

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

SUPERVISORS PRESENT: Kathy Higgins, Joe Moore, Bob Rucker

ABSENT: K Herman, J Strohfus

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

CALL TO ORDER: Meeting called to order @ 7:02 PM by Chair Higgins

AGENDA APPROVAL: K Higgins added Oakgreen Meadows Letter of Credit, Fire Bill, Cash Balance Sheet.

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

CONSENT AGENDA APPROVAL: K Higgins pulled Claims and Financial Reports.

Motion J Moore/2nd B Rucker approval of Consent Agenda items which include 10/02/2017 Board Meeting Minutes, EFT payments- PERA 439410, MN Rev. Tax 0104171712 & 0382208192, Federal Tax 31069040, payroll ending 11/01/2017. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

HEARING DECISIONS/ZONING ACTIONS:

Universal Services 12151 120th St S- Conditional Use Permit

Owner Dan Hartung present.

Outstanding items- written confirmation from adjacent property owner regarding repairs have been made.

Septic- updated site plan showing location of septic systems. Confirmation of southern septic design/installation plans.

Attorney provided 11/06/17 draft CUP resolution for review.

Board revisions to 11/06/17 draft CUP resolution.

Areas of discussion- outdoor storage of boat trailer, reels and miscellaneous supplies. Applicant noted that the boat trailer has been removed from the north side and that he will screen the area to the south by increasing the height of the existing dirt berm or planting shrubs.

Condition 3- Revise language to reflect that the property shall be brought into compliance with all applicable septic system requirements as early as possible in the spring, but in no case later than July 1, 2018.

Condition 4- Add language to reflect that landscaping may serve as a barrier around the septic area, provided the materials used are effective in preventing travel onto the area.

Condition 7- Add language that the driveway entrance shall be a minimum of 24 feet wide.

Condition 8- Add language to indicate that the applicant is allowed to use asphalt millings to surface a portion of the parking area in accordance with the site plan.

Condition 14- Strike condition.

Condition 17- Add language that materials stored outside, to the extent permitted, shall be kept in an orderly fashion and screened from public roads to the greatest extent reasonably possible.

Motion B Rucker/2nd J Moore to adopt Resolution 2017-34 Approving A Conditional Use Permit To Conduct Certain Warehousing And Storage Operations On The Property Located At 12151 120th Street South, as revised. Voting Yes- B Rucker, J Moore, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

Motion J Moore/2nd B Rucker to adopt Resolution 2017-25 Revoking All Prior Conditional Use Permits For The Property Located At 12151 120th Street South. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

2017-20 Road Maintenance Services Bids (7:30PM): Received one bid from Tri-County Services. Bidder provided Bid security and Certificate of Liability Insurance.

Motion J Moore/2nd B Rucker to award 2017-20 Road Maintenance Services contract to Tri-County Services at a rate of \$95.00 per hour for summer and winter road maintenance, term to end 11/01/2020, subject to execution of contract. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

PUBLIC COMMENT:**Homestead Estates 78th St S Road Construction-**

Excerpt from 10/02/17 Board Meeting- [Board previously granted Frank Femling approval to sell the 2 lots (Lots 9 & 10 BL 5) on 78th St S in Homestead Estates Phase 1 once the road is constructed and approved by the Township. Frank has a potential buyer with a tentative closing in November. Potential buyer is intending on building in Spring 2018. The rains have caused a waiting list for contractors to pour the concrete curb and this may have to wait until spring. Frank is requesting that with the Town's approval of the road construction plans and a written agreement that the road will be completed by a certain date, and with a construction bond, that the Town allow potential buyers to obtain a building permit even if the road is not finished. The road will be rough graded with class 5 aggregate at this time. Frank's representative Ben Ford has forwarded construction plans to the Town Engineer. Ford will provide Town Engineer with construction costs. Attorney noted that unless the code specifically addresses and prohibits this, recommendation would be a written agreement in place, noting a specific date for completion and that a bond be provided. Board consensus to authorize Attorney to draft agreement for Board review at November Board Meeting.]

Frank has had the curb/gutter poured and is hoping to get the base course put in soon, so he indicated that he would not be needing the requested agreement/escrow/letter of credit.

Engineer indicated that now that the curb/gutter is done and the road is build, with the possibility of the base course being installed this year, they would not need an exception for building permits prior to the base course being installed. A letter of credit would be needed for the wear course, but it is unknown when any lot purchaser would be building on the lots. No building permits could be issued until the base course is in. An escrow would still be required to cover costs of the agreement that was drafted at the developer's request. Developer will deposit a \$2000.00 escrow with the Town to cover current staff charges related to the requested agreement.

Whitetail Crossing Wear Course: Whitetail Crossing base course was placed in 2004. Development Agreement did not allow wear course to be put on until 75% of the lots were occupied. 75% occupancy was recently reached. The road has 1 ½ " asphalt on it. No sealcoat/crack seal has been done and the road has deteriorated. Engineer Stempski inspected the road and found that the base course is in rough shape. Any wear course put down over the existing base, would likely reflect the cracks showing through. Wear course cost estimated at \$50,000. If all the base course had to be removed and replaced, the cost would be estimated at \$140,000.00. Engineer Stempski's preliminary recommendation is to mill or remove existing surface and install a new 1 ½" base and 1 ½" wear course. Engineer Geheren will discuss further with Engineer Stempski. Rucker asked if the Engineer would calculate what the normal 13 year maintenance cost on the road would have been. Higgins noted that before any decision is made, the developer should be contacted. Would prefer that full board participate in discussion/decision as to next steps. Potential buyers of a lot in Whitetail Crossing were in attendance. Board will discuss at future meeting.

Town Hall and Playground: J Moore- Playground media has been completed. Parts for playground equipment have been ordered and receive and will be installed when possible. Handrails for the handicapped ramp have been made/finished and installed. Squirrels in the Town Hall have been trapped and the outside of the building will be squirrel proofed.

2017-20 Road Maintenance Services Bids (7:30PM): Received one bid from Tri-County Services. Bidder provided Bid security and Certificate of Liability Insurance.

Motion J Moore/2nd B Rucker to award 2017-20 Road Maintenance Services contract to Tri-County Services at a rate of \$95.00 per hour for summer and winter road maintenance, term to end 11/01/2020, subject to execution of contract. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

Oakgreen Meadows Letter of Credit: Developer Jack Lang has requested a Letter of Credit reduction. Current letter of credit is \$354,245.63. Road is in with class 5 and due to the weather, base course will be put in in the spring. Engineer is recommending reduction of \$150,000.00. New Letter of Credit in the amount of \$204,245.63.

Motion J Moore/2nd B Rucker to approve reducing Jack Lang's Letter of Credit to \$204,245.63. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.

Fire Bill: Hastings Rural Fire Association met with mediator regarding disputed billing. City of Hastings adopted its levy in December of 2015. The levy was reallocated in June of 2016 to cover actual costs for the Fire Department, resulting in a large increase to the Association's pay 2017 bill. Agreement between the parties was that the HRFA would pay one half (\$36,238.00) of the City's shortfall. Payment for Denmark's share would still be within the Town's 2017 Fire Budget.

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

Financial Reports Cash Balance Sheet:

Whitetail Crossing- Escrow has carried a negative balance of \$100.00 for many years. This amount should not have been charged to the escrow and should be removed. **Motion J Moore/2nd B Rucker to write off Whitetail Crossing escrow balance of \$100.00. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.**

St Croix Ridge Riegel- Escrow has carried a negative balance of \$5358.45 for many years. The developer did not put on the final wear course in the development. The Town cashed the financial security that was deposited with the Town and finished the road. The Town has been unable to locate the developer. The Town does not have expectations of the balance being paid by the developer. **Motion J Moore/2nd B Rucker to write off St Croix Ridge-Riegel escrow balance of \$5358.45. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.**

Claims for Approval: Revised Claim 11003 Washington County Recorder's Office Total amt. \$782.00. Added Claim 11017 Kennedy-Graven Total amt. \$5146.14. Added Claim 11018 Hastings Rural Fire Association Total amt. \$62,085.65. **Motion J Moore/2nd B Rucker approval of Claims#11000-11018 as revised. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.**

Legal Updates:

Litigation- Town received a summons/complaint related to roads maintenance issue which has been tendered to the Township Insurer.

Solid Waste Ordinance- Attorney is working on the solid waste ordinance and will provide a draft for review.

9:45 PM **Motion J Moore/2nd B Rucker to adjourn. Voting Yes- J Moore, B Rucker, K Higgins. Voting No- None. Abstaining- None. Motion Carried 3-0-0.**

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolution 2017-34, 2017-35

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2017-34

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO
CONDUCT CERTAIN WAREHOUSING AND STORAGE OPERATIONS ON THE
PROPERTY LOCATED AT 12151 120th STREET SOUTH

WHEREAS, Dan Hartung, on behalf of Universal Services, LLC, (the "Applicant") submitted an application to Denmark Township (the "Town") for an amendment to an existing conditional use permit to allow for additional outdoor parking and storage associated with its business for property located at 12151 120th Street South (PID: 06.026.20.22.0007) and as legally described in the attached Exhibit A (the "Property");

WHEREAS, Denmark Township had previously granted a conditional use permit (the "Previous CUP") for this Property to the previous owners;

WHEREAS, the Applicant has requested an expansion of the Previous CUP to include a new parking lot and additional storage;

WHEREAS, the Denmark Township Planning Commission held a public hearing on the requested conditional use permit on July 17, 2017, during which it heard from the Applicant and the public regarding the application;

WHEREAS, the Planning Commission acted to forward the application to the Town Board with a recommendation that the requested conditional use permit be issued with certain conditions, one of which is that the Previous CUP be revoked and incorporated, as appropriate, into this request; and

WHEREAS, the Town Board initially reviewed the Planning Commission's recommendation at its meeting on August 7, 2017, allowed for additional comments from the Applicant and the public;

WHEREAS, the Applicant requested an extension of the period to review the application to allow additional time to gather and present information to the Town Board and the Town Board has acted to continue the 60 day rule to allow the Application additional time to provide the requested information;

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

- a. The report submitted to the Town from the Town's Planner dated July 12, 2017, including, but not limited to, the findings contained therein, is incorporated herein by reference ("Planner's Report"). The proposed permit conditions contained in the Planner's Report are replaced with the conditions contained in this Resolution;
- b. The Property is currently zoned Commercial/Industrial- Rural, CI and the Applicant proposed to use the Property for outdoor parking, storage, and other activities related to its business, which involves telecommunications constructions services, and its offices (collectively, the "Proposed Uses");
- c. The Proposed Uses would include parking, fueling, cleaning, and maintaining its vehicles on the Property;
- d. The Proposed Uses are allowed in the zoning district with the issuance of a conditional use permit;
- e. The Proposed Uses are subject to the requirements of the Denmark Township Development Code ("Ordinance");
- f. The Town Board determines the Proposed Uses are in harmony with the general purposes and intent of the Ordinance, and the Town's Comprehensive Plan, provided they are conducted in accordance with the requirements of the Ordinance and the conditions established herein; and
- g. The septic system on the Property is not compliant. The Town Board understands that in order to bring the system into compliance, a new system needs to be designed, the designed approved by the County, and then the system constructed.

NOW, THEREFORE, BE IT RESOLVED, that, based on the record of this matter, the Planner's Report, and the findings and determinations contained herein, the Town Board of Denmark Township hereby approves and issues a

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

conditional use permit to allow the Proposed Uses on the Property provided the Applicant complies with, and remains in compliance with, all of the following conditions and limitations:

1. Scope. The Applicant currently operates out of three detached structures totaling approximately 30,175 square feet, all of which are located at 12151 120th St. S. The Applicant employs approximately 15 office staff and 60 field staff. The Applicant and its employees park, fuel, clean, and maintain vehicles on the Property. The Applicant also stores materials such as duct, peds, cable, and electronic parts both outside and inside the Property. Employees may park their vehicles on the Property for the work day while they use company-owned vehicles.

Any alteration of the use of the Property, or of any plans submitted related to those uses, including, but not limited to, expansion of the use beyond what is allowed by this CUP, shall not be permitted unless an amended Conditional Use Permit is issued by the Town Board.

2. Permits. The Applicant 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. No alterations or expansions of the existing building shall occur unless all required permits are obtained.
3. Septic System. The Applicant shall bring the Property into compliance with all applicable septic system requirements as early as possible in the spring, but in no case later than July 1, 2018, including, but not limited to, obtaining approval of the system design from the County, installation of the approved system, and completion of the final compliance inspection. Failure to bring the Property into full compliance with all applicable septic system requirements shall constitute a sufficient basis on which the Town may revoke this CUP.
4. Fencing Septic Area. In order to protect the septic system from further damage, the Applicant shall install a fence around the septic tank, drainfield, and secondary drainfield area once the new system is installed. The Applicant may use landscaping to serve as a barrier around the system, provided the materials used are effective in preventing travel onto the area.
5. Building Size. The main building on the Property shall be no larger than 6,000 square feet configured as a building that measures 50 feet by 120 feet and has an attached office area of 384 square feet. The 10'4" x 8' poured concrete storage bins on the 120th Street side of the parking lot shall remain covered and shall match the main building. The storage building shall be set back 35 feet from the 120th Street right-of-way and shall be 12 feet tall, 18 feet deep, and 104 feet wide. Access to the building will be from overhead doors facing the existing concrete yard area. The storage building shall be used to store materials necessary for the business, dumpsters, and various equipment.
6. Hours of Operation. The hours of operation for the business located on the Property shall be from 6:00 a.m. to 9:00 p.m. The Applicant may not operate its business on the Property outside of those hours except for during outage emergencies. The Applicant may apply to the Town Board for an adjustment of such hours of operation, and the Town Board reserves the right to approve or deny such request.
7. Driveway Entrance. The driveway entrance shall be a minimum of 24 feet wide. The building shall be set back a minimum of 10 feet from the parking lot and drives. All drives and parking lot shall be blacktopped. All designated parking areas shall be striped and appropriate handicapped parking shall be provided consistent with the Americans with Disabilities Act. The entrance for the parking building and office may have a single 24-foot driveway or two 16-foot unidirectional driveways for access. The northern most access onto Margo Avenue shall be an exit only and the middle access onto Margo Avenue shall be an entrance only.
8. Parking Lot Improvements. The Applicant shall make improvements to the Property as shown on the site plan. The Applicant is allowed to use asphalt millings to surface a portion of the parking area in accordance with the site plan.
9. Landscaping. Landscaping and vegetative screening shall be installed in accordance with the landscaping plan that was submitted to and reviewed by the Town to conform with the requirements of Chapter Two, Part 3, Section 1.10 Screening.
10. Use of Accessory Building. The accessory structure(s) which are the two northern most structures on the Property may be used only for those activities which are directly related to the principal business located on the Property. No off-site or third-party business may be allowed to use the accessory structure(s).
11. Waste Receptacle. All waste receptacle for the facility shall be located inside the storage structure or enclosed with an opaque face.
12. Vehicle Maintenance and Fueling. The Applicant has properly notified the Minnesota Pollution Control Agency (MPCA) with respect to the two (2) above ground fuel storage tanks currently on the property. The Applicant shall use the fuel

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

storage tanks for the sole purpose of fueling company vehicles and no retail sale of fuel shall be conducted from the Property. Maintenance of vehicles shall take place only within buildings which have proper internal safety systems and only maintenance of company vehicles shall take place.

13. Site Restoration. The Applicant shall restore the site, including vegetation, over and upon the area formerly occupied by the temporary office structure.
14. Revocation of Previous CUP. The Town had previously granted a CUP for this Property which was recorded in the Washington County Registrar of Titles office on August 2nd, 2006, as document number 1169451. Contemporaneous with the approval of this application for a CUP, the Town shall revoke the previous CUP for this Property.
15. Staff Reports. Applicant shall comply with all required listed in the Planner's Report, including the comments from the Town Engineer.
16. Outdoor Storage. Outdoor storage shall be limited to vehicles and materials owned and utilized by the company and shall not include other materials used in the operation. Materials stored outside, to the extent permitted, shall be kept in an orderly fashion and screened from public roads to the greatest extent reasonably possible.
17. Signage. Before putting up any signage, the Applicant must obtain a permit from the Town and the sign must conform to Ordinance requirements.
18. Lighting. Lighting at the facility shall comply with the performance standards related to lighting in the Ordinance.
19. Compliance. The Applicant shall at all times comply with all applicable federal, state, and local rules, regulations, and ordinances and shall obtain such other permits as may be required.
20. 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.
21. Costs. 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.
22. 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.
23. Revocation. The violation of any terms or conditions of this permit including, but not limited to, any applicable federal, state, or local laws, rules, regulations, and ordinances, may result in revocation of the permit. The Applicant shall be given written notice of any violation and reasonable time 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.
24. Binding. The permit and its conditions are binding on the parties, 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 Applicant under this permit shall also be the obligations of the current and any subsequent owners of the Property.
25. Only Permit. This permit supersedes and replaces any other permits previously issued by the Town, and all such previous permits shall be repealed by the Town Board by separate action.
26. 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.
27. Amendments. Any alteration or expansion of Proposed Uses, or the alteration of any plans submitted related to the Proposed Uses, shall not be allowed unless an amended conditional use permit is obtained from the Town.

Adopted this 6th day of November, 2017

BY THE TOWN BOARD

DENMARK TOWN BOARD MEETING MINUTES
November 6, 2017

**DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
RESOLUTION NO. 2017-35**

**RESOLUTION REVOKING ALL PRIOR CONDITIONAL USE PERMITS
FOR THE PROPERTY LOCATED AT 12151 120th STREET SOUTH**

WHEREAS, the Town Board of Denmark Township (the "Town") has previously issued a conditional use permit for the property located at 12151 120th Street South, Hastings, Minnesota (PID: 06.026.20.22.0007) and which is legally described in the attached Exhibit A (the "Property");

WHEREAS, Dan Hartung, on behalf of Universal Services, LLC, (the "Applicant") submitted an application to Denmark Township ("Town") for an expansion of an existing conditional use permit for parking and outdoor storage activities associated with its business to be operated on the Property ("Current CUP");

WHEREAS, a conditional use permit was previously issued for the Property for businesses previously operated on the site ("Prior CUP");

WHEREAS, the Prior CUP was recorded with the Washington County Registrar of Titles on August 2nd, 2006, as document number 1169451;

WHEREAS, the Town Board approved and issued the Current CUP for the Property by adopting Resolution No. 2017-34 at its November 6, 2017 meeting;

WHEREAS, in order to avoid the confusion that can result from multiple conditional use permits for various business activities on the same property, the Town Board has adopted a practice of revoking all past conditional use permits issued for a property when it is asked to issue a new or amended conditional use permit for the property in favor of a single conditional use permit that encompasses the business activities currently proposed for the property;

WHEREAS, the Applicant is amenable to the revocation of the prior conditional use permit on the Property, and such revocation was made a condition of the Current CUP approved for the Property; and

WHEREAS, this Resolution is intended to put future purchasers of the Property on notice that as of the date of this Resolution the only conditional use permit that exists for the Property is the Current CUP issued by the Town Board at its meeting on November 6, 2017.

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

1. The Prior CUP approved by the Town Board, as well as all other conditional use permits previously issued by the Town Board, prior to November 6, 2017 for the Property located at 12151 120th Street South, Hastings, Minnesota, and legally described in the attached Exhibit A, is hereby revoked. All such previous conditional use permits are no longer valid and may not be relied on to support any particular use of the Property.
2. The Town Clerk-Treasurer is hereby authorized and directed to record this Resolution against the Property in the office of the County Recorder/Registrar of Titles.
3. The Town Board Chair, Town Board Members, and Town staff and consultants are hereby authorized and directed to take any additional steps and actions that may be necessary or convenient in order to accomplish the intent of this Resolution.

Adopted this 6th day of November, 2017.

BY THE TOWN BOARD