

Denmark Township Memorandum

To: Denmark Township Planning Commission

Copies: Troy Gilchrist, Town Attorney
Cara Geheren, PE, Town Engineer, FOCUS Engineering, Inc.

From: Ryan Krzos, AICP, Town Planner

Date: October 13, 2020
Planning Commission Regular Meeting for October 19, 2020

WSB Project No. 15210-000

Requests: **Approval of:**

- (1) A Comprehensive Plan Amendment to the Future Land Use Map Designation from Agricultural to Rural Residential**
- (2) Rezoning from A-2 to RR**
- (3) A minor subdivision subdividing one 13.86-acre parcel into two (2) lots.**

The requests are for property located at 10350 St Croix Trail South. PID: 8.027.20.13.0004

Applicant/Owner: Mildred D and Raymond Thurmes

Project Location: 10350 St Croix Trail South

Existing Land Use / Zoning: Agricultural, A-2 and Shoreland Management District

Surrounding Land Use / Zoning: (See Zoning Map pg 7)

- North: Agricultural Preserves, A-P
- East: Conservancy, C and Shoreland Management District
- South: Agricultural, A-2 and Shoreland Management District
- West: Agricultural, A-2 and Shoreland Management District

Comprehensive Plan: The Denmark Township (2040) Comprehensive Plan guides this property for Agricultural land use.

Deadline for Agency Action:

Application Date:	09-08-2020
Complete Letter Mailed:	09-22-2020
60 Days:	11-07-2020
120 Days:	01-06-2021

REQUESTED ACTION

The applicant, Mildred and Raymond Thurmes have submitted applications to rezone and subdivide the above noted property within the Township. The rezoning request would change the zoning of the property from Agricultural - A-2 to Rural Residential – RR. Since the requested new zoning designation does not align with the Comprehensive Plan’s future land use map, a request to amend the Township’s Comprehensive Plan is also being processed.

The requested minor subdivision would subdivide one (1) 13.86-acre parcel into two (2) proposed parcels. One parcel "Parcel B" would retain an existing home and outbuildings and be 8.86 acres in size. "Parcel A" would be a 5.0-acre property for a future residential dwelling. Both lots have frontage along and would gain access from 104th Street

COMPREHENSIVE PLAN AMENDMENT REVIEW

The subject site is guided by the 2040 Comprehensive Plan for long-term Agricultural uses. The Plan states that the compatible Zoning Districts for the long-term Agricultural category are "Agricultural Preserves" or "Agriculture A-2". Zoning decisions, including rezonings, must be consistent with the Comprehensive Plan. As such, the requested zoning change from A-2 to RR will also include a request to change the land use category of the site to Rural Residential land use category. The Rural Residential land use category is stated as being compatible with the Rural Residential zoning district.

The procedure to amend the Comprehensive Plan is generally similar to that of a rezoning. First a formal public hearing will be held before the Planning Commission on the proposed amendment. Following the public hearing the Planning Commission will make a recommendation to the Town Board. The Town Board will receive the recommendation from the Planning Commission and make a final decision on whether to adopt the amendment. Unlike rezoning however, all amendments to the plan must be submitted to the Metropolitan Council (and DNR for Critical Area) for review prior to implementation.

The Metropolitan Council reviews all Comprehensive Plans for consistency with the Council's regional plans. The Regional Development Plan identifies Denmark Township as a Diversified Rural planning area, and calls for average densities of no more than one housing unit per ten acres. The Council may not be in favor of expanding the Rural Residential area in Denmark Township.

If the Council finds that the Plan is inconsistent with its policy, it will review it further to see if the inconsistency would have a substantial impact on regional systems (transportation, sewer, water, and regional parks). It seems unlikely that the request would result in a substantial impact. If the Land Use Plan is problematic in terms of consistency with regional plans, Denmark Township would have the option to keep the land use guidance for the subject property as Agriculture.

A central principle in the Comprehensive Plan is the importance of the Township's rural character. Significant expansion of Rural Residential land use and zoning would be inconsistent with the Plan. Changing the Planned Land Use Map to guide more land for Rural Residential could arguably establish a precedent for other property owners to request a change to Rural Residential. As such, this request must be evaluated on the circumstances characterizing the subject site and vicinity.

This particular site is along the cul-de-sac street known as 104th Street. There are a number of other parcels along 104th street that are developed with the characteristics of the rural residential zoning category. Specifically, there are three lots on the south side of 104th street 5 acres or less in size – two of which are developed with residences. Additionally, the adjoining parcel to the subject site is a 5.08-acre parcel to the east also developed as a residence. As such, staff finds that changing the land use designation for the subject property would not be out of character with property in the immediate vicinity. This would support an amended limited to just the subject lots and those adjoining 104th street directly south of and east of the site.

REZONING REVIEW

Ordinance Authority

An amendment to the Zoning Map (rezoning) may be initiated by the Township Board, the Planning Commission, or by petition of property owner(s). A rezoning not initiated by the Planning Commission is first referred to the Planning Commission for review and recommendation. The Planning Commission is to also hold a public hearing on the matter. Following review and recommendation of the Planning Commission the Town Board may take action on the amendment.

As previously noted, rezoning requests must be consistent with the Comprehensive Plan. Accordingly, if the Township is inclined to approve the Plan Amendment, then the rezoning request should similarly be approved.

MINOR SUBDIVISION REVIEW

Ordinance Authority

Chapter 3, Section 6 of the Denmark Township Development Code outlines the criteria for minor subdivisions within the Township. A minor subdivision is defined as “any subdivision containing three (3) or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Comprehensive Plan, Official Map, Zoning Regulations, or these regulations.”

Zoning

The property is proposed to be located within the Rural Residential – RR zoning district. As such staff evaluated the request against the standards of the RR District. The site is also within the Shoreland Management Overlay district. The proposed lots meet the minimum lot requirements for lot size, buildable area, and minimum public road frontage based on the standards for the RR district.

	Minimum RR District Requirement	Parcel A Proposed	Tract B Proposed
Minimum Lot Size	5.0 acres	5.0 Acres	8.86 Acres
Minimum Buildable Area	1 acre	>1 acre	> 1 acre
Minimum Public Road Frontage	300 feet	350.91 feet	592.57 feet

The existing dwelling would comply with the applicable dimensional standards following the proposed subdivision of the lot. Proposed “Parcel A” is capable of providing a home site that would adhere to applicable setback requirements.

Structure and on-site sewage system requirements		
	Minimum Requirement	Shoreland Overlay Requirement
Minimum Building Setback: Front	40 feet	

Minimum Building Setback: Side	20 feet	
Minimum Building Setback: Rear	50 feet	
Maximum Building Height	35 feet	35 feet
Top of bluff line		30 feet
Sewage Treatment Systems		75 feet
Lot Coverage		25% maximum
Septic setback from creek		150 feet
Building setback from creek		200 feet

Accessory Buildings

Proposed "Parcel B" would contain more accessory building square footage than what is allowed by Ordinance for an 8.86-acre parcel. As such, the applicant would have to reduce the amount of accessory building square footage, or apply for and obtain a variance from the current requirements. Currently Ordinance requires no more than 3,200 square feet of accessory building area for sites between 8 and 9.99 acres. Per the applicant the site contains a 2,560 square foot (40' by 64') shed and a 1,920 square foot (32' by 60') shed.

The Ordinance does allow properties with existing farmstead accessory buildings to be subdivided while retaining the existing number and square footage of accessory structures. However, the structures needed to be part of the farmstead as of January 1, 2001. It appears from air photos that the northerly shed was added at some point between 2003 and 2008. Accordingly, this exemption does not apply.

Park Dedication Fees

Chapter 3, Section 12.1 states that "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."

The proposed major subdivision results in one (1) additional buildable parcel. It is Staff's recommendation that park dedication in the amount of one (1) lot be required to be paid by the Applicant.

PLANNER RECOMMENDATION

Based on the analysis above, Staff recommends conditional approval of the proposed Comprehensive Plan Amendment, Rezoning, and minor subdivision.

FINDINGS OF FACT

Town Staff offers the following findings of fact for the Planning Commission's and Town Board's consideration:

1. The subject property is currently zoned Agriculture, A-2 and is located within the Shoreland Management Overlay;
2. The subject site is guided by the 2040 Comprehensive Plan for Agricultural land uses.
3. The applicant is requesting an amendment to the Comprehensive Plan and a rezoning to Rural Residential;

4. The proposed Comprehensive Plan amendment and rezoning is consistent with the characteristics of property in the immediate vicinity in terms of use and lot size and lot configuration;
5. The applicant is proposing a minor subdivision to subdivide one (1) lot into two (2) lots;
6. The proposed minor subdivision does not dedicate any new public roads;
7. Chapter 3, Section 6 permits minor subdivisions containing three (3) or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road;
8. The property satisfies the minimum lot size for the requested zoning district;
9. The lots to be divided are in a location where conditions are well defined;
10. The newly created property lines will not cause any resulting lot to be in violation of the Development Code;
11. The proposed subdivision was prepared by a registered land surveyor;

PROPOSED CONDITIONS

The following are conditions Town Staff is recommending be included, in addition to the Town's standard conditions, as part of the Minor Subdivision approvals if approved by the Town Board:

1. Development Agreement. The Applicant shall enter into a Development Agreement that is prepared by the Town Attorney. More specifically, the Development Agreement shall include provisions related to, but not limited to, payment of the park dedication fee, required covenants, and such other provisions as the Town Attorney determines are appropriate.
2. Comprehensive Plan Amendment and Rezoning. The minor subdivision approval is contingent upon approval of an amendment to Comprehensive Plan changing the future land use designation of the subject property from Long Term Agriculture to Rural Residential.
3. Accessory Buildings. Proposed Parcel B would contain more accessory building square footage than what is allowed by ordinance for an 8.86-acre parcel. As such, the applicant shall reduce the amount of accessory building square footage, or apply for and obtain a variance for the current requirements.
4. Park Dedication. The Applicant shall pay a park dedication fee in lieu of land dedication. This fee shall be an amount based on fair market value of the land, and shall be paid at the per lot fee as established by the Town Board as part of Township fee schedule.
5. Septic System. Washington County Department of Public Health and Environmental must approve the proposed septic system.
6. 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;
7. 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;
8. Fees. 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.

9. 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.

Aerial view of the site and neighboring properties



Zoning Map of the site and neighboring properties

