

DENMARK TOWN BOARD MEETING MINUTES
November 7, 2016

SUPERVISORS PRESENT: Kathy Higgins, Joe Moore, John Strohfus, K Herman (7:02 PM)

ABSENT: J Kummer

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

CALL TO ORDER: Meeting called to order @ 7:01 PM by Chair Higgins

AGENDA APPROVAL: K Higgins added Ditch Mowing and Maycrest Signage.

Motion J Moore/2nd J Strohfus approval of agenda as amended. Voting Yes-J Moore, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

CONSENT AGENDA APPROVAL: Motion J Moore/2nd J Strohfus approval of Consent Agenda items which include Board Minutes 10/03/2016, Claims #10789-10803, EFT payments- PERA 394476, MN Rev. Tax 0259907904, Federal Tax 1963699, payroll ending 11/01/2016. Voting Yes- J Moore, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

HEARING DECISIONS/ZONING ACTIONS: Hastings Point Minor Subdivision Preliminary/Final Plat. (PID 06.026.20.31.0009) zoned Commercial/Industrial. Applicant/Owner not present.

CAP Operations, on behalf of John & Kathleen Kummer are requesting a minor subdivision of 9.48 acres to create two commercial lots. Property is located on the north side of Hwy 10, east side of Hwy 61. On 11/17/16, the Planning Commission reviewed the request at a public hearing and recommended conditional approval. Attorney provided a resolution of approval for Board review. A subdivision of this parcel came before the Board and was approved in 2015 (Resolution 2015-16 which will be repealed). The Applicant's current application is to change the subdivision line. In addition to the 2 lots which will be created, there is a small sliver of property (Outlot A) which will not be developable. Dedication or conveyance to the Town of a north-south public right of way bisecting the plat will be required. Applicant will be required to enter into a Development Agreement with the Town. The original agreed upon Park Dedication fee of \$10,000 will be required.

In addition to the 11 conditions, the Attorney recommended adding condition for developer to address MnDOT comments and authorization for Chair and Clerk to sign the Development Agreement once in its final form.

Motion J Strohfus/2nd J Moore to adopt Resolution 2016-21 Granting Approval For The Hastings Point Addition Minor Subdivision, with the additional condition and signature authorization as recommended by the Town Attorney. Voting Yes- J Strohfus, J Moore, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

PUBLIC COMMENT: Resident Complaint- expressed concerns regarding semi storage trailer parked for nearly 3 years on neighbor's property. Higgins noted that the Code Enforcement Officer has been contacted to inspect the property. Resident also noted that they did ask the neighbor to remove the unit. The Town Ordinance requires a permit for a temporary storage unit, for a limited time. Attorney stated that what the Town can do is limited by the ordinance regulations. Code Enforcement Officer will address violation.

Resident Complaint- Spoke with County regarding value of his property. He indicated that the county stated they were taking \$21,000 off the value of his property for tax purposes. They indicated to resident that this is about \$125 yearly. Resident surmised that this amounts to him receiving \$.45 day for putting up with the truck traffic. Resident also made the request to Rumpca to not raise the road when they improved it. Resident stated that they did anyway, to the extent that he cannot access the road from his ditch, and has to use the driveway to get out. Resident requested copies of this meeting. Resident requested that the Board consider changing the 7AM start time to 9AM, or comment on why not. Strohfus noted that a 9AM start for a business is not commercially reasonable. Resident requested trucks be rerouted to other roads part of the time. Strohfus noted that this is not an option, as there is an agreement in place for Rumpca to use Oakgreen as their route, and Rumpca maintains that road. Higgins noted that this is a permitted operation by both the Town and the County. The Town is not in a position to cancel any kind of permit they are already issued. Resident stated they are starting before 7AM. Inquired who is responsible for checking on this. Resident believes the pit operations are starting prior to 7AM, because loaded trucks are passing his residence just a couple minutes after 7.

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BUSINESS ITEMS:

Basswood Grove Final Plat: PID 15.027.20.23.0011 Property zoned RR

Applicant Gordon Herman/Jon Sonnentag Applicant's Surveyor are requesting final approval of a major subdivision to allow subdivision of the 21.048 acre parcel to create 4 single family lots. The Planning Commission reviewed the request at a public hearing on 8/15/16 and forwarded the application to the Town Board with a recommendation that the preliminary plat approval be granted with certain conditions. The Town Board granted Preliminary plat approval on 9-6-16 (Resolution 2016-16).

Applicant would like to construct the road base, stormwater features and primary grading done before winter. Attorney reviewed draft Resolution conditions with Board/Applicant.

Homeowner's Association- Attorney noted that with this development being small, a homeowner's association may not be necessary. If a HOA is not created, language would be placed in the Development Agreement to assure that the Town would have the option to step in and implement necessary/routine maintenance in the development, with an assessment to the homeowners. A stormwater agreement will also be put in place.

Ordinance does not mandate a HOA, but the Town has consistently required it.

Higgins- Can we require as lots are sold, that the deeds reflect that the property is subject to payment for stormwater maintenance and repairs.

J Strohfus- HOA likely does not make sense for only 4 lots. Questioned if this would be setting a precedent for when/what level an HOA would be required. As long as maintenance responsibility is addressed in the covenants, it may be ok without an HOA.

Conservation Easement will need to be submitted. Development Agreement will need to be executed.

Stormwater Agreement will need to be executed. Covenants will need to be submitted.

Draft Modifications-

Condition 4- revised to require the obligation that the owners/developer will be responsible for the ongoing maintenance of the stormwater ponds, but may not necessarily be tied to creating a Homeowner's Association.

Condition 10- delete sentence 2, ~~Consideration should be given to constructing the driveway connection and eliminating the existing access to St Croix Trail.~~

Motion J Moore/2nd J Strohfus to adopt Resolution 2016-22 Granting Final Plat Approval For The Basswood Grove Subdivision, with the modifications as noted. Voting Yes- J Moore, J Strohfus, K Higgins. Voting No- None. Abstaining- K Herman. Motion Carried 3-0-1.

Sonnentag asked if construction could be started at this point. Attorney noted that construction could not be started until the Development/Stormwater Agreements are in place. Attorney will work with Applicant to facilitate. County is requesting that the Town sign the access permit, rather than the Applicant, since the new road will eventually be turned over to the Town. Town Engineer/Attorney will review.

Noise Complaint: Town received complaint from resident regarding noise from dirt bikes. Resident is requesting that the Town consider adopting a noise ordinance. Problems with noise ordinances are that they are difficult to enforce. You can have a decibel standard, which currently exists with the PCA. A landowner could attempt to seek enforcement of those existing state rules. A general public health nuisance ordinance could be created which would address noise so loud that it creates a disturbance for the average person. Both are difficult to enforce. A record would need to be created to support the violation. Violator would be noticed. If violation continues, issue would be brought to District Court where it would be a much harder standard when addressing noise. Board will review complaint and address at December Board Meeting.

MnDOT/Denmark Maycrest/Hwy 61 Maintenance Agreement: MnDOT is requesting Town to enter into a maintenance agreement for Town responsibility for ownership and maintenance of Maycrest Ave and the Lando Infiltration Basin. Town Engineer is still working with MnDOT regarding outstanding issues with the construction. Attorney will draft resolution and provide to the Board at the December Board Meeting.

Troje's/Republic License Transfer: Troje's has been sold to Republic. Town will need to transfer Trash Hauling license. This will be conditioned on Republic paying the 2016 license fee (which Troje's has not paid), and the requirement to submit a new license application for 2017. **Motion J Strohfus/2nd J Moore to transfer Troje's license to Republic, subject to payment of 2016 license and new application/fees for 2017.** Voting Yes- J Strohfus, J Moore, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

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Solar Survey Results: Board members are reviewing the solar survey results. Attorney noted that the Board could request additional information for their study, such as reviewing samples of ordinances that other municipalities may have. Main discussion regarding resident comments and the different degrees to consider, depending on whether or not a solar ordinance is put in place. Board consensus that members individually continue review and discuss at December Board Meeting.

Oakgreen Guardrail Claim: Guardrail was installed on Oakgreen Ave. Estimate received was \$6212.50 for 250 lf. Actual billing received is \$8697.50 for 35 lf. Road contractor spoke with install company and they are standing by their bill. It would appear that the company possibly measured incorrectly the amount needed. J Strohfus will contact roads contractor and the install company for an explanation.

Schedule Board of Canvass: Board of Canvass scheduled for Monday, November 14, 2016 @ 5:00 PM.

Ditch Mowing: Ditch mowing contract expired on 11/01/2016. Year end ditch mowing needs to be done. Motion J Moore/2nd K Herman to authorize amendment of the Ditch Mowing Agreement to extend the expiration date until the 2016 ditch mowing is completed. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0. Attorney will draft amendment for Chair/Contractor signature.

Maycrest Signage: Town received notice from Eagle's Watch residents regarding problems occurring on Maycrest due to increased traffic. Residents are requesting signage be posted to alert the public that there is no outlet. Engineer Geheren indicated that they would be reviewing for the appropriate signage.

LEGAL REPORTS:

Temporary Family Health Care Dwellings- Legislation has been passed to allow these temporary units on properties. Municipalities may opt out of this by adopting an ordinance to opt out. At its 10/06/16 meeting, Board consensus was to opt out. Attorney will provided draft ordinance for Board review. Ordinance will move forward to the Planning Commission for a public hearing.

9:26 PM **Motion J Moore/2nd K Herman to adjourn. Voting Yes- J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 4-0-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolutions 2016-21, 2016-22

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DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-21
RESOLUTION GRANTING APPROVAL FOR THE
HASTINGS POINT ADDITION MINOR SUBDIVISION

WHEREAS, Cap Operation, Inc., on behalf of John and Kathleen Kummer, ("Applicants") submitted an application to Denmark Township ("Town") for a minor subdivision to allow the subdivision of approximately 9.48 acres to create two commercial lots;

WHEREAS, the property to be subdivided is located at the intersection of the northeast corner of State Highways 10 and 61, and is legally described in the attached Exhibit A ("Property");

WHEREAS, on December 7, 2015, the Town Board adopted Resolution No. 2015-16 giving approval for a preliminary and final plat on the Property ("Original Plat");

WHEREAS, neither the Original Plat nor the associated development agreement were executed or recorded;

WHEREAS, the current application is substantially similar with the previous approval, with the exception of the geometry of the internal common property line and subsequent shift in the parcel acreages due to the modifications;

WHEREAS, because the requested action deviates from the Original Plat, the Applicants are required to obtain new approval of the subdivision after a properly held public hearing;

WHEREAS, the proposed minor subdivision is to be named HASTINGS POINT ADDITION and the survey of said plat is attached hereto as Exhibit B;

WHEREAS, the Applicants have represented that they have clear title ownership of the Property;

WHEREAS, the Planning Commission reviewed the request at a duly noticed public hearing held on October 17, 2016 and has recommended approval with certain conditions;

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

- a. The Property is zoned Commercial/Industrial, and the proposed commercial uses are allowed in the zoning district;
- b. The proposed minor subdivision is subject to the requirements of the Denmark Township Development Code ("Ordinance"), Chapter Three, Section 6;
- c. The proposed subdivision of the Property qualifies as a minor subdivision under Section 6.1 of the Ordinance;
- d. The Town's Planner has reviewed the request for consistency with the Ordinance and have determined the proposed plat satisfies the requirements of the Ordinance;
- e. The Town's Planner prepared a report dated October 17, 2016 ("Planner's Report"), which addressed the requests from the Applicants. The Planner's Report is incorporated in and made part of this Resolution, except that the proposed conditions are superseded by the conditions in this Resolution;
- f. Because the minor subdivision results in two new lots, a park dedication fee by the Ordinance must be paid;
- g. The Applicants are required to enter into a development agreement with the Town as required by Chapter 3, Section 6.2 of the Ordinance;
- h. The proposed lots meet minimum lot size requirements; and
- i. The Original Plat approval must be rescinded.

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 grant preliminary and final approval of the above described minor subdivision of the Property as proposed in the plat attached hereto as Exhibit B, conditioned on compliance with all of the following:

1. A deed restriction shall be created and recorded with Washington County prohibiting Outlot A from being developed unless combined with the adjacent parcel.
2. The plat must be submitted and approved by Washington County.
3. The Applicants shall enter into a development agreement with the Town for the minor subdivision no later than 60 days from the granting of the final plat approval. The development agreement shall identify the minimum requirements related to future development of the lots.
4. The development agreement for the plat shall include a section requiring the dedication or conveyance to the Town of a north-south public right-of-way bisecting the plat at no cost to the Town upon the development of either parcel.
5. The minor subdivision final plat shall include all public access outlots, easements, and stormwater easements as required by Denmark Township's engineer.
6. The development of either lot within the Hastings Point Addition shall require additional site plan review by the Town to determine conformance with the Ordinance. Any use proposed as part of the development that is classified as a conditional use or interim use under the Ordinance may not occur unless the required permit is obtained.
7. The issues raised by the Minnesota Department of Transportation in its review letter shall be addressed as needed.
8. Development of the lots in this plat shall not be allowed unless access is guaranteed to the parcels located directly to the west of the plat or some other means of addressing the lack of access to the lots is provided for in a manner approved by the Town Board.
9. A park dedication fee in the amount of \$10,000 shall be paid to the Town prior to the plat being released for recording.

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10. That all representations, written and oral, made by the Applicants and their 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.
11. That the Applicants are in compliance and will remain in compliance at all times with all applicable laws, rules, and regulations concerning the property for which this approval is granted.
12. That all fees, including professional fees incurred by the Town, and escrow amounts are paid.
13. The Town Chairperson and Clerk-Treasurer are hereby authorized and directed, upon the Applicants' compliance with the terms and conditions of this approval, to sign the final plat on behalf of the Town.

BE IT FINALLY RESOLVED, that Resolution No. 2015-16 approving the Original Plat is hereby rescinded effective immediately. Adopted this 7th day of November, 2016.

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Resolution No. 2016-22
RESOLUTION GRANTING FINAL PLAT
APPROVAL FOR THE BASSWOOD GROVE SUBDIVISION**

WHEREAS, Gordon Herman and Jon Sonnentag ("Applicants") submitted an application to Denmark Township ("Town") for final approval of a Major Subdivision to allow the subdivision of their property containing approximately 21.048 acres to create four (4) single family lots ("Plat");

WHEREAS, the property to be subdivided is located immediately north of 8421 St. Croix Trail South (PID # 15.027.20.23.0011) and is legally described in the attached Exhibit A ("Property");

WHEREAS, the Applicants have represented that they have clear title ownership of the Property;

WHEREAS, the Planning Commission reviewed the preliminary plat at a duly noticed public hearing held on August 15, 2016. After consideration of the information provided by the Town Planner, the Applicants, and any comments provided by the public, the Planning Commission voted to forward the application to the Town Board with the recommendation that preliminary plat approval be granted with certain conditions;

WHEREAS, the Town Board adopted Resolution 2016-16 on September 6, 2016, which is incorporated herein by reference and attached as Exhibit B, granting preliminary approval of the Plat subject to certain conditions ("Preliminary Approval Resolution");

WHEREAS, the Applicants have requested final approval of the plat, which is attached hereto as Exhibit C;

WHEREAS, the Town Board considered the final plat request at its meeting held on November 7, 2016; and

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

- a. Except as noted within this resolution, the Applicants have complied with the conditions imposed on its approval of the Preliminary Approval Resolution;
- b. The Property is currently zoned Rural Residential (RR);
- c. Chapter 3, Section 7 of the Denmark Township Development Code ("Development Code") allows major subdivisions containing four (4) or more lots and requires the submission and filing of a plat;
- d. The proposed major subdivision, to be named Basswood Grove, divides the Property into four (4) residential lots;
- e. The Applicants are proposing an Open Space Design for the Plat;
- f. The Property satisfies the minimum lot size and frontage for the proposed use;
- g. The lots to be divided are in a location where conditions are well defined;
- h. The newly created property lines will not cause any resulting lot to be in violation of the Development Code;
- i. The proposed town road (unnamed) meets the requirements of the Development Code;
- j. The proposed Plat was prepared by a registered land surveyor;
- k. The proposed Plat will not have any significant impacts on utility and school capacities;
- l. The proposed Plat does not conflict with the Town's Comprehensive Plan or the intent of the Development Code;
- m. The Engineer's report dated August 9, 2016 ("Engineer's Report") regarding this matter is hereby incorporated in this Resolution by reference;
- n. The Planner's report dated August 10, 2016 ("Planner's Report") regarding this matter is hereby incorporated in this Resolution by reference, except for the conditions which are superseded by the conditions contained herein; and
- o. The final plat is consistent with the approval of the preliminary plat and was timely submitted for approval.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, based on the record of this matter, the Planner's Report, and the findings and determinations contained herein, does hereby approve the final plat proposed by the Applicants subject to the following terms and conditions which must be met:

1. The Applicants shall enter into a development agreement ("Development Agreement") that is satisfactory to the Town Attorney. The Development Agreement shall include provisions related to, but not limited to, constructing the planned public improvements in accordance with the approved plans, providing the Town financial security for the construction of such improvements, the maintenance of public improvements, and under which circumstances the Town will assume maintenance of the roads being built, payment of the park dedication fee, required covenants, and such other provisions as the Town Attorney determines are appropriate. Such Agreement must be fully executed within 60 days of this approval and before the Plat may be recorded with the County.
2. All Engineering considerations described in the Engineer's Report shall be met.
3. The Applicants shall provide approved NPDES Construction Stormwater Permit when available.

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4. The Applicants must provide for the ongoing maintenance of the stormwater ponds constructed within the plat by creating a homeowners association and making it responsible for such maintenance, or by some other method acceptable to the Town Board.
5. The Applicants shall enter into a Stormwater Maintenance Agreement prepared by the Town Attorney that provides for the operation and maintenance of the stormwater improvements in accordance with applicable requirements. The Town will record this final approved agreement along with the Development Agreement.
6. The Applicants shall provide access easements (20 feet wide with maximum slope of 10%) and label the easements on plans for stormwater management facilities.
7. Culverts in the street and storm sewer shall be reinforced concrete pipe. Driveway culverts may be CMP.
8. The proposed Town Road will be named per the Washington County Uniform Street Naming System.
9. Approval must be provided from Washington County on the proposed access along St. Croix Trail. A Washington County Access Permit and Right-of-Way Permit must be provided to the Town.
10. An easement shall be provided to allow for the future connection of the existing driveway access to the new street.
11. A geotechnical report must be provided to support a minimum 9-ton road section based on Minnesota Department of Transportation 2360 Specifications.
12. Proposed private well locations must be shown on the plans.
13. A copy of the approved permit from the Minnesota Department of Health must be provided to the Town prior to well construction.
14. Washington County Department of Public Health and Environmental must approve the proposed septic system locations per the most recent requirements of the Washington County Septic Code.
15. The Applicants shall pay a park dedication fee in lieu of land dedication. This fee shall be an amount based on fair market value of the land, imposed on a per lot basis for new residential lots, and shall be paid at the per lot fee as established by the Town Board as part of the Town fee schedule. Park dedication shall be paid by the Applicants prior to the Town signing the final plat and/or development agreement.
16. The Applicants shall pay all planning, engineering and legal fees and costs incurred by the Town for processing this approval application. In the event any fees are outstanding they will be paid by the Applicants 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. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicants 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.
18. A conservation easement governing the use and management of the proposed open space shall be submitted by the Applicants, approved by the Town Attorney, and recorded. Clarification on the intended use of Outlot One shall be provided and included in this conservation easement.
19. An estimate of construction costs for the proposed improvements must be provided for review. This amount will determine the security requirement for the Development Agreement.
20. All representations, written and oral, made by the Applicants and the Applicants' 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.
21. The Applicants are in compliance and will remain in compliance at all times with all applicable laws, rules, and regulations concerning the Property for which this approval is granted.
22. The Town Chairperson and Clerk-Treasurer are hereby authorized and directed, upon the Applicants' compliance with the terms and conditions of this approval, to sign the Development Agreement and Stormwater Maintenance Agreement when they are in a form acceptable to the Town Attorney.
23. The Town Chairperson and Clerk-Treasurer are hereby authorized and directed, upon the Applicants' compliance with the terms and conditions of this approval, to sign the final plat on behalf of the Town.

Adopted this 7th day of November 2016.