



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

ACM: Cassey Ogden

DATE: July 16, 2024

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas regarding a request for a Specific Use Permit (SUP) to allow for a High-Impact Manufacturing use on approximately 9.5 acres of land, generally located on the west side of Dakota Lane, approximately 800 feet south of Shelby Lane, in the City of Denton, Denton County, Texas; adopting an amendment to the City's Official Zoning Map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for severability; and establishing an effective date. The Planning and Zoning Commission voted [6-0] to recommend approval. Motion for approval by Commissioner Thaggard and second by Commissioner Padron. (S24-0004a, Advanced Microbial Solutions (Dakota), Ashley Ekstedt)

BACKGROUND

The applicant, Jesse Copeland with Winstead, representing the business owner, Advanced Microbial Solutions, LLC, is requesting approval of a Specific Use Permit (SUP) to allow for a High-Impact Manufacturing use. The subject property is an approximately 9.5-acre site containing three platted lots, which are zoned Heavy Industrial (HI) and is a part of a larger industrial park.

Specifically, this proposed SUP is for a fertilizer and soil amendment manufacturing business, which falls within the scope of a High-Impact Manufacturing use as defined in the DDC:

Manufacturing, High-Impact: An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts on the environment or surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; and storage or processing raw hides or fur.

In the HI Zoning District, High-Impact Manufacturing is permitted with an approved Specific Use Permit.

This SUP application is related to SUP request S24-0003, which is also on this agenda for consideration for a property located at the southwest corner of Dakota Lane and Shelby Lane, approximately 270 feet to the north. Since the properties are physically separate by another lot owned and utilized by a different entity, the SUP requests are being considered independently. More details are provided below, but in summary, the owner is currently operating this use on the subject property under Certificates of Occupancy (COs) for warehouse and nonconforming manufacturing uses. When a CO request was submitted for the associated

property to the north (S24-0003), staff became aware of the intensive nature of the manufacturing operation that has been split over time to occur across multiple buildings and made the owner aware of the need for a Specific Use Permit for all of their properties.

The subject property consists of three buildings that are each approximately 40,000-45,000 square feet, on three separate lots. The buildings and parking areas on the subject property are existing, and two of the buildings were developed prior to their annexation into the City in 2010, with the remaining building being constructed after annexation occurred. No changes or expansions to the existing buildings or changes to the sites are proposed. Accessory outdoor storage of non-hazardous finished product is contained in storage tanks that are located to the rear of the building on two of the three lots. Material to be stored and manufactured on site includes materials required to manufacture fertilizer and soil amendments. The Site Plans provided as Exhibit 7 show the location of the existing storage tanks as well as the existing buildings and parking areas. Exhibit 8 shows in more detail the location of the indoor manufacturing equipment and storage areas in addition to the outdoor finished product storage tanks. A brief description of what operations occur on each of the three properties that are part of this request is provided below:

4951 Dakota Lane (the southernmost of the three subject lots) is an approximately 3.2-acre lot containing an existing 40,190 square foot building with existing outdoor storage tanks. This facility produces a soil amendment, a nonhazardous biostimulant product. This business is currently operating and has been in operation since 2011 at 4951 Dakota Lane with a Certificate of Occupancy for a Heavy Manufacturing use that was issued as a legal nonconforming use since a variation of this use was existing prior to the properties being annexed into the City. It is important to note that if this Specific Use Permit is not approved, the operations at this portion of the subject property could continue with the existing legal nonconforming status. Per DDC 1.5.3A, a nonconforming use may be extended throughout the same building provided no structural alteration of the building is permitted. The nonconforming use may not expand into an additional structure.

The business has been operating since 2016 at 5001 Dakota Lane (the middle lot), and since 2022 at 5071 Dakota Lane (the northernmost lot), both with a Certificate of Occupancy for a Warehouse. As mentioned briefly above, the applicant submitted a request for a Certificate of Occupancy for an additional building, which is the subject of S24-0003, and was informed by Staff that this use is considered a High-Impact Manufacturing use and an SUP would be required for the continued operations on the subject site.

5001 Dakota Lane is an approximately 3-acre lot containing an existing 40,050 square foot building with existing outdoor storage tanks. This facility produces a Nitrogen use efficiency product (NTS), a nonhazardous and sustainable biostimulant product used as a soil amendment.

5071 Dakota Lane (northernmost lot) is an approximately 3.2-acre lot containing an existing 45,000 square foot building. This facility does not produce any products and instead is utilized to store empty totes, raw materials to be used in the other buildings, and finished biostimulant products in totes to be shipped to customers. Since this use is part of the overall manufacturing and distribution process, it is appropriate to be included as part of the SUP in the event that the owner needs to shift functions and operations between their various buildings over time.

Additional information on the inputs and manufacturing processes is provided in Exhibit 6 – Applicant Project Narratives.

Staff Analysis is provided as Exhibit 2.

PLANNING AND ZONING COMMISSION

On June 12, 2024, the Planning & Zoning Commission held a public hearing and recommended approval of the Specific Use Permit [6-0]. The applicant spoke in support of the project. A summary of the

Commission's questions and discussion is provided below. No members of the public spoke at the hearing.

During the work session and public hearing, the Commission asked questions related to potential impacts from this development, which are summarized below:

- The Commission asked about ongoing conversations with the Fire Marshal's Office related to the storage of materials. Staff stated that conversations had been ongoing with representatives from both Fire and Building Safety relating to regulations within the International Building Code (IBC) and International Fire Code (IFC) relating to the maximum amount of certain materials that can be stored within a control area. If the SUP is approved, a list of all the chemicals that are being stored onsite (and in what quantities) will be submitted to Building Safety with the Certificate of Occupancy (CO) for review, as well as to the Fire Marshal for a Hazardous Materials Permit.
- Questions were raised whether there was any means of restricting the amount of each material stored on site using the CO or Hazardous Materials Permit referred to above. The IBC and IFC have established a cap, or maximum amount, of each material that can be stored within a control area based on the type of material and the hazards that it presents. If the amount of that chemical were to exceed the maximum amount, a new and separate control area would need to be created within the structure.
- The Commission also asked the business owner to explain how the biostimulant production process works in a non-technical way. The owner explained that there are fermentation tanks, and water flows from one tank to the next and consumes the organic feedstock. The newest facility will be manufacturing a product designed to fix nitrogen from the atmosphere and reduce the amount of nitrogen fertilizer applied to corn crops.

OPTIONS

1. Approve
2. Approve subject to conditions
3. Deny
4. Postpone consideration

RECOMMENDATION

The Planning and Zoning Commission recommended approval with the staff-recommended conditions [6-0].

Staff recommends **approval** of the SUP request with the following conditions:

1. The zoning map shall reflect the Specific Use Permit on the property consistent with the DDC.
2. Maintain compliance with the Texas Multisector Storm Water General Permit and update the certification every 5 years or as required by Texas Commission on Environmental Quality. Documentation shall be provided to the City upon request demonstrating compliance.
3. The chiller shall be relocated outside of the floodway and the 100-year floodplain within three months of the SUP effective date. Additionally, all mechanical equipment shall be located outside of the floodway and the 100-year floodplain.
4. Outdoor storage is not permitted within the floodway and 100-year floodplain. Therefore, all outdoor storage, including tractor trailers, shall be removed within 90 days of the SUP effective date and not stored in the floodway and floodplain.

5. All stored hazardous chemicals shall be located inside the buildings only. Outdoor storage tanks shown on the plans are not permitted to hold hazardous materials.
6. Any hazardous chemicals stored onsite shall require approval from the Fire Department within 90 days of the SUP effective date, including obtaining any necessary permits.
7. Obtain all necessary permits within 90 days of the SUP effective date to achieve proper storage and placement of materials or chemicals within control area(s) in accordance with the 2021 International Building Code.
8. Maintain a spill response team that entails staff training at least once a year to review Standard Operating Procedures. Documentation shall be provided to the City upon request demonstrating compliance.
9. Prior to any manufacturing or processing wastewater discharge being connected to the City's wastewater collection system, building permit plans shall be submitted to the City for review and approval and issuance of applicable wastewater discharge permit.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

January 23, 2008	Planning & Zoning Commission	Final Plat	Approved
February 9, 2010	City Council	Public Hearing, and First Reading of the Annexation Ordinance	Public Hearing held, and First Reading conducted
May 4, 2010	City Council	Second Reading and consideration of Annexation Ordinance	Second Reading conducted, and Annexation Ordinance approved [2010-123]
September 21, 2011	Planning & Zoning Commission	Rezoning from Rural Residential 5 (RD-5) to Industrial Center General (IC-G) (2011-192)	Recommended Approval
October 4, 2011	City Council	Rezoning from Rural Residential 5 (RD-5) to Industrial Center General (IC-G) (2011-192)	Approved
June 12, 2024	Planning & Zoning Commission	Specific Use Permit for a High-Impact Manufacturing Use	Recommended Approval

PUBLIC OUTREACH:

To comply with the public hearing notice requirements, the following were completed:

- On May 24, 2024 – 10 notices were sent to property owners within 200 feet of the subject property. As of the writing of this report, staff has not received any written responses.

- On May 24, 2024 - 10 courtesy notices were sent to physical addresses within 500 feet of the subject property.
- A notice was published on the City's website on May 23, 2024, and again on June 27, 2024.
- A notice was published in the Denton Record Chronicle on May 26, 2024, and again on June 29, 2024.
- The applicant has not conducted a neighborhood meeting associated with this request. However, the week of May 20, 2024, the applicant mailed and dropped off letters in person to properties within 500 feet.
- Three signs were posted on the property on May 28, 2024.

DEVELOPER ENGAGEMENT DISCLOSURES

No developer contact and/or meeting disclosures have been provided to staff as of the issuance of this report.

EXHIBITS

- Exhibit 1 - Agenda Information Sheet
- Exhibit 2 - Staff Analysis
- Exhibit 3 - Site Location Map
- Exhibit 4 - Future Land Use Map
- Exhibit 5 - Zoning Map
- Exhibit 6 - Applicant Project Narratives
- Exhibit 7 - Existing Site Plans
- Exhibit 8 - Building and Storage Area Layouts
- Exhibit 9 - Fiscal Impact Summary
- Exhibit 10 - Notification Map
- Exhibit 11 - Draft Ordinance
- Exhibit 12 - LLC Members List
- Exhibit 13 - Staff Presentation

Respectfully submitted:
Tina Firgens, AICP
Deputy Director of Development Services/
Planning Director

Prepared by:
Ashley Ekstedt, AICP
Associate Planner