

Denmark Township Planning Commission Meeting
Development Code and 2030 Comprehensive Plan Amendments
Public Hearing September 19, 2011

Planning Commission Members Present: Steve Radke, Charlie Grote, Bob Barr

Absent: Don Schneider and Pat Lilligren

Board Supervisors Present: Kathy Higgins

Others Present: Attorney Gilchrist and Planner Sherri Buss

7:02 PM Chair Radke called Planning Commission Meeting to order.

7:03 PM Public Hearing for proposed Development Code and Comprehensive Plan amendments Opened.

Attorney submitted the following proposed amendments to the Development code for Commission review.

Article I. Chapter One, Section 1 of the Denmark Township Development Code is amended by adding Section 1.8 as follows:
1.8 Compliance. No building or structure shall be erected, moved, or altered in the Township unless it conforms with the regulations contained in this Ordinance. No land, building, or structure shall be used or occupied in the Township for any purpose or in any manner that is not in conformity with all the regulations contained in this Ordinance. Compliance with this Ordinance shall be determined on a per parcel basis, regardless of whether adjacent parcels have the same owners. Parcels may be combined as provided in this Ordinance to bring a parcel into conformance.

Article II. Chapter One, Section 2 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

Accessory Structure: A single one-story or two-story structure greater than 120 square feet in size, detached from the main single-family residence on the same lot, and used or intended to be used for the storage of personal property or for agricultural purposes. The footprint of the building shall be used to measure the total square footage of an accessory structure.

Agricultural Building: Shall have the meaning given it in Minn. Stat. § 326B.103 46B-60, subdivision 3 5 as it may be amended.

Hardship Practical Difficulties: "Hardship" "Practical difficulties" as used in connection with the granting of a variance means:

- ~~The property in question cannot be put to a reasonable use if used under conditions allowed by the Official Controls~~ The property owner proposes to use the property in a reasonable manner not permitted by the official controls; and
- The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
- The variance, if granted, will not alter the essential character of the locality.
- Economic conditions alone shall not constitute a hardship practical difficulties if a reasonable use for the property exists under the terms of the Development Code.
- ~~The Board may consider the inability to use solar energy systems a "hardship" in granting of the variance~~ Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Variance: A variance is the modification or variation of the Denmark Township Development Code where it is determined that, by reason of exceptional circumstances unique to the property not created by the landowner, the strict enforcement of the Code would cause ~~unnecessary hardship~~ practical difficulties.

Article III. Chapter One, Section 9.1 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

9.1. Variance. A variance is the modification or variation of the ~~Zoning Regulations~~ Denmark Township Development Code where it is determined that, by reason of exceptional circumstances unique to the property not created by the landowner, the strict enforcement of the ~~Zoning Regulations~~ official controls would cause ~~unnecessary hardship~~ practical difficulties. A variance, once granted, runs with the land.

- (1) No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- (2) An application for a variance shall be filed with the Zoning Administrator; the application shall be accompanied by development plans showing such information as may be required by the Township's policies and procedures for purposes of this Development Code. If the application does not contain all required information, the Zoning Administrator shall send written notice within fifteen (15) business days of receipt of the request, telling the applicant what information is missing.
- (3) Variances shall only be permitted when they are in harmony with the general purpose and intent of the Official Controls, in cases when there are practical difficulties ~~or particular hardships~~ in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the Comprehensive Plan.
- (4) "Hardship" "Practical Difficulties" as used in connection with the granting of a variance means:
 - (A) ~~The property in question cannot be put to a reasonable use if used under conditions allowed by the Official Controls~~ The property owner proposes to use the property in a reasonable manner not permitted by the official controls; and

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- (B) The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
- (C) The variance, if granted, will not alter the essential character of the locality.
- (D) Economic conditions alone shall not constitute a hardship practical difficulties if a reasonable use for the property exists under the terms of the Development Code.
- (E) ~~The Board may consider the inability to use solar energy systems a "hardship" in the granting of a variance~~ Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (5) Variances shall be granted for earth sheltered construction as defined in ~~MS-§~~ Minn. Stat. § 216C.06, Subd. 14 when in harmony with the Official Controls.
- (6) Where, in the opinion of the Planning Commission, a variance may result in a material adverse effect on the environment, the Planning Commission may recommend to the Town Board that the applicant demonstrate the nature and extent of that effect.
- (7) The Planning Commission may recommend to the Town Board that conditions be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. Conditions imposed on a variance must be directly related to and must bear a rough proportionality to the impact created by the variance.
- (8) No application for the same variance as acted upon by the Planning Commission shall be resubmitted for a period of six (6) months from the date of denial of the previous application unless there has been a substantial change in circumstances as it relates to the request.
- (9) Findings:
 - (A) The Planning Commission shall make written findings of fact on all applications for variances and shall state therein the reasons for such decision.
 - (B) Copies of the findings shall be mailed to the applicant.
 - (C) The Planning Commission shall make a recommendation on its findings to the Town Board for action at the next regularly scheduled Board meeting.
- (10) The Town Board is the Board of Appeals and Adjustment and shall decide whether to grant a variance and the conditions to be placed on the variances it issues. The decision of the Town Board regarding a variance is final, subject to judicial review.

Article IV. Chapter Two, Part 3, Section 1.2 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

- 1.2 Accessory Structures. A one-story or two-story structure greater than 120 square feet in size, detached from the main single-family residence on the same lot, and used or intended to be used for the storage of personal property or for agricultural purposes. Except as expressly allowed by this Ordinance, no accessory structure may be used for sleeping or contain living space.
- (1) Required Permits. A building permit is required for all accessory structures except agricultural buildings on a farm. A Certificate of Compliance is required for all agricultural buildings and ~~accessory structures~~ over 1,000 square feet in size. The Town Board may direct the Building Inspector to issue Certificates of Compliance for agricultural buildings.
 - (3) Agricultural Preserve (AP), Agricultural (A-2), Residential (RR) and Single Family Estate (SFE) Districts. The following additional standards apply to all land within these districts:
 - i. On parcels less than 2 acres, one accessory structure is allowed. On parcels greater than 2 acres and less than 20 acres, a maximum of two accessory structures are allowed. On parcels greater than 20 acres: (1) there is no limit on the number of accessory structures, provided they are an agricultural building; and (2) a maximum of three accessory structures that are not agricultural buildings are allowed. One single-story shed of 120 square feet or less is permitted in addition to the allowed accessory structures.
 - ii. The permitted size and number of accessory structures are as follows:

Lot Area	Total Accessory Structure Square Footage Allowed*	Number of Accessory Structures Allowed	Maximum Sidewall Height**
Less than one acre	1,000 square feet	1	12 feet
1 acre – 1.99 acres	1,600 square feet	1	12 feet
2 acres – 4.99 acres	2,000 square feet	2	14 feet
5 acres – 7.99 acres	2,600 square feet	2	16 feet
8 acres – 9.99 acres	3,200 square feet	2	16 feet
10 acres – 19.99 acres	4,000 square feet	2	16 feet
20 + acres	Agricultural Buildings: Unlimited Non-Agricultural Buildings: 5,000 square feet	Agricultural Buildings: Unlimited Non-Agricultural Buildings: 3	16 feet

*The footprint of the building is used to determine total square footage

**Maximum sidewall heights do not apply to agricultural buildings

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Article V. Chapter Two, Part 3 of the Denmark Township Development Code is amended by adding Section 1.12 as follows:

1.12 Driveways.

- (1) Standards. Driveways constructed or reconstructed to provide access to a township road shall be constructed in accordance with the driveway rules, regulations, and standards established by the Town Board and the requirements of this Ordinance. A permit shall be obtained from the Township before any driveway approach is constructed or reconstructed to a township road. Driveway approaches constructed to a county or state highway shall comply with the applicable county or state regulations.
- (2) Location. No portion of a driveway constructed or expanded after the effective date of this Ordinance shall be located within the side yard setback area applicable to the property, except upon approval of the Town Board.

Article VI. Chapter Two, Part 3, Section 2.25 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

- 2.25. Kennel-Commercial. A kennel where dogs are bred and/or sold for re-sale, individually or in litter lots, whether or not any of these animals are also kept for personal use and where the business may be a primary source of income. Commercial kennels are also places where dogs are boarded, groomed or trained for a fee.
- (1) Required Permits. Allowed in all Districts except Conservancy with an Interim Conditional Use Permit.

Article VII. Chapter Three, Section 2.1 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

- 2.1. The regulations contained in this chapter shall apply in Denmark Township and shall apply to any combination of lots and division of land into two or more parcels for the purpose of transfer of ownership, building development or tax assessment purposes by platting, replatting, registered land survey, conveyance, sale, contract for sale or other means by which a beneficial interest in land is transferred.

Article VIII. Chapter Three, Section 2.2 of the Denmark Township Development Code is amended by adding the double underlined material and deleting the ~~stricken~~ material as follows:

- 2.2. After the effective date of this Ordinance:
- (1) No land shall be subdivided or platted nor shall any plat or deed be recorded except as provided in this chapter and approved by the Township as having fulfilled the requirements of this Chapter, the other chapters of the Denmark Township Development Code and Minn. Stat. Chap. MS §505.
 - (2) To the extent this Ordinance requires the combination of parcels, or portions of land, on the same deed for recording purposes, such combination shall result in the recording with the County of a single deed with a single legal description for the combined properties. A combination of tax parcels alone shall not be sufficient. Unless the combination of parcels on the same deed is expressly required by this Ordinance, or by the Town Board as a condition of a permit or variance, the combination of parcels into a single tax parcel in accordance with the process established by the County shall be deemed sufficient for the purposes of determining compliance with this Ordinance based upon the combined parcel. The Town Board shall not approve the separation of the tax parcel unless the parcels, once separated, will each be in full compliance with the requirements of this Ordinance.
 - (32) Any parcel of land, either platted or unplatted, that has been combined for tax purposes, or for any other reason, cannot be re-separated without prior written approval of the Town Board and compliance with the applicable requirements of in the manner prescribed in this Chapter.
 - (43) No registered land survey shall be recorded with the Registrar of Titles until the registered land survey shall have been approved by the Township as having fulfilled the requirements of this Ordinance and the Denmark Township Development Code.

Article IX. Zoning Map. The map attached hereto is hereby adopted by reference as the official Denmark Township Zoning Map and replaces the zoning map adopted by the Town Board on November 1, 2010.

Article X. 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.
2. Make such changes as may be needed to make all references to Minnesota statutes consistent with the following format: "Minn. Stat. §".
3. Correct typographical errors and omissions.
4. The Clerk/Treasurer shall maintain an official copy of the updated Denmark Development Code in the office of the Clerk/Treasurer and post a copy of it on the Township's website.

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

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Planner submitted the following proposed amendments to the 2030 Comprehensive Plan for Commission review.

The Metropolitan Council recently adopted revisions to the 2030 Regional Parks Policy Plan and the 2030 Transportation Policy Plan that require local comprehensive plan amendments. As required by state statute, the Council has issued revised "system statements" to all communities. The Council is requiring Denmark Township to amend its 2030 Comprehensive Plan to include the following:

1. Revision of sections discussing the St. Croix Valley Regional Trail and Point Douglas Regional Trail Search Corridors
2. Addition of 2030 Metropolitan Regional Parks System Plan Update map
3. Revision of Transit Market Area description and services
4. Addition of Transit Market Areas map
5. Reference to the Township being within the Red Rock transitway corridor
6. Addition of 2030 Transitway System map

Revisions are proposed to the following maps:

1. 2030 Planned Land Use
 - Include Town Hall Park
 - Include additional areas to the Lost Prairie Valley SNA
2. Conserved Lands
 - Include additional areas to the Lost Prairie Valley SNA
3. Parks and Open Space, and Trail Search Corridors
 - Include additional areas to the Lost Prairie Valley SNA
4. Historic Sites
 - Include additional areas to the Lost Prairie Valley SNA
5. Zoning Districts
 - Include the Town Park in the Conservancy District
 - Include additional areas to the Lost Prairie Valley SNA in the Conservancy District
 - Include density regulations for each district in the legend

The Township reviewed Washington County's proposed master plan for the St. Croix Valley Regional Trail in 2005. The Town Board requested that the Township's comments on the master plan be included in the Comprehensive Plan, along with the information from the Metro Council *2030 Regional Parks Policy Plan*. Inclusion of the comments will reinforce the Township's concerns with the proposed as the proposed general alignment is considered by the Council.

7:28 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk.

7:30 PM Planning Commission meeting resumed.

Motion Radke/2nd Grote to forward and recommend approval to the Board the proposed Development Code amendments as drafted. All In Favor. Motion Carried 3-0.

Motion Grote/2nd Barr to forward and recommend approval to the Board the proposed 2030 Comprehensive Plan amendments as drafted. All In Favor. Motion Carried 3-0.

APPROVAL OF MINUTES:

Motion Barr/2nd Grote approval of 08/15/11 Planning Commission/Conzemius-Lewanski Interim Use Permit and Variance Public Hearing Minutes. All In Favor. Motion Carried 3-0.

7:48 PM Motion Grote/2nd Radke to adjourn. All In Favor. Motion Carried 3-0

Becky Herman
Denmark Township Clerk/Treasurer