

**Devils Lake Planning Commission**  
**9-19-16**

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

Others present: Joel Elvrum, Mark Lange, Bruce Dick, Steven Zimmer.

Larry opened the public hearing to review a request to change the zoning from Residential Rural Suburban to Agricultural for a parcel of land described as Outlot 05-0095, located in the SW ¼ of Section 9. This parcel was originally zoned as agricultural and at the request of the owner, was recently re-zoned as residential suburban.

Joel Elvrum stated that after he had requested the zoning for rural suburban, they right away realized they wanted to change their plans on building a home on that parcel. He said the surrounding parcels are all zoned as agricultural and he is asking to change the zoning back to make the property whole again. He thought the neighbors wanted to see it left as it is and not build another house. He wants to keep the historical farm intact.

It was noted 8 letters were sent to adjacent property owners regarding the request to change the zoning and no comments were received.

Steven Zimmer mentioned that even if the parcel is changed back to agricultural zoning, any building will still require a building permit.

Larry closed the hearing and opened the public hearing to review a request for a conditional use permit for a daycare with more than 18 children at Bethel Free Church 1312 Walnut St E. The applicant is Holly Malheim, and the daycare would be operated in the church.

It was noted that the Jodi Pike from Rhonda Allery from Social Services said that a daycare such as this is treat and licensed exactly the same as if it were in a private home, having the same requirements for minimum square footage per child.

Bruce Dick, pastor at Bethel Free Church, said that Rachel Lindstrom from Forward DL has been helping get things in place for the daycare needs. He indicated the area they were going to designate for the daycare is too small for 30 children, but they will be able to make the area work.

It was noted 23 letters were sent to adjacent property owners and the only comment received was from the Church stating they had no objections.

The church is the owner of the building where the daycare will be operated but the proposed operator of the daycare is the actual applicant. The conditional use permit stays with the building and if another person would take over the daycare operations, it would not require another conditional use permit.

Steven Zimmer suggested changing the wording in the zoning language to take out the word “home” in the conditional use permit language for a daycare. Daycares are limited to 30 children as a group license; more than 30 children would require a daycare center license and would not be allowed in a residential area.

Mike suggested limiting the number of children to 30 so that if the State changes its regulations to a higher number, our conditional use permit would still limit the children to 30.

Larry closed the hearing and opened the regular meeting. Motion by Ray to approve the minutes of the last meeting. Motion 2<sup>nd</sup> by Greg. Carried.

Dick made a motion to recommend approval of a request to change the zoning from Residential Rural Suburban to Agricultural for a parcel of land described as Outlot 05-0095, located in the SW ¼ of Section 9. Motion 2<sup>nd</sup> by Rodger. Carried.

Kevin made a motion to recommend approval of a conditional use permit for more than 18 children in a daycare, with a maximum of 30 children, submitted by Holly Malheim for a daycare to be operated from the Bethel Free Church at 1312 Walnut St E. Motion 2<sup>nd</sup> by Vonda. Carried.

Discussion was held on proposed language that would allow an accessory dwelling unit (ADU) on a lot with a single family home. The City has received a couple requests in the past to have an additional living space on their property for a member of their extended family. A most recent request came from an owner who built a garage and now wants to dedicate a portion of that garage as living quarters for his mother-in-law.

Steven Zimmer will work on putting together definitions and regulations that would allow a 2<sup>nd</sup> living structure on a lot that already has a single family home. It seems this will be a coming trend with elder care and the cost of housing. He said the ADU would be secondary to the original structure and would have to follow building codes for lot coverage.

Larry asked if the maximum of 40% of a primary structure can be used for an ADU, does that include the basement?

Steven Zimmer stated that the 40% maximum for an ADU would be on the main floor.

Gary said one of the first questions that has to be answered is whether we allow an ADU in a detached building only, or is it allowed in the main structure too. The maximum square footage of an ADU is 800 SF so there are not two main structures on 1 lot. Some cities allow the ADU to be rented to the general public; others limit the occupancy to family only. Most cities state the owner has to live in either the main structure or the ADU.

Greg asked if an ADU would be allowed only with a single family main structure.

Steven Zimmer said it would be allowed only if the main structure is a detached single family home. The ADU would still have to follow all setbacks for the zoning area.

Larry asked is an ADU could be in the basement of the home.

Greg said there are people who have a rental unit in their basements now.

Larry asked if the ADU could be along side the main structure.

Steven Zimmer stated that the ADU would need to be behind the main structure so it doesn't give the appearance of a duplex. You want to keep the character of the neighborhood the same. There would have to be a separate entrance to each unit.

Gary asked about whether or not the ADU could be rented to the general public.

Steven Zimmer said most cities do not want the ADU to be a rental unit.

Gary said that would be hard to monitor or enforce.

Rodger stated the parking really needs to be addressed.

The city's current definition of family allows for 2 unrelated people; most other cities allow for 4 unrelated people.

Dick thought it was too early to set a public hearing for changing the language and we need to discuss this again at the next meeting.

Kevin made a motion to adjourn the meeting. Motion 2<sup>nd</sup> by Ray. Carried.

Respectfully submitted,

Helen Carlson  
Recording Secretary