DENMARK TOWN BOARD MEETING MINUTES
September 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), Planner Maass (WSB)

CALL TO ORDER: Meeting called to order @ 7:13 PM by Chair Higgins

AGENDA APPROVAL: J Moore added Osprey Ave S. and Playground. J Strohfus added Eagle's Watch Update. **Motion J Moore/2nd K Herman approval of agenda as amended. Voting Yes-J Moore, K Herman, B Rucker, J Strohfus, 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 08/07/17 Board Meeting and 08/24/17 Budget Workshop, Claims #10966-10980, EFT payments- PERA 431754, MN Rev. Tax 1707130688, Federal Tax 91679701 payroll ending 09/01/2017 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:

Universal Services 12151 120th St S- Conditional Use Permit
Dan Hartung and Brian Hinz present. Planner Maass and Engineer met applicant on site.
Septic Systems- Applicant has had both septic systems inspected. The northern system passed and the drainfield was located. No permit or documentation of the system could be located and the applicant has not yet submitted the paperwork for the northern system design. Applicant is working to document the location of the northern system. The southern septic system failed inspection. The applicant will schedule this septic system for repair and provide the Town with septic approval after the repair.
Fuel tanks- Applicant has provided the notification application that they sent to the MPCA regarding the fuel tanks.
Planset revisions- Applicant has submitted a revised planset regarding the curb & gutter remaining along the southern driveway, location of the northern well and additional impervious surface (existing vs. proposed). Township Engineering Staff has reviewed the applicant's AutoCAD files to verify the figures which show that with the proposed plan, the total impervious surface on the site would equal 64% of the total property area (maximum allowed is 65%).
Outstanding next steps- confirmation of southern septic repair/approval, update of site plan to show location of northern septic. Written confirmation from adjacent neighbor who submitted written complaint to Town regarding damage of their property/requested repair to their property, that there is no need of repair.
Application for Conditional Use Permit will be on the October Board Meeting for action.

Oakgreen Meadows Second Addition Major Subdivision preliminary plat approval.
Jack Lang (owner) and Ben Ford (civil engineer) present.
Applicant is proposing to divide a 49.38 acre (Lot1 Block 6) of Oakgreen Meadows development into nine residential lots each ranging from 5.0 to 6.23 acres. Proposed is a 1650 ft temporary cul-de-sac (66 ft ROW) which would serve as a through road to the east property line. Primary and Secondary septic sites, soil testing have been provided. Stormwater management plans are in conjunction with SWWD input. Large holding pond will be placed near the ravine at the northwest area of the property which will slow down the flows to improve that ravines quality.
Planner- Each proposed lot meets the setbacks and minimum area/buildable area required. The proposed temporary cul-de-sac length does not exceed the 2640 ft maximum length for a temporary cul-de-sac.
Park dedication fee will be required. DNR declined comment. Washington County had no additional comment regarding setbacks.
Rucker asked depth of pond and if the pond would be fenced. Applicant noted that the pond would be 5-6 ft deep (size about ¾ acre) after a rainwater event. There will be a 10 ft bench safety feature that would be built into the pond.
Engineer- Applicant will need to provide a geotechnical engineer finding regarding the pavement section.
Strohfus- asked whether the septic design is determined during the soil testing for septic sites. Applicant noted that they could be mound or traditional.
Attorney provided the Applicant and Board with draft resolution granting preliminary plat approval.
Attorney noted that the property owner to the north raised concerns both at the public hearing and in a follow up 8/23/17 email regarding access to their landlocked parcel.

The landowner asked that the Town require the Applicant to provide an easement for access to their parcel. The lot in question appears to be unbuildable by both the Town and County standards and an easement to it would not further the public's interest in orderly development and a logically connected and continuous public transportation system. Requiring the Applicant, as part of a preliminary plat approval process, to provide a private easement over his property solely for the benefit of a neighboring owner would likely constitute an unlawful taking of the Applicant's property.
Development Agreement and Stormwater Agreement will be required.

Discussion regarding stormwater maintenance long term. Stormwater pond will be an easement dedicated to the public. In addition to having a homeowner's association or covenants to address stormwater maintenance for the pond, the Town could consider and act on an ordinance to establish a storm sewer improvement tax district for Oakgreen Meadows Second Addition. Establishing the district will allow the Town to recover its costs if it elects to maintain or repair the storm water facilities being placed within the development, by placing those costs on the taxes of the lots within the plat. A homeowner's association or covenants would still be required, but a storm sewer district would also be put in place.
Board consensus and applicant in agreement to establish a storm sewer improvement tax district for Oakgreen Meadows Second Addition. Notice of the Public Hearing for establishment of a storm sewer improvement tax district will be published and hearing will be set for October 2, 2017.

Revisions to draft resolution-
Attorney will add a finding regarding temporary cul-de-sac approval.
Stormwater 5(f) will reflect that culverts in the street and storm sewer shall be reinforced concrete pipe or polypropylene pipe.
Motion J Moore/2nd B Rucker to adopt Resolution 2017-25 Granting Preliminary Plat Approval For Oakgreen Meadows Second Addition as revised. Voting Yes- J Moore, B Rucker, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Applicant requested info regarding proceeding with project.
Attorney- Prior to starting, Development Agreement would need to be executed, financial security provided, final engineering construction plans approved, park dedication fee paid, escrow charges paid, final plat approval and issuance of notice to proceed. Development Agreement is not typically executed until final plat approval.
Engineer noted that on large projects, it is not unusual to allow grading to begin prior to final plat approval, with a grading permit in place and adequate escrow funds.
Board consensus to authorize Engineer to issue Major Grading Permit to allow Applicant to proceed with grading, subject to Engineer's conditions. Final Plat Approval scheduled for October 2, 2017 Board Agenda.

Public Comment: None

Business Items
Norell Ave S Engineering Analysis- Interest in Engineering analysis regarding Norell Ave. Contractor has graded off both sides of the road to help direct the flow of the rainfall into the ditch. Keeping the edge graded may resolve plugged culvert issue. Engineer indicated that to really analyze the road, surveys elevations and shots to help determine road solutions can be very expensive. Engineer recommended staying with the current course of grading for a while before engineering steps in. Engineer also noted that Engineer Stempski could stop by for a look at it.

Eagle's Watch Update- Strohfus was contacted by Eagle's Watch resident regarding the Town not fixing the driveways in Eagle's Watch. Strohfus let the resident know that the Town's position is that the Town will be fixing the road in the interest of the Town to prevent any long term expense to the Town. Also, additional patching would be done on the road, and any additional area causing deterioration to the road will be looked at. Strohfus is recommending that the Town patch a 5x8ft section in the road, and a 4x25ft section between the subject driveway and the road. This would meet the Town's criteria to repair a driveway portion in the right of way to keep the road from deteriorating.
Board consensus to complete the roadway patching repairs in Eagle's Watch.

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2018 Budget Adoption/Pay 2018 Proposed Tax Levy Certification:
Electors approved the following pay 2018 proposed property tax levy.

	ANNUAL BUDGET	GOV'T AIDS	OTHER REVENUE	DEDICATED FUNDS	FROM SAVINGS	CERTIFY LEVY	% BUDGET CHANGE	% LEVY CHANGE
GENERAL	88,544	1,167	72,535			14,842		
SALARIES	87,610		4,000			83,610		
ROAD & BRIDGE	247,350		25,000		60,000	162,350		
FIRE	135,400		400			135,000		
DITCH & TRASH	18,500					18,500		
PARK & REC	2,000		14,000	-12,000		0		
2018 TOTALS	**579,404**	**1,167**	**115,935**	**-12,000**	**60,000**	**414,302**	**-29.0%**	**0.1%**

2018 Budget reflects a 29.0% decrease from the 2017 Budget. Pay 2018 Proposed Property Tax Levy reflects a 0.01% increase from the 2017 Levy.
The roads portion of the budget includes reclaim/overlay of 120th St S from Hwy 61 to 310 ft east of Margo Ave S. Town may elect to draw additional from savings if additional needed work is identified during the 2018 spring road tour.
Motion J Moore/2nd K Herman to adopt the 2018 Budget in the amount of $579,404, per fund as presented. Voting Yes- J Moore, K Herman, K Higgins, J Strohfus, B Rucker. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Motion J Moore/2nd B Rucker to certify the Payable 2018 Proposed Property Tax Levy in the amount of $414,302 as approved by the Electors. Voting Yes- J Moore, B Rucker, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Town Hall Park Tree/Brush Trimming- J Moore received 2 quotes for tree/brush trimming in the southeast drain corner and the fence line at the Town Hall Park. Some of the trees will be trimmed and removed. Golden Oak Tree Service $3978.00 and Twins G Tree Service $2300.00. Moore recommends Twins G Tree Service for the project. **Motion J Strohfus/2nd K Herman to authorize expenditure of up to $2500.00 for Twins G Tree Service to perform tree/brush trimming at the Town Hall Park. Voting Yes- J Strohfus, K Herman, B Rucker, J Moore, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

Town Hall Playground- J Moore will be replacing/repairing some of the playground equipment, approximately $900. Board consensus for J Moore to proceed with purchase/repair of playground equipment. Because of the fines/dirt in the mulch that was put in the playground. J Moore will have part of the mulch removed and additional washed mulch will be added. J Moore plans on using the removed mulch along the fenceline to discourage weeds.

Osprey Ave S- Resident contacted Town regarding concerns that the sealcoat contractor turned around in their driveway and caused damage. J Moore and Engineer Stempski looked at the driveway and saw no damage to the driveway. J Moore contacted the sealcoat contractor to wash the marks off the driveway.

Legal Updates:
Homestead Estates- Frank Femling contacted the Attorney regarding Lots 9 & 10, Block 5 in Phase 1 that were restricted from development until 78th St S was built in Phase 2. Now that Ben Granley has replatted Phase 2, Frank is asking if when the road is constructed to serve the 2 restricted lots of Phase 1, can he sell the lots for development. Attorney does not believe that an amendment to the development agreement would be necessary and that the lots could be sold once the road is built/inspected**. Motion J Strohfus/2nd J Moore to allow Frank Femling to develop the two restricted lots in Phase 1 Homestead Estates once the road (78th St S) is constructed and approved by the Township Engineering. Voting Yes- J Strohfus, J Moore, B Rucker, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

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Planning Commission Workshop will be on September 21, 2017 @ 5:30 PM. Clerk will post notice that includes a possible quorum of the Board Supervisors.

9:20 PM **Motion J Moore/2nd K Higgins to adjourn. Voting Yes- J Moore, K Higgins, J Strohfus, B Rucker, K Herman. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

Becky Herman

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Denmark Township Clerk/Treasurer Denmark Township Chair

Addendum Resolution 2017-25

Resolution No. 2017-25
RESOLUTION GRANTING PRELIMINARY PLAT
APPROVAL FOR OAKGREEN MEADOWS SECOND ADDITION

WHEREAS, Benton Ford, on behalf of owner Jack Lang, (collectively, the "Applicant"), have made an application for preliminary plat approval for a major subdivision to allow the subdivision of approximately 49.38 for residential development;

WHEREAS, the property to be subdivided (PID 04.027.20.13.0003) is located at 14238 65th Street South, Hastings, MN 55033, and is legally described in Exhibit A ("Property"), which is attached hereto and made part of this Resolution;

WHEREAS, the proposed plat, which is to be named Oakgreen Meadows Second Addition, involves creating nine new residential lots as shown on the preliminary plat attached hereto as Exhibit B ("Development");

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

WHEREAS, the Planning Commission reviewed the request for preliminary plat approval at a duly noticed public hearing held on August 21, 2017 and acted to forward the application to the Town Board with a recommendation that it be approved with certain conditions.

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

a. The Property is zoned Rural Residential, and the proposed residential uses are allowed in the zoning district;
b. The Property was originally platted as part of Oakgreen Meadows with the plan to replat and develop it in the future;
c. The proposed plat includes the dedication to the public of a new road preliminarily identified at 65th Court;
d. The number of lots proposed to be created and developed on the Property and the dedication of a public road necessitated that this subdivision be reviewed as a major subdivision under the Denmark Township Development Code ("Ordinance");
e. Chapter 2, Zoning Regulations, and Chapter 3, Subdivision Regulations, of the Ordinance regulate the development of major subdivisions;
f. The Town's Planner has reviewed the request for consistency with Chapters 2 and 3 of the Ordinance and has determined that the proposed plat satisfies the requirements of the Ordinance;
g. The Town's Planner prepared a report dated August 16, 2017 ("Planner's Report"), which addressed the proposed new major subdivision. The Planner's Report is incorporated into and made part of this Resolution by reference, except for the proposed conditions which are superseded by those contained herein;
h. The Town's Engineer prepared a report regarding the preliminary plat dated August 15, 2017, which is incorporated into and made part of this Resolution by reference;
i. The proposed lots meet all applicable minimum lot size requirements;
j. The proposed lots are subject to the Shoreland Overlay District and all lots meet the required Shoreland Overlay requirements;
k. The proposed cul-de-sac is approximately 1,680 linear feet in length and, because it is a temporary cul-de-sac, it is not subject to the 1,320 foot length limit for permanent cul-de-sacs set out in Chapter Three, Section 9.2(5) of the Ordinance and is instead in compliance with the 2,640 foot limit applicable to temporary cul-de-sacs under Section 9.2(6) of the Ordinance; and
l. Adam Gyurisin, on behalf of the owner of two parcels of property immediately to the north of the Property, raised concerns about access to one of the parcels (PID 04-027-20-13-0002) ("Northeastern Parcel") and that platting the Property will make it more difficult to gain access to that Northeastern Parcel. The other parcel (PID 04-027-20-24-0002) ("Northwestern Parcel") has access to Oakgreen Avenue South over a narrow parcel (PID 04-027-20-23-0011) ("Access Parcel") that was established at the time of platting Oakgreen Meadows. Mr. Gyurisin raised the concerns both at the public hearing and in a follow up email to the Town dated August 23, 2017. Mr. Gyurisin indicated the Northeastern Parcel was previously accessed over the Property by permission of the prior owner and acknowledged that the owner of the Northeastern Parcel did not attempt to obtain an access easement. He indicated the owner may wish to farm the Northeastern Parcel in the future, though it appears the parcel is currently covered by trees. Now that the present owner of the Property desires to plat it, Mr. Gyurisin asserts the Northeastern Parcel is landlocked because of the topography of the area and that the Town needs to require the Applicant to establish an easement over the Property to provide access to the Northeastern Parcel. He indicated that because of the steep valleys on the Northeastern Parcel, the only way to

access it is over the Property. Mr. Gyruisin referred to the mandatory cartway process in Minnesota Statutes, section 164.08 in support of his position as well as Section 9.1(3) of the Ordinance dealing with street design standards for plats, which indicates access is to be provided "to adjacent unsubdivided parcels, unless the topography clearly indicates that such connection is not feasible."

The Applicant pointed out that the Northeastern Parcel is not buildable under the Ordinance and that he does not agree to provide an easement over his Property to the Northeastern Parcel. The county has since confirmed that it is unlikely the Northeastern Parcel is buildable or that it could accommodate a septic system. The Planning Commission noted that the proposed plat is not landlocking the Northeastern Parcel as asserted at the hearing. If the Northeastern Parcel is landlocked, it is currently landlocked and there is nothing in the proposed plat that is creating that condition.

The Northeastern Parcel, Northwestern Parcel, and the Access Parcel are owned by the same owner and so the parcels do actually abut a public road. It was pointed out to Mr. Gyruisin at the hearing that if the owner wishes to seek a cartway, he may submit a cartway petition to the Town and it will be processed and acted upon at the owner's expense as provided in law. However, establishing a cartway involves the exercise of the Town's power of eminent domain that requires due process rights be afforded to all of the potentially affected owners. The Town Board cannot summarily determine as part of a preliminary plat process that a neighboring owner is landlocked and entitled to a cartway under Minnesota Statutes, section 164.08.

Additionally, the policy reflected in Section 9.1(3) of the Ordinance is intended to recognize the sequential nature of development in laying out new roads to be dedicated to the public. A policy the Town asserted, and the Applicant complied with, in extending the proposed 65th Court to the eastern edge of the Property to accommodate future development on the large open parcels to the east. It is not intended, and shall not be applied by the Town Board, to require a developer to provide a private access across the land they are developing to an unbuildable portion of property. Doing so would not further the public's interest in orderly development and a logically connected and continuous public transportation system. Requiring the Applicant, as part of a preliminary plat approval process, to provide a private easement over his Property solely for the benefit of a neighboring owner would likely constitute an unlawful taking of the Applicant's Property. The Town Board refuses to engage in such an activity and will not require the Applicant to establish the requested private easement as part of this process.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, based on the Planner's Report, the record of this matter, and the findings and determinations made herein, does hereby approve the Preliminary Plat proposed by the Applicant, subject to compliance with all of the following terms and conditions:

1. Development Agreement. The Applicant shall enter into a development agreement with the Town that is prepared by the Town Attorney. More specifically, 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. The Town will not execute the final plat or release it for recording until the Applicant has entered into the development agreement in a form acceptable to the Town.
2. Cost Estimate. The Applicant shall provide the Town an engineer's estimate of construction costs for the proposed public improvements, which shall be used to determine the amount of security required as part of the Developer's Agreement.
3. Final Plat. The Applicant shall prepare and submit to the Town for approval within one year of this preliminary approval a final plat which meets the following:

   A. The final plat must consistent with this preliminary approval, the preliminary plat, the Ordinance, and state law;

   B. The Applicant satisfactorily completes any and all requirements after review of the final plat; and

   C. The final plat shall include all easements, including access easements for all stormwater improvements, as required by the Town Engineer and/or Town Attorney;
4. Engineering Considerations. All engineering considerations contained in the engineering memorandum dated August 15, 2017 are met.
5. Stormwater.

   A. The Development shall be reviewed by the South Washington Watershed District and their comments shall be incorporated into or addressed by the plans;

   B. Approved NPDES Construction Stormwater Permit shall be provided, when available;

   C. The Applicant must provide for the on-going maintenance of the storm water ponds constructed within the Development by creating a homeowners association and making it responsible for such maintenance, or by some

other method acceptable to the Town Board. All documents related to the creation of the homeowners association shall be subject to review and approval by the Town Attorney;

D. The Applicant must enter into a stormwater maintenance agreement with the Town that details operation and maintenance schedules and responsibilities related to the stormwater facilities in the Development. The Town will record the stormwater maintenance agreement when it records the development agreement;

E. Access easements (20-feet wide with max slope of 10%) shall be provided and labeled on plans for stormwater management facilities; and

F. Culverts in the street and storm sewer shall be Reinforced Concrete pipe or Polypropylene pipe. Driveway culverts may be CMP.

6. Covenants. The Applicant shall provide any proposed covenants for the Development to the Town Attorney for review and approval.

7. Road.

A. The name of the proposed public road, currently shown as "65th Court," must be reviewed and approved by Washington County per the Washington County Uniform Street Naming System; and

B. As outlined in the Township Standards for New Roadway Construction, a geotechnical report including a recommendation from a geotechnical engineer for the proposed roadway section shall be provided. The typical section provided outlines the minimum section.

8. Well and Septic Systems.

A. Proposed private well locations must be shown on the plans;

B. A permit from Minnesota Department of Health must be obtained prior to well construction; and

C. 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.

9. Park Dedication. The Applicant shall pay the Town a park dedication fee in lieu of land dedication in the amount of $18,000 ($2,000 per residential lot). The Town will not execute the final plat or release it for recording until it receives park dedication fee.

10. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Towns for processing this approval 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.

11. 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.

12. 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.

13. Compliance. The Applicant is 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.

Adopted this 7th day of September, 2017.