
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: DISCUSSION: ZONING ORDINANCE AMENDMENT AND
MULCH/FIREWOOD SALES SPECIAL USE
AGENDA: SEPTEMBER 1, 2020 VILLAGE BOARD MEETING
DATE: AUGUST 28, 2020

ISSUE

Shall the Village Board discuss a proposed Zoning Ordinance amendment to make mulch/firewood sales a Special Use in selected zoning districts and a Special Use Permit for mulch/firewood sales.

DISCUSSION

The proposed zoning amendment and Special Use Permit is promulgated by a proposal by Grove Farms, LLC, to annex and to use a small portion of property on the north side of Prairie Street for a landscape material supply business that would principally provide mulch and firewood to consumers. Since the matters are related and intertwined, this Board Report will address both. The final outcome will require several different Board actions, if approved.

The Village Board previously encouraged the applicant to make application for annexation. With annexation comes zoning. The Applicant is requesting approval of a mulch and firewood sales business on a portion of the property and made application for a Special Use Permit for same and the Planning Commission has made a recommendation concerning the Special Use Permit.

The proposed use is not an identified Permitted or Special Use in any zoning district. A zoning amendment to add mulch/firewood sales as a Special Use in the E-1 District was proposed by Village staff as the means to establish zoning control of the use.

The E-1 Estate Residential District was proposed as the underlying zoning classification because this is the default zoning district for any annexation in the Village. It is also the most restrictive zoning classification in the Village. The only permitted uses in this district are farming, parks, mobile home dwelling, and single family residential on very large lots (minimum one acre). Special Uses in this district include boarding schools, commercial stables, and municipal uses such as fire stations, police stations and the like. (Attached is the table of Permitted and Special Uses).

The Planning Commission held separate public hearings on the proposed zoning amendment and there was public comment primarily on the Special Use Permit request both for and against the proposal.

Village staff, the Village Attorney and the Planning Commission share the opinion that the underlying zoning classification is critically important in this instance. Bear in mind, if the Special Use ceases operation the underlying zoning prevails and everything permitted in the underlying zoning district is a permitted use on the property.

The Planning Commission's specific recommendation concerning the Zoning Ordinance amendment is different than the original proposal. The significant difference is the underlying zoning districts in which the Special Use can be considered. The original proposal was to consider mulch/firewood sales as a Special Use only in the E-1 District, subject to a number of criteria and conditions. The Planning Commission, instead, recommended the Special Use be considered in the B-2, B-3 and M-1 districts, also with criteria and conditions. The Planning Commission's recommendation is based on a belief that commercial uses should not be allowed in a residential district and that the creation of the proposed Special Use in E-1 could create unintended consequences.

This is a valid concern if the commercial uses are permitted by right. The Special Use is discretionary and the Village Board can attach conditions and restrictions to the Special Use, effectively making a Special Use decision custom tailored for a specific location.

Village staff believes a commercial or industrial underlying zoning at this location would set a precedent for other property in the Prairie Street corridor for similar zoning which is inconsistent with the land use recommendations of the Comprehensive Planning. Staff also believes B-2, B-3, or M-1 zoning would allow for Permitted and Special Uses that would not be desirable in this location such as adult entertainment (only in the M-1 District), a bank, general retail, or motor vehicle repair.

Village staff also considered A-1 as the underlying zoning classification. This zoning district permits uses by right that may not be desirable at this location such as agricultural implement sales and service and others. The subject property also fails to meet the minimum lot size requirement for the A-1 district. (Note that a Special Use in an A-1 District does not have the same size requirements.) The A-1 district has been applied as an interim zoning classification in the Village in the past. While the zoning classification of any property is subject to change, we believe the A-1 district is somewhat open ended and does not provide reasonable assurances to surrounding property owners of the future use of the property should the Special Use cease operation.

The E-1 district is consistent with the existing land uses on the north side of Prairie Street in this vicinity. If the subject property were to develop, the E-1 district permits farming and single-family residences—the current uses on this and adjoining property. Staff also believes that conditions or standards can be implemented to limit or eliminate any undesirable features or characteristics of the Special Use.

It should be noted that this site is two parcels away from the proposed event venue. A similar zoning/Special Use process will also be required for approval of that business.

Regardless of the zoning classification, the proposed zoning amendment includes minimum conditions and criteria the use (mulch/firewood sales) needs to satisfy as outlined in the attached Additional Standards for Specific Uses. The proposed standards are intended to allow for the successful operation of the proposed firewood and mulch business while limiting potential negative impacts. The Planning Commission did not discuss much the Additional Standards as they recommended against approval based on the proposed underlying zoning, E-1 district.

In addition to the additional standards and criteria included in the text amendment, the specific Special Use Permit request includes additional conditions of approval customized for the use at the proposed location. Between the zoning amendment and the Special Use Permit conditions of approval the location and size of the mulch/firewood sales operation is limited on the property; the amount of material stored on the property is limited; the character of the property (orchard and farm field) is maintained; and, there are limitations and restrictions on the conduct of the business.

Then there is a need for clarification. In the attention given the mulch and firewood commodities to be stored and sold from the premises, the Applicant wants to be certain the Village Board understands that storage and sale of topsoil from the storage yard is part of the business plan. Village staff is not opposed to including topsoil storage and sale as an accessory use to the principal activity of mulch and firewood commodities.

The Board is asked to:

- 1) Determine to which if any of the zoning districts a Special Use for firewood and mulch sales should be added. If the Board determines that a district other than E-1 is appropriate, the petitioner will need to reapply for the Special Use in the specified district. This will require the Applicant to re-start the process and again appear before the Planning Commission.
- 2) Determine if the proposed Additional Standards for the text amendment and the Special Use Permit are sufficient and make any changes as necessary. The Board has the option of sending the Additional Standards back to the Planning Commission for review regardless of the underlying zoning determination.
- 3) Determine whether accessory sale and storage of topsoil from the storage yard with some limitations is within reason for the principle activity of storing and selling mulch and firewood commodities from the premises.

Staff believes that the proposed E-1 underlying zoning district is the most appropriate. In regard to the Additional Standards timing of a formal vote for approval should be considered. If the process ends at the Village Board level final approval could happen as soon as September 15. If sent back to the Planning Commission approval would not be possible before October 6 unless a special meeting(s) was held by the Planning Commission and/or Village Board. Staff believes the Additional Standards are comprehensive and can be adequately reviewed at the Village Board.

COSTS

Costs for legal consultation and any other out-of-pocket expenses of the Village will be borne by the petitioner through their established development application escrow.

ATTACHMENTS

- Planning Commission Recommendation PC20-013
- Planning Commission Recommendation PC20-015
- Table of Permitted Uses (for affected zoning districts)
- Additional Standard for Specific Use – Firewood and Mulch Sales

RECOMMENDATION

The Village Board direct Village staff to prepare the necessary Ordinances for the zoning amendment and the Special Use Permit under the E-1 Zoning District, including any changes to the Additional Standards, at the September 15 Village Board meeting.

VILLAGE PRESIDENT

P. Sean Michels

VILLAGE TRUSTEES

Sean Herron
Ted Koch
Jennifer Konen
Heidi Lendi
Rick Montalto
Ryan Walter

VILLAGE ADMINISTRATOR

Brent M. Eichelberger



COMMUNITY DEVELOPMENT

VILLAGE CLERK

Alison Murphy

R E C O M M E N D A T I O N
PC20-013

TO: Village President and Board of Trustees
FROM: Planning Commission
DATE: Meeting of August 19, 2020
PETITION: 20-013
Zoning Ordinance Amendment, Mulch/Firewood Sales

PROPOSAL

The Village is proposing "Mulch, firewood sales" be added to the Zoning Ordinance Table of Permitted Uses as a Special Use in the E-1 Estate Residential District, along with several other related amendments.

ATTACHMENTS:

Proposed Text Amendment (Exhibit A)

BACKGROUND & HISTORY

In response to a request for a property to be annexed into the Village, the use that will be established on the subject property (mulch, firewood sales) needs to be an allowed use in the Village's Zoning Ordinance. The subject property will be zoned E-1 Estate Residential upon its annexation. At this time mulch and firewood sales is not a permitted use in the Village's Zoning Ordinance.

Village staff proposed the E-1 District as the underlying zoning classification because the mulch and firewood commodity and its bulk storage characteristics are closer in character to agriculture than the commercial uses permitted in the commercial districts in the Zoning Ordinance.

Additionally, the proposed amendment includes a number of additional standards and criteria for the use to address potential adverse impacts.

DISCUSSION

The Planning Commission discussed the proposed text amendment and raised questions concerning the introduction of commercial elements into a residential district. The Commission prefers to see these uses be added to the B-2, B-3, and M-1 Districts rather than the E-1 District as proposed.

PUBLIC RESPONSE

After due notice, the Planning Commission held a public hearing on August 19, 2020. No objectors were present. (NOTE: Objectors and proponents were heard during the public hearing but their comments were specifically directed to the proposed Special Use application being considered in a separate public hearing).

RECOMMENDATION

After carefully considering the facts, the Planning Commission recommends the Village Board **approve** the proposed text amendment to add "Mulch, firewood sales" as a Special Use in the B-2, B-3, and M-1 Zoning Districts and also add the condition that setbacks be amended to apply to the Zoning District in which the business is located.

AYES: Sabo, Jones, White, Guddendorf, Wilson, Eckert, and Ochsenschlager

NAYES: *None*

ABSENT: *None*

EXHIBIT A

Section 11-3-2 Definitions:

Mulch, firewood sales: A business that sells mulch and firewood to the public and wholesale.

Section 11-4-22 Table of Permitted Uses:

Use	A-1	E-1	R-1	R-2	R-3	SR	B-1	B-2	B-3	BP	OR-2	M-1	I-1
Commercial uses:													
Mulch, firewood sales		S*											

Section 11-4-23 Additional Standards for Specific Uses:

Mulch, firewood sales

- A. Hours of operation shall be only from 7:00 a.m. to 5:00 p.m.
- B. All parking for the business must be on the businesses premises.
- C. Streets and driveways adjacent to the premises must be kept free of debris at all times.
- D. No processing, manufacturing or production of mulch, firewood shall be permitted on the premises.
- E. No use of grinders or chippers on the premises is permitted.
- F. Outdoor storage shall not exceed 15-feet in height and must be on a paved surface.
- G. Outdoor storage area shall comply with the building setback requirements of the E-1 District and shall not be located less than 30 feet from any property line.
- H. Outdoor storage areas shall be screened from view from the nearest public thoroughfare by the use of solid fences, walls, landscaping, or combination thereof.
- I. All equipment used in the operations of the business must be stored within a building or in an area enclosed by a privacy fence.

VILLAGE PRESIDENT

P. Sean Michels

VILLAGE ADMINISTRATOR

Brent M. Eichelberger

VILLAGE CLERK

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R E C O M M E N D A T I O N **PC20-15**

TO: Village President and Board of Trustees
FROM: Planning Commission
DATE: Meeting of August 19, 2020
PETITION: 20-015
Special Use (Mulch, Firewood Sales)
41W590 Prairie Street

PROPOSAL

The applicant, Grove Farms, is requesting a Special Use Permit for a mulch, firewood sales business located at 41W950 Prairie Street, pursuant to Section 11-4-22 of the Sugar Grove Zoning Ordinance.

LOCATION MAP



BACKGROUND & HISTORY

The requested Special Use Permit is predicated on the Village Board annexing and reclassifying the property and approving a zoning amendment that establishes mulch, firewood sales as a Special Use in the E-1 District. The applicants are proposing to establish a mulch and firewood sales business on the subject property. They plan to also sell topsoil, as well as maintain the existing walnut orchard and farm field on the property. There will be no production of mulch or firewood on the premises.

The subject property is approximately 5.8 acres in size and is located on the north side of Prairie Street and east of the Mallard Point neighborhood. It lies directly south of the Village's water treatment plant on Arbor Drive and the BNSF railroad tracks.

The property is actively farmed. A modern metal barn is situated on it near the railroad tracks. A walnut orchard occupies the north half of the property and a hayfield occupies the remainder.

The future land use recommendation for the subject property and all adjacent and surrounding property is single-family residential. The proposed use for the property is production and wholesale of black walnuts; crop agriculture of hay, alfalfa, and pumpkins; bulk storage and sales of mulch, firewood, and topsoil.

The subject property is currently zoned F-District in Kane County. Adjoining property on the east and west is also zone F-District in Kane County. Property to the north and to the south lies in Sugar Grove corporate limits and is zoned PD District and is part of the Settlers Ridge master planned development. At the southwest corner of the property lies Mallard Point and this subdivision is zoned R-2 Residential District. The property in question is the subject of a pending annexation agreement whereby the property would be classified in the E-1 District upon annexation. No zoning change is proposed.

PUBLIC RESPONSE:

After due notice, a public hearing was held on August 19, 2020. There were objectors and proponents were present. The main concerns of the objectors were; truck traffic on Prairie Street, truck traffic through the Mallard Point subdivision, and smell from the mulch.

DISCUSSION:

General operations of the business, truck traffic, and parking were all discussed.

The applicant does not intend for this business to be a huge operation. The applicant stated that there will be no production of mulch or firewood on premise. They are modeling their business plan to be similar in size to the mulch and firewood business located on Route 38 in Geneva.

Truck traffic on Prairie Street and through Mallard Point was a topic of concern among the Plan Commissioners and residents. The applicants responded with stating that they plan to only have approximately 15 semis a week coming in. It was brought up by the applicants about the possibility to put up signs forbidding truck traffic through the neighborhood.

The issue of parking was a concern raised and discussed. The applicants stated that they do not intend on having a lot of public visiting their business, most business will be done through deliveries made by them. As far as parking, they plan to have parking along the access road to their business.

FINDINGS OF FACT:

When considering special use requests, the Zoning Ordinance provides certain standards to be considered. The Planning Commission hereby finds that the proposed Special Use:

1. Will be harmonious with and in accordance with the general objectives of the Comprehensive Land Use Plan and/or the Zoning Ordinance.

The proposed Special Use is consistent with the objectives of the Comprehensive Plan and the Zoning Ordinance. The proposed use and the scale of the use is considered compatible with planned uses for the area.

2. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not alter the essential character of the same area.

The Special Use would ensure the agricultural character of the property is retained by maintaining the walnut orchard and hayfield that currently exist and contribute to the rural character of the corridor. The use would be operated and maintained to be harmonious with the area. The use would be a commercial use limited to a small area of the property, but with very minor changes to premises.

3. Will not be hazardous or disturbing to existing or future neighborhood uses.

No evidence was presented to indicate the proposed use is hazardous or disturbing to existing or future neighboring uses of land.

4. Will be adequately served by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water sewers and

schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

No evidence has been provided to indicate the existing public facilities cannot accommodate the proposed Special Use.

5. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the Village.

There has been no evidence presented to indicate that the proposed use will create excessive additional public cost.

6. Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

There has been no evidence presented to indicate that the proposed use will produce excessive traffic, noise, smoke, fumes, glare, or odors.

7. Will have vehicular approaches to the property which shall be so designed as to not create an undue interference with traffic on surrounding public streets or highways.

The site has adequate existing approaches to the property that will allow for the business to the subject property to not interfere with traffic on surrounding public streets or highways, and there has been no evidence submitted to indicate that the proposed Special Use will increase traffic or parking needs in the vicinity.

8. Will not increase the potential for flood damage to adjacent property, or require additional public expense for flood protection, rescue or relief.

The proposed changes to the subject property are inconsequential, therefore there will be no increase in the potential for flood damage to adjacent property, or require additional public expense for flood protection, rescue or relief.

9. Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance to the Village.

There are no known natural, scenic, or historic features on the subject property.

RECOMMENDATION

After carefully considering the facts and public comments, the Planning Commission recommends the Village Board **approve** Petition #20-015, Special Use for a mulch and firewood sales business located at 41W590 Prairie Street subject to Section 11-4-23 and the following conditions:

1. That the Zoning Ordinance being amended to add mulch and firewood sales as a Special Use in the E-1 District.
2. There shall be no parking on Prairie Street.

3. All traffic from the uses on the property shall use forward motion to exit or leave the premises (no backing onto Prairie Street).
4. The walnut orchard and hay field shall be maintained on the property for as long as mulch and firewood sales occur on the premises.
5. The outdoor bulk storage area shall be in the location and the general dimensions as shown on the site plan.
6. No production of mulch or firewood shall be permitted on the premises.
7. In addition to mulch and firewood, topsoil may be sold from the premises.

AYES: None

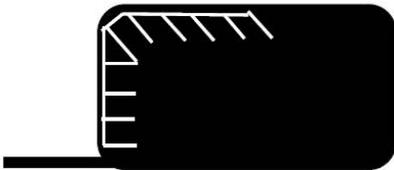
NAYES: White, Jones, Sabo, Eckert, Wilson, Guddendorf, Ochsenschlager

ABSENT: None

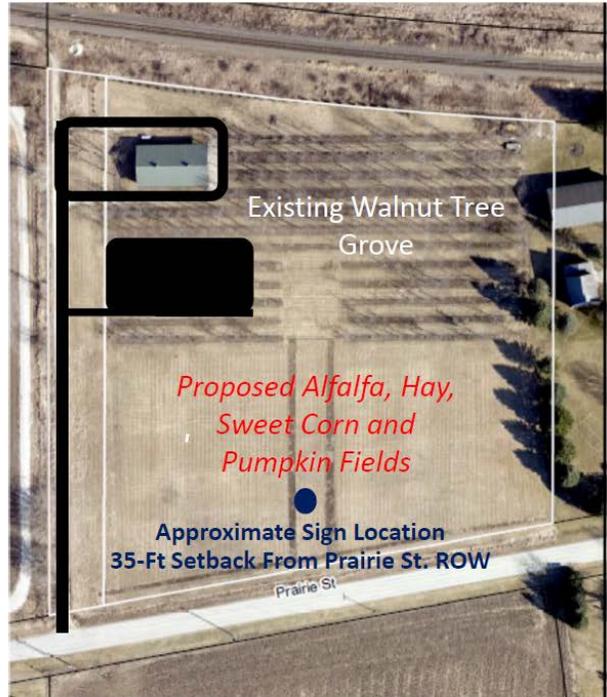
MOTION DID NOT PASS



41 W 950 Prairie Street
Conceptual Development Plan



Enlargement
Concrete Storage Bins Area
Asphalt Grindings
Each Bin 6-8' H
12' W x 18' D (Typical)



PROPOSED CONDITIONS

Section 11-4-23, Additional Standards and Criteria for Specific Uses.

Mulch, firewood sales

- A. The use must be on a parcel not less than 5 (five), acres in size.
- B. Unenclosed, bulk storage of firewood and landscape materials is permitted.
- C. Hours of operation shall be only from 7:00 a.m. to 5:00 p.m. Monday through Friday, 7:00 a.m. to 5:00 p.m. Saturdays, and 9:00 a.m. to 3:00 p.m. Sundays.
- D. Deliveries of firewood, mulch and topsoil to the site may only take place between 7:00 a.m. and 3:00 p.m. Monday through Saturday.
- E. All parking for the business must be on the businesses premises.
- F. Streets and driveways adjacent to the premises must be kept free of debris at all times.
- G. No processing, manufacturing or production of mulch, firewood shall be permitted on the premises.
- H. No use of grinders or chippers on the premises is permitted.
- I. Outdoor storage shall not exceed 10 (ten) feet in height and must be on a paved surface.
- J. Outdoor storage area shall comply with the building setback requirements of the E-1 District and shall not be located less than 30 (thirty feet), from any property line and 100 (one hundred) feet if the property line is adjacent a lot with an existing residence, and located not less than 300 (three hundred) feet from any street right-of-way.
- K. Outdoor storage areas shall be screened from view from the nearest public thoroughfare by the use of solid fences, walls, landscaping, or any combination thereof.
- L. All equipment used in the operations of the business must be stored within a building or in an outdoor area screened from public view and in compliance with the setback requirements for the outdoor storage area, above.
- M. Mulch, except for commonly accepted on-site landscape uses, may only be stored or sold between March 1 and October 1.

Conditions of Special Use Permit for Grove Farms (in addition to Section 11-4-23)

1. That the Zoning Ordinance being amended to add mulch and firewood sales as a Special Use in the E-1 District.
2. There shall be no parking on Prairie Street.
3. All traffic from the uses on the property shall use forward motion to exit or leave the premises (no backing onto Prairie Street).
4. The walnut orchard and hay field shall be maintained on the property for as long as mulch and firewood sales occur on the premises.
5. The outdoor bulk storage area shall be in the location and the general dimensions as shown on the site plan.
6. Bulk storage and sale of topsoil on the premises shall be accessory and subordinate to the principal commodities of mulch and firewood.
7. Outdoor storage area may not exceed 5,000 (five thousand) square feet.

Revised definition:

Mulch, firewood sales: A business whose principal activity is bulk storage and sale of garden mulch and firewood to the public and wholesale, and may include bulk storage and sale of topsoil.