

Devils Lake Planning Commission
9-17-15

Members present: Kevin Davidson, Greg Semenko, Tom Traynor, Larry Liere, Ray Sletteland, Rodger Haugen, Dick Johnson, Terry Thompson, Mike Grafsgaard.

Others present: Scott Brown, Darlene Brown, Kelly Swenseth, Terry Riggan, Steven Zimmer.

Larry opened the public hearing to review a request for a conditional use permit to construct a storage building in an area zoned as highway commercial and located at 5005 79th Ave NE. Scott Brown owns the property and has two storage buildings right now and would like to construct another one for cold storage for his farming equipment.

Greg said DOT has proposed a road improvement project on the north end of 79th Ave NE. The proposal is to curve the road to make the crossing on Highway 2 safer. This project would affect Scott's property. He said DOT just received notification that they do have the authority to move forward with the project. The curve in the road would come right beside the new building Scott is planning to build. The curve to straighten the Hwy 2 crossing can't be located on the north side of Highway 2 because of the railroad switch at that location.

Scott Brown stated he has had the pad in place for the new building for the last 3-4 years and he's ready to build. The road project is only a proposal and may not even get constructed.

Greg informed him that construction is scheduled to start in 2016.

Scott Brown replied that he had heard the original plan was for proposed construction in 2016 but now it's been moved to 2017.

Greg said the right of way for the curve in the road would be right at the front of his new building.

Scott Brown asked why some of the property required for the improvement couldn't be located on Butler Machinery's property across the road. This proposed road project is cutting his property into small pieces that will have no value.

Greg stated that the proposed layout is designed for truck turning.

Scott Brown expressed concerns about the increased traffic on the road and the danger of having a curve in that location. He said he has already put the down payment on the building materials for his building and it is scheduled to be constructed beginning October 15.

Mike asked how can we negotiate so both projects can go forward. He felt it was hard to approve a conditional use to construct a building when we know there is a project coming that will impact the new building.

Scott Brown said DOT has had all summer to get authorization for the project and questioned the timing of them getting authorization the night before his hearing for a conditional use permit.

Kelly Swenseth stated that in the zoning ordinance, it states that agricultural storage and services are a permitted use in highway commercial zoning.

Steven said there is a distinction between sales and service compared to just storage. A conditional use permit is required when the building is used for storage, not sales or service.

Mike asked Scott Brown to work with the State for the location of the proposed road project and the new building.

Scott Brown said the project is only proposed at this point and may not ever go through.

Larry closed the hearing and opened the regular meeting. Kevin made a motion to approve the minutes of the last meeting. Motion 2nd by Ray. Carried.

Rodger made a motion to recommend approval of a conditional use permit to allow construction of a storage building at 5005 79th Ave NE. Motion 2nd by Terry. Greg abstained from voting. Motion carried.

Steven stated he did more research on what other cities do with requests for hobby farms and the number and type of animals that are allowed. For discussion, he has put together definitions for a commercial farm and a hobby farm, as well as a change in the minimum acreage for agricultural zoning from 35 acres to 15 acres, and added a section to the special provisions to deal with the type and number of animals allowed.

Proposed additions to definitions are:

“Commercial Farm” means an area of land and its buildings used for growing crops and rearing animals for sale as owner/operators means of making a living.

“Hobby farm” means an area of land used for the growing of crops or rearing of animals on a part-time or recreational basis.

Proposed change to zoning regulations are:

Commercial farming and dairying, including any uses incidental to farming

Add hobby farms as a conditional use permit:

L. Hobby Farms

Change minimum acreage from 35 acres to 15 acres:

One single-family dwelling shall be allowed for each tract of land provided each tract is a minimum of 15 acres.

A. The lot area in AG district shall not be less than 15 acres.

Add language for animals in Special Provision:

17.64.100 – Animals

Provisions of Section 17.76.120 shall apply for the keeping of animals in this district.

Add language for number and type of animals:

17.76.120 – Provisions for allowing animals in Agricultural District.

- A. Hobby farms must be reviewed and approved as a conditional use prior to being used as such.
- B. Nuisance factors such as dust, odor, noise, clutter, etc. must be managed so as not to negatively affect neighboring properties.
- C. The area where animals are to be kept shall be fenced.
- D. The type and number of animals that will be allowed are as follows:
 - 1. Small animals – include hen chickens, rabbits, ducks, geese, or other small animals as approved by the city.
 - 2. Large animals – Include cows, horses, sheep, goats, or other large animals as approved by the city.
 - 3. Hobby farms shall be allowed a total of twenty (20) small animals and ten (10) large animals for the first 15 acres plus one large animal for every two additional acres of land with a maximum of twenty (20) large animals. Lot acreage must be contained in one parcel.

A public hearing would need to be held to receive input on the proposed changes to the zoning requirements. From there, the city commission would have a 1st and 2nd reading of the ordinance that would change the zoning.

Ray asked if a commercial farm for raising vegetables could be on 5 acres. The ordinance should cover both horticultural farming and livestock farming.

Steven said we didn't need to address the horticultural farming because that's already allowed. He said we need to add a requirement that there has to be a house on the property and the owners have to live there.

Mike said that if Terry Riggins' buyers for a 16 acre parcel zoned as agricultural wanted to purchase now, they could carve out 2 acres and rezone it to build a house and later on combine the parcels. They would have to look at access to the property and visit with Gary Martinson.

Tim Greene submitted his resignation as a member of the planning commission. Vonda Markestad has indicated she would be willing to take his place as a member.

Ray made a motion to recommend the city commission appoint Vonda Markestad to replace Tim Greene as a member of the planning commission. Motion 2nd by Kevin. Carried.

Ray made a motion to adjourn the meeting. Motion 2nd by Kevin. Carried.

Respectfully submitted,

Helen Carlson
Recording Secretary