



**Special Meeting Agenda
City Council**

12:00 p.m. (noon) Special Meeting
Monday, September 30, 2019
Large Conference Room – City Hall
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Visitors to Be Heard**
4. **Informational Session – Continued discussion on proposed zoning code updates – City Engineer Jose Dominguez.**
5. **Adjourn.**

Access the City Council Agenda on the web – www.vermillion.us

Addressing the Council: Persons addressing the Council shall be recognized. Please state your name and address. Presentations are limited to 5 minutes. For those who do not appear on the agenda, no decision is to be expected at this time.

Meeting Assistance: If you require assistance, alternative formats and/or accessible locations consistent with the Americans with Disabilities Act, please contact the City Manager's Office at 677-7050 at least 3 working days prior to the meeting.

Council Meetings: City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday.

Live Broadcasts of Council Meetings on Cable Channel: Regular City Council meetings are broadcast live on Cable Channel 3.

As a courtesy to others, we ask that cellular phones and pagers be turned off during the meeting.

Council Agenda Memo

From: Jose Dominguez, City Engineer
Meeting: September 30, 2019
Subject: Continued Discussion on Proposed Zoning Code Updates
Presenter: Jose Dominguez

Background: Staff presented the draft of the proposed changes to the zoning ordinance to the City Council at their noon meeting on September 16th. This was the first time that the City Council had seen the proposed changes. Although there are a number of changes proposed, at this point the City Council only had questions on a few of the items.

In order to expedite the process, the City Council directed Staff to ask the Planning Commission for background regarding the proposed changes to sections 155.031 R-1 Residential District, 155.033 R-3 Residential District, and to 155.095 Conditional Use Permits. Staff met with the Planning Commission at their September 23rd meeting to further discuss the items on which the City Council had questions.

Discussion: Staff was asked to discuss with the Commission why the proposed changes were made, and what the intended outcomes were. The four items discussed were:

- Item 1. Moving single-family attached dwellings from conditional-uses to permitted uses in the R-1 Residential district with the intent of having no new construction after December 31, 2019.
- Item 2. Increasing the rear yard setbacks for multiple-family dwellings in the R-3 Residential District from 10-feet to 25-feet.
- Item 3. Increasing the maximum height of multiple-family dwellings in the R-3 Residential District from 45-feet to 70-feet.
- Item 4. Replacing the “The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect health, safety, and general welfare in the issuance of the conditional use permit” with “The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and the impact of the conditional use upon neighboring land and the public for the particular location in the issuance of the conditional use permit.”

Prior to continuing with the discussion, it should be noted that not all of the Planning Commission members were present at the September 23 meeting. This affected the discussion as the opinion of the absent members were not taken into consideration.

Regardless, following is the summary of the discussion for each of the items:

Item 1:

Background: This was presented to the Commission at the February 11, 2019 meeting. At that meeting all of the proposed changes to the residential districts were discussed. This was one of those items. The document presented to the Commission did not include this change. This was an item that the Commission discussed at a couple of meetings (February 11 and March 25), and asked Staff to gather additional information on how other cities in the area handle single-family attached dwellings (included is the memo presented on March 25, 2019 with the researched information). Staff concluded that each City addresses the construction of this type of housing differently. Brookings and Ames, IA are very strict as far as the density allowed (or required). Madison only allows them in the districts with high density, such as multiple-family residential districts, and business districts.

Conclusion: The Commission is divided on this subject with three of the five Commissioners present at the September 23 meeting in favor of not amending the ordinance, one of the five in favor of amending the ordinance, and one who was undecided. The discussion on this item began as a way of “protecting” neighborhoods intended to be occupied by single-family detached dwellings. The thought by some members of the Commission is that single-family attached dwellings should be clustered, rather than intermingled between detached dwellings. The proposed amendment was a compromise between the Commissioners with the intention of completely prohibiting single-family attached dwellings, while protecting investments already made in the community.

Item 2:

Background: This was presented to the Commission at the February 11, 2019 meeting. This was one of the items discussed along with other proposed changes to the residential districts. This proposed change was brought up by Staff in order to address concerns with buildings not receiving sunlight due to the height of the neighboring building. Additionally,

the larger setback would also provide more space for the owners to perform maintenance on their buildings, or for space during the initial construction. Prior to the 2008 ordinance, the setback on similar multiple-family dwellings was 25-feet.

Conclusion: All of the Commissioners present agreed that increasing the rear yard setback was a matter of increasing safety, improving constructability, and increasing the green spaces for properties. The proposed changes would require that developers plan their development to accommodate the additional setback requirements. This may require them to either scale down the possible investment, or acquire more land to have the desired development. However, the end result for the public would be additional green space, and more space for the developer to construct/maintain their development.

Item 3:

Background: This item was brought up by the Commission at the February 11, 2019 meeting. It came up as part of the discussion regarding the proposed changes to the residential districts. Due to the questions raised, the Commission requested that Staff further study the possibility of removing the maximum height on buildings. Staff returned on February 25th (see included document) with findings and concluded that the City's building code does not limit building height. The recommendations from the City's Fire Department with regard to maximum building height would be strictly enforced. This was due to the fact that the Fire Department would be providing fire protection. Another issue discussed is the fact that the building code does not set a height on a building story, meaning that a four story building could be 100-feet tall. Regardless, the 70-foot height was arrived at since that is what can safely be reached with the City's current ladder truck.

Conclusion: Similar to the previous item, all of the Commissioners present agreed with the proposed amendment. The Commission believes that increasing the height would provide developers more choices for construction. The Commission believes that the height of the building would still be dictated by the market due to the fact that the higher the building the costlier construction becomes. Increasing the height would just allow a developer the option to look into taller buildings.

Item #4:

Background:

This item was brought to the Commission's attention by Staff at the June 24th meeting. Although this change was proposed at that meeting, the actual change was not discussed by the Commission. The change was brought up by Staff to try and narrow the discussion by the Commission and the public to the item at hand. In the past, Staff had to redirect the Commission to make conditions based on the criteria stated in the ordinance and not to be swayed by a neighborhood bias (i.e. discussion if the type of housing would lower property values, discussion on the proposed cost of construction of housing, discussion regarding if the structure was going to be owner occupied or not, discussion on where features should be placed, discussion of what type of person would be living in the property, who would be the builder, etc...). This has been a constant issue with conditional uses. In fact, Staff held an informational meeting with the Commission regarding the topic (see included document dated July 10, 2017) to try and explain what type of conditions they could/should place. The proposed changes still allow the Commission to place conditions, but it makes it easier for Staff to redirect the Commission's attention from a neighborhood bias to the item at hand. For example, if a developer wants to build single-family attached dwellings in the R-1 residential district he would have to go through the conditional use permit. Rather than having the public's bias direct the Commission to make a decision based on 'the general welfare' and not allow this type of housing, we are asking them to make a decision based on if the application is compatible with adjoining properties.

Conclusion:

All of the Commissioners present on September 23 did not see a large difference between the proposed changes and the existing language. Staff stated that the reason for the proposed changes was to allow Staff a way to help the Commission lead the meeting, especially when the discussion can veer from the topic to criteria that are unrelated to the issuance of a conditional use permit.

It should be noted that after the September 23 meeting with the Commission, Staff discussed the proposed change with Mr. McCulloch, the City's Attorney. Mr. McCulloch stated that the words "health, safety, and general welfare" should not be removed and that section could be amended as follows; "The Planning Commission shall impose such conditions as are appropriate and necessary to ensure

compliance with the Comprehensive Plan and protect the health, safety, and general welfare as it pertains to the criteria contained in 155.095 (E)(b) in the issuance of the conditional use permit.” Mr. McCulloch believes that the change would provide the Commission with enough freedom to place conditions as long as they pertain to the criteria being discussed.

In addition to the change proposed by Mr. McCulloch, Staff would like to add a sentence, or section to City code, further directing the Commission not to consider certain factors when making a determination on a conditional use. This would be similar to what is currently found in the City’s variance procedures (155.100 (D)(1)). Staff would suggest the following, “The Commission shall not consider the following when placing conditions on a conditional use permit application: race, color, religion, sex, national origin, familial status, disability, age, cost of construction, property values, owner or rental use of property, or any monetary consideration.”

We are also including the following documents for additional information:

- July 10, 2017 Planning Commission Agenda Memo (Information Meeting – Conditional Use Permit Process for the City)
- February 11, 2019 Planning Commission Agenda Memo (Discussion on Amendments to Zoning Ordinance – Sections 155.031 R-1 Residential District, 155.032 R-2 Residential District, 155.033 R-3 Residential District, and 155.034 R-4 Residential District)
- February 25, 2019 Planning Commission Agenda Memo (Update on Separation between Multi-Family Dwellings, Maximum Building Heights, Convenience Stores, and Adult Day Services)
- March 25, 2019 Planning Commission Agenda Memo (Update on Single-family attached dwellings, Renewable Energy in Residential Areas (spec. Solar Farms and Wind Turbines))
- June 24, 2019 Planning Commission Agenda Memo (Discussion on Amendments to Zoning Ordinance – Section 155.095 Conditional Use Permits)
- September 23, 2019 unapproved Planning Commission meeting minutes

Planning & Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: February 11, 2019

Subject: Discussion on Amendments to Zoning Ordinance – Sections 155.031 R-1 Residential District, 155.032 R-2 Residential District, 155.033 R-3 Residential District, and 155.034 R-4 Residential District

Presenter: Jose Dominguez

Background: Over the years the City has had two zoning ordinances. The first ordinance was adopted in 1966. This ordinance established different districts (agricultural, residential, commercial and industrial) with allowable uses. The ordinance also allowed conditional-uses; however, these were called ‘special uses’ at that time. In order for ‘special uses’ to be approved, they would need to be reviewed by the Planning Commission, and then action would be taken by the City Council. In 2008 the City adopted a new zoning ordinance that completely rewrote zoning requirements within the City. This new ordinance still divided the City into districts; however, each of the districts had permitted uses and conditional uses. This, along with different uses being permitted within each zoning district, were the largest changes between the two ordinances.

Due to the existing zoning ordinance being 11 years old, Staff is proposing that the Planning Commission perform a review of the ordinance, to determine if changes need to be made. The depth and scope of that review can be determined by the Planning Commission.

At the January 28th meeting the Planning and Zoning Commission approved the following schedule. The items that are crossed out have already been presented to the Commission.

ITEM	DESCRIPTION	DATE STAFF PRESENTED ITEM TO PC	DATE PC TURNED COMMENTS TO STAFF
1	Definitions	January 14, 2019	January 28, 2019
2	NRC-Natural Resource Conservation District	January 28, 2019	February 11, 2019
3	R1-Residential District R2-Residential District R3-Residential District R4-Residential District	February 11, 2019	February 25, 2019
4	CB-Central Business District GB-General Business District NC-Neighborhood Commercial District	February 25, 2019	March 11, 2019
5	GI-General Industrial District HI-Heavy Industrial District	March 11, 2019	March 25, 2019
6	Planned Unit Development Districts (only to ensure that uses match the definition in ordinance)	March 25, 2019	April 8, 2019
7	Public Meeting to gather comments on items 1 through 6	April 22, 2019	
8	Off-Street Parking Requirements	May 13, 2019	May 28, 2019
9	Conditional-Use Permit Section	May 28, 2019	June 10, 2019
10	Miscellaneous amendments to ordinance	June 10, 2019	June 24, 2019
11	Public Meeting to gather comments on items 8 through 10	July 8, 2019	
12	Draft of items 1 through 6, 8, 9 and 10	July 22, 2019	August 12, 2019
13	Public Hearing on Amendments	August 26, 2019	
14	1 st Reading of Ordinance at Council	September 3, 2019	
15	2 nd Reading of Ordinance at Council	September 16, 2019	

Discussion: Following the NRC – Natural Resource Conservation District, the residential districts are the most restrictive zones. As the name implies, these districts are intended to serve as the primary location for residences in the City. Additionally,

the numerical designation further separates the residential districts based on density with R-1 being the least dense and R-4 being the densest. Staff is proposing several changes in these sections. The majority of the changes are due to the update to the definition sections. There are a few other changes intended to provide additional opportunities to multi-family developers in the community. Following are some of the proposed changes:

- Permitted Uses in R-1:
 - Added ‘Wireless communication facility’ to allow the replacement of facilities that will occupy the same space within an existing telecommunications tower.
- Conditional Uses in R-1
 - Remove ‘(on existing support structure)’ from wireless communication facility (to match definition) and also added verbiage under applicable standards to explain that this conditional use was only for replacement of existing facilities on an existing telecommunications tower that requires additional space
- Lot and yard regulations in R-1
 - Removed ‘...which has a lot width of less than 75-feet.’ from note number 2.
- Permitted Uses in R-2:
 - Changed the way that the maximum number of multiple-family dwellings is set from number of dwellings to number of bedrooms. A four-plex, which is the largest apartment building allowed in the R-2, would go from having a maximum of 4 dwelling units with a maximum of 16 bedrooms per lot, to having no more than 16 bedrooms per lot and that at no point may the number of bedrooms exceed 4 in a dwelling unit.
 - Added ‘Wireless communication facility’ to allow the replacement of facilities that will occupy the same space within an existing telecommunications tower.
- Conditional Uses in R-2
 - Remove ‘(on existing support structure)’ from wireless communication facility (to match definition) and also added verbiage under applicable standards to explain that this conditional use was only for replacement of existing facilities on an existing telecommunications tower that requires additional space
- Lot and yard regulations in R-2
 - Removed ‘...which has a lot width of less than 65-feet.’ from note number 2.
- Permitted Uses in R-3
 - Proposed a maximum of single-family attached dwellings that could be attached. This maximum would be 8 units.

- Added ‘Wireless communication facility’ to allow the replacement of facilities that will occupy the same space within an existing telecommunications tower.
- Conditional Uses in R-3
 - Remove ‘(on existing support structure)’ from wireless communication facility (to match definition) and also added verbiage under applicable standards to explain that this conditional use was only for replacement of existing facilities on an existing telecommunications tower that requires additional space
- Lot and yard regulations in R-3
 - Changed the way that the maximum number of multiple-family dwellings is set from number of dwellings to number of bedrooms. A 8-plex, would go from having a maximum of 8 dwelling units with a maximum of 32 bedrooms per lot, to having no more than 32 bedrooms per lot and that at no point may the number of bedrooms exceed 4 in a dwelling unit.
 - Changed the rear yard setback from 10-feet to 25-feet for all of the multiple-family dwellings.
 - Removed note number five which required a conditional use permit for any structure exceeding the maximum height. This is a variance, and not a conditional use issue.
- Lot and yard regulations in R-4
 - Removed ‘corner lots’ from use.

Compliance with Comprehensive Plan: The Comprehensive Plan encourages the City to perform periodic reviews of the zoning ordinance. Those review are intended to update, strengthen and streamline the zoning ordinance.

Conclusion/Recommendations: Staff asks the Planning Commission to offer comments on the proposed changes to the residential districts.

Planning & Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: February 25, 2019

Subject: Update on Separation between Multi-Family Dwellings, Maximum Building Heights, Convenience Stores, and Adult Day Services.

Presenter: Jose Dominguez

Background: At the January 14, 2019 meeting Staff presented amendments to the Definition section of the Zoning Ordinance. This meeting started the process of performing amendments to the Zoning Ordinance. Since that meeting the Planning and Zoning Commission members have brought up questions regarding the items discussed at the meetings. Some of these items have been answered at the meetings; however, some of the questions required additional research from Staff.

Discussion: At this point the Commissioners have asked questions regarding the separation between multi-family dwellings, maximum building height, and adult day care centers. Following are Staff's findings:

- **Separation between multi-family dwellings:** The building and fire codes do not necessarily set a minimum separation between buildings. It sets a way that buildings need to be constructed based on the distance between buildings. In essence, the separation is based on how much the developer is willing to investment in the building to achieve a certain amount of separation. In other words, the smaller the separation the higher the fire rating a wall needs to be, which would then increase the cost of the building.
- **Maximum building height:** Similar to the separation issue, the building height is set by the building and fire codes, and also by the recommendations from the City's Fire Department. Although the codes set a height maximum for a type of construction, the codes also allow for the height of the building to be increased as long as certain parameters are met. However, if assuming that the maximum building height is removed from the ordinance since the codes would provide some construction criteria, the Fire Departments recommendation would then be strictly enforced since they would need to provide protection. For example, the building codes would allow for construction of four story (which can vary greatly since there is no height limit to the size of a story)

wood construction buildings, but the City's Fire Department ladder truck can safely reach a building with a maximum height of 70-feet. However, there are other factors that affect fire protection such as: sprinklers, construction, contents, proximity to other buildings, and adverse conditions.

- **Convenience Stores:** Currently there is no clear definition for this type of use. Staff is proposing to modify the definition of 'Retail Services and Trade' to read as follows:

- **RETAIL SERVICES AND TRADE.** Establishments engaged in selling products, goods, or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, *convenience stores, grocery stores,* and other miscellaneous services. ~~but does not include on-sale or off-sale alcoholic beverage establishments.~~

Additionally, a change will be made to the applicable standards for any time the use of 'Gasoline dispensing station' is mentioned. The change would be as follows:

- Applicable standards: Sections 155.070, 155.072, 155.073, 155.077, 155.095(A)

Approval of conditional use permit for the gasoline dispensing station shall also include the approval of a convenience store as defined under retail services and trade definition.

- **Adult day services:** The Department of Health and/or Department of Human Services provide oversight to adult day services. In order for them to exist within the City they would have to be licensed by the State. At this point Staff proposes to include the following definition and applicable standards for the use.

- **Adult day services:** A facility that provides structured activities, care and supervision outside of the home for part of a day. Such services can be co-located within a senior center, nursing facility, assisted living, hospital, church, day care center, or by a stand-alone program.

§ Applicable standards: Sections 155.070, 155.072, 155.077, 155.095(A)

Applicant must provide copy of the appropriate, and applicable, licenses from the State of South Dakota.

Compliance with Comprehensive Plan: The Comprehensive Plan encourages the City to perform periodic reviews of the zoning ordinance. Those reviews are intended to update, strengthen and streamline the zoning ordinance.

Conclusion/Recommendations: No action is required.

Planning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: July 10, 2017

Subject: Informational Meeting – Conditional Use Permit Process for the City

Presenter: Jose Dominguez

Background: The City of Vermillion’s current zoning ordinance was adopted in 2008. The ordinance details regulations for various uses and divides the City into residential, commercial, industrial, natural resource conservation, and planned development districts. Each district contains a series of permitted uses and conditional uses. Permitted uses are allowed as long as the project can meet ordinance requirements for setbacks, parking, etc. Conditional uses, on the other hand, are allowed only after a public hearing.

Greater oversight and public input is required prior to granting a conditional use. Some uses may be harmful to neighborhoods or not in keeping with a community’s comprehensive plan. Restrictions, limitations or prohibitions may be imposed for certain uses.

Discussion: The City’s current process for conditional uses, as stated in the Code of Ordinances section 155.095 follows SDCL 11-4-4.1, 11-4-4.2 and 11-4-4.3. The City’s ordinance sets the Planning Commission as the body that grants conditional use permits. The City Council acts as the body of appeal if the applicant feels aggrieved by conditions set by the Planning Commission.

The City’s process starts when an applicant submits a conditional use permit application to the City. The application is reviewed by Staff. The Zoning Administrator sets a hearing date with the Planning Commission. A notice for the hearing is published on the local paper no less than 10-days prior to the hearing date. Additionally, Staff posts notices on the property no less than 7-days prior to the hearing. At the hearing the Planning Commission hears comments from the public related to the conditional use. The Planning Commission may place conditions that “are appropriate and necessary to insure compliance with the Comprehensive Plan and protect the health, safety, and general welfare...” Unless otherwise specified in the ordinance, the Planning Commission reviews each permit for the following items:

1. Ingress and egress to property (vehicle and pedestrian safety, traffic flow and control, access in case of emergencies, etc...)
2. Off-street parking and loading areas
3. Refuse and service areas
4. Utilities (fire hydrants, availability, etc...)
5. Screening and buffering (of dissimilar uses)
6. Signs

7. Required yards and other open spaces
8. General compatibility with adjoining properties
9. Goals and objectives of Comprehensive Plan

Although the ordinance allows for the Planning Commission to review and place conditions on these items (and others as the ordinance requires) the conditions need to, as its source, maintain the health, safety and general welfare of the community.

CRITERIA	SUGGESTIONS FOR CONDITIONS	NOTES
Ingress and egress	<ul style="list-style-type: none"> • Location of entrance • Width of lane • Access control • Sidewalks • Number of access points • Fire lanes 	<ul style="list-style-type: none"> • City already has ordinances addressing access control
Off-street parking and loading	<ul style="list-style-type: none"> • Number of off-street parking • Location of off-street parking • Location of loading zone (in relation to intersection, pedestrians and vehicles) 	<ul style="list-style-type: none"> • City already has ordinance addressing number of off-street parking spots
Refuse and services areas	<ul style="list-style-type: none"> • Location of refuse area 	<ul style="list-style-type: none"> • City already has ordinance requiring enclosed refuse area
Utilities	<ul style="list-style-type: none"> • Location of fire hydrants 	<ul style="list-style-type: none"> • City ordinance requires buildings to be serviced by utilities
Screening and buffering	<ul style="list-style-type: none"> • Screening/buffering area • General description screen/buffer 	
Signs		<ul style="list-style-type: none"> • City already has ordinance addressing signs • This criteria maybe removed at a later time
Required yards and open spaces		<ul style="list-style-type: none"> • City already has ordinance requiring yards. • Any open space dedicated to the public

		needs Council approval. Planning Commission cannot create public open spaces.
General compatibility	<ul style="list-style-type: none"> • Construction to mimic residential structure, if within a residential district 	<ul style="list-style-type: none"> • City's ordinance does not dictate type of construction. Unless required by other institution the City has no requirements.



Planning & Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: June 24, 2019

Subject: Discussion on Amendments to Zoning Ordinance – Section 155.095
Conditional Use Permits

Presenter: Jose Dominguez

Background: Over the years the City has had two zoning ordinances, with the first being adopted in 1966. This ordinance established different districts (agricultural, residential, commercial and industrial) with allowable uses. The ordinance also allowed for conditional-uses; however, these were called ‘special uses’ at that time. In order for ‘special uses’ to be approved, they would need to be reviewed by the Planning Commission, and then action would be taken by the City Council. In 2008, the City adopted a new zoning ordinance that completely rewrote zoning requirements within the City. This new ordinance still divided the City into districts; however, each of the districts had permitted uses and conditional uses. This, along with different uses being permitted within each zoning district, were the largest changes between the two ordinances.

Due to the existing zoning ordinance being 11 years old, Staff is proposing that the Planning Commission perform a review of the ordinance, to determine if changes need to be made. The depth and scope of that review can be determined by the Planning Commission.

At the January 28th meeting the Planning and Zoning Commission approved the following schedule. The items that are crossed out have already been presented.

ITEM	DESCRIPTION	DATE STAFF PRESENTED ITEM TO PC	DATE PC TURNED COMMENTS TO STAFF
1	Definitions	January 14, 2019	January 28, 2019
2	NRC-Natural Resource Conservation District	January 28, 2019	February 11, 2019
3	R1 Residential District R2 Residential District	February 11, 2019	February 25, 2019

	R3 Residential District		
	R4 Residential District		
4	CB Central Business District GB General Business District NC Neighborhood Commercial District	February 25, 2019	March 11, 2019
5	GI General Industrial District HI Heavy Industrial District	March 11, 2019	March 25, 2019
6	Planned Unit Development Districts (only to ensure that uses match the definition in ordinance)	March 25, 2019	April 8, 2019
6A	Draft of items 1 through 6	April 8, 2019	April 22, 2019
7	Public Meeting to gather comments on items 1 through 6	May 13, 2019	
8	Off Street Parking Requirements	May 28, 2019	June 10, 2019 June 24, 2019
9	Conditional-Use Permit Section	June 10, 2019 June 24, 2019	June 24, 2019 July 8, 2019
10	Miscellaneous amendments to ordinance	July 8, 2019	July 22, 2019
11	Public Meeting to gather comments on items 8 through 10	August 12, 2019	
12	Draft of items 1 through 6, 8, 9 and 10	August 26, 2019	September 9, 2019
13	Public Hearing on Amendments	September 23, 2019	
14	1 st Reading of Ordinance at Council	October 7, 2019	
15	2 nd Reading of Ordinance at Council	October 21, 2019	

Discussion: The concept of conditional uses was introduced into the City’ zoning ordinance with the 2008 ordinance. Prior to that the City had ‘special uses’ that functioned close to our conditional uses. An applicant had to go to the Commission who would make a recommendation to the City Council. The City Council would be the final say if the use would be permitted.

Currently every zoning district has permitted uses and conditional uses. The permitted uses are reviewed by Staff and allowed, or not, based on the requirements set for in the Zoning ordinance. On the other hand, conditional uses go directly to the Commission for

review and approval. The review is based on the criteria set forth in this section of the ordinance. If the applicant is not satisfied with the Commission’s decision, then they may submit an appeal to the City Council.

The proposed changes to this section are intended to facilitate the decision making process by removing areas that may be problematic for the Commission to review, or that may place the Commission in conflict with other ordinances in the Code. Although the changes do streamline the process, it still allows the Commission the ability to place conditions to ensure general compatibility with adjoining properties.

EXISTING	PROPOSED	REASON
Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe	Ensure that ingress and egress to the property is as required by section 154.14 (E)	There is already an ordinance in place dictating the access requirements from the right-of-way to the property. Staff is proposing splitting the existing criteria. One criteria would have the Commission review to ensure that the ordinance is met, and the other criteria would allow the Commission to review the plans and place conditions on the internal flow of the development.
	Review and, if necessary, place conditions to ensure automotive and pedestrian safety, traffic flow and control, and access in case of fire or catastrophe with in the development	
Off-street parking and loading areas where required	Ensure that off-street parking and loading areas are as required by sections 155.072 and 155.073	There are sections within the Zoning ordinance that have requirements for the developer.

<p>Refuse and service areas with particular reference to 1 and 2</p>	<p>Ensure that refuse areas are provided for within the development</p>	<p>Commercial, industrial and multi-family development are required to provide a refuse area that is not located within the front yard setback.</p>
<p>Utilities, with reference to locations, availability, and compatibility</p>	<p>Ensure that developments have appropriate fire protection (fire hydrants, fire suppression systems, etc...)</p>	<p>Staff reviews utility availability with the developer prior to application is submitted to the Commission. The availability is discussed with applicant and they are made aware of any City requirements. Service size is determined by the applicant and the final request is approved by Staff. In the instance that there are no utilities available the applicant would be required to extend the mains for them to tap into.</p> <p>Staff also reviews the need for fire hydrants within developments and ensures that the proposed services are large enough to accommodate fire flows.</p>
<p>Screening and buffering with reference to type, dimensions and character</p>	<p>Ensure that screening and buffering with reference to type, dimensions and character complies with section 155.077 or any requirements within the zoning district where the development will occur</p>	<p>The section within the zoning ordinance already addresses the requirements that the applicant needs to abide by.</p>
<p>Signs, if any, and proposed exterior lighting with</p>	<p>Ensure that the proposed lighting complies with</p>	<p>The section within the zoning ordinance already</p>

reference to glare, traffic safety, economic effect, and compatibility and harmony with other properties in the district	section 155.077	addresses the requirements that the applicant needs to abide by.
Required yards and other open spaces	Ensure that all of the setbacks are being met for the development as set within the respective zoning districts	There are sections within the zoning ordinance already addressing the requirements that the applicant needs to abide by.
General compatibility with adjoining properties and other property in the zoning district in which such use is to be located	Review and, if necessary, place conditions to ensure general compatibility with adjoining properties and other property in the zoning district in which such use is to be located	
The goals and objectives of the most recently adopted comprehensive plan	Review and, if necessary, place conditions to ensure that the conditional use meets the goals and objectives of the most recently adopted comprehensive plan	

Compliance with Comprehensive Plan: The Comprehensive Plan encourages the City to perform periodic reviews of the zoning ordinance. Those reviews are intended to update, strengthen and streamline the zoning ordinance.

Conclusion/Recommendations: Staff asks the Planning Commission to offer comments on the proposed changes to the conditional use permit review process.

Planning & Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: March 25, 2019

Subject: Update on Single-family attached dwellings, Renewable Energy in Residential Areas (spec. Solar Farms and Wind Turbines)

Presenter: Jose Dominguez

Background: At the January 14, 2019 meeting Staff presented amendments to the Definition section of the Zoning Ordinance. This meeting started the process of performing amendments to the Zoning Ordinance. Since that meeting the Planning and Zoning Commission members have brought up questions regarding the items discussed at the meetings. Some of these items have been answered at the meetings; however, some of the questions required additional research from Staff.

On February 25th Staff updated Commissioners regarding separation between multi-family dwellings, maximum building height, convenience store and adult day services.

Discussion: The Commissioners have asked questions regarding single-family attached dwellings and renewable energy in residential areas. Following are Staff's findings:

- **Single-family attached dwellings (townhomes):** Staff researched how several cities in the area accommodate this type of housing. Following is a table with a summary of the findings.

CITY	DISTRICTS ALLOWED	NOTES
Vermillion, SD	They are allowed in all residential districts.	<ul style="list-style-type: none"> · Clearly defined as one dwelling unit per lot · Have maximum of units that can be attached · Some districts require units to be staggered

Sioux Falls, SD	They have their own district, but can be found in some commercial and higher density residential districts. They are not allowed in lower density residential neighborhoods.	<ul style="list-style-type: none"> · Does not clearly define if it's one dwelling unit per lot · Require an additional buffer yard depending on the number of townhomes being built and on the adjacent uses
Brookings, SD	They have four low density districts, with townhomes being allowed in the highest density low density district. They are also allowed in the medium and high density residential districts, and in the neighborhood business district.	<ul style="list-style-type: none"> · Two definitions (one is if its rented/owned, and the other if it will be strictly owner occupied) · Does not clearly define if it's a dwelling per lot · They tie the zoning with rentals (if the unit will be owned then it will be a zero-foot side yard structure, if rented, or owned, then a townhome) · Have a minimum lot area, but they also require a set lot area based on the number of units · They also have a maximum number of units per acre
Madison, SD	They are only allowed in the multiple unit residential district.	<ul style="list-style-type: none"> · Definition does not appear in uses, instead they consider townhomes as multi-family dwellings · Does not clearly define if it's a dwelling per lot · Set the lot area based on number of units
Yankton, SD	They are allowed in the two family and multiple family residential districts. They are also allowed in the local business, highway business and central business districts.	<ul style="list-style-type: none"> · Two definitions used (two-family and multiple family dwellings) · Does not clearly define if it's a dwelling per lot · Sets a height limit based on height and stories

Ames, IA	Only allowed in the medium and high density residential districts	<ul style="list-style-type: none"> · Definition clearly defines one dwelling per lot · Lot area is set by number of units and location of units in structure · Side yards vary depending on the number of stories · Height of dwellings is the lesser of height or number of stories
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- **Renewable energy in residential areas (spec. solar farms and wind turbines):**
The current ordinance only controls the construction of large windfarms. However, there is a possibility that a person might want to construct a renewable energy source within their residential lot. Currently the ordinance does not cover this directly. A wind turbine would be allowed in a residential lot, but it would be limited to the height set for the district. Additionally, Staff would consider the amount of noise that would be generated by the wind turbine to allow the construction. Solar panels would be allowed with a consideration to the additional loads to the roof of the structure.

The City has adopted a process that controls the amount of renewable energy generated within the City. This process was required by one of the City’s power suppliers (Missouri River Energy Services or MRES) to ensure that if power was being generated by a private entity it does not backfeed into the system in an unsafe manner. MRES also set the requirement limiting the amount of renewable energy generated within the City.

Compliance with Comprehensive Plan: The Comprehensive Plan encourages the City to perform periodic reviews of the zoning ordinance. Those reviews are intended to update, strengthen and streamline the zoning ordinance.

Conclusion/Recommendations: No action is required.

Unapproved Minutes
Vermillion Planning Commission
Monday, September 23, 2019 Regular Planning and Zoning Commission Meeting

The regular meeting of the Vermillion Planning and Zoning Commission was called to order in the Large Conference Room at City Hall on September 23, 2019 at 5:30 p.m.

1. Roll Call

Present: Forseth, Manning, Muenster, Tuve, Wilson.

Absent: Fairholm, Kleeman, Gestring, Iverson.

Staff present: James Purdy, Assistant City Manager, José Domínguez, City Engineer.

2. Minutes

a. August 26, 2019 Regular Meeting.

Moved by Commissioner Manning to adopt August 26, 2019 regular meeting minutes as printed, seconded by Commissioner Wilson. Motion carried 5-0.

3. Declaration of Conflict of Interest

Commissioner Muenster noted that he owns investment property.

Commissioner Forseth noted that he owns investment property.

4. Adoption of the Agenda

Moved by Commissioner Tuve to adopt the agenda as published, seconded by Commissioner Manning. Motion carried 5-0.

5. Visitors to be Heard

None.

6. Public Hearing

None.

7. Old Business

None.

8. New Business

a. Presentation to the Public of the Draft of the Proposed Amendments to the City's Zoning Ordinance.

Dominguez, City Engineer, started presentation regarding the draft of the proposed amendments to the City's Zoning Ordinance. Dominguez gave a brief history from the adoption of the first zoning ordinance to present. He explained that the purpose of periodically revisiting the ordinance is to keep it current as times change. Additionally, Dominguez discussed the major proposed changes to the ordinance.

Commissioner Muenster asked if additional discussion would occur regarding the single-family detached dwellings within the R-1 Residential district. In specific, Commissioner Muenster wanted to

verify that a public meeting in which the Commission would make a formal recommendation to the Council would occur. Domínguez explained that the goal of this meeting was to allow public comment, and create discussion on the topics. The actual codification process would commence at a later meeting with a public hearing regarding all of the proposed amendments. Discussion followed.

Commissioner Muenster asked if the items would be subject to referral by petition. Domínguez explained that if the ordinance is adopted the entire ordinance, or items within the ordinance, can be referred to a vote. The petition would have to be turned in to the City no later than 20-days after the publication of the approved ordinance.

Mr. Marty Gilbertson (419 Park Lane) asked if garages count as a parking spot to meet off-street parking requirements. Domínguez explained that if the garages meet certain criteria they could count for the required parking for single-family detached or attached dwellings, but not for multiple-family dwellings.

Mr. Gilbertson stated that parking will always be the deciding factor when developing property and asked the Commission why the off-street parking requirements were in place. Commissioner Forseth explained that the off-street parking requirements are in place to relieve parking pressure off the street and move the parked vehicles into the developer's property. Discussion followed. Mr. Gilbertson stated that he believes that the on-street parking is only an issue during the day and not at night. Discussion followed.

Mr. Gilbertson stated that he is trying to maximize space when he develops property. Domínguez stated that we have two competing issues where the developer tries to maximize the space for development while the City tries to protect public safety by removing development generated street parking to off-street.

Mr. Gilbertson asked if off-premise parking would be allowed. Domínguez stated, that without researching the item, he believes that off-premise parking is allowed as a conditional use within the district. Domínguez was unsure of any requirements at the time. Discussion followed.

Commissioner Manning asked if a developer would be allowed to have an agreement with the City stating that a garage within a multiple-family dwelling unit will only be used by the tenants and not for any other use. Domínguez stated that for that such an item would need to go through the Council as a variance request. Discussion followed.

Mr. Gilbertson asked if the construction of residential dwellings will still be a conditional use within the Neighborhood Commercial district. Mr. Gilbertson also asked if the Commission is planning on removing, or drastically changing the Neighborhood Commercial district to change residential uses to permitted and commercial uses as conditional. Domínguez stated that at this time the Commission was not making any of

his mentioned changes to the ordinance. Domínguez also stated that Mr. Gilbertson can approach the Commission, or the Council, with his proposal to change the Neighborhood Commercial district. Discussion followed.

b. Review City Council's Request to Expound on Proposed Changes to Sections 155.031 R-1 Residential district, 155.033 R-3 Residential district, and to 155.095 Conditional Use Permits.

Domínguez stated that the draft of all of the proposed changes was presented to the City Council at their noon meeting on September 16th. The Council is asking the Commission for additional information on four items to help the Council understand why the changes are being proposed made, and what the changes are trying to achieve. The four items that the Council requested additional information on are:

1. Moving single-family attached dwellings from conditional-uses to permitted uses in the R-1 Residential district with the intent of having no new construction after December 31, 2019.
2. Increasing the rear yard setbacks for multiple-family dwellings in the R-3 Residential district from 10-feet to 25-feet.
3. Increasing the maximum height of multiple-family dwellings in the R-3 Residential district from 45-feet to 70-feet.
4. Replacing the 'The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect health, safety, and general welfare in the issuance of the conditional use permit' with 'The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and the impact of the conditional use upon neighboring land and the public for the particular location in the issuance of the conditional use permit.'

Purdy, Assistant City Manager, stated that there will be a special noon City Council meeting on September 30th. At this meeting the Council will discuss the additional information provided by the Commission. The Commission is invited to attend the meeting and discuss the items. Commissioner Iverson will be attending.

Domínguez elaborated on each of the items.

On item 1, Commissioner Manning stated that he does not agree with the proposed changed and would like townhomes to remain as conditional uses within the R-1 Residential district. He does not see an issue with having townhomes in the R-1 Residential district.

Commissioner Muenster stated that the Commission should be allowed to review plans during the review of a conditional use permit and use the information to arrive at a conclusion.

Based on the direction of the conversation, Domínguez asked if there are any proponents of the item presented to the Council willing to discuss

why the item was changed, and what the purpose of the change was. Commissioner Muenster asked who started the discussion at the February 11 meeting regarding the removal of townhomes. Commissioner Manning stated that Commissioner Fairholm started the conversation due to concerns with townhomes being sprinkled throughout the R-1 Residential district and the difference in dwelling styles (detached vs. attached). Commissioner Muenster stated that the townhomes built along Mickelson Avenue are attractive and a credit to the neighborhood and should be allowed. Discussion followed.

Commissioner Wilson stated that he agrees with Commissioners Muenster and Manning with keeping townhomes as a conditional use within the R-1 Residential district. Discussion followed.

Commissioner Tuve stated that the proposed language was a compromise that would protect the existing structures, but not allow new construction. Discussion followed.

Mr. Rich Holland (902 Ridgecrest) stated that, hypothetically speaking, if his neighbors decided to build townhomes he would be strongly opposed to them since that is not what the original intent of the neighborhood was. Mr. Holland asked if the proposed change would prohibit this from happening. Domínguez stated that the proposed change would not allow this to happen as long as the building permits for the townhomes was requested after December 31, 2019. Discussion followed. Commissioner Wilson could not conceptualize how to put more than two townhomes together.

Commissioner Forseth commented that this item could be brought up to a vote no matter which way the Council voted. Domínguez stated that he will be reporting to the Council that there is a large difference of opinion between the Commission regarding this item. Discussion followed.

On item 2, Commissioner Wilson stated that the 25-foot rear yard setback is a reasonable requirement for emergency access and other reasons. All other commissioners agreed with Commissioner Wilson's statement.

Commissioner Muenster stated that he did not see a substantial difference between the language being proposed for Item 4 and the existing language. Domínguez stated that the intent was never to take the ability of the Commission from placing conditions, but to prevent the Commission from asking inappropriate questions and basing a decision on the discussion created by said questions. Discussion followed.

Ms. Caitlin Collier (917 Eastgate) stated that the reasons not to change item 4 is also to allow for the public to state their opinions regarding the subject being discussed. The more opinions given the better the result that the Commission can arrive to. Discussion followed.

Commissioner Forseth asked what the wishes of the Commission was regarding item 4, Commissioner Muenster stated that if the change helped

Staff to assist the Commission in leading meetings that he does not object to the proposed change. All other commissioners agreed with the proposed changes to the language.

On item 3, Commissioner Manning stated that he did not see any issues with changing the height. Domínguez stated that a developer did come to discuss this item, in conjunction with item 2. The developer was concerned that the changes would force residential development to rise due to the setback getting larger and the height increasing. All Commissioners agreed with the proposed changes to the language. Commissioner Tuve stated that this may cause an issue with future construction if the neighbors see the height blocking the sun, air or view. Discussion followed.

9. Staff Reports

Anderson Street: contractor started the cement treatment of the subgrade. Once the treatment is done in the south side, the contractor will move all of the millings and treat the north side. The completion date is still the end of October.

Elm Street: Contractor is waiting on test results for the aggregate being used. Completion expected approximately within one month.

Dakota and Alumni: This project is associate with USD. USD's contractor is completing a water main connection for the Dome project. The dates were chosen by USD.

Commissioner Wilson asked about the work occurring at Polaris. Domínguez stated that to our knowledge the material used for compaction is being sold. At this point no building permit has been requested by Polaris.

10. Adjourn

Moved by Commissioner Muenster to adjourn, seconded by Commissioner Tuve. Motion carried 5-0. Chairman Iverson declared the meeting adjourned at 6:41 p.m.