# 550086

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DENMARK TOWNSHIP
14008 90TH ST SOUTH
HASTINGS MN 55033

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Office of the County Recorder
Washington County, Minnesota
Debra Ledvina, County Recorder

4983

ADMINISTRATIVE PAGE AND CERTIFICATION

Document Title: 2021-06 RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR THE PROPERTY LOCATED AT AND ADJACENT TO 12570 127TH STREET SOUTH

Return To: Denmark Township, 14008 90th St., Hastings, MN 55033

Drafted By: Troy Gilchrist, Kennedy & Graven, Chartered, 150 South Fifth Street, Suite 700, Minneapolis, MN 55402

Certification:

STATE OF MINNESOTA)
COUNTY OF WASHINGTON)
TOWN OF DENMARK)

The undersigned, being duly qualified and acting as appointed Clerk-Treasurer of the Town of Denmark, Washington County, Minnesota, in the capacity as an ex-officio notary public under Minnesota statute section 358.15 hereby certifies the attached is a full, true and correct copy of 2021-06 RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR THE PROPERTY LOCATED AT AND ADJACENT TO 12570 127TH STREET SOUTH, approved by the Denmark Town Board of Supervisors at a meeting held on the 5th day of April, 2021 and signed before me by the Town Board Chairperson on behalf on the Town Board.

WITNESS MY HAND officially as the Town Clerk-Treasurer of the Town of Denmark, Minnesota, this 6th day of June, 2021.

(Seal)

Becky Herman

Becky Herman, Clerk-Treasurer
Town of Denmark, Minnesota

302335v1 TJG DE325-6

DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution 2021-06

RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR THE PROPERTIES LOCATED AT AND ADJACENT TO 12570 127TH STREET SOUTH

WHEREAS, John W. Kummer as Trustee and Chad Grave transferred their properties (PIDs 06.026.20.31.0022 and 06.026.20.42.0006) located at and adjacent to 12570 127th Street South, and which are legally described in the attached Exhibit A (collectively, the "Property"), to Brockman Land LLC;

WHEREAS, Joseph R. Brockman, on behalf of Brockman Land LLC, ("Applicant") submitted an application to Denmark Township ("Town") for a conditional use permit to allow the phased development of a trailer, equipment storage, and maintenance business (collectively, the "Business") on the Property;

WHEREAS, the Applicant proposes to eventually construct an approximately 7,200 square foot building ("Building") on the southeast parcel of the Property that will contain office space, storage, and vehicle bays for maintenance of vehicles and trailers;

WHEREAS, the Business is proposed to be developed in two phases, with the first phase involving the construction of all planned improvements on the Property to accommodate the trailer use and the second phase would involve construction of the Building;

WHEREAS, the Applicant anticipates 2-4 employees being on the Property from approximately 6:00 a.m. to 5:00 p.m. once phase two is constructed;

WHEREAS, the Property contains a combined area of approximately 11.02 acres and is located in the Town's Commercial/Industrial (CI) District;

WHEREAS, there is an existing building on the southeast parcel of the Property ("Existing Building") the Applicant proposes to use as part of the Business;

WHEREAS, the Denmark Township Planning Commission held a public hearing regarding the requested conditional use permit ("CUP") on February 18, 2021 and took action to forward the request to the Town Board with a recommendation that the CUP be granted based on the presented findings and with certain conditions;

WHEREAS, the requested CUP came before the Town Board at its April 5, 20201, at which the Town Board allowed further comments by the Applicant and the public; and

WHEREAS, the Town Board hereby finds and determines the following:

a. The Planner's Report ("Report") dated February 9, 2021 regarding this matter, including the findings contained therein, is incorporated herein by reference, except that the

conditions proposed in the Report are superseded by the conditions contained in this Resolution;

b. The proposed Business is classified as a "Transportation/Motor Freight Terminal" under the Denmark Township Development Code ("Development Code") and is allowed in the CI District with the issuance of a CUP;

c. The Property consists of two parcels, with the northwest parcel (PID 06.026.20.31.0022) being subject to a development agreement entered into regarding the platting of Hastings Point and which was recorded in the office of the County Recorder on March 22, 2017 as Document No. 4106316 ("Development Agreement");

d. The Development Agreement prohibits the development of either lot in Hastings Point until the owners of the lots dedicate to the Town a 66 foot wide right-of-way along the shared property line between the lots ("Dedicated Road");

e. The Applicant has been working with the owner of the other lot in the plat to develop an easement agreement ("Easement Agreement") dedicating right-of-way to the Town as required in the Development Agreement and providing for the construction and maintenance of an access road to both lots. The Easement Agreement has not been finalized, but the Town does not wish to hold up the consideration of the requested CUP. As such, this CUP and the construction of the improvements on the Property are conditioned on the execution of the Easement Agreement in a form acceptable to the Town;

f. The Applicant does not intend to plat the two parcels into a single lot. Because this CUP considered the entire Property as a whole, the Applicant must combine the parcels into a single property identification number with the County so that they cannot be separated without Town consent;

g. The Applicant proposes to use recycled material consisting of crushed blacktop, rock, and concrete for the trailer parking areas instead of placing a new bituminous surface. Chapter Two, Part 3, Section 1.9(1) allows the Town Board to allow the use of a surfacing material other than asphalt or concrete if it determines such surfaces are not necessary, would not further the Town's goals or policies, or would create an undue hardship on the Applicant. The Town has seen the recycled material perform well on other properties and determines that requiring an asphalt or concrete covering would create an undue hardship given the amount of area being covered.

h. As indicated in the Report, the Applicant's proposal meets the applicable use standards and the criteria for approving a CUP under the Development Code.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board, that it hereby approves and issues, based on the record of this matter, the Report, and the findings contained herein, the requested CUP conditioned on compliance with all of the following:

1. Scope. The CUP granted by this Resolution allows the Applicant to operate the Business on the Property, including use of the Existing Building and the construction of an approximately 7,200 square foot building on the Property.

2. Site Development. Development of the Property shall occur in accordance with the final plans approved by the Town Board. The Building shall not exceed a total of 8,000 square feet.

3. Easement Agreement. The Applicant shall not commence construction of any improvements on the Property until an Easement Agreement is fully executed dedicating right-of-way to the Town within the plat of Hastings Point as required by the Development Agreement. The Easement Agreement must be in a form acceptable to the Town Attorney. The owners of the lots within the plat are responsible for constructing and maintaining the dedicated road and may assign responsibilities for such work between themselves as they determine is appropriate. The construction plans for the Dedicated Road must be approved by the Town Engineer. The Town is not responsible for any costs associated with constructing or maintaining the Dedicated Road. The Town Board will act by resolution at such time as it determines it is in the public interest to open and maintain the Dedicated Road as part of its system of publicly maintained Town roads.

4. Combine Tax Parcel. The owner of the Property is required to combine the parcels comprising the Property into a single tax parcel with the County within 20 days of the date of this CUP. Pursuant to Chapter Three, Section 2.2(3) of the Development Code 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 Development Code and each of the lots are brought into compliance with the Development Code including, but not limited to, the lot coverage limitations. This CUP applies across both parcels and is not separable. Any proposed separation of the parcels, 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 Development Code. 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 Development Code. This condition does not apply to the dedication of land for the expansion or extension of a public right-of-way.

5. Surfacing. The Town Board approves the use of the proposed recycled material to surface the trailer parking areas on the Property. However, the Applicant is required to improve the driveways to the Property, including the existing driveway to the southeast parcel, and any employee parking areas with bituminous or concrete in accordance with the Development Code.

6. Access. Proposed access to site from Highway 10 (including drainage to Highway 10) is subject to review and approval by Mn/DOT. All MnDOT requirements shall be incorporated into the final plans. Copies of approved Mn/DOT permits shall be provided to the Town prior to construction. The proposed access shall be located within roadway easement to be provided for the future extension of Margo the cell tower shall be provided via the new driveway.

7. Septic. The Applicant shall comply with the following regarding the septic system on the Property prior to beginning construction of the Building:

   (a) Soil testing for primary and alternate septic sites; and

   (b) The Washington County Department of Public Health and Environment must approve the proposed septic system locations per the most recent requirements of the Washington County Septic Code.

8. Wells. Any wells to be installed on the Property must comply with Minnesota Department of Health standards and all other applicable requirements.

9. Business Operations. The Application shall comply with the following regarding operation of the Business on the Property:

   (a) Vehicles and equipment shall be located no closer than 20 feet from side lot lines; and

   (b) The Business shall be operated in accordance with the applicable performance standards, the Development Code, and all other applicable laws.

10. Drainage and Utility Easements. Drainage and utility easements shall be provided over the stormwater basins. Easements should be shown on final construction plans.

11. Plan Approvals. Final construction plans and a stormwater management plan shall be provided for review and final engineering approval.

12. Signage. Any future signage will require a sign permit submitted in compliance with the Development Code and approved by the Zoning Administrator.

13. Stormwater. Stormwater facilities shall be privately maintained. A stormwater maintenance agreement that details operation and maintenance schedules and responsibilities must be provided for review by the Town and SWWD review.

14. Representations. All representations, written and oral, made by the Applicant and the Applicant's agents and representatives to the Town contained in and concerning the application must have been true, complete, and accurate at the time they were made.

15. Compliance. The Applicant shall comply, and remain in compliance at all times, with all applicable federal, state, and local laws, rules, regulations, and ordinances concerning the development of the Property and operation of the approved uses. The Applicant shall also be required to obtain and comply with all other permits and permission that may be required.

16. Costs. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Towns for processing its 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 approval shall terminate automatically upon recording of a Notice of Nonpayment by the Town.

17. Inspections. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this approval. Prior notice to inspect the Property is not required in the event of an emergency.

18. Revocation. The violation of any terms or conditions of this permit or a certificate of compliance issued for a Rental Use including, but not limited to, violation of any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in revocation of this permit or a certificate of compliance. The Applicant and, if the violation relates to a certificate of compliance, the business owner 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.

19. Binding. This permit and its conditions are binding on the Applicant, its 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 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.

19. Only Permit. This permit supersedes and replaces any other permits previously issued by the Town for the Property, and all such previous permits shall be deemed repealed.

20. Acceptance of Conditions. Utilization of the Property for any of the uses allowed by this permit shall automatically be deemed acceptance by the Applicant of, and agreement to, the terms and conditions of this permit without qualification, reservation, or exception.

21. Amendments. Any alteration or expansion of uses authorized by this permit, or the alteration of any plans submitted related to those uses, shall not be allowed unless an amended conditional use permit is obtained from the Town.

Adopted on the 5th day of April 2021.

BY THE TOWN BOARD

Kathleen A. Higgins

Kathleen A. Higgins, Chairperson

Attest: Becky Herman

Becky Herman, Clerk-Treasurer

EXHIBIT A

Legal Description of the Property

A Lot 2, Block 1, Hastings Point, according to the recorded plat thereof, Washington County, Minnesota.

AND

1 The South Six hundred and sixty (660) feet of the West Six hundred and sixty (660) feet of the Northwest

#179883 Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section Six (6), Township Twenty-Six (26), Range 20,
Washington County, Minnesota except the following described property:
Beginning at the intersection of the center line of the Town Road and the West line of the Southeast Quarter
(SE 1/4) of said Section Six (6); thence North, bearing assumed, along said West line, a distance of 180.50
feet; thence East a distance of 147 .50 feet; thence South a distance of 180.50 feet to the center line of said
Town Road; thence Westerly along said center line to the point of Beginning.
EXCEPT Parcel 2 as shown on Minnesota Department of Transportation Right of Way Plat No. 82-26 and
EXCEPT The East Two hundred ninety-six and ninety-eight hundredths (296.98) feet of the South Six hundred
sixty (660.00) feet of the West Six hundred sixty {660.00} feet of the Northwest Quarter (NW 1/4) of the
Southeast Quarter (SE 1/4) of Section Six (6), Township Twenty-six (26) North, Range Twenty (20) West,
Washington County, Minnesota.