

Denmark Township Planning Commission Meeting
2014 Various Ordinance Amendments-administrator authorizations, application materials,
tower permitting requirements, open space design setbacks and park dedication requirements
January 21, 2014

Planning Commission members present: Charlie Grote, Steve Radke and Roger Lang

Absent: Bob Barr and Don Schneider

Supervisors Present: Kathy Higgins

Others Present: Attorney Troy Gilchrist (Kennedy Graven)

7:00 PM Vice-Chair Grote opened public Hearing.

Attorney summarized proposed Development Code Amendments.

Article I. Ch 1, Section 1.7 Application and Cost Reimbursement:

Language added to allow the Zoning Administrator on a case by case basis to waive certain application requirements or to require and applicant to submit additional information.

Article II. Ch 1, Section 5.2, paragraph (12) Administrator Authorizations

Language added to allow Zoning Administrator to communicate with applicants as need to process applications; prepare, revise and submit zoning reports; provide recommendations regarding zoning requests.

Article III. Ch 2, Part 2, Section 2 and Article VI. Ch 2, Part 3, Section 4.10(2)(B) Rear Setbacks

To amend the rear setback for Open Space Design from 50 ft to 30 ft in the chart and to amend the rear setback for Open Space Design from 20 ft to 30 ft to be as restrictive and consistent with County Code Setbacks.

Article IV. Ch 2, Part 3, Sect 2.49 Wireless Communication Antennas and Towers. (1) Required Permits Conditional Use Permit (CUP) Certificate of Compliance (CoC)

Language added to clarify what permits are required for certain tower modifications. A Conditional Use Permit would be required for the construction of a new tower in excess of 35 ft or the vertical expansion of an existing tower by more than 10 ft or the replacement of an existing tower exceeding 35 ft.

A Certificate of Compliance would be required for the addition of a new antenna on an existing tower of building, or the addition of ground structures associated with an existing tower, provided the addition is consistent with the CUP issued for the tower or building. If the proposed additional antenna or ground structure is not allowed by the CUP, an amendment to the CUP would be required. The replacement of existing equipment would not require a Certificate of Compliance unless the replacement equipment substantially increases the physical dimensions more than 10%.

Article VII. Ch3, Sect 12.1 Park Dedication Required

Legislature made amendments to the Park Dedication Statute (462.358). Language added to be consistent with Statute. Cash dedication shall be based on fair market value of the land. Evaluation should be made on an annual basis. Objections as to the value of the land shall be determined either by negotiation between the Town and the subdivider, or by the Town based on an independent appraisal of the market value of the land in a same or similar land use category. Subdivider would be responsible for reimbursing the Town for appraisal costs. Town use of funds shall be placed in its park fund and shall be used for the acquisition and development or improvement of parks, recreation facilities, playgrounds, trails, wetlands or open space based on the Town's park plan.

Public Comment- Karen Herman

Towers- Questions regarding CUP's limiting the number of antennas that can be on a tower. Typically CUP's don't limit the number of antennas as the Ordinance encourages co location on towers. If a CUP was issued

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with limitations, an amendment to the CUP would be required. Questioned why an addition would require a CoC. The requirement for a CoC for additions of new antennas on towers enables a review to assure that the addition is consistent with the CUP issued for the tower and also serves to identify which providers are located on which towers.

Park Dedication- Questions regarding subdivider being responsible to pay for any independent appraisal if he objects to the Town's determination of the value of the land. Statute doesn't specifically require that the subdivider solely pay for an independent appraisal, so the Town could share in the costs. Commission consensus that Town should not be responsible for the costs related to a private venture.

Currently a lot split park dedication fee is in Denmark's fee schedule. Fee schedule should be reviewed annually to adjust for changes in land valuation.

7:27 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk.

7:28 PM Planning Commission Opened.

Motion Radke/2nd Lang to forward the proposed Ordinance Amending The Denmark Development Code Regarding Administrator Authorizations, Application Materials, Tower Permitting Requirements and Open Space Design Setbacks to the Board with a recommendation to adopt as presented.

The Board of Supervisors of the Town of Denmark ordains:

Article I. Application Requirements. Chapter One, Section 1.7 of the Denmark Township Development Code is hereby amended by adding the double underlined material as follows:

- 1.7. Applications and Cost Reimbursement. All applications submitted pursuant to this Ordinance must be on the appropriate Township application form. Notwithstanding anything to the contrary in this Ordinance, all required copies of an application and related documentation, except the copies to be submitted directly to the Zoning Administrator and Town Attorney, shall be submitted to the Township Clerk/Treasurer together with the application fee, escrow payment, and escrow agreement. The Zoning Administrator is authorized to determine if the application is complete, to notify the applicant of what information is needed in order to make an application complete, and to take all other steps as are necessary or deemed advisable to manage the application process. The Zoning Administrator may, on a case-by-case basis, waive certain application requirements in writing or may require an applicant to submit additional information in order to allow the Township to more fully understand the request or the potential impacts. No application for a permit or permission required by this Ordinance shall be considered complete, and no application will be processed, unless there are no delinquent property taxes, special assessment, service charges, penalties, or interest on any property the applicant owns within the Township, and the applicant has no unpaid zoning related application fees, administrative fees, fines, or penalties due to the Township. Applicants required to submit an escrow shall be responsible for fully reimbursing the Township for all professional costs it incurs related to the request. If the escrowed amount is not sufficient to fully reimburse the Township for its costs, the applicant shall be billed for the additional amounts, which must be paid within 30 days of the billing. Any amount not paid in full within the 30 day period shall be certified to the County Auditor and collected as a service charge on the applicant's property in the same manner as property taxes as provided in Minn. Stat. § 366.012.

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Article II. Administrator Authorizations. Chapter One, Section 5.2, Paragraph (12) of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- (12) The Zoning Administrator is expressly delegated the authority to carry out the duties assigned to that position in this Ordinance including, but not limited to, each of the following: ~~and is further authorized to determine if applications are complete;~~ to notify an applicant of what information is needed to make an application complete; ~~communicate with applicants as needed to process applications;~~ prepare, revise, and submit zoning reports; ~~provide recommendations regarding zoning requests;~~ and to take such other actions as are reasonably necessary in order to perform the duties and functions of the position.

Article III. Rear Setbacks. The chart contained in Chapter Two, Part 2, Section 2 of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

	C	AP	A-2	RR	SFE	CI
OPEN SPACE DESIGN:						
Minimum Building Setback: Rear	NA	NA	<u>50 30</u> feet	<u>50 30</u> feet	<u>50 30</u> feet	NA

Article IV. Tower Permits. Chapter Two, Part 3, Section 2.49 of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

2.49. Wireless Communication Antennas and Towers.

- (1) Required Permits. The construction of a new tower in excess of 35 feet, the vertical expansion of an existing tower by more than 10 feet, or the replacement of an existing tower exceeding 35 feet, or the addition of a new antenna on an existing tower or building may be allowed in any District following the issuance of a Conditional Use Permit if conditions contained in this Development Code are met. The addition of a new antenna on an existing tower or building, or the addition of ground structures associated with an existing tower, shall require a Certificate of Compliance, provided the addition is consistent with the Conditional Use Permit issued for the tower or building. If the proposed additional antenna or ground structure is not allowed by the Conditional Use Permit, an amendment to the Conditional Use Permit shall be required. The replacement of existing equipment on a tower or building does not require a Certificate of Compliance unless the replacement equipment substantially changes the physical dimensions of the tower. For the purposes of this provision, a "substantial change" shall mean the physical dimensions of the replacement equipment are more than 10% larger than the equipment being replaced.

Article VI. Rear Setbacks. Chapter Two, Part 3, Section 4.10(2)(B) of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- (B) Principal Building Setbacks:
1. Front lot line 40 feet
 2. Side lot line 20 feet
 3. Rear lot line..... 20 30 feet

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Article VII. Park Dedication. Chapter Three, Section 12.1 of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

12.1. Park Dedication Required. All subdivisions which create additional lots (major subdivisions, minor subdivisions and lot splits) shall either dedicate land for parks and trails or pay a park dedication fee in lieu of land dedication. For each subdivision or lot split the Township shall determine whether land or cash park dedication is the acceptable means to satisfy Township park and recreation needs. Park and trail land dedication shall be up to 10% of the land area of the subdivision, as determined by the Township prior to final approval, and such dedication is in addition to any property dedicated for utilities, stormwater, streets, or other public ways. Land to be dedicated shall be reasonably suitable for its intended use, as determined by the Township, based on factors such as size, shape, topography, geology, hydrology, tree cover, access, and location, and shall be at a location convenient to the public to be served. Due consideration shall be given to the amount of open space, recreational, or common areas and facilities open to the public that are proposed for the subdivision. The Township may, at its option, require the developer to make a dedication of cash in lieu of part or all of the required land dedication. Cash dedication in lieu of land dedication shall be 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 Township fee schedule. Park dedication shall be paid by the subdivider prior to the Township signing the final plat and/or development agreement. If the subdivider objects to the Township's determination as to the value of the land, the value shall be determined either by negotiation between the Township and the subdivider or by the Township based on an independent appraisal of the market value of land in a same or similar land use category. If the Township elects to have an independent appraisal performed in order to resolve the objection, the subdivider shall be responsible for reimbursing the Township for the appraisal costs. The park dedication fees the Township collects shall be placed in its park fund and shall be used for the acquisition and development, or improvement, of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the Township's park plan.

Article VIII. Incorporation of Amendments. The Town Attorney and Town Clerk/Treasurer are hereby authorized and directed to incorporate the amendments made by this Ordinance into the Denmark Township Development Code and such updated version shall constitute the official Denmark Township Development Code.

Article IX. Effective Date. This Ordinance shall be effective upon the first day of publication after adoption.

All In Favor. Motion Carried 3-0.

APPROVAL OF MINUTES-

Motion Radke/2nd Lang approval of Minutes 06/17/2013 Planning Commission/Buell Consulting/T-Mobile/Crown Castle amended Conditional Use Permit. All In Favor. Motion Carried 3-0.

7:37 PM Motion Radke/2nd Lang to adjourn. All In Favor. Motion Carried 3-0.

Becky Herman
Denmark Township Clerk/Treasurer