



City of Vermillion Planning & Zoning Commission Agenda

5:30 p.m. Regular Meeting

Monday, November 22, 2021

Powell Conference Room

City Hall, 25 Center Street, Vermillion, SD 57069

1. **Roll Call**
2. **Minutes**
 - a. November 8, 2021 Regular Meeting and November 16, 2021 Joint Meeting
3. **Declaration of Conflict of Interests**
4. **Adoption of the Agenda**
5. **Visitors to Be Heard**
6. **Public Hearings**
 - a. Ordinance 1450 to Rezone Lot 1, Block 1, Bliss 2nd Addition, City of Vermillion, Clay County, South Dakota from NRC-Natural Resource Conservation District to the GB-General Business District.
 - b. Ordinance 1449 to amend the City of Vermillion Code of Ordinances Title XV: Land Usage; Section 158: Medical Cannabis Establishments clarifying Section 158.02 Definitions.
7. **Old Business**
8. **New Business**
9. **Staff Reports**
10. **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 accommodations, 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, November 8, 2021 Regular Planning and Zoning Commission Meeting

The regular meeting of the Vermillion Planning and Zoning Commission was called to order in the Powell Conference Room at City Hall on November 8, 2021 at 5:30 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: Fairholm, Fitzgerald, Forseth, Gestring, Heggstad (5:35 p.m.), Merrigan, Mrozla, Tuve, Wilson.

City Planning and Zoning Commissioners Absent: None

City Staff present: José Domínguez, City Engineer

2. Minutes

a. August 9, 2021 Regular City Planning and Zoning Commission Meeting.

Moved by Commissioner Fairholm to adopt the August 9, 2021 meeting minutes, seconded by Wilson. Motion carried 8-0.

3. Declaration of Conflict of Interest

Forseth noted that he owns investment property in Vermillion.

4. Adoption of the Agenda

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

5. Visitors to be Heard

Mr. Rich Holland (902 Ridgecrest and City Council member) stated that the City Council had recently approved a variance for a property along the railroad. The variance approved reduced the setback to zero along the property line adjacent to the railroad. Without this variance the owner would have only had 10-feet of buildable space. He would like the Commission to consider a zoning amendment previously discussed by the Commission at an information meeting that would eliminate setback requirements along property lines adjacent to the railroad right-of-ways. Dominguez stated that Staff will be bringing this item to the Commission and to the Council for consideration before the end of the year.

6. Public Hearings

a. Ordinance 1447 - Amending Title XV, Chapter 155, Section 155.026, Adoption of Official Zoning Map, Rezoning NW ¼ SW ¼ 13-92-52 Exc. Holiday Village Addition, Miscellaneous, City of Vermillion, Clay County, South Dakota from the NRC Nature Resource Conservation District to the R-2 Residential District.

Dominguez stated that the area in question is known as Barstow Park and it includes the Vermillion Middle School. The area is bounded by West Cherry Street on the north, Princeton Street on the east, Carr Street on the west and West Dartmouth Street on the south. Dominguez further

explained that prior to the 2008 zoning ordinance amendment the area had been zoned residential, and that district allowed for the uses of parks and schools. With the adoption of the 2008 zoning ordinance the property was rezoned NRC. This district allows for parks but not for schools. Dominguez also stated that rezoning the area to R-2 would allow for the school to use the land for construction of future schools, for the City to continue using the park, and for the existing middle school to be considered an allowable use. Dominguez recommended that the Commission recommend the City Council approval of the rezone.

Forseth opened the floor to public comments.

Mr. Damon Alvey, Vermillion School District superintendent, stated that that the School District is in support of the rezone.

Fairholm asked if the park areas being affected by the proposed school will be relocated to other parks. Mr. Alvey stated that the School District has been discussing the possible effects to the park with the City and that some of the lost items will be relocated to other parks/locations.

Fairholm asked if the area could be developed after if it is rezoned residential. Dominguez stated that yes it could. Mr. Alvey also stated that the School District does not have any interest in developing the area.

Moved by Tuve to recommend that the City Council rezone the NW ¼ SW ¼ 13-92-52 Exc. Holiday Village Addition, Miscellaneous, City of Vermillion, Clay County, South Dakota from the NRC Nature Resource Conservation District to the R-2 Residential District, seconded by Gestring. Motion carried 9-0.

- b. Ordinance 1445 - Amending Title XV, Chapter 155, Section 155.008, Definitions, Removing and Replacing the term "Public Service Facility" with a New Definition.

Dominguez explained that with the discussions occurring in the community regarding the possible construction of a new jail, City Staff decided to review the current ordinance to ensure that the possible construction would be allowed in the City. Dominguez stated that the use of a "jail" is not mentioned in the zoning ordinance as a use. The use that would more than likely include a "jail" would be a "Public Service Facility"; however, that use specifically prohibits "facilities for incarcerated persons". Dominguez further explained that amending the current definition for "Public Service Facility" to allow for law enforcement facilities with the option of housing incarcerated persons would allow for a jail to be built in the City as long as it is attached to a law

enforcement facility. Dominguez recommended that the Commission recommend to the City Council adoption of the zoning ordinance amendment.

Forseth opened the floor to public comment.

Fairholm stated that he has concerns with the proposed definition, and allowing the new uses to be constructed in the R-1 Residential district. Fairholm explained that a law enforcement facility without the ability to house incarcerated persons might be acceptable in the R-1 Residential district, but that a similar facility with the ability to house incarcerated persons might create additional traffic and negatively impact a low density residential district. Discussion followed.

Moved by Fairholm to recommend that the City Council does not approve the definition as proposed by Staff and that the ordinance be amended by redefining "Public Service Facility" to only allow law enforcement facilities without the ability to house incarcerated persons along with the other possible uses included in the definition; and, to include a new definition for a "Law Enforcement Facility with the Ability to House Incarcerated Persons" as a new use. Further, the new use would be allowed as a permitted use within the CB Central and GB General Business districts, and as a conditional use in the R-T, R-2, and R-3 Residential districts, seconded by Fitzgerald. Motion carried 9-0.

- c. Ordinance 1446 - Amending Title XV, Chapter 155, Section 155.039, GI General Industrial District, to allow for "Public Service Facility" as a Conditional Use.

Dominguez stated that this item works in conjunction with the previous item discussed by the Commission. This item would allow the "Public Service Facility" as a conditional use within the GI General Industrial district. Allowing this to occur would increase the options within the City for a new jail to constructed. Dominguez explained that due to the motion on the previous item, the new recommendation from Staff would be to still allow a "Public Service Facility" as a conditional use, and to also allow for a "Law Enforcement Facility with the Ability to House Incarcerated Persons" to also be included as a conditional use.

Forseth opened the floor to public comment.

Moved by Fairholm to recommend that the City Council adopt the proposed changes with the amendment that a new use be included for "Law Enforcement Facility with the Ability to House Incarcerated Persons" as a conditional use, seconded by Heggstad. Motion carried 9-0.

7. Old Business

None

8. New Business

None

9. Staff Report

Dominguez discussed the progress on the Hwy. 50 drainage project, the Downtown Streetscape, and Bliss Pointe Phase 2.

Additionally, Dominguez provided the Commission with the County Commission minutes for the October 26th and November 2nd meetings. Dominguez stated that the intent of providing the minutes was to forewarn the Commission about the discussions being had by the County regarding the future JJZA discussion item to be considered on November 16th.

10. Adjourn

Moved by Mrozla to adjourn, seconded by Merrigan. Motion carried 9-0, Forseth declared the meeting adjourned at 6:32 p.m.

Unapproved Minutes

Vermillion Planning and Zoning Commission

Tuesday, November 16, 2021 Special Planning and Zoning Commission Meeting

The special joint meeting of the Vermillion Planning and Zoning Commission and the Clay County Planning Commission was called to order in the City Council Chambers at City Hall on November 16, 2021 at 5:30 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: Fairholm, Fitzgerald, Forseth, Gestring, Heggstad, Merrigan, Mrozla, Wilson.

City Planning and Zoning Commissioners Absent: Tuve

City Staff present: Jose Dominguez, City Engineer, Stone Conley, Assistant to the City Manager, Brent Matter, City Attorney.

2. Minutes

a. No Previous Minutes were adopted.

3. Declaration of Conflict

Forseth noted that he owns commercial property in Vermillion.

4. Adoption of the Agenda

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

5. Visitors to be Heard

None

6. Public Hearings

a. A proposal to rezone certain areas from A-1: Agriculture to HI: Heavy Industrial. The properties proposed for rezoning are located north of West Cherry Street, west of the west City limits, south of SD Hwy. 50 Bypass, and east of the Vermillion River (also known as 1919 West Cherry Street).

Jose Dominguez, City of Vermillion City Engineer, presented the Agenda Memo from the City Planning and Zoning Commission packet on the Request to Rezone Lot 1 (Except Terminal Grain Tract 1 of said Lot 1), and Lots 2, 3 & 4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, and Lot 2 of Lot A in the NW $\frac{1}{4}$ SW $\frac{1}{4}$); and, Terminal Grain Track 1 of previously platted Lot 1 of Alber's Subdivision; and, Terminal Grain Track 2 of previously platted Lot A in the N $\frac{1}{2}$ NW $\frac{1}{4}$, all in 14-92-52, West of the 5th P.M., Clay County, South Dakota, from the A-1: Agricultural District to the HI: Heavy Industrial District.

Dominguez explained that Staff recommends the petition to rezone the area from A-1: Agricultural to the HI: Heavy Industrial districts be denied. Additionally, City Staff recommends that both planning commissions direct staff to amend the A-1: Agricultural district so that

the "grain terminal/grain processing facility" use be included as a conditional use.

Dominguez read two letters from residents residing in the Joint Jurisdictional Zoning Area (JJZA) who are opposed the rezone. Ms. Cheryl Burbach of 1815 Baylor Street expressed concerns about noise and air pollution. Mrs. Karyn Ehrenfeldt and Mr. Mike Ehrenfeldt of 1508 Rockwell Trail expressed concerns about the proximity of an H-1 Heavy Industrial Zone to the residential neighborhood in which they reside.

Drew Gunderson, Clay County Zoning Administrator, explained the County believes that including "grain elevator" as an allowable or conditional use in the A-1 Agriculture Zone would open all the Ag Districts to a Light or Heavy Industrial use. Gunderson noted that two Comprehensive Plans oversee the JJZA. He read items from each that he felt may be relevant when deciding the item. Gunderson recommended approval of the rezone.

Kevin Myron, 1919 W Cherry Street provided a complete history of his family business, noting his family purchased the property in question in June of 2004. At the time parts were zoned industrial and agricultural. He explained that the grain business had been down due to flooding in recent years and closure of ethanol plants during the COVID-19 pandemic. Myron described different ways the company attempted to generate revenue to offset the struggle, including rail transloading and possible sale of the property. He noted that continued pursuit of revenue generation opportunities led to communication with the County Zoning Administrator, which is when he learned that the entire property was rezoned Agricultural, and "grain elevator" is not an allowable use. The County Zoning Administrator suggested contacting the City for more information. Myron states they learned that the property was rezoned with the 2012 Joint Jurisdictional Zoning Agreement, passed jointly by the City Council and Clay County Commission. Myron expressed his disappointment with the rezoning process that took place at that time and seeks for it to be reviewed. Myron explained that the request to rezone to HI-Heavy Industrial is because it is the only district that allows for a "grain elevator." Myron expressed frustration that his property is not sellable.

Responding to a question from the Commission regarding other area elevator facilities, Myron stated they are zoned Commercial within City Limits. Noting he requested to combine the zoning and conditional use permit hearings together to expedite the process.

Responding to a question from the Commission, Myron affirmed that utilizing the rail system in place that assisted in transportation of water pipe for the Lewis & Clark water system would have been an industrial use. Further expanding that his company has handled a multitude of product in that capacity.

Kathy Olson, 1501 Rockwell, Trail sought clarification on the applicant's request.

Terrence Brady, 1882 Constance Drive, believes if the plant is going to continue as is, property should be left as is in A1- Agricultural. Thinks the "mix-up" on the zoning should be resolved. Understandable that the applicant needs flexibility in his business, noting the flexibility is also the concern of those who live nearby. "What will it be if it is not going to be a grain elevator?" He asked the Commissioners for examples of what uses are conditional and allowable in both A1-Agricultural and HI - Heavy Industrial zoning districts. Dominguez listed all possible conditional and allowable uses within the HI district.

It was discussed that prior to 2012 Joint Jurisdictional Agreement, the City did not have a Heavy Industrial zoning district. The only industrial district was Light Industrial. Dominguez explained that every single time the use changes, an applicant must go through the same process. A Conditional Use Permit is for one use, not all that are possible.

Craig De Velder, 1304 Over Drive, states he has no problem with the grain elevator but opposes the rezone to Heavy Industrial to improve the value of the applicant's land for sale, noting Myron mentioned multiple times during his testimony that sale is an option. Once the land is sold, Myron can no longer control what is happening at that location, providing possibility of all allowable and conditional uses within the HI district.

Kelly Person, 1330 Over Drive, supportive of grain elevator, afraid of what will happen with the access points to the property from SD HWY 50. Noting that Myron expressed the option to sell many times when he spoke and afraid the rear of her house will become a busy truck route. Myron noted that due to an easement, access from the SD HYW by-pass is not an option. Person expressed her frustration of not being notified about the hearing as her property does not directly abut Myron's property due to said easement.

Dominguez confirmed that if the rezone takes place, the applicant must apply for a conditional use permit to operate a grain elevator. If the property were to be sold in the future, the conditional use permit would go with it. Dominguez noted that the true concern with a potential sale are not the conditional uses within the Heavy Industrial zoning district, but the permitted uses. The only thing a property owner needs to obtain to utilize the land for a permitted use, such as a redi mix plant or a fruit and vegetable canning and processing plant is a building permit; there is no discussion. These two examples require significant water and wastewater capacity. Thusly, City staff have said "grain processing and terminal" should be considered agribusiness within the Ag district or include the "terminal processing" as a conditional use in the Ag district. No one has issue with the grain elevator, the big issue is what happens if it is rezoned Heavy Industrial and then the property is sold. The applicant has requested to rezone to Heavy Industrial for this one specific use. "Is the request to have the grain terminal to be there or is the request to rezone it Heavy to have options to sell it?"

Discussion regarding the refinement of zoning districts to better serve the community followed.

Ray O'Connor, 1520 Rockwell Trail, has no issues with the grain elevator but does not support the rezone to Heavy Industrial as it would open a "Pandora's Box" to allowable uses by simply obtaining a building permit. O'Connor noted that the property is actively for sale.

Gunderson stated the original request to rezone and seek a conditional use permit at the same time, but the request was resisted by the City. Dominguez explained that while combining the processes would expedite the timeline, it is not possible to grant a conditional use for a zoning district that does not exist. The amendment to the ordinance does not exist until 20 days after approval due to statutory processes. County Commissioner Mockler states that if a conditional use permit is contingent upon a rezone and the rezone is denied, then so is the conditional use.

Discussion was had on whether the property could be returned to Light Industrial district. A grain terminal is not a permitted or a conditional use in the Light Industrial district. Dominguez explained that regardless of how the applicant wishes to rezone the property, the same process is in place.

Commissioner Fairholm made the point that the 2012 Joint Jurisdictional Agreement was drafted and approved by both the City and the County. Addressing procedural concerns of the applicant regarding the 2012 rezone, he recognized that while the process is extensive, it is important that at this time Commissioners and Staff ensure the process is followed. Combining the two requests would be faster, but it wouldn't be following the correct process.

Brent Matter, City Attorney, offered "a few points of clarity," noting the reason for the meeting is a statutory procedure; the applicant's issue with the rezoning process does not rest with the City or County but the state legislature.

Matter provided the Chair the notice of hearing from the newspaper and the dually approved minutes and approval of the 2012 Joint Jurisdictional Zoning Agreement. He reminded those present that the reason for the meeting is to address the rezone, not the JJZA as a whole or the statutory process.

Craig Thompson, 1416 Rockwell Trail, offered the suggestion that should Myron opt to sell the property in the future, it could be done so with a contingency of a rezone.

Cheryl O'Connor, 1932 Oscar Howe Drive, states that while Mr. Myron would like the property to be "put back the way it was," it was never Heavy Industrial. It was explained to her that there is a way to keep the grain elevator without changing the zoning to HI which impacts the rest of the Clay County residents living in the area. Dominguez outlined the allowable uses allowed prior to the 2012 rezone. Discussion regarding

alternative zoning amendments, such as the addition of "agribusiness" as a conditional use in the A-1 district followed.

Responding to a question from the Commission, Gunderson noted he had two objections to adding "grain processing facility" to the A1 district: 1) adding the term as a conditional use to the district would make it a possibility in the entire Joint Jurisdiction Ag district, and 2) it adds another step for the applicant to return his property back to "where it should be or where he was."

Myron expressed that he ultimately wants the property to return to the zoning that existed prior to the 2012 Joint Jurisdictional Zoning Agreement. He explained that adding agribusiness doesn't work because due to the business struggles, the business cannot function exclusively as an agribusiness.

Marjorie Iverson, 1874 Constance Drive, expressed that rezoning to Heavy Industrial sends a message to homeowners and would adversely affect the lifestyle of Vermillion and Clay County residents in that area. "You're concerned about business, but you should also be concerned about people who want to live here."

Matter addressed Commission to again state that the present issue is to rezone Mr. Myron's property.

Ryan O'Connor, Vermillion Resident, expressed that there is a lot of fear of the unknown and everyone should be able work together to find a solution.

Mockler stated that a mistake was made in 2012 and two wrongs don't make a right. The situation needs to be fixed. Fairholm mentioned that there are members on the Commissions who were involved in the 2012 rezone and is grateful for the opportunity to refine the process and the zoning.

Discussion regarding the timeline of the process to amend an ordinance took place along with existing definitions and uses.

Moved by Merrigan to recommend approval of the rezone as requested, no second. Motion failed.

Moved by Fitzgerald to recommend denial of the request to rezone 1919 W Cherry Street, seconded by Wilson. Motion carried 6-2.

7. Old Business

None

8. New Business

None

9. Staff Report

None

10. Adjourn

Moved by Mrozla to adjourn, seconded by Gestring. Motion carried 8-0,
Forseth declared the meeting adjourned at 7:55 p.m.

Planning and Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: November 22, 2021

Subject: Ordinance 1450 to Rezone Lot 1, Block 1, Bliss 2nd Addition, City of Vermillion, Clay County, South Dakota, from the NRC Natural Resource Conservation District to the GB General Business District

Presenter: Jose Dominguez

Background: The City received a petition to rezone this area from Mr. Eldon Nygaard on behalf of Valiant Vineyards (Winery), on November 1st. The Winery is requesting that the property owned by them at 1500 West Main Street be rezoned from NRC Natural Resource Conservation District into the GB General Business District. The area being considered is adjacent to a residential district to the east, agricultural land to the south, NRC district to the northwest (across West Main Street) and to the Bliss Pointe PDD to the northeast (across West Main Street).

This property was annexed into the City in September 2011. When a property is annexed into the City, it is automatically placed in the NRC Natural Resource Conservation District. This is the strictest zoning district within the City. Section 155.101 (B) (2) states that “properties within one year after annexation, shall be exempt from the provisions of this section.” The referenced section is the requirement to obtain signatures from 45% of the aggregate area having the right of protest against the proposed ordinance. In this instance the Winery chose not to change the zoning classification and left the zoning as NRC.

The Winery obtained the required signatures from property owners within 250-feet from his property to bring the rezoning request forward for consideration. Additionally, the notice for tonight’s meeting and for the City Council meeting on December 6th have been published.

Discussion: Prior to the area being annexed into the City, the parcel was zoned within the extraterritorial commercial district. The old district allowed for the Winery to function in

that location. Once it was annexed the use can continue as a “non-conforming” use until the designation expires, or until the land is rezoned to an appropriate zoning district.

Although the lot being considered tonight is not directly adjacent to a GB zone, it is directly across from the Bliss Pointe PDD Area “D”. This area in the Bliss Pointe PDD allows for “light commercial uses” and was intended to function as a buffer between the GB district at the corner of West Main and Stanford Streets and the rest of the residentially zoned areas of Bliss Pointe.

The Winery fits within a variety of uses. These are a specialty hotel, retail, restaurant, and on/off-sale alcoholic beverage establishments. Additionally, the Winery produces its own wine on site. The amount of wine produced is roughly 100 barrels (or 6,000 gallons). The City currently does not have a specific use allowing for wineries, brew pubs, or micro-breweries; however, in this instance the amount of wine produced is minimal compared to those allowed in other communities in South Dakota. For example, Brookings allows brew pubs, which is the smallest establishment that can serve and produce beer, within their business districts if they do not produce more than 46,500 gallons per year. Additionally, at the Winery the process for making wine, and storing the finished product, occupies less than 25% of the floor space of the building. The rest of the space is for the other uses previously discussed. This implies that, at least currently and in the past, wine making has not been the primary focus of the business establishment.

Compliance with Comprehensive Plan: The 2035 Comprehensive Plan is primarily geared towards planning for future development of the community. The Petition for Rezone before the Planning Commission does have a strong connection to different goals set out in the 2035 Comprehensive Plan. It has as goals to provide diverse employment opportunities, retain existing businesses and allow for expansion opportunities.

Conclusion/Recommendations: The Planning Commission is asked to hold a public hearing and recommend approval or denial for the proposed rezone to change Lot 1, Block 1, Bliss 2nd Addition, City of Vermillion, Clay County, South Dakota, from NRC Natural Resource Conservation District to the GB General Business District. The City Council will consider this Petition for Rezone at the December 6th meeting.

From: noreply@civicplus.com
To: Vermillion; Jose Dominguez; Stone Conley
Subject: Online Form Submittal: Application to Petition for Zone Change
Date: Monday, November 1, 2021 12:10:12 PM

Application to Petition for Zone Change

TO THE HONORABLE MAYOR AND THE CITY COUNCIL OF THE CITY OF
VERMILLION, SOUTH DAKOTA

1) As authorized by §155.101 of the City of Vermillion Zoning Ordinance (I) (we):

| | |
|-----------------------------------|-----------------------|
| First Name | Eldon |
| Last Name | Nygaard |
| Address | 1500 West Main Street |
| City | Vermillion |
| State | South Dakota |
| Zip Code | 57069 |
| Is there an additional applicant? | No |

Hereby petition to rezone property owned by:

| | | | |
|---------------------------------|-------------------------------------|----------------|------------------|
| First Name | Valiant Vineyards, Inc. | (605) 670-0695 | Eldon's ph. # |
| Last Name | Nygaard | | |
| Address | 1500 West Main Street | | |
| City | Vermillion | | |
| State | South Dakota | | |
| Zip Code | 57069 | | |
| From the current classification | NRC - Natural Resource Conservation | | |
| to the proposed classification | GB - General Business | | |

2) The legal description of the part of the property to be rezoned

LOT 1 BLK 1, 326,264.4 SG FT

is (include only the description of the land proposed to be rezoned. You may need to have a surveyor draft this description):

| | |
|------------------------------------|--------------------|
| Parcel Identification Number (PIN) | 15091-00100-010-00 |
|------------------------------------|--------------------|

| | |
|---|--|
| 3) The proposed change is to facilitate the use of the land for (be specific-list all proposed uses): | Restaurant, Specialty Resort, Event Center, Winery Tasting Room, Farm Winery, DSP, Spirits Tasting Room, |
|---|--|

4) Please address the following criteria as best as you can. These are the "standards for rezoning" which will be addressed at the public hearing.

| | |
|--|--|
| A. In detail, explain what public facilities and services serve the proposed development at present, or how they will be provided. | SD Food Service Establishment License no. 9877, SD Lodging License no. 3053, SD Farm Winery License FW-0001, US Treasury Basic Federal Permit no. BW-SD-1, DSP-SD-21003, SD DOR Lic. no. RB-20080, SD Sales tax no. 1017-7025-ST |
|--|--|

| | |
|---|--|
| B. Explain how the provision for these facilities will not be an unreasonable burden to local government. | Based on the 21 years of experience of operating this business first in Clay County and then after being annexed into the City of Vermillion several years ago the facilities have benefited the Community of Vermillion in terms of employment and tax revenue. |
|---|--|

| | |
|--|---|
| C. What have you done to determine that the land is suitable for the development proposed? | Spent over three million dollars developing what began as raw land in 1999 into the current commercial enterprise located at 1500 West Main Street, Vermillion, SD. Valiant has enhanced tourism within the City and has benefited the local economy. |
|--|---|

| | |
|--|---------------------------|
| D. Explain what will have to be done so the development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas. | Nothing needs to be done. |
|--|---------------------------|

E. Explain any potential for conflict with existing land uses in the area. There has been no conflicts over the past 21 years of operation in this location regarding the licensed activities itemized in 4) A above.

F. Demonstrate the need of the proposed development at this location. In the year 2000, Valiant Vineyards, Inc. was granted a Certificate of Occupancy at 1500 West Main Street, Vermillion, SD. At that time it was a Clay County address. Nine years ago the Valiant property was annexed into the City. I thought that the zoning would automatically change when it was taken into the City. I only recently found out it had not.

G. What is the availability of alternative locations? Be specific. None.

H. If cropland is being consumed by this Zone Change, what is the productivity of the agricultural lands involved? N/A

I. If cropland is being consumed by this Zone Change, explain how the proposed development will be located to minimize the amount of agricultural land converted. does not apply in this case.

5. Before any changes to the zoning ordinance will be considered, the applicant is responsible to obtain written consent from the owners of 45% of the aggregate area who have the right to protest against the proposed change. Upon receipt of this form, the Zoning Administrator shall prepare the petitions necessary for the Applicant to obtain said written consent. No public hearing will be scheduled until the petitions are filed with the City.

6. Planning and Zoning Commission recommendation: The Zoning Administrator shall set the date, time, and place for a Planning and Zoning Commission public hearing. The Zoning Administrator shall post a sign of the public hearing on the property affected by a change of zone no less than 7 days prior to the scheduled public hearing. The notice shall be published in a legal newspaper of the city once, not less than 10 days prior to the public hearing. Any person may appear in person or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the City Council. The Planning and Zoning Commission shall either recommend or not recommend approval of the amendment to the City Council.

7. City Council action: The Zoning Administrator shall set the date, time, and place for a City Council public hearing. The Zoning Administrator shall post a sign of the public hearing on the property affected by a change of zone no less than 7 days prior to the scheduled public hearing. Any person may appear in person or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the City Council. The City Council shall either approve or not approve the ordinance describing the proposed amendment or change of zone to these zoning regulations, in accordance with standard procedures for reading, approval, publication, and effective date. When a proposed amendment or change of zone is approved by the City Council, the amendment shall take effect 20 days after publication, unless the referendum shall have been invoked.

Electronic Signature Agreement I agree.

Petitioner's Electronic Signature Eldon Nygaard, President

Electronic Signature Agreement I agree.

Owner's Electronic Signature Eldon E. Nygaard

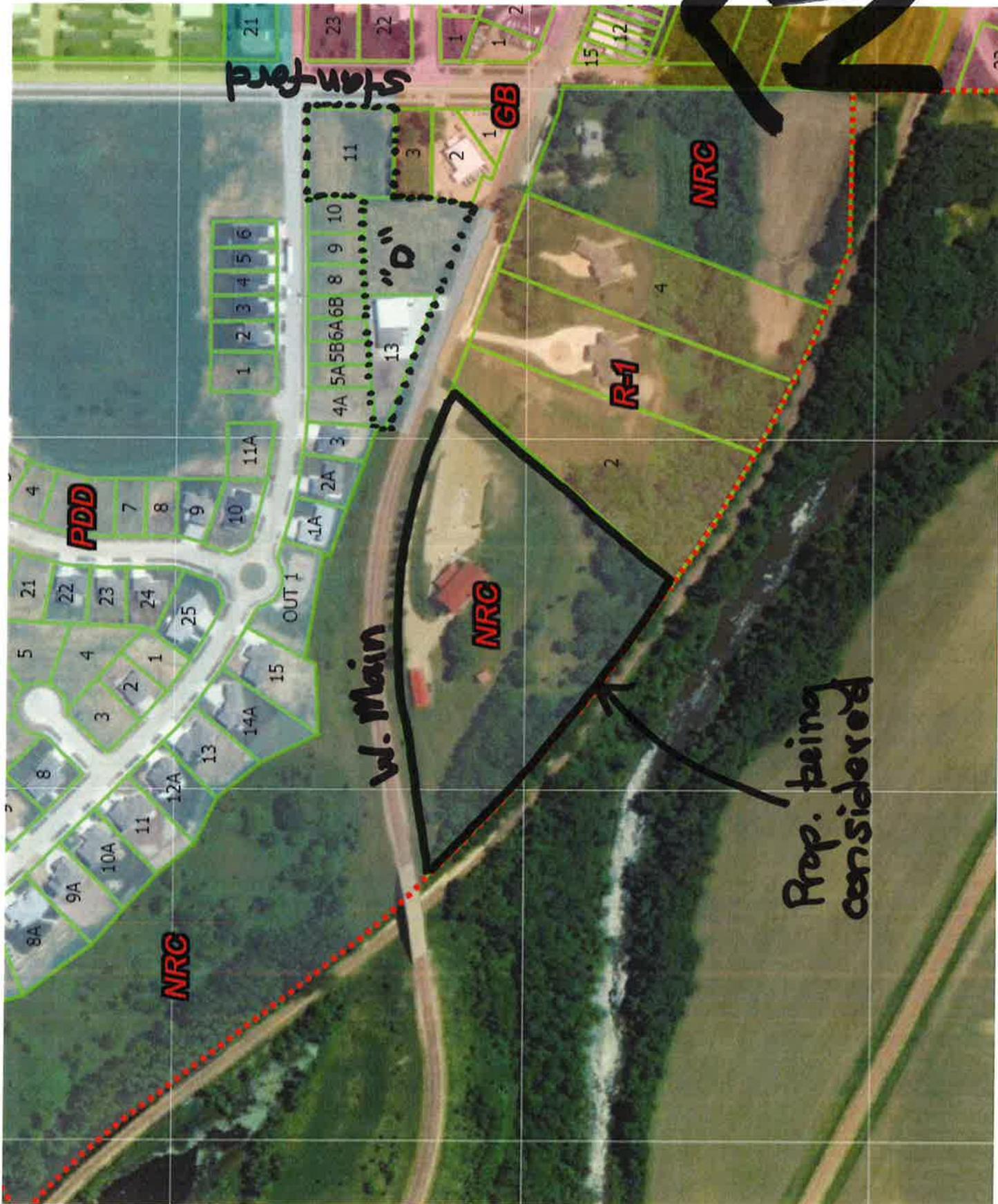
Acknowledgement of Fees I acknowledge.

**FAILURE OF THE APPLICANT OR AGENT TO APPEAR AT THE HEARING
WILL CAUSE THE COMMITTEE TO DENY THIS APPLICATION.**

FOR OFFICE USE ONLY

Date Fee Received: *Field not completed.*

Email not displaying correctly? [View it in your browser.](#)



Sanford

PDD

NRC

W. Main

NRC

R-1

NRC

GB

"D"

Prop. being considered

N

PROPOSED ORDINANCE 1450

AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XV LAND USAGE; CHAPTER 155, ZONING REGULATIONS; SECTION 155.026 ENTITLED ADOPTION OF OFFICIAL ZONING MAP, REZONING LOT 1, BLOCK 1, BLISS 2ND ADDITION, CITY OF VERMILLION, CLAY COUNTY, SOUTH DAKOTA FROM THE NRC NATURAL RESOURCE CONSERVATION DISTRICT TO THE GB GENERAL BUSINESS DISTRICT.

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that the Code of Ordinances Section 155.026, Adoption of Official Zoning Map, be amended as follows:

That Lot 1, Block 1, Bliss 2nd Addition, City of Vermillion, Clay County, South Dakota be hereby excluded from the NRC Natural Resource Conservation District and included in the GB General Business District.

Dated at Vermillion, South Dakota this 20th day of December, 2021.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kelsey Collier-Wise, Mayor

ATTEST:

BY _____
Katie E. Redden, Finance Officer

First Reading: December 6, 2021
Second Reading: December 20, 2021
Published: December 31, 2021
Effective: January 20, 2022

Planning and Zoning Commission

Agenda Memo

From: Stone Conley, Assistant to the City Manager

Meeting: November 22, 2021

Subject: Ordinance 1449 to amend the City of Vermillion Code of Ordinances Title XV: Land Usage; Section 158: Medical Cannabis Establishments clarifying Section 158.02 Definitions

Presenter: Stone Conley

Background: Ordinance 1434 was adopted at the May 27, 2021 City Council Meeting allowing for the City to establish medical cannabis regulations in response to Initiated Measure 26 adopted in November 2020. The ordinance included a “Definitions” section. Staff recently realized that there were two definitions of “Medical Cannabis Establishment” in the final version that was adopted. Having two definitions for the same term in the same section of City Code can create confusion. One of the definitions mirrored the State’s definition of Medical Cannabis Dispensary. The State’s definition which is also in the current ordinance is:

SDCL 34-20G-1 (15). "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

Discussion: On October 26, 2021, The Rules Review Committee approved the Department of Health Revised Rules with a 6-0 vote, ultimately placing in effect the state medical cannabis program’s rules. Alongside the Department of Health’s rules, SDCL 34-20G-1 displays the state adopted definitions regarding Medical Cannabis Establishments. One definition that is not found currently in Ordinance 1434, Section 158.02, is the definition of a Medical Cannabis Dispensary. As this is one of the four categories of Medical Cannabis Establishments, it is recommended to be defined among the current list of definitions in Section 158.02. The proposed Ordinance would keep all existing language in Medical Cannabis Establishment definitions. A portion of the language would be relabeled as Medical Cannabis Dispensary. The language is also

7. Old Business; item a

clarified to indicate that a Medical Cannabis Dispensary is one of the four types of Medical Cannabis Establishments.

Financial Consideration: None.

Conclusion/Recommendations: The Planning Commission is asked to hold a public hearing and recommend approval or denial of the amendment to the City of Vermillion Code of Ordinances Title XV Business Regulations for Medical Marijuana Establishment Licensing, §158.02 Definitions.

PROPOSED ORDINANCE 1449

**CITY OF VERMILLION CODE OF ORDINANCES TITLE XV, LAND USAGE;
CHAPTER 158 MEDICAL CANNABIS; SECTION 158.02 BY AMENDING
DEFINITIONS FOR MEDICAL CANNABIS DISPENSARY AND MEDICAL CANNABIS
ESTABLISHMENT.**

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that the City of Vermillion Code of Ordinances Title XV be amended to add Chapter 158 Medical Cannabis Establishments be amended as follows:

§ 158.02 DEFINITIONS.

Medical Cannabis ~~Establishment or "Establishment"~~ Dispensary. An entity registered with the South Dakota Department of Health pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

Medical Cannabis Establishment. A cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a ~~establishment~~ medical cannabis dispensary.

Dated at Vermillion, South Dakota this 6th day of December, 2021

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kelsey Collier-Wise, Mayor

ATTEST:

BY _____
Katie E. Redden, Finance Officer

First Reading: December 6, 2021
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