

Unapproved Minutes
Vermillion Planning Commission
Monday November 14, 2011 Regular Meeting

The regular meeting of the Vermillion Planning Commission was called to order in the conference room at City Hall on November 14, 2011 at 5:30 p.m.

1. Roll Call

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

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

2. Minutes

a. September 12, 2011 Regular Meeting.

Moved by Forseth to approve the September 12, 2011 Regular Meeting Minutes, seconded by Tuve. Motion carried 8-0.

3. Adoption of the Agenda

Moved by Tuve to adopt the agenda as printed, seconded by Muenster. Motion carried 8-0.

4. Visitors to be Heard

Gary Marshall approached the Planning Commission regarding the Neighborhood Commercial zoning designation along Dakota Street. Mr. Marshall stated that he would like to refinance the mortgages for two of his properties, but is not permitted to since the homes are non-conforming uses in the Neighborhood Commercial district. Mr. Marshall asked the Planning Commission to look at options to change the district regulations to make it easier for residential uses to exist and be rebuilt.

5. Public Hearing

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.

Farrel reported that Woody Houser has submitted a petition to rezone the area from GB General Business District to GI General Industrial District. Farrel reported that in September it came to the attention of Code Enforcement staff that a manufacturing business was operating in the building located on the property, which is not a permitted use in the General Business District. Farrel issued a notice to stop the use. The owner of the property submitted a petition to rezone in order for the business to continue operating. Farrel reported that staff opinion is that granting the zone change request would not be in keeping with the Comprehensive Plan and would result in spot zoning. Chairman Iverson opened the hearing for public comment.

Woody Houser, petitioner and owner of the property, stated that the business occupying the building has no other suitable facility for relocation. Mr. Houser stated that he has done a lot to try to fill the

building over the years and the current business fits well. Mr. Houser expressed his opinion that the use would have been permitted prior to the 2008 Zoning Ordinance Revision, which made changes that are contrary to what the area was designed for. Woody also stated that he was not aware of the 2008 revision to the zoning ordinance.

Ryan Bear, owner of Todd's Electric to the south, stated that the current zoning also changes what he can do with his building in the future and that there are only so many uses for that particular type of structure. Ryan also stated that the current zoning may prohibit his ability to sell the building or lease space to a small business.

Larry Brady, property owner to the northeast, also spoke in favor of the proposed zone change. Larry stated that a lot of the property on west Cherry was zoned to allow industrial uses prior to the 2008 revision. Larry stated that if Polaris Industries requested to expand their operations south along Cherry Street and requested to change the zoning, their request would be granted and that the current request from a small business is not different. Larry also inquired about changing the zoning temporarily, or somehow permitting the use until a certain number of employees is reached. Larry stated that the property owner to the south is supportive of the proposed change and that there must be a solution that falls in between the City's needs and the needs of the applicant.

Ryan Bear stated that he would like to explore the option of rezoning his property to General Industrial as well.

Will Pratt, owner of the business occupying the property, stated that he employs nine people and that other buildings were looked at, but the current location fit his needs.

Steve Howe inquired about amending the zoning ordinance to permit adding light manufacturing as a conditional use in the General Business District.

Farrel responded to some of the questions, stating that a zoning is addressed in state law and does not provide for temporary status. Farrel also stated that amending the ordinance to permit manufacturing as a conditional use can be explored, but that the current use of the property is still in violation.

Discussion followed with the Planning Commission raising concerns about the strict time frame to vacate the use from the property and if there is a possibility to extend the time frame. The group also discussed appeals and the possibility of tabling action until more information can be provided on the legality of extending the time frame to vacate.

Andy Colvin stated that the Planning Commission can only make a recommendation to grant the zone change or deny the change to the City Council. Andy also stated that the Planning Commission can only table action if there is not enough information to decide if the zoning should be changed. Andy stated that the question of whether an extension to vacate the use is legal or permitted is a question for the City Attorney. Andy also stated that an appeal of the Zoning Administrator's decision must be filed within thirty days of receiving the notice of violation, with the appeal being decided by the Board of Adjustment.

Moved by Howe to recommend denial of the zone change request, with the recommendation to explore the option of extending the time frame to vacate the property as is legal, seconded by Forseth. Motion carried 8-0.

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.

Andy reported that this amendment comes from the Conditional Use Permit application for Builder's Choice Incorporated, which was granted on September 12, 2011. Andy stated that the Planning Commission questioned why light manufacturing was not a permitted, but a conditional use within the Heavy Industrial district. Andy stated that the amendment will add light manufacturing as a permitted use in the Heavy Industrial district. Brief discussion followed.

Moved by Tuve to recommend approval of the amendment to the City Council, seconded by Gruhn. Motion carried 8-0.

c. Proposed Zoning Ordinance Amendment - Amending Title 15 Chapter 155 Section 155.101, Amendments and Change of Zone, to require property owner consent.

Andy Colvin reported that the amendment comes forth after some concerns were raised about the City's requirements on citizen initiated zone changes. Andy stated that the petitions to change the area south of Clark Street from medium density to low density residential contained descriptions for properties not signed by the owners. Andy also reported that in looking at the zone change procedures from other South Dakota cities, Vermillion's was the most relaxed and may allow virtually anyone to rezone property, whether or not it is owned by the petitioner. Andy also reported that a couple of cities utilize a state law that requires a minimum percentage of owner signatures be obtained prior to an initiated zone change. Andy stated that state law sets the maximum percentage of signatures required at sixty percent and that the City can set the required percentage at any level up to that amount. Andy reported that the current draft sets the percentage at forty-five percent. Brief discussion followed on the amendment.

Moved by Manning to recommend adoption of the amendment as drafted to the City Council, seconded by Reasoner. Motion carried 8-0.

6. Old Business

7. New Business

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

Reasoner requested to delay the presentation until a future meeting.

8. Staff Reports

Andy reminded the Planning Commission about the November 28th meeting with the Clay County Commission for recommendation and adoption of the Joint Jurisdictional Ordinance.

Andy gathered input from the Planning Commission on modifying or replacing the Neighborhood Commercial zoning district to find a balance between residential and business uses.

9. Adjourn

Moved by Howe to adjourn, seconded by Gruhn. Motion carried 8-0.

Chairman Iverson declared the meeting adjourned 7:30 p.m.