

Denmark Township Planning Commission Meeting  
Wagner 6610 Neal Ave S- Variance  
Olsen/Marty 12407 80<sup>th</sup> St S- Horse Boarding CUP  
Minnesota Coaches 12044 120<sup>th</sup> St S- Amended CUP  
Public Hearings September 18, 2017

Planning Commission members present: Mike Kelz, Roger Lang, Charlie Grote, Steve Radke  
Ex-officio Kathy Higgins  
Absent: Bob Barr  
Supervisors Present: K Herman, Joe Moore  
Others Present: Attorney Troy Gilchrist (Kennedy-Graven), Planner Eric Maass (WSB)

**7:00 PM Vice-Chair Lang opened Public Hearing. Wagner 6610 Neal Ave S- Variance  
PID 06.027.20.41.0002 (2.99 acres)**

Owner Chris Wagner present. Applicant is proposing to replace the existing 34x40sq ft shed with a new 50x60 (3000 sq ft) accessory structure. New structure will be positioned in the footprint of the existing shed (rear property line setback 25 ft). Applicant intends on storing/working on his farm equipment in the structure so is proposing a 16 ft sidewall height.

Planner provided a 9/13/17 review. Applicant is requesting variances from the maximum allowable size requirement and minimum rear yard setback for an accessory structure. Ordinance allows for up to two accessory structures with a combined maximum of 2000 sq total (correction to staff report which specified two accessory structures allowed at 2000 sq ft each). In addition, also allowed would be a detached garage of up to 864 sq ft. There is no detached garage on the property so the Applicant is requesting that in lieu of a detached garage, the proposed structure could be allowed at 2864 sq ft. The possible additional 136 sq ft that is being requested (T 3000 sq ft) is to allow for flexibility with the builder/building plan dimensions. Proposal would eliminate any future accessory structure or detached garage, as the proposal would use the maximum sq footage allowed.

The intent of the 50 ft rear yard setback is to provide adequate separation between buildings on adjacent properties. The immediate adjacent property consists of approximately 37 acres of farmland with no buildings in the vicinity. All other setbacks are met.

Maximum sidewall heights do not apply to agricultural buildings, so the 16 ft sidewall is allowable. Planning recommends approval of the requested variances based on the Findings of Fact.

Public Comment: K Herman. Re: clarification of maximum sq ft allowed for accessory structures. Total allowed (accessory structures sq footage combined) cannot exceed 2000 sq ft. for a 2.99 acre parcel.

**7:15 PM** Wagner Variance Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission meeting opened.

Radke noted that the adjacent neighbors did not have concerns with the Applicant's plans. Conditions added by the Planning Commission-

- Allowance of up to 3,090 sq ft accessory structure (includes 3% flexibility for possible pre-designed building plan dimensions), noting that with this approval, the property will have used the maximum accessory structure sq footage and that no future accessory structure or detached garage will be allowed.

**Motion Radke/2<sup>nd</sup> Grote to forward the Wagner 6610 Neal Ave S Variance Application to the Town Board with a recommendation to approve the request based on the Planner's 09/13/17 Findings Of Fact and subject to conditions 1 and 2:**

**FINDINGS OF FACT:**

1. The Property is currently zoned Agricultural (A-2); and
2. The building meets the standards of an "agricultural building"; and
3. The proposed rear yard setback of twenty-five (25) feet is adequate; and
4. The proposed one (1) accessory structure with additional square footage is reasonable; and
5. The property owner proposes to use the property in a reasonable manner not permitted by the official controls; and
6. The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
7. The variance, if granted, will not alter the essential character of the locality; and
8. Economic considerations alone do not constitute the practical difficulties.

**CONDITIONS:**

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1. **The proposed accessory structure not to exceed 3,090 sq ft., noting that this structure will use up all the available sq footage for accessory structures on the parcel.**
2. **No additional accessory structures including a detached garage will be allowed in the future.**

**With All Present Voting Yes, Motion Carried 4-0-0.**

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**7:25 PM Vice-Chair Lang opened Public Hearing. Olsen/Marty 12407 80<sup>th</sup> St S- Horse Boarding Amended Conditional Use Permit (CUP) PID 18.027.20.21.0003 (40.26 acres)**

Applicant's Eric & Erin Olsen and Owner's Jack & Mary Marty present.

Applicant's are requesting an amended CUP to keep up to 80 horses on the 40-acre property. The proposal also includes fencing in additional pastures. The existing Marty CUP allows for up to 40 horses. Currently the property has 30 stalls, 11 paddocks and 2 pastures. The Applicant has indicated that they have 24 grazeable acres on the property and may lease an additional 15 adjacent acres of grazeable land.

The horses on the farm are not pasture boarded horses dependent on grazing the pastures as their primary food source. They are feedlot boarded horses being fed hay and grain daily and turned out to pasture for exercise and light grazing.

Applicant Plan- The 30 stalled horses go from the barn stalls to the 9 paddocks behind the barn daily, and are never pastured. There are two pastures, each of which have a shelter and paddock for to accommodate an additional 50 paddock/pasture boarded horses (25 horses on 13 acres-the current alfalfa field on one side of the property and another 25 horses on 14 acres on the other side of the property). The pastures are rotated and maintained. Pasture maintenance includes mowing and dragging prior to resting the pasture area before placing horses on them again.

The Applicant provided equine care information from the University of Minnesota. U of M recommends 240 sq ft of shelter space for 2 horses and an additional 60 sq ft for each additional horse after that. This would calculate to 1620 sq ft for 25 horses. The building sizes on the property are 1800 and 2400 sq ft. Both are more than adequate to shelter up to 25 horses each in inclement weather. U of M recommends a minimum of 400 sq ft of paddock space per horse. This would calculate to a minimum of 12000 sq ft of paddock for the 30 stall horses. Currently, the farm has 78000 sq ft of available paddock space for stall horses. For paddock/pasture boarded horses, you would need 10000 sq ft for 25 horses. U of M recommendations would be 32000 sq ft of paddock space for 80 horses. The farm currently has 201,000 sq ft of paddock space available.

Manure Management- Applicant plans on continuing the farm's practice of composting the manure and spreading it on the pastures in the fall. Manure will be stored on the area immediately north of the existing indoor riding arena. The stockpiles will be treated-composted/aerated with woodchips which will hasten the composting process and lessen the odor. Applicant expects to spread most if not all the treated manure in the pastures. Any manure not treated-composted for spreading will be removed and not piled for longer than 2 months.

Leasing additional pastureland- Current owners have been leasing 15 acres of adjacent property for pasture. Adjacent property owner present. Current lease stipulates that the lease is subject to a new lease for any buyer of the property and may be terminated at the property owner's discretion. Applicant's believe the Marty's 40-acre parcel is adequate to accommodate the 80 Horse Boarding proposal, without relying on leasing an additional 15 acres for pasture and are requesting that the CUP not be contingent on leasing additional property.

There are currently two septic systems on the site. One services the lounge/mobile home and the other services the house. Planner will review well site for appropriate setback to the well (50 ft).

Applicant has not spoken with MPCA at this point. Planning Commission consensus that Applicant apply with the MPCA and provide the Town with application and MPCA review.

Planning

Attorney- clarification that the 24 grazeable acres on the proposed plan does not include any leased acreage.

Planner provided 09/13/17 staff report with Findings of Fact and recommended conditions.

Public Comment: None

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**8:00 PM** Olsen/Marty CUP Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission meeting opened.

Attorney noted that the CUP is the common mechanism by which feedlots are permitted.

Radke- requirement that Applicant register with the MPCA. Attorney noted that CUP condition #6 does require this.

Lang- would support CUP not be contingent on leasing additional pastureland.

Higgins- would like clarification/detail on manure management plan. Applicant noted that treated manure for composting will be spread every fall. If there appears to be too much manure to compost for spreading, it will be removed every 2 months.

Radke questioned whether Shoreland property to the north could be affected. Planner indicated that this would be looked at through the MPCA review.

Planning Commission revisions to Planner's 9/13/17 recommended conditions.

- Condition #12- revise to indicate that Raw manure may be stockpiled for no more than two months. (Applicant noted that none of the manure is raw, as all the manure would have wood chips in it (bedding) when removed from the barn stalls).
- Condition #8- add UMN guideline that "A general rule of thumb for run-in or open front shed size is 240 sq ft for 2 horses and 60 sq ft for each additional horse."
- Condition #2- strike condition to make CUP not contingent on any leased grazeable acreage.

**Motion Kelz/2<sup>nd</sup> Lang to forward the Olsen/Marty 12407 80<sup>th</sup> St S Conditional Use Permit for Horse Boarding to the Town Board with a recommendation to approve the request based on the Planner's 09/13/17 Findings of Fact, subject to the following conditions:**

1. **Scope.** Applicant is permitted to keep up to 80 horses on the property and is allowed to use the 60' x 128' indoor riding arena and 72' x 70' stabling area and outdoor riding ring. The buildings are located on the submitted site plan. The site consists of approximately 40 acres of owned property and 15 acres of rented property. The applicant is also allowed to continue to use the 28' x 52' accessory dwelling structure (manufactured home) east of the existing home in the side yard area for the use of employees and their immediate family. No rental of the dwelling is allowed. The accessory dwelling manufactured home shall be removed if the horse boarding and training facility is discontinued as only one dwelling is allowed on the property.
2. ~~Leased Grazeable Acreage. The owner of the leased 15 acres must provide a written statement to the Township indicating their acknowledgment of their properties inclusion in this conditional use permit. The Applicant will notify the Township if the lease is discontinued.~~
3. The buildings shall be used solely for the boarding and training of horses and none of the horse facilities shall be used for human habitation.
4. Two (2) septic systems were required to be installed as a condition of the original CUP. The Applicant shall provide information that those systems were installed and maintained in accordance with septic system permits issued by Washington County.
5. Adequate fencing shall surround the barn and grazeable area to ensure that horses are secured.
6. Applicant shall obtain a Minnesota Pollution Control Agency feedlot permit. This conditional use permit is not valid until proof of the MPCA permit is provided to the Township.
7. The Driveway shall maintain a width of twenty-four (24) feet. Parking area shall be provided for cars and horse trailers according to the submitted site plan.
8. The Applicant shall provide adequate shelter in accordance with accepted standards both inside and out of the buildings for the number of horses boarded on the subject property. University of Minnesota guideline 240 sq ft for 2 horses and 60 sq ft for each additional horse.

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9. **Permits.** The Applicants shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and shall obtain any additional permits or permissions that may be required.
10. **Parking.** Existing parking area shall be maintained with an aggregate base at all times. Trailer parking for up to 15 horse trailers shall be allowed between the outdoor riding arenas and the accessory building labeled "Machine Shed" on the submitted site plan. All parking surface shall be class 5 gravel or paved.
11. **Screening.** Presently, no adjacent property has a home constructed on it. As a result, additional vegetative screening is not being required.
12. **Manure Management.** The Applicants shall conduct the operation in accordance with the submitted manure management plan which consists of the location of the manure storage as shown on the submitted site plan as well as the interval in which the manure will be removed from the property. The manure generated from the use is handled in a way as to not constitute an unreasonable nuisance for the neighboring properties. Manure storage shall be limited to the area immediately north of the existing indoor riding arena as shown in the submitted plans. The Applicants shall provide for the regular pick up and removal of the manure that will not be spread on the Property. **Raw** manure may be stockpiled for no more than two months. Manure storage and disposal shall comply with all Federal, State, County, and Town rules and regulations.
13. **Lighting.** No additional lighting fixtures are being proposed at this time. Any future lighting fixtures shall comply with the regulations in the Development Code.
14. **Deliveries.** Deliveries of hay, animals, or other products necessary for the Proposed use shall be limited to between 7:00 a.m. and 10:00 p.m.
15. **Horse Shows.** No horse shows were requested as part of this conditional use permit and as such, no horse shows are permitted.
16. **Representations.** 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.
17. **Costs.** 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.
18. **Inspections.** The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the property 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.
19. **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 Applicants 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.
20. **Binding.** The permit and its conditions are binding on the Applicants, 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 revoked as provided herein. The obligations of the Applicants under this permit shall also be the obligations of the current and any subsequent owners of the Property.
21. **Only Permit.** This permit supersedes and replaces any other conditional use permits previously issued for the Property by the Town.

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22. **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.
23. **Amendments.** Any alteration or expansion of Proposed Use, or the alteration of any plans submitted related to the Proposed Use, shall not be allowed unless an amended conditional use permit or a new conditional use permit is obtained from the Town.

**With All Present Voting Yes, Motion Carried 4-0-0.**

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**8:22 PM Vice-Chair Lang opened Public Hearing. Minnesota Coaches 12044 120<sup>th</sup> St S Amended Conditional Use Permit (CUP) PID 31.027.20.33.0007 9.88 acres)**

Owner Pat Regan (owner) and Todd Erickson (civil engineer) present.

Applicant is requesting an amended CUP to allow for the addition of a (50x100) 5,000 sq ft building to store vehicles associated with the operation of MN Coaches. Also proposed is a paved area to the north-west of the existing building and proposed storage building and a new gravel parking area on the north-east end of the property. Applicant is also proposing the addition of a fuel island consisting of 2 above ground double walled tanks (12,000 and 6,000 gal) on the east side of the existing building. Applicant will need to provide shop drawing of the proposed tanks to show they are double walled and meet the required 110% containment. The existing building has the drainage systems in place for bus maintenance/servicing.

The current CUP allows the Applicant to lease space to multiple tenants. The Applicant will use the existing and proposed buildings as they no longer lease to any tenants inside the buildings. Applicant continues to lease to Universal Services parking area of up to 30 employee vehicles.

A large portion of the new impervious surface is discharging directly to an existing ravine, with infiltration practices-swail and grassy areas to reduce the flow. The plans have been submitted to SWWD to provide comments.

Proposed parking area is planned to be gravel surfaced. The gravel is noted to be 8" Class 5 aggregate base and 4" of recycled bituminous millings compacted and rolled flat. Town Board will need to address gravel issue to determine if it will be allowable.

Applicant has met with MnDOT representatives regarding obtaining a permit to continue parking within the MnDOT easement on the west edge of the property.

Discussion re: 120<sup>th</sup> St S traffic issues. The western access drive is right turn only exit.

Total impervious surface with existing and proposed is 46% of the lot. Total allowed is 65% coverage. Planner provided 09/13/17 staff report with Findings of Fact and recommended conditions.

Attorney- The required stormwater agreement from the prior CUP was not executed. Attorney will draft a combined stormwater agreement to address the site.

Public Comment: Jim Eilers-adjacent neighbor expressed concerns regarding screening. Applicant discussed additional landscaping with the neighbor to screen the neighbor's view. Applicant will provide revised landscape plan.

Discussion re: backed up west bound traffic on 120<sup>th</sup> St S. Applicant will review road and speak with MnDOT to see if there is the possibility of adding additional right turn lane for west bound traffic to northbound Hwy 61.

**9:10 PM** Minnesota Coaches Amended CUP Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission meeting opened.

Planning Commission revised conditions.

Add condition #12- Applicant pursue with Mn DOT the feasibility of a 120<sup>th</sup> St S right turn lane to northbound Hwy 61.

Add condition #13- Applicant required to enter into a stormwater maintenance agreement to address current and additional ponding on the site.

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**Motion Grote/2<sup>nd</sup> Radke to forward Minnesota Coaches Amended Conditional Use Permit Application to the Town Board with a recommendation to approve based on the 09/13/17 Planner's Findings of Fact, subject to the following conditions.**

1. **Scope:** Minnesota Coaches will utilize the existing structure, proposed accessory building, and proposed fuel island for the purposes of the bussing operation. Universal Services will lease parking space for the purposes of parking thirty employee vehicles on the subject property.
2. **Leased Outdoor Parking Use:**
  - a. The parking area for the outside parking area shall be a paved surface before the operation of business begins.
  - b. Each space used for the parking of motor vehicles shall be a minimum of nine (9) feet wide by eighteen (18) feet in length.
3. **Motor Vehicle Service Station:**
  - a. Above ground liquid storage tanks must have secondary containment, suitably sealed to hold a leakage capacity equal to one hundred ten percent (110%) of the tank's capacity.
  - b. The Applicant will notify the MPCA of the existence of the above ground liquid storage tanks and obtain any permits that may be necessary. The Applicant will provide the Township with documentation of MPCA notification and any permits.
  - c. Hazardous materials stored in an above ground storage tank with containment must be setback a minimum of 100 feet from a water supply well.
4. **Motor Vehicle Repair Use:**
  - a. The existing drainage system for collection of any hazardous material runoff must be maintained. Such system shall be subject to approval by the zoning administrator.
5. **Compliance with all requirements listed in the Planning and Engineering Staff review letters.**
6. **Landscaping:**
  - a. The Applicant will install additional landscaping according to the proposed landscaping plan submitted to the Township.
7. **Copies of access easements and any maintenance agreements relating to driveway access shall be provided to the Township.**
8. **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;**
9. **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;**
10. **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. **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. **Applicant to pursue the feasibility of a 120<sup>th</sup> St S right turn lane to northbound Hwy 61.**
13. **Applicant to enter into a stormwater maintenance agreement to address current and additional ponding on the site.**

**With All Present Voting Yes, Motion Carried 4-0-0.**

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**Motion Grote/2nd Lang to approve minutes of 8/21/2017 Planning Commission/Oakgreen Meadows Major Subdivision. With All Present Voting Yes, Motion Carried 4-0-0.**

**9:21 PM Motion Lang/2nd Radke to adjourn. With All Present Voting Yes, Motion Carried 4-0-0.**

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Becky Herman  
Denmark Clerk/Treasurer