



## City of Vermillion Planning Commission Agenda

5:30 pm Regular Meeting  
Tuesday, October 11, 2011

City Hall  
Large Conference Room – 2<sup>nd</sup> Floor  
25 Center Street  
Vermillion, SD 57069

### 1. Roll Call

### 2. Minutes

- a. September 12, 2011.

### 3. Adoption of the Agenda

### 4. Visitors To Be Heard

### 5. Public Hearings

- a. Proposed Zoning Ordinance Amendment - Amending Title 15 Chapter 155 Section 155.039 (A), HI Heavy Industrial District, to allow light manufacturing as a permitted use.
- b. Proposed Zoning Ordinance Amendment - Amending Title 15 Chapter 155 Section 155.101, Amendments and Change of Zone, to require property owner consent.

### 6. Old Business

### 7. New Business

- a. Presentation from Tom Reasoner - AIA's 10 Principles of Livable Communities.

### 8. Staff Reports

### 9. Adjourn

WELCOME TO YOUR PLANNING COMMISSION MEETING

If you wish to participate in the discussion, the meeting provides several opportunities.

After the minutes are approved, the Chairperson will ask if any visitors wish to be heard. Any item not on the agenda may be discussed.

During the discussion of agenda topics, anyone may comment. The Chairperson will recognize you if you raise your hand. Please introduce yourself with your name and address when addressing the Planning Commission. Discussion occurs before motions are made and seconded. Discussion also occurs after the motion is seconded and before the vote. You may participate each time if you wish.

Your suggestions and ideas are welcome. The best decisions are made when everyone participates and provides information.

**Meeting Assistance:** The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

Unapproved Minutes  
Vermillion Planning Commission  
Monday September 12, 2011 Regular Meeting

The regular meeting of the Vermillion Planning Commission was called to order in the conference room at City Hall on September 12, 2011 at 5:30 p.m.

1. Roll Call

Present: Fairholm, Forseth, Gruhn, Howe, Manning, Muenster, Reasoner, Tuve, and Iverson.

Also present were José Dominguez, City Engineer, Farrel Christensen, Building Official, and Andy Colvin, Assistant to the City Manager.

2. Minutes

a. July 25, 2011 Regular Meeting.

Moved by Howe to approve the July 25, 2011 Regular Meeting Minutes, seconded by Tuve. Motion carried 9-0.

3. Adoption of the Agenda

Moved by Tuve to adopt the agenda as printed, seconded by Gruhn. Motion carried 9-0.

4. Visitors to be Heard

5. Public Hearing

a. Conditional Use Permit to allow General Manufacturing at 1212 Norbeck St., legally described as Lot 1, Block 3, Brooks Industrial Park.

Farrel reported that the VCDC has submitted an application for a conditional use permit to permit manufacturing in the former PEM building. Farrel reported that the use will fit within the existing building with no site changes except for the addition of an extra overhead door. Farrel said that staff recommend approval of the application with no conditions, but that the Planning Commission may add conditions if necessary.

The Planning Commission discussed the purpose for requiring manufacturing uses to obtain a special permit in a heavy industrial district. Concerns were raised that requiring a prospective business to obtain a special permit creates an unnecessary barrier to development. It was recommended that staff study an amendment to make the process easier for light manufacturing uses and come back at a later date with an ordinance change.

Moved by Manning to approve the conditional use permit application as submitted, seconded by Fairholm. Motion carried 9-0.

b. Petition to re-zone Lots 7 & 8, Block 1, Potters Addition, from NC Neighborhood Commercial to R-2 Residential.

Farrel reported that an application has been submitted by Bob Hanson to rezone two lots north of Hanson Funeral Home from Neighborhood

Commercial to R-2 Residential. Farrel stated that the lots are adjacent to an existing R-2 district and the neighborhood will not be impacted.

The Planning Commission asked about adjacent lots currently in the Neighborhood Commercial district and if it is a good idea to rezone only two lots. Discussion followed.

Moved by Howe to recommend approval of the zone change to the City Council, seconded by Forseth. Motion carried 9-0.

c. Adoption of the Vermillion 2000 - 2020 Comprehensive Plan for the Joint City of Vermillion and Clay County planning area.

Toby Brown, SECOG, reported that the City and County are in the process of adopting a joint jurisdictional zoning ordinance. Toby said that the City's Comprehensive Plan will serve as the plan for the joint jurisdictional area once adopted.

Cindy Aden, Clay County Zoning Administrator, stated that the City's plan has been amended to include a future land use map, but that the map is not a zoning map and will not serve as the map for the joint jurisdictional area. Cindy also reviewed several sections of the Comprehensive Plan, pointing to cooperation between the City and County and the fact that agriculture will remain the best use of the land outside of the City's growth areas.

Moved by Tuve to adopt the City of Vermillion 2000-2020 Comprehensive Plan as the planning document for joint jurisdictional planning area, seconded by Muenster. Motion carried 9-0.

6. Old Business

7. New Business

Reasoner requested to give a brief presentation to the Planning Commission. Due to Technical issues, it was decided to have the presentation at a future meeting.

8. Adjourn

Moved by Howe to adjourn, seconded by Reasoner. Motion carried 9-0.

Chairman Iverson declared the meeting adjourned 6:00 p.m.



## *Council Agenda Memo*

**From:** Andrew Colvin, Assistant to the City Manager

**Meeting:** October 11, 2011

**Subject:** Amending Title 15 Chapter 155 Section 155.039 (A), HI Heavy Industrial District, to allow light manufacturing as a permitted use

**Presenter:** Andrew Colvin

**Background:** On September 12<sup>th</sup>, the Planning Commission considered a conditional use permit application to allow light manufacturing in the Heavy Industrial (HI) district. At the hearing, concerns were expressed as to why a conditional use permit is required to allow light manufacturing in the HI district, but the same use is permitted in the General Industrial district without a conditional use permit. The primary concern was that such a requirement could be perceived as an unreasonable barrier to development.

**Discussion:** Staff took the concerns of the Planning Commission and drafted the attached amendment to the zoning ordinance, which would permit light manufacturing within the HI district without a special permit. “Light Manufacturing” is defined as “...*manufacturing processes, which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.*”

The amendment will allow general manufacturing uses without a special permit, but will still require “obnoxious” uses involving refining or noise, or that may harm the quality of life and impact safety, to go through the conditional use permit process.

**Compliance with Comprehensive Plan:** The Comprehensive Plan specifies that the City should encourage development within the undeveloped areas inside City limits. Adopting the proposed amendment will allow manufacturing uses to be established quickly and easily, fostering development.

**Conclusion/Recommendations:** The Planning Commission is asked to take public comment and make a recommendation to the City Council. The amendment will make it easier to permit light manufacturing uses in the HI district. Staff recommends approval.

ORDINANCE NO. 1262

AN ORDINANCE AMENDING TITLE 15 CHAPTER 155 SECTION 155.039 (A), HI HEAVY INDUSTRIAL DISTRICT, OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA TO ALLOW LIGHT MANUFACTURING AS A PERMITTED USE.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF VERMILLION, SD:

*That Section 155.039 (A), of the Zoning Ordinance of Vermillion, SD, is hereby amended to read as follows:*

§155.039 HI HEAVY INDUSTRIAL DISTRICT

(A) *Permitted uses.*

This district is intended to provide for general industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, or commercial establishment. All uses in this district shall comply with any state or local regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

<i>Permitted Use</i>	<i>Applicable Standards</i>
<b>Light manufacturing</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Wholesale trade</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Farm store or feed store</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Contractor's shop/storage yard</b>	Subject to screening of all outdoor storage from view §§ 155.070, 155.072, 155.073, 155.077
<b>Bus/truck terminal</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Public utility facility</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Frozen food locker</b>	§§ 155.070, 155.072, 155.073, 155.077
<b>Off-premise signs</b>	§ 155.070
<b>Electrical substation</b>	An opaque screen, 6 feet in height, must be located as far back as all setback lines. §§ 155.070, 155.077
<b>Retailing</b>	Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing. 14.01, 14.03, 14.04, 14.10
<b>A warehouse or mini-warehouse</b>	Subject to the materials stored on the premises shall have a level 1 or below in the Fire Protection Guide on Hazardous Materials. §§ 155.070, 155.072, 155.073, 155.077
<b>Bus and truck wash</b>	All water from the truck or bus wash being contained on the site. §§ 155.070, 155.072, 155.073, 155.077
<b>Truck repair, sales, and service</b>	No unscreened outdoor storage of parts. §§ 155.070, 155.072, 155.073, 155.077
<b>Recycling collection facility</b>	Subject to any outdoor storage of recyclable materials must be within an opaque screened area at least 6 feet in height. §§ 155.070, 155.072, 155.073, 155.077

<i>Permitted Use</i>	<i>Applicable Standards</i>
<b>Fruit and vegetable canning and processing</b>	Traffic to and from the facility will not travel on residential streets and the odor will not impact residential neighborhoods. §§ 155.070, 155.072, 155.073, 155.077
<b>Automobile storage yard</b>	Screening of the storage yard with fence, berm, vegetation or placement on the lot. §§ 155.070, 155.072, 155.073, 155.077
<b>Motor vehicle repair shop</b>	An adequate number of parking spots to store the cars and screen parts and materials from view. §§ 155.070, 155.072, 155.073, 155.077
<b>Recycling processing facility</b>	Any outdoor storage of recyclable materials must be within an opaque screened area at least 6 feet in height and all processing operations must be fully enclosed. §§ 155.070, 155.072, 155.073, 155.077
<b>Ready-Mix Plant</b>	§§ 155.070, 155.072, 155.073, 155.077

Dated at Vermillion, South Dakota this 7<sup>th</sup> day of November, 2011.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

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John E. (Jack) Powell, Mayor

ATTEST:

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Michael D. Carlson, Finance Officer

First Reading:       October 17, 2011  
Second Reading:     November 7, 2011  
Publication:         November 18, 2011  
Effective Date:      December 8, 2011

Published once at the approximate cost of \_\_\_\_\_.



## *Council Agenda Memo*

**From:** Andrew Colvin, Assistant to the City Manager

**Meeting:** October 11, 2011

**Subject:** Amending Title 15 Chapter 155 Section 155.101, Amendments and Change of Zone, to require property owner consent

**Presenter:** Andrew Colvin

**Background:** The City's zoning ordinance provides for certain procedures when changing the zoning of property. These changes can be part of a comprehensive change to a large part of the community, or could be as small in area as a few lots. Citizens, property owners and elected officials can initiate zone changes. State law enables municipalities to regulate uses and provides minimum requirements for public hearings and an appeal process to send an issue back to the City Council.

The current language to change the City's zoning is vague and broad. Essentially, any property owner can bring a zone change for Council Consideration, whether or not the applicants' property is included in the proposed change. For example, earlier this year petitions were submitted to change the zoning of a large part of the City from R-2 medium density residential to R-1 low density residential. If approved, the change would have prohibited multi-family housing and made existing duplexes and four-plexes non-conforming uses. The language of the petition included sixteen square blocks of the City, bordered by Clark Street on the north, Main Street on the south, Plum Street on the east and the alley between Harvard Street and Dakota Street on the west.

The City received signatures from approximately 20% of the property owners. It was unclear if those gathering signatures did not approach all owners, or if there was opposition to the change. Staff sent notices to the owners of all property, citing the public hearing dates for the Planning Commission and City Council. The zone change failed at both the Planning Commission and City Council levels from lack of public support for the change. There appeared to be more opposition to the change than those speaking in favor. Concerns were raised as to how such a broad proposal made it to the Planning Commission and City Council level with a

lack of demonstrated support from property owners in the neighborhood, when compared to those opposed to the change.

**Discussion:** City staff looked into how other cities handle zone changes. Almost all first class cities require the signature of property owners to be considered valid when considering citizen-initiated zone changes. Others utilize a state statute that permits cities to require property owner consent prior to bringing forth a petition for a zone change:

11-4-9. Requiring consent of landowners to change in zoning ordinance. The governing body may by ordinance require as a condition precedent to the introduction of any ordinance proposing changes in the zoning ordinance that there be first filed with the city auditor, finance officer, or clerk the written consent of the owners of not exceeding sixty percent of the aggregate area having the right of protest against such proposed ordinance if adopted, determined as provided by § 11-4-5.

11-4-5 provides that a zone change adopted by the council can be sent back for a third reading if petitions protesting the change are signed by at least 40 percent of those in the affected area and within 250 of the affected area are submitted. In such cases it would take a two-thirds vote of the City Council to adopt the ordinance overriding the protest.

City staff presented the proposed amendment to the City Council for discussion at a noon educational session. The Council expressed positive feedback on the amendment and would like to see a report and recommendation from the Planning Commission. Different percentages of signatures were discussed with 45% being the most recommended and included in the ordinance. The City can insert any percentage not exceeding 60%.

**Compliance with Comprehensive Plan:** The Comprehensive Plan specifies that the City should encourage development within the undeveloped areas inside City limits. Property owners will still be able to initiate zone changes as long as the required percentage of signatures is met. The City will still be able to initiate zone changes and amendments without signatures. Additionally, properties being rezoned within one year of annexation are exempt.

**Conclusion/Recommendations:** The Planning Commission is asked to take public comment and make a recommendation to the City Council. The amendment will ensure some degree of neighborhood support prior to coming before the Planning Commission and City Council.

ORDINANCE NO. 1263

AN ORDINANCE AMENDING TITLE 15 CHAPTER 155 SECTION 155.101, AMENDMENTS AND CHANGE OF ZONE, OF THE 2008 REVISED ORDINANCES OF THE CITY OF VERMILLION, SOUTH DAKOTA, TO REQUIRE PROPERTY OWNER CONSENT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VERMILLION, SD:

*That Section 155.101, of the Zoning Ordinance of Vermillion, SD, is hereby amended to read as follows:*

§155.101 AMENDMENTS AND CHANGE OF ZONE

(A) ~~The regulations imposed and the districts created under this ordinance may be amended, supplemented or repealed by ordinance, but no such amendment shall be made without public notice and without a public hearing, at which parties in interest and citizens shall have an opportunity to be heard. Zoning amendments and change of zones are changes to the city's zoning regulations. Applications for amendment may be submitted by either the city or any owner of land within the city. The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, or repealed, provided however, that no action may be taken until after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.~~

~~(1) At least ten (10) days' notice of the time and place of such hearing shall be published in the official newspaper of the City of Vermillion, said notice to contain a brief statement describing the proposed amendment. If the proposed amendment will change the boundaries of a zoning district, the Zoning Administrator shall post a sign on the property included in the application for a continuous period of ten (10) days immediately prior to the public hearing and shall notify all owners of property within 250 feet of the proposed boundary change by mail. The mailed notice shall be postmarked ten (10) business days prior to the hearing and state the date, time and location of the public hearing.~~

~~(2) Prior to the consideration of any ordinance proposing changes in the zoning ordinance, there shall first be filed with the Finance Officer the written consent of forty-five (45) percent of the owners of equity in the lots included in any proposed district and the lands within two hundred fifty (250) feet from any part of such proposed district. A corporation shall be construed to be a sole owner. When parcels of land are in the name of more than one person, ownership representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners.~~

~~Proposed changes initiated by the City or for properties within one year after annexation shall be exempt from the provisions of this section.~~

(B) When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect 20 days after publication, unless the referendum shall have been invoked, or unless a written protest is filed with the Finance Officer, signed by at least forty

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percent of the owners of equity in the lots included in any proposed district and the lands within two hundred fifty feet from any part of the proposed district. A corporation is construed to be a sole owner, and if parcels of land are in the name of more than one person, ownership representation is in proportion to the number of signers who join in the petition in relation to the number of owners. If a protest is filed, the ordinance does not become effective unless the ordinance is then approved by two-thirds of the City Council. The protest provisions of this section do not apply to any ordinance regulating or establishing flood plain areas. The following procedure for requesting an amendment shall be followed:

— (1) — ~~The Zoning Administrator shall review the application for amendment or change of zone and forward the application and his/her comments to the Planning Commission for review.~~

— (2) — ~~The Zoning Administrator shall set the date, time and place for a Planning Commission public hearing. The Zoning Administrator shall post a sign of the public hearing on the property affected by a change of zone no less than 7 days prior to the scheduled public hearing. The Zoning Administrator shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment and change of zone. The notice shall be published in a legal newspaper of the city once not less than 10 days prior to the public hearing.~~

— (3) — ~~The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.~~

— (4) — ~~The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.~~

— (5) — ~~The Zoning Administrator shall set the date, time and place for a City Council public hearing. The Zoning Administrator shall post a sign of the public hearing on the property affected by a change of zone no less than 7 days prior to the scheduled public hearing. The Zoning Administrator shall also publish notice of the public hearing in a newspaper of general circulation in the area affected for a proposed amendment or change of zone. The notice shall be published in a legal newspaper of the city once not less than 10 days prior to the public hearing.~~

— (6) — ~~The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these zoning regulations, in accordance with standard procedures for reading, approval, publication and effective date.~~

— (7) — ~~When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect 20 days after publication, unless the referendum shall have been invoked.~~

(C) No application requesting a change of zone for any property whose application includes any such property either entirely or substantially the same as that which has been denied by the City Council shall again be considered by the Planning Commission before the expiration of six months from the date of the final action of the City Council.

Dated at Vermillion, South Dakota this 7<sup>th</sup> day of November, 2011.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

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John E. (Jack) Powell, Mayor

ATTEST:

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Michael D. Carlson, Finance Officer

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