

DENMARK TOWN BOARD MEETING MINUTES
August 7, 2017

SUPERVISORS PRESENT: Kathy Higgins, Joe Moore, Bob Rucker, Karen Herman, John Strohfus

ABSENT: None

STAFF PRESENT: Attorney Gilchrist (Kennedy-Graven), Engineer Geheren (Focus)

CALL TO ORDER: Meeting called to order @ 7:04 PM by Chair Higgins

AGENDA APPROVAL: J Strohfus added Road Norell. **Motion J Moore/2nd B Rucker approval of agenda as amended.** Voting Yes-**J Moore, B Rucker, J Strohfus, K Herman, K Higgins.** Voting No- None. Abstaining- None. **Motion Carried 5-0-0.**

CONSENT AGENDA APPROVAL: **Motion J Moore/2nd K Herman approval of Consent Agenda items which include Minutes 07/06/2017 Board Meeting, Claims #10945-10961, EFT payments- PERA 428210, MN Rev. Tax 0841150272, Federal Tax 30254072 payroll ending 08/01/2017 and Financial Reports.**

Voting Yes- **J Moore, K Herman, J Strohfus, B Rucker, K Higgins.** Voting No- None. Abstaining- None. **Motion Carried 5-0-0.**

Hearing Decisions/Zoning Actions:

Ostertag 10700 St. Croix Tr. S. Minor Subdivision

Proposed minor subdivision divides the 49.37 acre parcel into Parcel A containing the existing house approximately 43.96 acres and parcel B containing approximately 5.41 acres for a new single family home. Planning Commission recommended conditional approval of the proposed subdivision. Board reviewed 8/3/17 draft resolution provided by the Town Attorney. Prior to the existing parcel, the parcel which was approximately 200 acres, was split via the Administrative Lot Split process through Washington County. No development agreements addressing density were required by the County.

A resulting parcel totaled approximately 57.13 acres and was subject to two previous divisions, each of the existing three parcels have homes on them. The proposed subdivision would result in a net density of one dwelling unit per 14.28 acres. Approval of the subdivision would be approval of a density variance, as the density in the A-2 district is limited to two dwelling units per 40 acres. After this division, no further division would be allowed. No new roads are being created. No stormwater ponds being dedicated. Park dedication will be required. Applicant will be required to enter into a development agreement with the Town.

Motion J Moore/2nd K Herman to adopt Resolution 2017-24 Granting Preliminary And Final Approval For A Minor subdivision Of Property Located At 10700 St. Croix Trail South And Approving A Variance.

Voting Yes- **J Moore, K Herman, J Strohfus, B Rucker, K Higgins.** Voting No- None. Abstaining- None. **Motion Carried 5-0-0.**

Universal Services 12151 120th St S

Dan Hartung and Brian Hinz present. Applicant updated previous plans to incorporate some of the Planning Commission and Planner comments.

Request for County to review the septic. Applicant contacted Washington County Planner regarding review of current septic system. Applicant stated that the County indicated that unless anything was added to the building, there would be no need to review the septic. Higgins noted that she also spoke with Ann Terwedo who advised that Chris LeClair in the septic division should be contacted to review.

Septic system is across the south of the property, which was designed when the southern building was constructed. There is also a well and septic system on the northern portion of the parcel (not currently sited on plan).

Town is requesting that the well and septic system (primary and secondary) be sited on the plans.

Attorney noted that the septic areas cannot be driven on (compacted) and that nothing can be stored on septic system areas.

Engineer and Planner will meet the Applicant's on site to review items in question.

Well/septic sites, calculation of impervious area (which would include gravel/recycled asphalt), parking spaces (for both employees and company vehicles & equipment), storage areas (and what is stored where), possible issues regarding concerns from the business to the south. Questions raised regarding PCA permitting requirements for above ground fuel tanks.

Applicant spoke with neighboring business regarding possible issues. Neighbor wanted assurance that driving along the property line by the swail would not push the wall out. No mention of repairing the fence that the neighbor had concerns of previously.

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Applicant request to extend consideration of the request for an additional 60 days to allow sufficient time to gather and provide additional information to the Town and to allow further inspection of the site.

Motion J Moore/K Herman to continue the approval of a conditional use permit for the property located at 12151 120th S to the September 7, 2017 Board Meeting. Voting Yes- J Moore, K Herman, J Strohfus, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Public Comment: None

Business Items

Hastings Rural Fire Association (HRFA)- The HRFA is currently negotiating with the City of Hastings. The City of Hastings adopted their levy in 2016 and reallocated it in June 2017. The association has a five year contract with the City of Hastings. The fair share is calculated with the City's levy and contract price, if the association's share is over 30% of the total, the association receives a credit for the difference. The City believes that because they modified their levy, the fair share calculation is subject to the modified amount. The association believes that the original levied amount is the amount that should be used in the calculation of the fair share. The association is proposing that the parties speak with the MN Bureau of Mediation Services to assist in resolving the disagreement over the 2017 fee amount.

Town Hall Park/Playground- 80 cu yds of mulch have been added to the playground area. Will need an additional 80 cu yds. Playground equipment needs some repair. Access hole plugs in the slides need replacement. Bottom section of one slide is damaged. Swing seats need replacement. Total of expenditure approximately \$966.00. The bushes/hedges on the southside of the property need to be trimmed and some of the trees on the outside of the fence appear to be impeding on the powerlines. Moore will get estimate on bush/hedge trimming and will check with Xcel regarding the tree trimming near the powerlines.

Roads-Norell- J Strohfus was contacted by a Norell Ave resident regarding the road washout. The gravel road is crowned and the rain washes the gravel along the side of the road rather than into the ditch, due to a grassy lip on the edge of the road. When the rainwater reaches the resident's asphalt driveway, the gravel flows into his driveway culvert, plugging it. Roads Contractor recommends grading off the grassy lip to direct the water flow into the ditch. J Strohfus noted that the cost would likely be less than \$1000. Engineer Geheren recommended that grading the lip would be the first thing to try and that the roads contractor should decide if the crown should be reconstructed. J Strohfus will direct roads contractor to grade the lip and to grade the crown if contractor deems necessary.

Escrow Balance Refunds-

Motion J Moore/2nd B Rucker to approve refunding escrow balances to the following:

Claim 10962 \$122.39 Gyurisin/Lilligren Lot Line Adjustment

Claim 10963 \$ 87.80 Holiday/BNA PUD

Claim 10964 \$279.50 Smith Certificate of Compliance

Claim 10965 \$356.00 National Minerals Corporation Lot Line Adjustment

Voting Yes- J Moore, B Rucker, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Schedule Budget Meeting- Budget Meeting Thursday, August 24, 2017 @ 6:00PM.

Schedule Planning Commission Interviews- There are two vacancies on the Planning Commission. Notice has been published and posted on the website. If necessary, interviews will be scheduled.

Planning Commission Issue- Board discussed concerns raised regarding Planning Commission Member. Board directed Town Attorney to include training on conflict issues at the upcoming Planning Commission training workshop.

Claim Issue- Town received a claim from a resident requesting payment for directing the dustcoat company truck. Resident is a subcontractor for Tri-County Services, the Town Road Contractor. Resident believes that the road contractor is not paying him enough hours for the service. Road Contractor not in agreement with the hours that his subcontractor provided to him. Board consensus that the Town has no agreement/contract with the subcontractor and therefore no authority to pay a subcontractor. The Town has a road contract with Tri-County

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and Tri-County has the authority to hire subcontractors. The issue of payment is between Tri-County and the subcontractor.

Legal Updates:

Attorney is reviewing the Solid Waste Ordinance.

8:55 PM **Motion J Moore/2nd J Strohfus to adjourn. Voting Yes- J Moore, J Strohfus, B Rucker, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolution
2017-24

Resolution No. 2017-24

**RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL
FOR A MINOR SUBDIVISION OF PROPERTY LOCATED AT 10700
ST. CROIX TRAIL SOUTH AND APPROVING A VARIANCE**

WHEREAS, Gene Ostertag and Jan Ostertag (collectively, the “Applicant”) submitted an application to Denmark Township (“Town”) for a minor subdivision resulting in two lots;

WHEREAS, the property to be subdivided is located at 10700 St. Croix Trail South (PID 28.027.20.43.0001), and is legally described in the attached Exhibit A (the “Property”);

WHEREAS, the proposed minor subdivision divides the Property into two parcels, which are identified as Parcel A and Parcel B, as shown on the survey attached hereto as Exhibit B and legally described in the attached Exhibit C;

WHEREAS, the Property is zoned Agricultural – A-2;

WHEREAS, the Applicant has proposed to use Parcel B to construct a single-family residence;

WHEREAS, the Applicant has represented that it has clear title ownership of the Property;

WHEREAS, the Planning Commission reviewed the request at a duly noticed public hearing held on July 17, 2017 and acted to forward the application to the Town Board with a recommendation that it be approved with certain conditions; and

WHEREAS, the Town Board hereby finds and determines as follows:

- a. The Property is currently zoned Agricultural – A-2;
- b. The Property contains approximately 49.37 acres, which is proposed to be divided into Parcel A containing approximately 43.96 acres and Parcel B containing approximately 5.41 acres;
- c. The proposed minor subdivision is subject to the requirements of Chapter Three, Section 6 of the Denmark Township Development Code (“Ordinance”);
- d. The Applicant submitted a complete application and related submittals to seek approval for a minor subdivision;
- e. The proposed subdivision of the Property qualifies as a minor subdivision under Chapter Three, Section 6.1 of the Ordinance;
- f. No new public roads or public drainage or utility easements are proposed as part of this subdivision;
- g. The Property satisfies the minimum lot size for the proposed use;
- h. The lots to be divided are in a location where conditions are well defined;
- i. The newly created property lines will not cause any resulting lot to be in violation of the Ordinance.
- j. The proposed division was prepared by a registered land surveyor;
- k. The proposed minor subdivision will not have any significant impacts on utility and school capacities;
- l. The proposed minor subdivision does not conflict with the Town’s Comprehensive Plan or the intent of the Ordinance;
- m. Because the minor subdivision results in two new parcels, a park dedication fee must be paid;
- n. The density in the A-2 District is limited to two dwelling units per 40 acres. The original parcel totaled approximately 57.13 acres and was subject to two previous divisions that are shown as exceptions to the original parcel. Each of the existing three parcels has homes on them. The proposed further subdivision of the Property would result in a net density of one (1) dwelling unit per 14.28 acres. Therefore, a variance is needed for density in order to allow the further division of the Property;

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- o. The Town Planner's memorandum (WSB Project No. 010291-000) dated July 12, 2017 developed for the requested minor subdivision ("Planner's Report"), including its findings, is incorporated herein by reference. The recommended conditions in the Planner's Report are superseded by the conditions contained in this Resolution; and
- p. The Applicant is required to enter into a development agreement with the Town as required by Chapter Three, Section 6.2 of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Denmark Town Board, based on the Planner's Report, the record of this matter, and the findings and determinations made herein, does hereby give preliminary and final approval of the above described minor subdivision of the Property as proposed in the Survey attached hereto as Exhibit B, and approves a density variance to allow construction of a home on Parcel B, conditioned on compliance with all of the following:

1. Development Agreement. The Applicant shall enter into a development agreement with the Town in a form acceptable to the Town Attorney for the minor subdivision no later than 60 days from the date of this Resolution.
2. Minor Subdivision. The Minor Subdivision shall be recorded with Washington County upon final approval by the Town Board. The Applicant is required to make such adjustments and to provide such additional information as may be required by the County in order to record the minor subdivision.
3. Driveway Permit. Applicant shall obtain a driveway access permit from Washington County.
4. Building Permit. Applicant shall obtain a building permit for the new single family home.
5. Septic. The Applicant shall obtain approval of the proposed septic system from Washington County Department of Public Health and Environmental prior to construction.
6. Well. The Applicant shall obtain a permit from the Minnesota Department of Health prior to well construction.
7. Park Dedication. The Applicant shall pay a park dedication fee in the amount of \$2,000 in lieu of land dedication. The park dedication fee shall be paid by the Applicant prior to the Town signing the final Subdivision and/or development agreement.
8. Density. The density available on the Property has already been exceeded with the second division and construction of homes on each of the existing three parcels. This third division, which results in a total of four parcels, and the construction of a home on the new Parcel B is only allowed pursuant to the density variance granted as part of this approval.
9. Representations. All representations, written and oral, made by the Applicant and its 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.
10. Compliance. The Applicant shall comply with the requirements of the Ordinance, the terms, conditions, and requirements contained within the development agreement, and shall comply with, and obtain all other permits required by, all other applicable federal, state, and local laws, rules and regulations.
11. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Town for processing and acting on its application. In the event the escrow provided with the application is not sufficient to fully reimburse the Town, the Applicant shall be required to pay such additional amount 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.
12. 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 approval. Prior notice to inspect the Property is not required in the event of an emergency.

BE IT FINALLY RESOLVED, the Town Board Chairperson and the Town Clerk-Treasurer are hereby authorized and directed to do each of the following:

1. To execute the Development Agreement for this minor subdivision on behalf of the Town once they are in a form acceptable to the Town Attorney.
2. To execute such other documents and to take such other actions as may be required to carry out the intent of this Resolution upon the Applicant's satisfactory completion of its obligations. Adopted this 7th day of August, 2017.