



City of Vermillion
Planning Commission Agenda
5:30 pm Regular Meeting
Monday, November 14, 2011
City Hall
Large Conference Room – 2nd 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. Petition for Change of Zoning – Lots 5 and 6 except the south 103 feet, Oden Addition to the City of Vermillion from GB General Business to GI General Industrial.
 - b. 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.
 - c. 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.



Planning Commission Agenda Memo

From: Farrel Christensen, Building Official

Meeting: November 14, 2011

Subject: Petition for Change of Zoning – Lots 5 and 6 except the south 103 feet, Oden Addition to the City of Vermillion from GB General Business to GI General Industrial

Presenter: Farrel Christensen

Background: On September 23, 2011, it came to the attention of the Code Enforcement Office that the building located at 1222 W. Cherry Street was in violation of the City's zoning laws. The occupant, Will Pratt, operating as Allied Industries, was operating a factory industrial group business in a GB General Business District. Industrial uses are prohibited as the General Business District is reserved for retail, sales, service and office-type uses. Letters were sent to the building owner, Woodrow Houser, and the occupant ordering them to remove the unlawful occupancy on or before October 23, 2011. After several discussions with the building owner, a petition for zone change was filed on October 20, 2011.

Discussion: The requested zone change would not be in keeping with the adopted Comprehensive Plan or the recently adopted comprehensive zoning ordinance. One of the main goals of both plans was to preserve Cherry Street for future business growth as the main commercial corridor of the community.

The proposed location of this industrial district is also adjacent to an area reserved for future residential uses and mixed-business uses, known most commonly as the Bliss Property. This proximity would be likely to produce a negative impact on both the development and future occupancy of this area. Building sites for single family homes are needed in Vermillion and the Bliss property may not be as desirable neighboring an industrial zoned-area.

The site is currently located in the General Business District and is more than 770 feet from the nearest General Industrial property line and, if adopted, would create

a spot zone. Although the property was located in the Light Industrial District prior to 2008, the site was used for general business and has never been “grandfathered” for industrial use. The applicant has failed to show how this proposed zone change would benefit the neighborhood or the community.

Compliance with Comprehensive Plan: The City’s future land use map adopted by the City Council and Planning Commission in 2011 designates this area as commercial. The City’s industrial districts are located away from the business corridor along SD Highway 50, where transportation access is more favorable and potential conflict with residential districts is minimal. Property for industrial uses is currently available in other areas of the City.

Overall, the City currently has a sufficient buffer between industrial uses and residential uses. Although the potential impact of this specific use is not as negative as other uses, approving this zone change would set a new precedent that would make it difficult to keep less desirable neighboring industrial uses separate from residential neighborhoods in other areas of the City. Once the zoning has been changed, any of the industrial uses are permitted such as contractor storage yards and repair shops, as well as many other manufacturing uses.

Conclusion/Recommendations: Staff feels that the proposed change would not be in compliance with the City’s zoning map and recently adopted future land use map in the Comprehensive Plan. Staff recommendation is to deny the zone change. The recommendation of the Planning Commission will be forwarded to the City Council for consideration on November 21.

PETITION FOR ZONE CHANGE

TO THE HONORABLE MAYOR AND THE CITY COUNCIL OF THE CITY OF VERMILLION, SOUTH DAKOTA

1. As authorized by § 155.101 of the City of Vermillion Zoning Ordinance (I) (we) (Name & Address):

Woody + Mindy Houser
47267 300th St. Beresford, SD 57004
Hereby petition to rezone property owned by (Name & Address): Woody + Mindy Houser
47267 300th St. Beresford, SD 57004
From the classification _____ to _____

2. The legal description of that part of the property to be rezoned is (include only the description of the land proposed to be rezoned. You may need to have a surveyor draft this description):

Lots 5 + 6 Except south 103' Oden Addition
City of Vermillion.

Parcel Identification Number (PIN): 15515-00300-110-06

3. The proposed change is to facilitate the use of the land for (be specific-list all proposed uses):

Assembly & production of pressure washers.
Paint booth, bending & cutting metal. Things associated with a shop.
Storage of porta-potties, storage of Bulk Bins.

4. Please address the following criteria as best as you can. These are the "standards for rezoning" which will be addressed at the public hearing. (Use additional sheets if necessary).

A. In detail, explain what public facilities and services serve the proposed development at present, or how they will be provided. Sewer, water already provided to meet needs.
Electrical, Telephone already sufficient.
No public parking needed.

B. Explain how the provision for these facilities will not be an unreasonable burden to local government.

No burden to local government actually a
help. Present Allied manufacturing moving out of
East Cherry street business district by University. Only
industrial in area is Ludvig's cement plant.

C. What have you done to determine that the land is suitable for the development proposed?

Area was zoned light industrial ~~was~~ years ago (2003)
for an implement dealer, E.V. repairs, and Army Reserve
repair shop and chemical company.

D. Explain what will have to be done so the development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.

There is no air, water,
soil pollution or adverse effects to the area.

E. Explain any potential for conflict with existing land uses in the area.

None. Todd's Electric
thinks area is still light industrial.

(OVER)

F. Demonstrate the need of the proposed development at this location. Facilitates city development for East Cherry street. Fills a vacant building.

G. What is the availability of alternative locations? Be specific. Very limited at this cost and ready to use.

H. If cropland is being consumed by this Zone Change, what is the productivity of the agricultural lands involved? N/A

I. If cropland is being consumed by this zone change, explain how the proposed development will be located to minimize the amount of agricultural land converted. N/A

5. Planning Commission recommendation, 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 notice shall be published in a legal newspaper of the city once not less than 10 days prior to the public hearing. 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 City Council. The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.

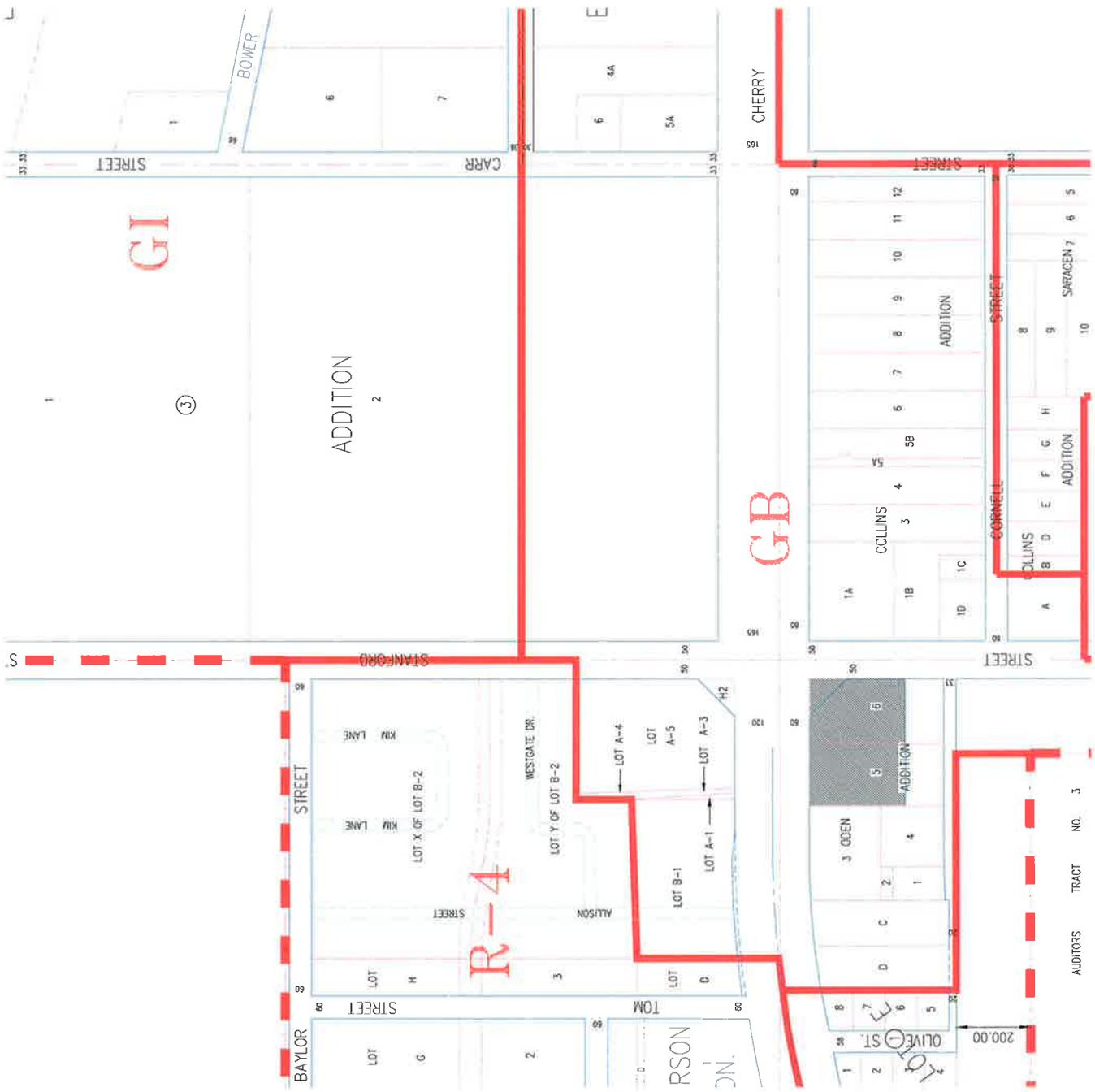
6. City Council action, The Zoning Administrator shall set the date, time and place for a City Council public hearing. The Zoning Administrator shall post a sign of the public hearing on the property affected by a change of zone no less than 7 days prior to the scheduled public hearing. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the City Council. 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. 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.

7. Petitioner's Signature Woody Brown Phone (605) 231-1807 Date 10-20-11

8. Owner's Signature _____ Phone _____ Date _____
(If different)

Date Fee Received: _____ Fee \$50.00 PAYABLE TO the City of Vermillion

FAILURE OF THE APPLICANT OR HIS AGENT TO APPEAR AT THE HEARING WILL CAUSE THE COMMITTEE TO DENY THIS APPLICATION.



GI

ADDITION 2

R-4

GB

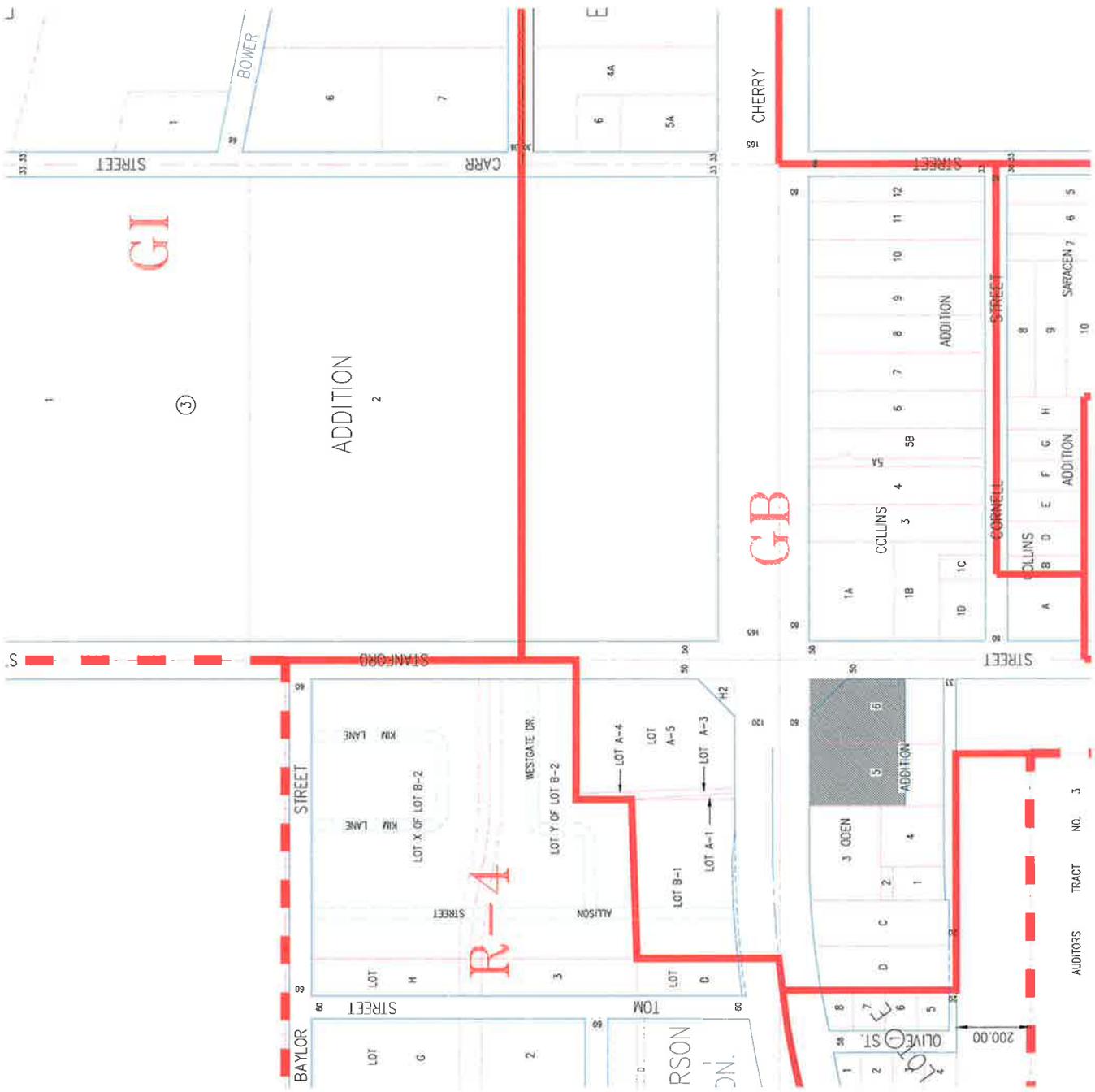
ADDITION

ADDITION

ADDITION

AUDITORS TRACT NO. 3

200.00





Council Agenda Memo

From: Andrew Colvin, Assistant to the City Manager

Meeting: November 14, 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, 2011, 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>
Light manufacturing	§§ 155.070, 155.072, 155.073, 155.077
Wholesale trade	§§ 155.070, 155.072, 155.073, 155.077
Farm store or feed store	§§ 155.070, 155.072, 155.073, 155.077
Contractor's shop/storage yard	Subject to screening of all outdoor storage from view §§ 155.070, 155.072, 155.073, 155.077
Bus/truck terminal	§§ 155.070, 155.072, 155.073, 155.077
Public utility facility	§§ 155.070, 155.072, 155.073, 155.077
Frozen food locker	§§ 155.070, 155.072, 155.073, 155.077
Off-premise signs	§ 155.070
Electrical substation	An opaque screen, 6 feet in height, must be located as far back as all setback lines. §§ 155.070, 155.077
Retailing	Being an accessory use when in conjunction with a primary use of wholesaling or manufacturing. 14.01, 14.03, 14.04, 14.10
A warehouse or mini-warehouse	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
Bus and truck wash	All water from the truck or bus wash being contained on the site. §§ 155.070, 155.072, 155.073, 155.077
Truck repair, sales, and service	No unscreened outdoor storage of parts. §§ 155.070, 155.072, 155.073, 155.077
Recycling collection facility	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>
Fruit and vegetable canning and processing	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
Automobile storage yard	Screening of the storage yard with fence, berm, vegetation or placement on the lot. §§ 155.070, 155.072, 155.073, 155.077
Motor vehicle repair shop	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
Recycling processing facility	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
Ready-Mix Plant	§§ 155.070, 155.072, 155.073, 155.077

Dated at Vermillion, South Dakota this 5th day of December, 2011.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

John E. (Jack) Powell, Mayor

ATTEST:

Michael D. Carlson, Finance Officer

First Reading: November 21, 2011
Second Reading: December 5, 2011
Publication: December 16, 2011
Effective Date: January 5, 2012

Published once at the approximate cost of _____.



Council Agenda Memo

From: Andrew Colvin, Assistant to the City Manager

Meeting: November 14, 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 feet 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 two hundred fifty (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 twenty (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

(40%) 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 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 (6) months from the date of the final action of the City Council.

Dated at Vermillion, South Dakota this 5th day of December, 2011.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

John E. (Jack) Powell, Mayor

ATTEST:

Michael D. Carlson, Finance Officer

First Reading: November 21, 2011
Second Reading: December 5, 2011
Publication: December 16, 2011
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