

Unapproved Minutes
Vermillion Planning Commission
Monday, January 14, 2019 Regular Planning Commission Meeting

The regular meeting of the Vermillion Planning Commission was called to order in the Large Conference Room at City Hall on December 10, 2018 at 5:30 p.m.

1. Roll Call

Present: Fairholm, Forseth, Kleeman, Manning, Muenster, Tuve, Wilson (arrived at 5:32), Iverson.

Absent: Oehler.

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

2. Minutes

a. December 10, 2018 Regular Meeting.

Moved by Commissioner Fairholm to adopt December 10, 2018 Regular Meeting as written, seconded by Commissioner Manning. Motion carried 8-0.

3. Adoption of the Agenda

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

4. Visitors to be Heard

None.

5. Public Hearing

a. Ordinance 1397 to Rezone Lot 11, in Block 1, LaCroix Addition to the City of Vermillion, Clay County, South Dakota from GB - General Business District to the R-2 Residential District.

James Purdy, Assistant City Manager, explained that a petition to rezone 609 N Crawford Road from GB to R2 was submitted by Mr. Archimedes Plutonium in December 2018. The applicant circulated petitions for rezone which included neighboring properties within 250 feet of the aforementioned address and received the necessary 45% of the aggregate area as required by the Zoning Ordinance. The applicant states that the land has been for sale for approximately four years and many of the inquiries have been for residential uses. The use of the property, whether GB or R-2 could satisfy competing goals of the 2035 Comprehensive Plan. Approval of the rezone would satisfy the goal of maintaining neighborhoods that are compatible with adjacent land uses. Denial of the rezone satisfies the goal to have business development take place along South Dakota Highway 50 as it is a high visible area with convenient access to roadways.

Commissioner Iverson requested clarification on the size of the lot. It was explained that the lot is essentially the wooded area and the space between that and the road is Department of Transportation (DOT) Right-of-Way (ROW). Mr. Purdy further explained that it is a likelihood that a frontage road would be developed between Lot 11 and the DOT ROW.

Mr. Domínguez, City Engineer, in response to a query from Commissioner Fairholm, estimated that the frontage for the State highway at this location is 24-30 feet wide.

Responding to a question from Commissioner Foreseth, Mr. Domínguez explained that the ROW continues across the road to the west, but it narrows.

Representative of the applicant, Mr. Hazen Bye of Dakota Reality, states that the lot has been listed much longer than the previously stated four years estimating 7 or 8. In that time the only two inquiries have been for residential use. Answering a question from Commissioner Forseth, Mr. Bye stated the size of Lot 11 is approximately 9/10 of an acre. Mr. Hazen noted there is a potential buyer, but it is contingent on the rezone as the desired use is residential.

Commissioner Fairholm questioned who would be responsible for the possible frontage road. Mr. Domínguez explained that the City would build the road within the State's ROW but was unsure of whether or not the property owner would be assessed for the cost.

Commissioner Tuve asked if the proposed property owner was aware of how close the property is to a frontage road. Mr. Bye stated he was unaware of the possibility of the frontage road and was under the impression that it was simply an access road for the farmer to reach the field. Mr. Domínguez explained that while Staff has not been notified by the state that there would be a frontage road, they believe it to be a possibility as there is no other access to the parcel of land east of Lot 11 unless it is access from a future street further south. He further explained that during a call received from the potential buyer, the possibility of the frontage road was discussed. Commissioner Forseth noted that 9/10 of an acre would be enough land to build a house within the trees and maintain privacy. Mr. Domínguez stated that was the reason the potential buyer likes the lot noting that he is only interested in clearing enough trees for the house and driveway.

Motion to Rezone Lot 11, in Block 1, LaCroix Addition to the City of Vermillion, Clay County, South Dakota from GB - General Business

District to the R-2 Residential District by Commissioner Manning and seconded by Commissioner Wilson. Motion carried 8-0.

6. Old Business

None.

7. New Business

a. Adoption of Vermillion Planning Commission Bylaws, Rules and Procedures.

Following extensive research, Mr. Domínguez, was unable to find a signed copy of the Planning Commission Bylaws. Within the scope of his research he found that the latest Bylaws were adopted prior to 1998 and amended twice; once in January 2000 and again in December 2000. Referring to the unsigned copy of the 1998 Bylaws, Mr. Domínguez explained to the Commissioners that Staff reviewed the document and have recommended changes. Three recommendations to Article 7 and one recommendation to Article 9 are proposed as follows:

Article 7, Section 4: Staff received a request from an Alderman regarding Planning Commission Minutes. The request entailed minutes to be taken and open to the public for inspection. Additionally, they requested recordings of the meetings should be taken, kept and made available to the public. At present, recordings are taken for purposes of written minutes to be taken at a later time and then the recording is deleted.

Article 7, Section 5: This section would allow the Planning Commission to remove a member if that member fails to attend four consecutive meetings without presenting an explanation accepted by a majority of the Planning Commission.

Article 7, Section 9: this section would allow the Planning Commission to defer action on an item if the applicant, or their representative, is not present at the meeting.

Article 9, Section 12: This section explains what situations are considered a conflict of interest and how such occasions need to be handled by the member.

Commissioner Muenster stated that while he had found a number of items that could be approved, he would be happy to go through the items with the City Engineer at a later time, if that is the will of the Planning Commission, but would rather not take time to go through the entire document at this meeting. Mr. Domínguez stated that if that is the will of the Commission, that it would be fine but prefers that it is done prior to the next Planning Commission meeting.

In reference to the amendment to Article 7, Section 4, Mr. Domínguez explained that, if adopted, Planning Commission meetings would likely move from the Large Conference Room to the Council Chambers as that space is already has the necessary equipment to record audio/video.

The recordings would be for however long the Council recordings are kept.

Rich Holland, City Council Vice President, asked if the difference between adjoining housing and abutting housing was in the document. Mr. Domínguez explained that it is not in the Bylaws, but would be discussed on the next agenda item regarding zoning code.

Commissioner Fairholm stated that Commissioner Muenster's willingness to discuss the Bylaws with the City Engineer, and taking a longer time to review the Bylaws is fine with him, but expressed concern about recordings stating that he is comfortable with written minutes as have been in the past. Additionally, while he is okay with recording meetings, he believes most recordings of government meetings are for boards of publicly elected officials with a political stance, whereas this is an unelected, selected citizen's board. Therefore audio/video recordings of a citizen meeting would be unusual in the history of our city, and perhaps set a bad precedent. Mr. Domínguez clarified that the original revision of the Bylaws did not include recording. Commissioner Fairholm suggested that the portion regarding recording should be removed from the Bylaws, not because the Planning Commission has anything to hide, but because citizen boards aren't typically recorded. Commissioner Iverson noted that the only reason the recording began was to make the task of taking minutes easier. Presently, it is not possible to transfer the minutes from the recording device to a computer. Commissioner Fairholm noted that without a stenographer, this is a great alternative to take minutes, but does not believe the recording is a public document. Commissioners gave Mr. Domínguez permission to remove the portion of Article 7, Section 4 regarding audio/video recording. Commissioner Fairholm said that however the written minutes are prepared is up to the secretary.

Mr. Muenster had the following notes to the Bylaws:

- The Commission is known as the Planning and Zoning Commission, rather than simply the Planning Commission.
- Article 3, Section 2: terms are dictated by State Law rather than Council action.
- Article 5, staff support should be called Staff Liaison or Clerk rather than Secretary, as Secretary is an elected official of an organization.
- Article 6, replace "newly appointed members shall elect a Chair and Vice Chair..." Newly appointed members" should be replaced with "members" as it reads as though only the newly appointed members can vote on the matter.
- Article 7, Section 1: Near the end replace the word typically with ordinarily.
- Add that the Comprehensive Plan shall be reviewed annually. Commissioner Fairholm noted that language within the Comprehensive Plan states that the Planning Commission shall review it annually.
- Article 7, Section 3: "Chair calls a special meeting when requested to do so by the majority of the members of the Commission" It should state "Chair or City Administration can also request a special meeting; there should not be a polling

of the Planning Commission to call a special meeting. Commissioner Forseth noted in the same article, "notify in writing" should include electronic communications. Commissioner Fairholm noted that the term "in writing" is utilized twice in the same sentence and is not necessary. Commissioner Muenster suggested that from time-to-time joint meetings with the County could be specified in this article.

- Article 7, Section 5: Planning Commission should not have the authority to remove a member from the board. The Planning Commission shall recommend removal to the Mayor.
- Article 7, Section 9: The Planning Commission shall defer action rather than deny action if an applicant or their representative is not present. Mr. Domínguez stated he would research the language in the ordinance and ensure the Planning Commission Bylaws and forms are consistent.
- Article 9: Staff Report should be listed as an agenda item as necessary.
- Article 9, Section 5: Add the word "discussion" so it reads: "Public testimony will then be closed and the topic will be given to the Planning Commission for discussion and action."
- Article 9, Section 11: "No member may abstain." Add language so it reads, "No member may abstain unless they have stated on the record a conflict of interest." Additionally, add an agenda item: Declaration of Conflict of Interests prior to adoption of the agenda. Commissioner Muenster stated that he was uncomfortable having language that a member may not abstain stating there may be other reasons such as not fully understanding the topic. Chairman Iverson explained that you are selected to be on the commission and if you don't understand, you'd better ask questions.
- Article 9, Section 12: Replace the word "dead" with "defeated."
- Article 10, Section 1: Ex-officio means by virtue of one's office. Should that term be used? It was decided to keep the term, but add language to include members of the public. As a committee would only make a recommendation to the Planning Commission, all committee members regardless of title can vote on committee business.
- Article 9, Section 7: Remove the entire section limiting number of times a member may speak on one item.

Moved by Commissioner Tuve to adopt the Vermillion Planning and Zoning Commission Bylaws, Rules and Procedures with amendments, seconded by Commissioner Fairholm. Motion carried 8-0.

b. Discussion on Amendments to Zoning Ordinance - Section 155.008 Definitions.

Mr. Domínguez provided background of the current zoning ordinance noting that the original ordinance was adopted in 1966 and, following review, the current ordinance was adopted in 2008. Noting that the Comprehensive Plan encourages a periodic review of the zoning ordinance in an effort to update, strengthen and streamline; and that the existing ordinance is now 11 years old, Staff recently compared the definition section of the zoning ordinance with the permitted and

conditional uses in each district with the intent of learning if any definition should be updated, added, or removed; and to ensure that uses in each district are defined. Results of the definitions review found that 26 need to be updated or changed, 23 should be added, and 15 could be removed. As the proposed changes to the definitions are numerous, Staff recommend a review of each district.

Referencing a spreadsheet, Mr. Domínguez explained the review process to the Planning Commission.

As this review process will be extensive, Mr. Domínguez suggested setting a schedule for the process, but requested the Planning Commission review the definition for twinhome/townhouse as it has recently been a controversial topic. Presently, the City utilizes the recommended definition of the International Zoning Code, which can be confusing. With the approval the City Building Official, Staff propose removing the definitions "Dwelling, Attached" and "Dwelling, Multiple-Family." Staff recommend language addition to "Dwelling, Multiple-Family" to include duplex, 3-plex, and 4-plex to the existing apartments and condominiums. Thusly, a duplex would be considered in the same manner as an apartment. Language would be added to "Dwelling, Single-Family Attached" to include Townhouse, Townhome, and Twinhome. Mr. Domínguez stated regarding minutes and publications, Staff recommend simply utilizing the term "Single-Family Attached" as it encompasses all or the aforementioned uses.

Mr. Domínguez gave a few examples of the proposed additions, omissions and other changes that will be included in the scope of the upcoming zoning ordinance review and requested the Planning Commission return with comments at the next meeting.

The Planning Commission opted to conduct a review of the definitions, review each of the districts to ensure that the uses match the definitions, review the conditional use permit process, and off-street parking requirements at this time and review the remainder of the zoning ordinance at a later time. Mr. Domínguez was asked to prepare a schedule for the review.

c. Motion to table discussion on Amendments to Zoning Ordinance - Section 155.008 Definitions by Commissioner Tuve and seconded by Commissioner Kleeman. Motion carried 8-0.

8. Staff Report

None.

9. Adjourn

Moved by Commissioner Wilson to adjourn, seconded by Commissioner Fairholm. Motion carried 8-0. Commissioner Iverson declared the meeting adjourned at 6:45 p.m.