

DENMARK TOWN BOARD MEETING MINUTES

June 1, 2015

SUPERVISORS PRESENT: Kathy Higgins, Joe Moore, and Karen Herman

ABSENT: John Kummer and Jim Keller

STAFF PRESENT: Attorney Troy Gilchrist (Kennedy-Graven) and Planner Erin Perdu (WSB)

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

AGENDA APPROVAL:

Motion J Moore/2nd K Herman approval of agenda as drafted. With All Present Voting Yes, Motion Carried 3-0-0.

CONSENT AGENDA APPROVAL: Motion J Moore/2nd K Herman approval of consent agenda items which include 05/04/15 Board Minutes, Claims #10510-10527, EFT payments- PERA 331877, MN Tax Deposit 2046120832, Federal Tax Deposit 71332805, payroll ending 06/01/2015 and financial reports. With All Present Voting Yes, Motion Carried 3-0-0.

HEARING DECISIONS/ZONING ACTIONS: National Minerals Corporation-12271 Margo Ave S
PID 06.026.20.23.0009

Bill Collins and Travis Collins (Applicant's) present. Applicants are seeking a conditional use permit to use the existing commercial building on the property to warehouse and distribute fly ash, to locate their office headquarters in the building and to possibly lease a portion of the building for newspaper storage and distribution. Loading/unloading of fly ash would take place at the back of the building. Method of filling, storage and load out is a closed system, meaning no ash is exposed to the environment during the transfer process. In winter, the ash is transferred into the building from trucks via pneumatic pipes which will be mounted on the outside of the building. Any residual dust is collected by a dust collection system which is located in the building. In summer the ash is removed from the building with a load out conveyor and loaded into pneumatic trucks (approximately 300-400 trucks annually). Ash is then delivered to ready mix companies for use in their concrete mix.

Concrete wall will be reinforced by a precast wall that will be installed for added support.

The applicants plan to remodel the existing office space, but no exterior building changes other than installation of the pipes/conveyor/collection system added to the back of the building.

In addition to receiving a No Exposure Exclusion Permit from the MPCA for their facility/operations in Cohasset, NMC represents MN Power, whose audit criteria is more stringent than what is required by the EPA. Applicant will provide the same permit for the Denmark facility.

Product is not hazardous/not flammable/not combustible so there is no hazardous designation associated with it. MnDOT specifications require fly ash to be incorporated into concrete for use on roads/bridges.

The Planning Commission held a 05/18/15 Public Hearing, and recommended forwarding National Mineral Corporation's Conditional Use Permit Application to the Board for conditional approval.

Planner- Planner submitted 05/13/15 Staff Report with Findings of Fact and recommended conditions for approval.

Attorney- Attorney submitted draft conditional use permit. Changes in Planner's recommended conditions includes the requirement to obtain a Solid Waste Facility License from Washington County, a maximum of five semi/trailers allowed to be stored on the premises and posting for the drivers a safe route for entering/exiting the property.

An additional condition would be hours of operation as follows: 7:00 a.m. to 6:00 p.m. Monday through Saturday from November 1st to April 30th, and 6:00 a.m. to 6:00 p.m. Monday through Saturday from May 1st to October 31st.

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Motion J Moore/2nd K Herman approval of Resolution 2015-05 Approving A Conditional Use Permit For National Minerals Corporation To Conduct Certain Business Operations On The Property Located At 12271 Margo Avenue South, with the additional hours of operation condition as noted.
With All Present Voting Yes, Motion Carried 3-0-0.

Motion J Moore/2nd K Herman approval of Resolution 2015-06 Revoking All Prior Conditional Use Permits For 12271 Margo Avenue South. With All Present Voting Yes, Motion Carried 3-0-0.

PUBLIC COMMENT: Frank Femling-Afton Apple Orchards

Frank Femling is proposing to add a 47 x 80 addition onto the existing banquet hall/retail sales building. The business currently has a Conditional Use Permit (CUP). The CUP would need to be amended to address the proposed expansion. Cottage Grove Building Department will not review the additional plans for a building permit until the CUP is amended. Femlings have the building plan/contractor lined up and would like the project completed by mid August for Apple Season. Femlings will apply for an amended CUP, but are requesting that the Board grant approval for the CG Building Department to begin review on their building plans. Preliminary review by the Building Inspector indicated that the fire code guidelines might not be met for the listed use in the current CUP.

Attorney noted that the Board could authorize Cottage Grove Building Dept to begin review of the proposed building addition, upon the Town's receipt of an Amended CUP Application. Also, at the applicant's expense, a special Public Hearing could be scheduled, if needed.

Board consensus to authorize Cottage Grove Building Department to begin review of the proposed addition upon receipt of the Amended CUP Application and to schedule a special Public Hearing date if feasible.

BUSINESS ITEMS:

Afton Alps Volunteer Offer: Afton Alps has offered to provide a group of volunteers to do a community service project for the town. Moore has compiled a list of tasks that the group could perform for the township. Also, a cash donation of \$2500 will be made to the Town for supplies needed to achieve the tasks. Some of the suggested projects are pressure washing the exterior of the Town Hall building, re-roof the picnic shelter, remove/replace the picnic table boards and paint the metal frames, re-stain deck and the handicap ramp, pull weeds from the corner drainage areas, remove the vegetation from the playground sand, clean the inside/outside Town Hall windows, move file cabinets, clean Town Hall Ceiling lights, reinforcement of Town Hall floor boards near the door threshold. Board members expressed appreciation to Afton Alps for the offer.

Community Development Block Grant Program (CDBG): The Washington County CDBG/HOME program provides community facilities and affordable housing and home improvement loans for low and moderate income residents. Denmark's current Cooperative Agreement with the County has an automatic renewal unless a community wishes to opt out. The current agreement cycle will expire 09/30/15. Board consensus to continue participation in the program, with the next 3 yr cycle to begin 10/01/15 and end 09/30/18.

LEGAL UPDATES:

Attorney working on the Environmental Consulting Services Contract (recycling) with Cottage Grove. Warrior Dash Large Special Events License will come before the Board in July for consideration.

8:19 PM **Motion J Moore/2nd K Herman to adjourn.** With All Present Voting Yes, Motion Carried 3-0-0.

Becky Herman
Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolutions 2015-05 and 2015-06

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**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2015-05**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO CONDUCT CERTAIN BUSINESS OPERATIONS ON THE
PROPERTY LOCATED AT 12271 MARGO AVENUE SOUTH**

WHEREAS, National Minerals Corporation (“Applicant”) submitted an application to Denmark Township (“Town”) for a conditional use permit to allow warehousing, distribution and office uses on the property owned by Bank Cherokee (“Owner”) located at 12271 Margo Avenue South (PID 06-026-20-23-0009) and legally described in the attached Exhibit A (“Property”);

WHEREAS, the Applicant seeks a conditional use permit to use the existing commercial building (“Building”) on the Property to warehouse and distribute fly ash for use in concrete, to serve as its principal business offices, and to possibly lease a portion of the Building for newspaper storage and distribution;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested conditional use permit on May 18, 2015, during which it heard from the Applicant and the public regarding the application. The Planning Commission acted to forward the application to the Town Board with a recommendation that it be approved with certain conditions; and

WHEREAS, the Town Board reviewed the Planning Commission’s recommendation at its meeting on June 1, 2015, allowed for additional comments from the Applicant and the public, and hereby finds and determines as follows:

- a. The Planner’s Report dated May 13, 2015 submitted to the Planning Commission, and which is attached hereto as Exhibit B, is incorporated herein by reference including, but not limited to, the findings contained therein. The proposed permit conditions contained in the report are replaced with the conditions contained in this Resolution;
- b. The Property is located in the Town’s Commercial-Industrial (CI) Zoning District and the proposed fly ash warehousing and distribution use, office use, and newspaper storage and distribution use (collectively the “Business Uses”) are allowed in the District with the issuance of a conditional use permit;
- c. The Building on the Property has been vacant for some time. The proposed Business Uses will allow the Property to be returned to a productive use that is consistent with the uses allowed within the CI Zoning District;
- d. The Applicant operates other fly ash warehousing and distribution facilities in Minnesota, including a facility in Cohasset that received a No Exposure Exclusion Permit from the Minnesota Pollution Control Agency (MPCA). The Applicant proposes to handle and collect the fly ash on this Property in a similar manner using the same or similar equipment so it will seek a No Exposure Exclusion Permit from the MPCA for this operation;
- e. The Applicant proposes to construct a concrete barrier within the Building to contain the fly ash so that it is not stored directly against the outside wall of the Building. Dust collectors are used when loading and unloading the fly ash to capture any fugitive dust;
- f. The MPCA has issued a standing beneficial use determination for fly ash to be used in concrete;
- g. The Town Board determines the proposed equipment, facilities, and processes used to offload, store, and load the fly ash are sufficient to adequately protect the public health, safety, and welfare;
- h. In order to avoid the confusion that can result from multiple conditional use permits issued for the same property, the prior conditional use permits issued for this Property will be revoked by separate action of the Town Board;
- i. The Town Board determines the proposed Business Uses can be properly accommodated on the Property in a manner consistent with the criteria established in the Denmark Township Development Code (“Ordinance”), and

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without causing unreasonable impacts on the surrounding properties and the public, provided certain conditions are satisfied; and

- j. The Town Board determines the application materials are sufficient and the Business Uses satisfy the criteria in the Ordinance for granting a conditional use permit.

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 to operate a fly ash warehousing and distribution use, business office use, and newspaper storage and distribution use on the Property, provided the Applicant complies with, and remains in compliance with, all of the following conditions, requirements, and limitations:

1. Scope of Permit. This permit allows the Applicant to use the Property for the warehousing and distribution of fly ash, to locate its principal business offices, and to lease a portion of the building for the storage and distribution of newspapers in accordance with the terms and conditions established herein. 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 a new or amended conditional use permit is issued by the Town Board.
2. Additional Permits. The following permits and approvals, in addition to all others that may be required by law, shall be obtained and copies shall be provided to the Town:
 - A. A building permit for the interior renovations shall be obtained by the Applicant. The building must comply with the building code and pass inspection before fly ash delivery or warehousing may commence;
 - B. Septic system approval for the proposed use from Washington County;
 - C. A Notice of No Exposure Inclusion for industrial Stormwater from the MPCA; and
 - D. All applicable approvals from Washington County including approval for a Solid Waste Facility License.
3. Outdoor Storage. No vehicles shall be parked on the premises, other than those utilized by employees and customers. A maximum of five semi-trucks used by employees and which are operable may be stored on the Property at any given time. All other outdoor storage of vehicles, materials, and debris shall be prohibited.
4. Lease. The Applicant may, pursuant to this permit, lease 7,000 square feet of the Building to a tenant for the sole purpose of newspaper storage and distribution. If the Applicant does not enter into a lease, it may use the proposed newspaper storage area for its operations without having to obtain an amended conditional use permit provided the uses within the Building remain consistent with those expressly allowed by this permit.
5. Landscaping. Existing landscaping must be maintained and any plantings that do not survive must be replaced. Additional landscaping in the rear yard will be required to help buffer the use from adjoining property, which is currently not developed, and in the south side yard. The Applicant shall be required to submit a landscaping plan for the additional landscaping for the Town Planner's approval. Plantings and other work required to implement the landscaping plan approved by the Planner shall be completed within 90 days from the issuance of building permits for interior renovations on the site.
6. Signage. Before putting up any signage, the Applicant must obtain a permit from the Town and the sign must conform to Ordinance requirements.
7. Hours of Operation. The hours which truck traffic associated with the fly ash warehousing and distribution operations may occur on the Property are limited to 7:00 a.m. to 6:00 p.m. Monday through Saturday from November 1st to April 30th, and 6:00 a.m. to 6:00 p.m. Monday through Saturday from May 1st to October 31st.

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8. Noise. All noise generated by the operation shall comply with the performance standards set forth in Chapter Two, Part 3, Section 1.3 of the Ordinance.
9. Floor. The Applicant shall complete the floor within the Building with concrete. Storage of fly ash may only occur in the concrete storage structure constructed within the Building and only on a concrete floor.
10. Access. The Applicant shall post signs on the Property indicating, and instructing its drivers, that truck traffic should follow the following routes when entering and leaving the Property:
 - A. Traffic entering the site from the north (travelling southbound on Highway 61) should enter by exiting Highway 61 east (left) onto 120th Street and then turning south (right) onto Margo Avenue South.
 - B. Traffic entering the site from the south (travelling northbound on Highway 61) should exit Highway 61 east (right) onto 122nd Street and then turn south (right) onto Margo Avenue South.
 - C. Traffic leaving the site to go north, should go north (right) onto Margo Avenue South, turn west (left) onto 120th Street, and then turn north (right) onto Highway 61.
 - D. Traffic leaving the site to go south, should go north (right) onto Margo Avenue South, turn west (left) onto 120th Street, and then turn south (left) onto Highway 61.
11. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Town for processing this permit application. The Town shall deduct such amounts from the escrow provided by the Applicant and if the escrow is not sufficient to pay all such amounts they shall 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.
12. Prior Permits. The conditional use permit issued for the property in 2011 and all other conditional use permits previously issued for the Property are hereby revoked and are replaced by this current conditional use permit. 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 Registrar of Titles, which will serve as additional notice of such revocation.
13. 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.
14. No Waiver. 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.
15. 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, as determined by the Town, 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.
16. Binding Effect. This permit and its conditions are binding on the Owner and Applicant, 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.
17. 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.

Adopted this 1st day of June, 2015. BY THE TOWN BOARD

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**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2015-06**

**RESOLUTION REVOKING ALL PRIOR CONDITIONAL
USE PERMITS FOR 12271 MARGO AVENUE SOUTH**

WHEREAS, the Town Board of Denmark Township (“Town”) has previously issued conditional use permits for the property located at 12271 Margo Avenue South, Hastings, Minnesota, (PID 06-026-20-23-0009) and which is legally described in Exhibit A attached hereto and which is made part of this Resolution (the “Property”);

WHEREAS, National Minerals Corporation (“Applicant”) submitted an application to the Town for a conditional use permit for warehousing, distribution, and office uses associated with its fly ash business on the Property (“Current CUP”);

WHEREAS, conditional use permits were previously issued for the Property for other uses, including one issued in 2011 (“Prior CUPs”);

WHEREAS, the Town Board approved and issued the Current CUP for the Property by adopting Resolution No. 2015-05 at its June 1, 2015 meeting;

WHEREAS, in order to avoid the confusion that can result from multiple conditional use permits for various business activities on the same property, the Town Board has adopted a practice of revoking all past conditional use permits issued for a property when it is asked to issue a new or amended conditional use permit for the property in favor of a single conditional use permit that encompasses the business activities currently proposed for the 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 1, 2015, which authorizes the use of the Property for the warehousing and distribution of fly ash, the establishment of the Applicant’s principal business offices, and the leasing of a portion of the building for the storage and distribution of newspapers.

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

1. All Prior CUPs approved by the Town Board of Denmark Township prior to June 1, 2015 for the Property located at 12271 Margo Avenue South, Hastings, Minnesota, and legally described in Exhibit A to this Resolution, are hereby revoked. All such Prior CUPs are no longer valid and may not be relied on to support any particular use of the Property.
2. The Town Clerk-Treasurer is hereby authorized and directed to record this Resolution against the Property in the office of the County Registrar of Titles.
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 1st day of June, 2015. BY THE TOWN BOARD