

Denmark Township Planning Commission Meeting
GLG Properties 7077 Manning Avenue S Public Hearing
Amended Conditional Use Permit
Ordinance Amendment Plant Nursery Composting
September 17, 2012

Planning Commission members present: Charlie Grote, Don Schneider, Pat Lilligren, Bob Barr, Steve Radke
Supervisors Present: Kathy Higgins
Others Present: Attorney Troy Gilchrist and Planner Kelsey Johnson

7:05 PM Chair Barr opened Public Hearing.

GLG Properties is requesting to amend the conditional use permit for the operation of a plant nursery retail business at 7077 Manning Avenue S. Applicant is also requesting an amendment to the text of the zoning ordinance to allow for a yard waste facility with composting as an accessory use to a plant nursery in the agricultural zoning district. Subject property and business are currently owned by Buell's limited Partnership.

Applicants Gino Patera (GLG Properties) and Tom Evenson (Gonyea Land Co.) present.

The proposed amendments to the current Buell's conditional use permit include updating the parcel identification numbers (07.027.20.22.0002- 07.027.20.23.0002- 07.027.20.23.0001) to include all 3 adjacent parcels totaling 79 acres to be included in the permit. Current CUP identifies only one 47 acre parcel (07.027.20.22.0002). To ensure that the existing 2 driveway accesses from Hwy 95 are allowed to be left in place. To allow for the composting and the sale of finished composting product as an accessory use to the Plant Nursery's in the agricultural zoning district.

Applicant proposes to continue the operation of a retail nursery garden center. No new buildings on the site are proposed.

Applicant currently operates a composting facility in Eagan.

Composting Operation

Soft yard waste material would include grass clippings, leaves, sod tear outs and yard soils. No manure or food waste would be accepted.

Woody brush material would include shrubs, branches, tree limbs and trees.

Most likely materials would be brought in by local residents and contractors. Any processing of ash trees is done per the MN Dept of Agriculture requirements.

Applicant is requesting to use 3-5 acres in the northeast corner for the composting operation and is aware that if a change is desired he would need to seek an amendment to the conditional use permit.

Applicant is requesting that hours of actually processing material be Monday through Saturday from 7 AM to 5 PM.

Applicant is requesting that the hours of operation for the retail garden center are not restricted as they vary and that the materials dropped off for composting could be received anytime that the retail garden center business is open.

Proposed Ordinance Amendment

The Denmark Township Zoning Code prohibits yard waste facilities. The applicant is requesting to amend the zoning ordinance to allow the business to compost and sell finished composting products at the retail business site. Attorney reviewed 09/14/12 draft ordinance amendment with Commission Members and Applicants. Draft language is consistent with the County Ordinance.

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Public comment: Cheryl Kohls-adjacent landowner raised concerns regarding the proposed composting operation.

Property values affected, odor created by the composting, traffic, noise, air quality, whether any reviews were done regarding water quality-waterway drainage, major water use, visual aesthetics, expansion of the composting area. Inquired on whether there was any mechanism in place for monitoring the air quality, water quality and other possible issues.

Applicant responses.

Soft yard waste material would include grass clippings, leaves, sod tear outs and yard soils. No manure or food waste would be accepted. Soft material compost is stored and processed in wind rows which are typically 6-10 ft high. The odor that sometimes occurs would occur during the turning of the compost. The compost is turned only 3 times during the 6 month period of processing. The piles are turned by a front end loader, 1 scoop at a time. When properly aged, the compost is screened/pulverized to create landscape and garden soils for reuse. Keeping in mind his retail business and customers, Applicant is interested in keeping odors to a minimum.

Woody brush material would include shrubs, branches, tree limbs and trees. Woody brush material is ground up and processed into mulch. A tub grinder which runs on a large diesel motor is used to turn wood branches and limbs into mulch. Noise is equivalent to a large truck and is run 1 or 2 days for 8-10 hours a day, about once a month, during regular business hours, seldom on a weekend or from January through March of the year.

Applicant has not received noise complaints at their Eagan location which is in an industrial area with Townhomes and residences nearby.

Applicant likened the airborne particles to those that are created by farm equipment/tractors/combindes during fieldwork. It was noted by the Planning Commission that the prevailing winds would not likely blow particles toward the adjoining property.

A conditional use permit would limit the size and location of the composting operation.

Applicant stated that if water is used, it is used if there are dry conditions to control the dust on the ground if equipment is running, and not added to the compost material.

Planner submitted 09/11/12 staff report and recommended conditioned approval of the request to amend the conditional use permit and the amendment to the zoning ordinance to allow the composting and sale of finished composting product as an accessory use to Plant Nurseries.

During the discussion, the Planner recommended adding conditions for the types of acceptable materials used in the composting operation, hours of the composting operation and the size & location of the composting area. Planner recommendation to revise Condition #4- strike gravel, as the parking lot is not all gravel. Condition #6- In addition to identifying the 2 existing driveway accesses from Hwy 95, 1 access off 70th St. as approved by Washington County.

8:12 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk.

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8:13 PM Chair Barr called Planning Commission Meeting to order.

Planning Commission consensus to limit the hours of operation for the actual compost processing to Monday through Saturday 7AM to 5PM. To not limit the hours of operation for the retail business and to allow the receiving of compost materials during retail business hours. To limit the composting acreage and site to 6 acres in the northeast corner. Acceptable materials for composting to include soft yard waste consisting of grass clippings, leaves, old sod tear outs, plants and similar vegetative materials. Woody brush, tree limbs, trees and yard soils from landscaping projects. To revise conditions 4 and 6 per Planner's recommendation.

Re water quality-Engineering did not have comments. Attorney-The proposed ordinance amendment does address retention and drainage of storm water.

Discussion regarding setting a precedent on hours of operation. Concern expressed that allowing early hours of operation in this business could set precedence and therefore other businesses could request the same.

Attorney opinion that unless the request came from a similar operation with the same uses, a precedent would not be set, as equal protection does not cross to other uses.

Motion Grote/2nd Schneider to forward GLG Properties request to the Board with a recommendation to approve the Proposed Ordinance Amending The Denmark Development Code To Allow Composting As An Accessory Use To A Plant Nursery as submitted. All In Favor. Motion Carried 5-0.

AN ORDINANCE AMENDING THE DENMARK DEVELOPMENT CODE
TO ALLOW COMPOSTING AS AN ACCESSORY USE TO A PLANT NURSERY

The Board of Supervisors of the Town of Denmark ordains:

Article I. Chapter Two, Part 3, Section 2.32 of the Denmark Township Development Code is amended by adding the double underlined material as follows:

- 2.32. Plant Nursery. A building or premises used primarily for the growing and retail sales of trees, shrubs, flowers, other plants and accessory products.
 - (1) Required Permits. Allowed in all Districts with a Conditional Use Permit.
 - (2) Other Requirements. All rules and regulations of Federal, State, County and Local authorities must be met.
 - (3) Performance Standards. Plant Nurseries must meet all of the following minimum standards in addition to other performance standards in this Development Code.
 - (A) The minimum lot area shall be ten (10) acres.
 - (B) The majority of product sold on the property shall be grown or raised on the property.
 - (C) The exterior storage of landscape equipment and storage areas shall be screened from view of Federal, State, County or Township roadways and property lines.
 - (D) Except to the extent allowed by this paragraph, the composting of materials not generated on the same site as the plant nursery is prohibited. Composting of materials generated off of the site, and the sale of such composted materials, is permitted as an accessory use to a plant nursery in the AP District and the A2 District provided it meets the following standards and is expressly approved by the Conditional Use Permit issued for the plant nursery:
 - 1. The materials composted are limited to garden waste, leaves, lawn cuttings, weeds, shrub and tree waste, prunings, and similar vegetative materials.
 - 2. Composting, storage, transfer, loading and processing activities must be setback as follows:
 - a. Property lines 100'
 - b. Existing Residential uses not on the property . . . 500'

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- c. DNR protected watercourse 200'
- d. Wetland 75'

- 3. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours.
- 4. A plan for collection, retention and drainage of storm water shall be provided for review and approval. On-site drainage shall be directed to a constructed stormwater holding pond prior to any drainage leaving site. The stormwater holding pond shall be located a minimum of 75' from the composting storage area. The runoff directed towards this pond shall be filtered through a 75' wide vegetated buffer.
- 5. The operator shall provide sufficient equipment on site to properly manage the composting process. At a minimum this shall include a front end loader or similar machinery for loading, unloading, turning, and aeration operations; a shredder for reducing new material to a smaller particle size for faster decomposition; a source of water or watering trucks; and a screen to improve the quality and marketability of the final product. The operator shall provide plans showing all equipment maintenance and storage areas. Plans shall show the location of all fuel storage facilities, hazardous material storage and hazardous waste disposal.
- 6. The decomposition process shall be properly managed and maintained in an aerobic condition to prevent all unnecessary odors. The yard waste must be decomposed through a process which encompasses turning of the yard waste on a periodic basis to aerate the yard waste, maintain temperatures, and reduce pathogens. The composted yard waste must contain no sharp objects greater than one inch in diameter.
- 7. The operator shall provide information specifying the types and volume of materials brought onto the property for composting.
- 8. The facility shall operate only between the hours of 7:00 am and 7:00 PM, Monday through Friday, unless other hours or days of operation are specifically authorized by the Conditional Use Permit.

- (4) Commercial Plant Nurseries shall meet the requirements of the zoning district in which they are located.

Article II. Incorporation of Amendments. The Town Attorney and Town Clerk/Treasurer are hereby authorized and directed to do the following with respect to the Denmark Township Development Code upon the adoption of this ordinance:

- 1. Incorporate these amendments into the text of the Development Code, including renumbering sections and subsections as needed; and
- 2. The Clerk/Treasurer shall maintain an official copy of the updated Denmark Development Code in the office of the Clerk/Treasurer, which shall constitute the official copy of the Code, and post a copy of it on the Township's website.

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

Motion Schneider/2nd Radke to forward GLG Properties request to the Board with a recommendation to approve an Amended Conditional Use Permit for GLG Properties-7077 Manning Ave S., based on the 09/11/2012 Planner's Findings of Fact and subject to the following conditions (underlined items are revisions of the 09/11/12 Planner's conditions by the Planning Commission:

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1. Scope of Permit. The operation of the retail nursery/garden center and plant nursery on parcels totaling 79.79 acres as legally described herein shall be maintained in a manner which is consistent with the architectural and site plans dated July 16, 2004, and civil engineering plans dated June 21, 2004. All outdoor storage and display of goods shall occur on the areas designated on the approved plans. The exterior storage of landscape equipment and storage areas shall be screened from view of Federal, State, County and Township roadways and property lines. No retail storage or display is allowed within the front parking setback area, right of way or parking lot. There shall be no other retail sales or other non-agricultural business use not related to plants and related accessory products. In the event that the Plant Nursery ceases to exist or operate on the premises the retail garden center use shall cease and not be allowed on the premises.
2. Grading, Drainage and Erosion Control. The grading, drainage and erosion control plan as approved by the Township Engineer shall remain in effect. Minor modifications or changes as designated by the Township Engineer to the grading, drainage and erosion control plan may be reviewed and approved administratively by the Township Engineer. Major modifications or changes as designated by the Township Engineer to the grading, drainage and erosion control plan will require review and approval by the Town Board.
3. Landscaping / Screening Plan. Landscaping within the five foot parking lot setback and within the parking lot islands shall remain in place per the approved site plan. Minor modifications or changes to the landscaping plan may be reviewed and approved administratively by the Township Planner. Major modifications or changes as designated by the Township Planner to the landscaping plan will require review and approval by the Town Board.
4. Parking. Adequate parking for 91 cars which consists of a gravel parking lot and space for 33 cars and overflow parking for 58 cars will need to remain in place as approved as part of the original CUP in 2004.
5. Signage. Signage is limited to the existing ground mounted sign at 70th/TH 95 and a free standing sign as shown on the plans dated July 16, 2004. The free standing sign shall not exceed ninety (90) square feet and must be set back ten (10) feet from all property lines.
6. Driveway Access. The facility will be allowed the two (2) existing driveway accesses from Trunk Highway 95 as approved by the Minnesota Department of Transportation and the one (1) existing driveway access from 70th Street as approved by the county.
7. Waste Receptacles. The waste receptacle for the facility shall be located inside a structure or enclosed with an opaque fence.
8. Applicable Provisions. All applicable provisions of the Denmark Township Zoning Ordinance concerning this permit shall be met unless waived by this permit.
9. Alterations. Any alteration of the premises or any plans shall be reviewed by the Town Board and Zoning Administrator unless otherwise stated in this permit. Said alterations shall require an amendment to this permit.
10. Adherence to Terms. Adherence to the terms of the conditional use permit shall be monitored on a complaint basis and yearly as set forth below. Violation of any term of said conditional use permit may result in revocation of the permit.
11. Conditions of Permit. The conditions of this permit shall run with the land described and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership.
12. Lighting. The Applicant/Owner(s) shall conform to the lighting regulations of the Denmark Development Code.

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13. Signage. Before putting up any additional signage, the applicant/owner(s) must obtain a permit from the Town and the sign must conform to the requirements of the Denmark Development Code.
14. Required Permits. The Applicant/Owner(s) shall obtain all permits and approvals which are necessary or required from other Federal, County, and Local governments.
15. Fees. The Applicant/Owner(s) shall pay all planning, engineering and legal fees and costs incurred by the Township for processing this permit application. In the event any fees are outstanding they will be paid by the Applicant/Owner(s) within fourteen (14) days of receiving a bill from the Township. In the event the fees are not paid this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Township.
16. Inspections. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant/Owner(s), at all reasonable times to conduct inspections for the purpose of ensuring compliance with this permit. Prior notice to inspect the Property is not required in the event of an emergency.
17. Revocation. The violation of any term 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/Owner(s) shall be given written notice of any violation and reasonable time (not less than 30 days) to cure the violation before a revocation of the permit may occur.
18. Binding Effect. The permit and its conditions are binding on the parties, their successors and assigns, and shall run with the Property until the permit is terminated or revoked as provided herein.
19. Only Permit. This permit supersedes and replaces any other permits previously issued by the Town for the "Plant Nursery" use on this Property and all such previous permits are hereby repealed.
20. 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.
21. Amended Permit. 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 permit, shall not be permitted unless an amended conditional use permit is obtained from the Town.
22. The composting area shall not exceed 6 acres. The business may receive materials for composting only during the hours its retail business is open to customers. Actual composting activities (use of tub grinder, operating machinery to turn the piles, and other potential noise generating activities associated with composting) may only occur Monday through Saturday from 7AM to 5PM. Other than the limitations imposed on the composting operation, the business hours of operation are not limited. Only the following materials are acceptable for composting: soft yard waste consisting of grass clippings, leaves, old sod tear outs, plants and similar vegetative materials. Woody brush, tree limbs, trees and yard soils from landscaping projects.

All In Favor. Motion Carried 5-0.

APPROVAL OF MINUTES-

Motion Grote/2nd Radke to approve the 04/16/12 Planning Commission/Ordinance Amendments Public Hearing minutes. All In Favor. Motion Carried 5-0.

8:35 PM **Motion Grote/2nd Schneider to adjourn.** All In Favor. Motion Carried 5-0.

Becky Herman
 Denmark Township Clerk/Treasurer