



City of Vermillion Council Agenda

6:30 p.m. Joint Meeting with Clay County

Commissioners

Monday, April 5, 2021

City Council Chambers

25 Center Street

1. **Roll Call**
2. **Adoption of the Agenda**
3. **Visitors to be Heard**
4. **Public Hearings**
 - a. Second Reading of Ordinance 1431 – Amending Appendix A, 2012 Joint Zoning Regulations for Clay County and the City of Vermillion, Chapter 2, Section 2.03 (A) Zoning Map, by removing certain real property from the A-1 Agricultural District and including it in the RR Rural Residential District.
5. **Adjourn**

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

Addressing the Council: Persons addressing the Council shall use the microphone at the podium. Please raise your hand to be recognized, go to the podium and state your name and address.

a. Items Not on the Agenda Members of the public may speak under Visitors to Be Heard on any topic NOT on the agenda. Remarks are limited to 5 minutes and no decision will be made at this time.

b. Agenda Items: Public testimony will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes may speak one time for 5 minutes on each agenda item. Public testimony will then be closed and the topic will be given to the governing body for possible action. At this point, only City Council members and staff may discuss the current agenda item unless a Council member moves to allow another person to speak and there is unanimous consent from the Council. Questions from Council members, however, may be directed to staff or a member of the public through the presiding officer at any time.

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.

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. The City Council typically has a Special Meeting on the first and third Monday of each month at Noon.

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

Vermillion City Council's Values and Vision

This community values its people, its services, its vitality and growth, and its quality of life and sees itself reinforcing and promoting these ideals to a consistently increasing populace.

Council Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: April 5, 2021

Subject: Second Reading of Ordinance 1431 – Amending Appendix A, 2012 Joint Zoning Regulations for Clay County and the City of Vermillion, Chapter 2, Section 2.03(A) Zoning Map, by removing certain real property from the A-1 Agricultural District and including it in the RR Rural Residential District

Presenter: Jose Dominguez

Background: On October 9, 2020 the County received a petition to rezone approximately 13.5 acres at the northwest corner of 466th Avenue and East Main Street. The applicant requested that the land be rezoned from the A-1: Agricultural District to RR: Rural Residential District. If approved, the rezoning will allow the land to be developed into residential lots.

The County Planning Commission and the City’s Planning and Zoning Commission considered this item at a joint meeting on October 26, 2020. At that meeting, the County’s Planning Commission recommended the County Commission not approve the rezone request. The City’s Planning and Zoning Commission tabled the item for further discussion at a later time.

The City’s Planning and Zoning Commission reconsidered this item at their February 8, 2021 meeting. At that meeting, the Planning and Zoning Commission recommended unanimously that the City Council approve the rezone.

The City Council approved the first reading of the ordinance at the March 15, 2021 meeting. The County Commissioners considered the rezone at their November 24, 2020 meeting. At that meeting, the County Commissioners tabled the item to allow the applicant time to come up with a plan to address drainage concerns. Discussion on the item was continued at the January 12, 2021 County Commission meeting. At the January meeting the County Commissioners allowed the rezone to advance to the second reading.

Discussion: The current ordinance for the Joint Jurisdiction Zoning Area (JJZA) was adopted in 2013. The ordinance was created with the intent to allow the City and County

to have a say in existing and proposed land uses in an area that would directly impact the City's growth. The JJZA tries to maintain the rural characteristics of the surrounding area, while allowing for some light development. The ordinance's intent, based on the adopted comprehensive plan for the JJZA, is to direct development towards areas within City limits, or areas that can be annexed by the City and serviced with municipal infrastructure.

This proposed use is currently not allowable due to the A-1: Agricultural District having a cap on residential construction based on density. Based on the ordinance, no more than three residential structures are allowed within a ¼ ¼ of a section. This ¼ ¼ section already has three residential structures, so the construction of an additional residential structure would not be allowed. In addition to the density cap, any new residential use must go through a conditional-use permit if it is located in the A-1: Agricultural District. New construction on lots of record and reconstructions are exempt from the density requirement, but still must go through the conditional-use process. The RR: Rural Residential District does not have a density restriction or require a conditional-use permit for residential construction. The reason for the request to rezone is to allow for further residential development on land that had not been platted prior to the adoption of the JJZA.

It should be noted that the existing residential uses south of East Main Street were rezoned from A-1: Agricultural District to RR: Rural Residential District in the spring of 2019. This was done in order to allow for further construction of residences in an area which already had more residential uses than the density cap allowed, while also removing the requirement of a conditional-use permit for a use similar to adjoining uses.

Financial Consideration: Besides the cost of advertising, there are no additional costs to the City associated with the zoning ordinance amendment.

Conclusion/Recommendations: The City Council is asked to consider the second reading of Ordinance 1431.

Based on the strict interpretation of the adopted comprehensive plan, it seems that the intended use should not be allowed to occur. However, Staff believes that the intent of the goals within the comprehensive plan are to avoid a large residential development from occurring in the periphery of the City limits. Due to the fact that there is no definition for what constitutes a large residential development, City staff has taken the position that as long as no new streets are constructed or dedicated, whether private or public, then the residential development should be allowed. In this instance, all of the future lots would be fronting either 466th Avenue or East Main Street.

4. Public Hearings; item a

Based on this interpretation, Staff recommends approval of the rezone. As this is the second reading, a roll-call vote is required.

The area will still need to be platted to continue with the possible construction of residences.



Clay County Joint Jurisdiction Rezoning Petition

Permit Number	20-071
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Application Fee - \$175

Applicant is: **Owner** **Agent/Contractor**

Section 1: Applicant/Owner/Contact Information			
	Applicant	Owner	Contractor
Name	Hovden Nicholas P & Jamie L	NDH Enterprises, LLC	
Address	25 N 466 Ave Vermillion SD, 57069	25 N 466 Ave Vermillion SD, 57069	
Phone	605 670 0492		
E-mail			

Section 2: Property Information	
Street Address	Approximately 298 S 466th Ave Vermillion, SD 57069
Short Legal Description	The East 26 1/3 Rods of the SE 1/4 of the SE 1/4, Section 17, Township 92 North, Range 51 West of the 5th p.m., Except Lot H6 hereof, Clay County, South Dakota FAIRVIEW TWP
Parcel ID	12000-09251-174-03

Section 3: Zoning District/Land Use of Adjacent Property			
JJ Commercial	North	JJ A1 Agricultural	East
JJ RR Rural Residential	South	JJ A1 Agricultural	West

Section 4: Reason for Rezoning Petition
<p>1) Land is zoned agricultural, thus not allowing new homesteads to be built.</p> <p>2) To provide opportunities for Vermillion residents to build their homes on small acreages within our community.</p> <p>(Deed Transfer to NDH Enterprises, D 81-787, 09/10/2020)</p>

Note for ZA: Add page numbering and/or list of exhibits to application to tie all documents together.

Clay County Joint Jurisdiction Rezoning Petition



Section 5: Purpose for Rezoning Petition

With current zoning regulations, this land may not be used for community member to build their homes within the Vermillion community. This rezoning would allow the building of these small acreages for families looking for larger lots to call home.

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

I, the undersigned, do hereby affirm: the above statements are true and correct and agree to comply with the provisions of the regulations of Joint Jurisdiction Clay County.

Nicholas P. Hovden

Applicant's Signature

10/9/2020

Date

Note for ZA: Add page numbering and/or list of exhibits to application to tie all documents together.

4.5 acres

LOT 4

2.5 acres →

LOT 3

2.5 acres →

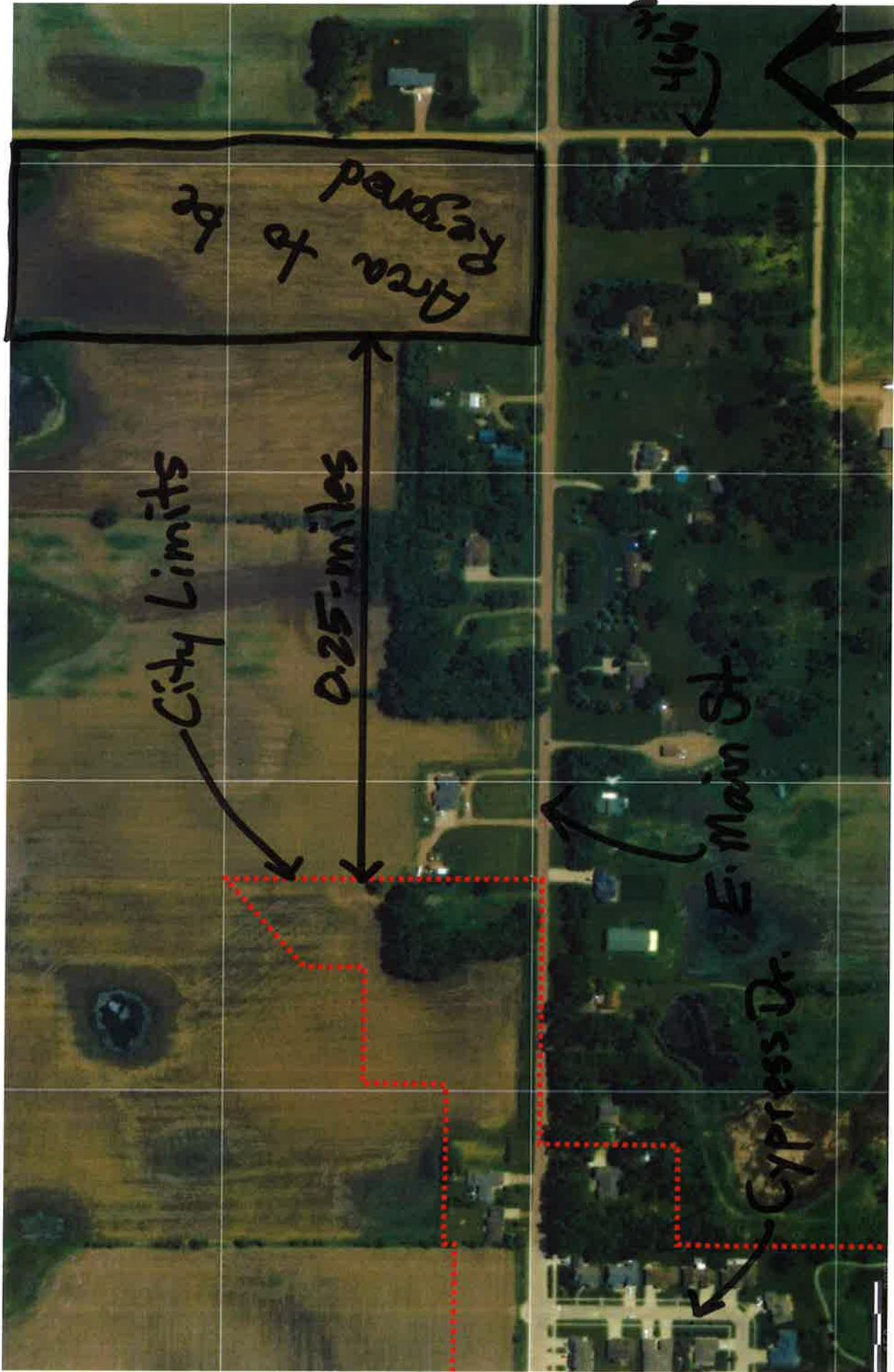
LOT 1

2 acres

LOT 2

2 acres





Area to be Reformed

0.25-miles

City Limits

E. Main St.

Cypress Dr.

North

ORDINANCE 1431

AMENDING APPENDIX A, 2012 JOINT ZONING REGULATIONS FOR CLAY COUNTY AND THE CITY OF VERMILLION, CHAPTER 2, SECTION 2.03(A) ZONING MAP, BY REMOVING CERTAIN REAL PROPERTY FROM THE A-1 AGRICULTURAL DISTRICT AND INCLUDING IT IN THE RR RURAL RESIDENTIAL DISTRICT

BE IT ORDAINED, by the Governing Body of the City of Vermillion, South Dakota that Section 2.03(A) is hereby amended as follows:

That the East 26 1/3 Rods of the SE ¼ of the SE ¼, Section 17, Township 92 North, Range 51 West of the 5th P.M., Except Lot H6 thereof, Fairview Township, Clay County, South Dakota, is removed from the A-1 Agricultural District and is included in the RR Rural Residential District, and that the official zoning map referred to in Section 2.03(A) of the 2012 Joint Zoning Regulations for Clay County and the City of Vermillion, is amended to include such land in such zone.

Dated at Vermillion, South Dakota this 5th day of April, 2021.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
Kelsey Collier-Wise, Mayor

ATTEST:

BY _____
Michael D Carlson, Finance Officer

First Reading: March 15, 2021
Second Reading: April 5, 2021
Published: April 16, 2021
Effective: May 7, 2021