



## City of Vermillion Planning & Zoning Commission Agenda

5:30 p.m. Joint Meeting with  
Clay County Planning Commission  
Monday, February 27, 2023  
Powell Conference Room  
City Hall, 25 Center Street, Vermillion, SD 57069

1. **Roll Call**
2. **Minutes**
  - a. February 13, 2023
3. **Declaration of Conflict of Interests**
4. **Adoption of the Agenda**
5. **Visitors to Be Heard**
6. **Joint Public Hearings**
  - a. Ordinance 1479 – Amending the 2012 Joint Zoning Regulations for Clay County and the City of Vermillion by Amending Chapter 14 Amendments and Change of Zone; Section 14.03 Hearing by Planning Commissions; and Section 14.04 Hearing by Board of County Commissioners and City Council.
7. **Joint New Business**
8. **Joint Old Business**
9. **City Public Hearings**
10. **City Old Business**
11. **City New Business**
12. **City Staff Reports**
13. **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 and Zoning 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 accommodation, 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 and Zoning Commission

Monday, February 13, 2023 Regular Planning and Zoning Commission Meeting

The regular meeting of the Vermillion Planning and Zoning Commission was called to order in the City Council Chambers at City Hall on February 13, 2023 at 5:30 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: O'Kelley, Gestring, Fitzgerald, Tuve, Forseth, Heggstad, Steele, Wilson

City Planning and Zoning Commissioners Absent: Merrigan

City Staff present: José Domínguez, City Engineer; Kalin Bird, Building Official; Stone Conley, Assistant City Manager

2. Minutes

a. January 9, 2023 Regular Planning and Zoning Commission Meeting.

Moved by Commissioner Heggstad to adopt the January 9<sup>th</sup> meeting minutes as published, seconded by Gestring. Motion carried 8-0.

3. Declaration of Conflict of Interest

Forseth noted that he owns investment property in lower Vermillion.

4. Adoption of the Agenda

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

5. Visitors to be Heard

None

6. Public Hearings

a. Amending Title XV, Chapter 155, Section 155.058, Bliss Pointe Planned Development District (C) Amending Description by Removing Mention of "low to medium density" and "medium to high density residential uses," (E) Adding a new Section that Creates a new Area for Multiple-Family Unit Dwellings, (F) Lot and Yard Regulations, remove rows containing "Multiple-Family Dwelling Units (between 33 and 48 bedrooms per lot)" and "Multiple-Family Dwelling Units (over 48 bedrooms per lot)."

Dominguez presented the agenda memo from the City's Planning and Zoning Commission packet. The Vermillion Chamber and Development Company (VCDC) is requesting to create a new zoning area within the Bliss Pointe Planned Development District (Bliss Pointe). Additionally, the VCDC would like a portion of Bliss Pointe to be rezoned from Area D into the new area being created. The zoning amendment being considered would clean up Section 155.058 by removing references to older uses allowed in Area C. Additionally, the amendment would create a new zoning Area within the Bliss Pointe PDD. The new area would be called "Area E". Uses within this area would be limited to multiple-family dwellings. Dominguez

explained that if the amendment would require the builder to obtain an approval from Bliss Pointe's Architectural Review Committee prior to any future discussion with the Commission. Also, the builder would have to comply with the building requirements set forth in the covenants of the Bliss Pointe Addition. The amendment would also require the lot size to be a minimum of 30,000-square feet and the building to contain a maximum of 32-bedrooms. Dominguez recommended that the Commission recommend to the City Council approval of the amendment since the proposal meets several goals and objectives of the City's Comprehensive Plan, and because the proposal tries to help the community increase the number of multi-family lots available in the City.

Commissioner Forseth opened the floor to public comment.

Mr. Jim Peterson (VCDC President and CEO) briefly explained the need for the requested rezone.

Mr. Tim Schwasinger (1528 Rockwell Tr) encouraged the Commission not to rezone the area. Mr. Schwasinger expressed concerns with increase traffic at the intersection of Stanford Street and Rockwell Trail as well as safety issues with children in the area. Mr. Schwasinger asked for the VCDC, Developer and City to look at other more appropriate areas to construct multi-family dwellings.

Ms. Carol Geu (1308 Rockwell Tr) asked if the rezone of Lot 11 would affect the other lots within Area D. Dominguez explained that the rezone would only affect Lot 11 and that if approved a new Area E would be created. Area D would remain but only contain the remaining Lot 12 and 13. Discussion followed.

Mr. Rich Holland (902 Ridgecrest Dr) asked about the access requirements for the area being discussed. Dominguez explained that the lot would only be access off Rockwell Trail.

Mr. Nick Slattery (1341 E SD Hwy. 50) asked what the difference is between multi-family and townhomes, and between other multi-family. Dominguez explained that the term multi-family is used for any building that houses multiple dwellings within one lot. Townhomes are those that require each dwelling to be in an individual lot, but the dwellings could share a wall. Dominguez also stated that depending on the zoning district regulations several multi-family buildings could be constructed in one lot.

Mr. Ray O'Connor (1520 Rockwell Tr) stated that more information on the actual building being constructed should be reviewed prior to any decision being made. Mr. Peterson explained that at this time the VCDC is only interested in rezoning the area and that plans would be made available in the future by the actual builder/developer.

Mr. Tom Mrozla (333 Joplin St) stated that the notices placed on the newspaper were difficult to read and should have had more information.

Ms. Patty Lase (1412 Cornell St) asked if the City and the VCDC had advertised Lot 11 to commercial developers. Mr. Peterson stated that the VCDC had been advertising the parcel since its creation in 2013 and that no one had shown interest. Mr. Peterson added that some of the issues are the distance from more traveled thoroughfares.

Ms. Vicki Dehner (1504 Rockwell Tr) stated that she had been involved in the Bliss Pointe development since the beginning and that Bliss Pointe was never intended to include multi-family dwellings. Commissioner Forseth indicated that Bliss Pointe was intended to include multi-family from the beginning. Dominguez added, referencing to the original preliminary plat, that the majority of Bliss Pointe phase 2 would have included townhomes and duplexes. Dominguez also stated that within phase 2 large areas were reserved for multi-family dwellings, and that the original ordinance also included multi-family uses. Discussion followed.

Ms. Diane Frigge (309 O'Keefe Cir) asked what was the Bliss Pointe Architectural Review Committee. Ms. Dehner explained that she is a member of the Committee and that it is composed of neighbors, community business owners, and a member of the VCDC. The Committee is responsible for reviewing and approving residential design plans prior to any building permit being issued.

Mr. Slattery asked what would happen if any of the lots adjacent to Lot 11 were purchased with the intent to construct any off-street parking associated with the possible multi-family dwelling. Dominguez responded that the lot would have to be rezoned into Area E, and replatted to one larger lot before construction of parking areas is allowed.

Mr. Steven Smith (1412 Cornell St) asked who would be responsible for collecting the garbage and ensuring that the covenants regarding trash receptacles are followed. Mr. Peterson replied by saying that Lot 11 is not covered by the covenants for Bliss Pointe and that they would be required to follow the City's ordinances. Collection would be done by their contractor responsible for trash collection.

Mr. Slattery asked if the remaining lot in Area D could be rezoned in the future. Dominguez stated that the lot could be rezoned and that the process would be identical to what we are currently going through.

Commissioner Gestring asked why was Lot 11 chosen and not any other area within Bliss Pointe. Mr. Peterson responded by stating that after conversations with builders, community members, and the City it was

decided that Lot 11 would be preferred due to its location (e.g. accessibility, distance to businesses, other residential uses). Discussion followed.

Mr. Slattery asked if it would be possible for a driveway connecting Lot 11 to either of the two adjacent lots could be constructed. Dominguez stated that it would be possible, but that the lots would have to be rezoned and replatted since parking for a use on Lot 11 would not be allowed on a separate lot. Dominguez added that although combining the two lots would create a much larger parcel the maximum number of bedrooms could not be surpassed.

Mr. Jason Schmitz (1405 Cornell St) stated that the latest Bliss Pointe plan that removed multi-family dwellings from Area C should be followed. Mr. Schmitz also stated that the consideration should be taken on the capacities of the utilities, and how the new construction would affect traffic. Commissioner Gestring asked Dominguez if the utilities had capacity. Dominguez responded that there is more than adequate capacity in all the utilities.

Ms. Geu asked for a clarification on which zoning regulations would govern in Bliss Pointe. Dominguez stated that the land use will be dictated by the Bliss Pointe PDD regulations and that any other zoning items not included in the Bliss Pointe PDD regulations would be covered by the rest of the zoning regulations (e.g. off-street parking).

Not seeing additional comments from the public Commissioner Forseth closed the public hearing.

Moved by Gestring to recommend that the City Council adopt the ordinance as presented by Staff, seconded by Heggstad. Motion carried 8-0.

7. Old Business

None.

8. New Business

None

9. Staff Report

None

10. Adjourn

Moved by Fitzgerald to adjourn, seconded by Wilson. Motion carried 8-0, Forseth declared the meeting adjourned at 6:41 p.m.

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** February 27, 2023

**Subject:** Ordinance 1479 – Amending the 2012 Joint Zoning Regulations for Clay County and the City of Vermillion by Amending Chapter 14 Amendments and Change of Zone; Section 14.03 Hearing by Planning Commissions; and Section 14.04 Hearing by Board of County Commissioners and City Council.

**Presenter:** Jose Dominguez

**Background:** The City and the County governing bodies met June 1<sup>st</sup> to discuss how to improve the Joint Zoning agreement between the City and the County. At the conclusion of that meeting, the governing bodies asked staff to bring forward amendments to improve the process for rezoning and possible amendments to the LI: Light Industrial District.

The City and County Planning and Zoning Commissions met jointly to discuss possible amendments to the zoning ordinance on August 29<sup>th</sup> and November 28<sup>th</sup>. Possible changes to chapters 2, 6, 14, and 19 were discussed at those meetings.

**Discussion:** The Joint Jurisdictional Zoning Area (JJZA) was adopted by the County and the City in 2012. The ordinance was created with the intent to allow the County and the City to each have a say in existing and proposed land uses in an area that would directly impact the City's growth. The JJZA tries to maintain the rural characteristics of the surrounding area, while allowing for some light development. The ordinance's intent, based on the adopted comprehensive plan for the JJZA, is to direct development towards areas within City limits or areas that can be annexed by the City and serviced with municipal infrastructure.

The proposed amendments would make ALL meetings joint rather than both governing bodies meeting separately for the first reading of an ordinance and then jointly for the second reading of the ordinance. Additionally, the proposed amendment would require notification to affected property owners regarding ALL change of zone requests in the JJZA, including requests initiated by government agencies.

**Compliance with Comprehensive Plan:** The existing comprehensive plan for the JJZA encourages growth to occur within City limits or in areas that are easily annexed. Although the proposed amendments do not directly address these goals, it does take into consideration the adjoining property owners (residents inside or outside the City) by giving them a voice when development occurs adjacent to their property. This additional voice in the conversations may help the City and the County agree on uses that will affect the growth of the City.

**Conclusion/Recommendations:** The Commission is asked to take public comment and recommend to the City Council to either approve or deny the zoning amendment. City Staff recommends that the proposed amendment be approved.

## PROPOSED ORDINANCE 1479

### AN ORDINANCE AMENDING THE 2012 JOINT ZONING REGULATIONS FOR CLAY COUNTY AND THE CITY OF VERMILLION, CHAPTER 14 AMENDMENTS AND CHANGE OF ZONE; SECTION 14.03 HEARING BY PLANNING COMMISSIONS; AND SECTION 14.04 HEARING BY BOARD OF COUNTY COMMISSIONERS AND CITY COUNCIL.

**BE IT ORDAINED**, by the Governing Body of the City of Vermillion, South Dakota that Chapter 14: Amendments and Change of Zone; Section 14.03 Hearing by Planning Commissions be amended to include language setting the notification requirements when a change of zone is initiated; and Section 14.04 Hearing by Board of County Commissioners and City Council be amended to include language making all public hearings to be conducted jointly between the City Council and the Board of County Commissioners. All other portions of Chapter 14: Amendments and Change of Zone will remain as they are. Following is the amendment:

#### 14.03 Hearing by Planning Commissions

Upon the filing of an application for a request of zoning district classification change, the Clay County Zoning Administrator shall set a date for a public hearing, at which time and place the County and City Planning Commissions shall meet jointly to consider the zoning classification changes. Said public hearing shall comply with the provisions of SDCL Chapters 11-2, 11-4 and 11-6.

A. Signs. A sign(s) to be provided by the Clay County Zoning Administrator shall be posted on the property at least seven days prior to the scheduled hearing.

A-B. The applicant must notify adjoining property owners of record by registered or certified mail at least 10 days before the public hearing by the Planning Commissions. If the change of zone is initiated by either the City or the County the property owner(s) shall be notified in the same manner.

B-C. Recommendations from Planning Commissions. The County and City Planning Commissions shall, respectively, make a recommendation to the Board of County Commissioners and City Council on those applications for zoning district classification changes which have been considered and all other amendments to these regulations.

#### 14.04 Hearing by Board of County Commissioners and City Council

The Board of County Commissioners and the City Council shall jointly conduct ~~a-all~~ public hearings for all readings of an ordinance to act on all applications which have been processed and forwarded to them for public hearings as provided in these regulations. The County Auditor shall cause to be published ~~a-all~~ notices of the time and place when and where all persons interested shall be given a full, fair, and complete hearing. Said public hearing shall comply with the provisions of SDCL Chapters 11-2, 11-4 and 11-6.

A. Supplementary Notice. Supplementary to the published notice, a sign(s) to be provided by



the Clay County Zoning Administrator shall be posted on the property at least seven days prior to the scheduled hearing.

- B. Hearing. Upon the day of ~~any such~~ public hearing, the Board of County Commissioners and the City Council shall review the decisions and recommendations of their respective Planning Commissions on all applications coming before them as provided in these regulations. At the final reading. The Board of County Commissioners and the City Council must each vote in favor of the proposed action before any changes or modifications are made in the regulations, restrictions, or zoning map.
- C. Reapplication. No application requesting a zoning district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board of County Commissioners and City Council, shall again be considered by the Planning Commissions before the expiration of six months from the date of the final action of the Board of County Commissioners and City Council.

Dated at Vermillion, South Dakota this X day of Month, 2023.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

BY \_\_\_\_\_  
Jonathan D. Cole, Mayor

ATTEST:

BY \_\_\_\_\_  
Katie E. Redden, Finance Officer

First Reading: To be determined  
 Second Reading: To be determined  
 Published: To be determined  
 Effective: To be determined