

Unapproved Minutes  
Council Special Session  
September 30, 2019  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, September 30, 2019 at 12:00 noon at the City Hall large conference room.

1. Roll Call

Present: Collier-Wise, Hellwege, Holland, Humphrey, Price, Willson (by teleconference), Mayor Powell

Absent: Sorensen, Ward

2. Pledge of Allegiance

3. Visitors to be Heard - None

4. Informational Session - Continued discussion on proposed zoning code updates - City Engineer Jose Dominguez

Jose Dominguez, City Engineer, reported that the draft of the proposed changes to the zoning ordinance was presented to the City Council at their noon meeting on September 16th. Jose noted that there are a number of changes proposed and at this point the City Council only had questions on a few of the items. Jose noted that, 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. Jose reported that staff met with the Planning Commission at their September 23rd meeting to further discuss the items on which the City Council had questions. Jose reported that he has prepared information on the four items and proposed to review each item individually.

Jose stated that Item 1 was 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. Jose reviewed the background that was requested by the Planning Commission including how other cities handle single-family attached dwellings. Jose reported that the Planning Commission was divided on this issue during their discussions at the September 23rd meeting noting that not all members were present. Jose noted that Planning Commission discussion on this item began as a way of "protecting" neighborhoods intended to be occupied by single-family detached dwellings. Jose stated that the

thought by some members of the Commission is that single-family attached dwellings should be clustered, rather than intermingled between detached dwellings. Jose stated that 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.

Discussion followed on the proposal noting that a complete prohibition of single-family attached dwellings from the R-1 district may not be acceptable. It was noted that single-family attached homes are a type of high density construction and may not be acceptable in the R-1 zone as that is the least dense zone. The discussion included limiting the single-family attached in the R-1 zone to two units, establishing a maximum number of single-family attached homes in a specified area and/or the creation of another zoning district within the R-1 that would allow single-family attached such as what is on Norbeck Street and East Main Street. It was the consensus of the City Council to request the Planning Commission review their proposed change to the section to provide flexibility to allow single-family attached in the R-1 zone.

Jose stated that Item 2 was increasing the rear yard setbacks for multiple-family dwellings in the R-3 Residential District from 10-feet to 25-feet. Jose reported that the Planning Commission discussion on this item was to address concerns with buildings not receiving sunlight due to the height of the neighboring building. The larger setback would also provide more space for the owners to perform maintenance on their buildings, or for space during the initial construction. Jose also noted that the Planning Commission discussion included the next item which increased building height in the R-3 zoning district from 45 feet to 70 feet that will allow developers more choice.

Discussion followed on the increased rear yard noting that the proposed changes would require that developers plan their development to accommodate the additional setback requirements with the end result for the public being additional green space and more space for the developer to construct/maintain their development. The consensus of the City Council was to support of the Planning Commission proposed change increasing the rear yard setback in the R-3 zoning district from 10 feet to 25 feet.

Jose stated that Item 3 was increasing the maximum height of multiple-family dwellings in the R-3 Residential District from 45-feet to 70-feet. Jose reported on the Planning Commission discussion of the possibility of removing the maximum height on buildings. Jose reported that the recommendations from the City's Fire Department with regard to maximum building height would be strictly enforced. Jose noted that this was due to the fact that the Fire Department would be providing fire

protection. Jose noted that 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-foot tall. Jose stated that the Planning Commission recommendation of 70-foot height was arrived at since that is what can safely be reached with the City's current ladder truck.

Discussion followed on maximum building height with the consensus of the City Council to request the Planning Commission consideration of setting the maximum building height in the R-3 zoning district at 60-feet tall.

Jose stated that Item 4 was 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." Jose reported that the Planning Commission at their September 23rd meeting did not see a large difference between the proposed changes. Jose noted that, following the September 23rd Planning Commission meeting, staff discussed the proposed change with Jim McCulloch, City Attorney who felt 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." Jose noted that Jim 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. Jose reported that, in addition to the change proposed by Jim 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. Jose reported that this would be similar to what is currently found in the City's variance procedures (155.100 (D)(1)). Jose suggested the following sentence be added: "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."

Discussion followed. The consensus of the City Council was to recommend to the Planning Commission the inclusion of the language from the city attorney along with the sentence as proposed by Jose as it applies to conditional use section.

6. Adjourn

280-19

Alderman Holland moved to adjourn the Council special session at 12:50 p.m. Alderman Price seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Willson-Y, Mayor Powell-Y. Motion carried 7 to 0. Mayor Powell declared the motion adopted.

Dated at Vermillion, South Dakota this 30th day of September, 2019.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA  
BY \_\_\_\_\_  
John E. (Jack) Powell, Mayor

ATTEST:

BY \_\_\_\_\_  
Michael D. Carlson, Finance Officer

Published once at the approximate cost of \_\_\_\_\_.