



**City of Vermillion Planning &  
Zoning Commission Agenda**

5:30 p.m. Joint Meeting with  
Clay County Planning Commission  
Tuesday, November 16, 2021  
City Council Chambers

City Hall, 25 Center Street, Vermillion, SD 57069

1. **Roll Call**
2. **Declaration of Conflict of Interests**
3. **Adoption of the Agenda**
4. **Visitors to Be Heard**
5. **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).
6. **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.

## *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** October 26, 2021

**Subject:** 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 5<sup>th</sup> P.M., Clay County, South Dakota, from the A-1: Agricultural District to the HI: Heavy Industrial District.

**Presenter:** Jose Dominguez

**Background:** The County received a petition to rezone approximately 43.1 acres east of the Vermillion River between the SD Hwy. 50 Bypass and West Cherry Street. The applicant is requesting that the land be rezoned from the A-1: Agricultural District to HI: Heavy Industrial District. The applicant states that the intent is to continue using the property as he has with the existing grain elevator and rail spurs.

**Discussion:** The original ordinance for the Joint Jurisdiction Zoning Area (JJZA) was adopted by the County and the City in 2012. The ordinance was created with the intent to allow the County and the City 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.

Prior to the JJZA, the City exercised extraterritorial zoning outside of the City limits. As such, parts of the area being considered today were zoned in the light industrial zoning district. This district allowed agricultural uses and light manufacturing uses. When the City and the County entered into the JJZA, this area was placed into the A-1: Agricultural zoning district. Although there were several public meetings (i.e. two meetings for the adoption of the JJZA comprehensive plan and three meetings for the adoption of the JJZA

zoning ordinance) none of the meeting minutes for these meetings indicate that this property was specifically discussed.

Currently, this property is being used as a grain elevator. This use was allowed in the previous ordinance's L-1 Light Industrial district (from 1968 to 2012). However, the old district did not specifically call out for a "grain elevator" or for a "grain terminal/grain processing facility" under the allowable uses. City Staff believes that the existing "grain elevator" use was considered a type of light manufacturing and thus the area was zoned into the L-1 Light Industrial district.

In 2012, when the County and the City adopted the current JJZA zoning ordinance, this area was zoned into the A-1: Agricultural district. The decision to locate the property within this district was made by the County and the City. Based on the minutes from the meetings, it does not appear that this particular property was discussed in any great detail; however, the County and the City reviewed, and adopted, a zoning map that showed the area as being in the A-1: Agricultural district. Additionally, the JJZA's comprehensive plan, which was also adopted and reviewed by the County and the City, shows portions of this area as either residential or commercial. The JJZA's comprehensive plan and zoning ordinances were discussed extensively by both bodies, individually and collectively.

There are a couple of issues that City Staff believes the applicant is trying to resolve; first, the existing use as a "grain elevator" is not specifically listed in the current A-1: Agricultural district, and secondly the existing A-1: Agricultural zoning does not allow as many possible uses as the previous extraterritorial zoning of light industrial. City Staff believes that rezoning the area into the HI: Heavy Industrial district will offer too many possibilities for development that will not be compatible with the existing neighboring residential uses. Additionally, if the true concern is that the existing use might not be allowed, City Staff believes that the existing use could be considered an "agribusiness", which is allowed in the A-1: Agricultural district. If considering a "grain elevator" as an agribusiness is not acceptable, then the A-1: Agricultural district should be amended to include the "grain terminal/grain processing facility" use. Regardless, the existing use may continue, by ordinance, as a "non-conforming" use even if the property were to be sold, as long as the use has continued without interruption longer than one year. These options have been discussed by City Staff with the applicant and/or with the County.

**Compliance with Comprehensive Plan:** The comprehensive plan adopted by the City and the County for the JJZA has a few items that affects decisions made within the JJZA. First, the Future Land Use map on page 12 shows the area split between commercial uses along

the Bypass and residential uses closer to West Cherry Street. However, the same plan also has the following goals and objectives:

- Maintain suitable transition zones between low density residential areas and more intensive nonresidential uses (page 24)
- Preserve the function and character of the rural area (page 26)

**Conclusion/Recommendations:** The City and County Planning Commissions are asked to take public comment and recommend to the City Council and to the County Board of Commissioners that they either approve or deny the zone change petition.

Following this joint JJZA planning commission meeting, the recommendations will be taken to the individual governing bodies. Due to this being an ordinance amendment the governing bodies will conduct two meetings. The first meeting will be conducted separately and the second one will be a joint meeting. In order for the zone change to be adopted ALL of the governing body's decisions have to be in favor of the rezoning. If at any point either of the governing bodies does not approve of the rezoning request the petition would be considered denied.

City Staff recommends that 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.

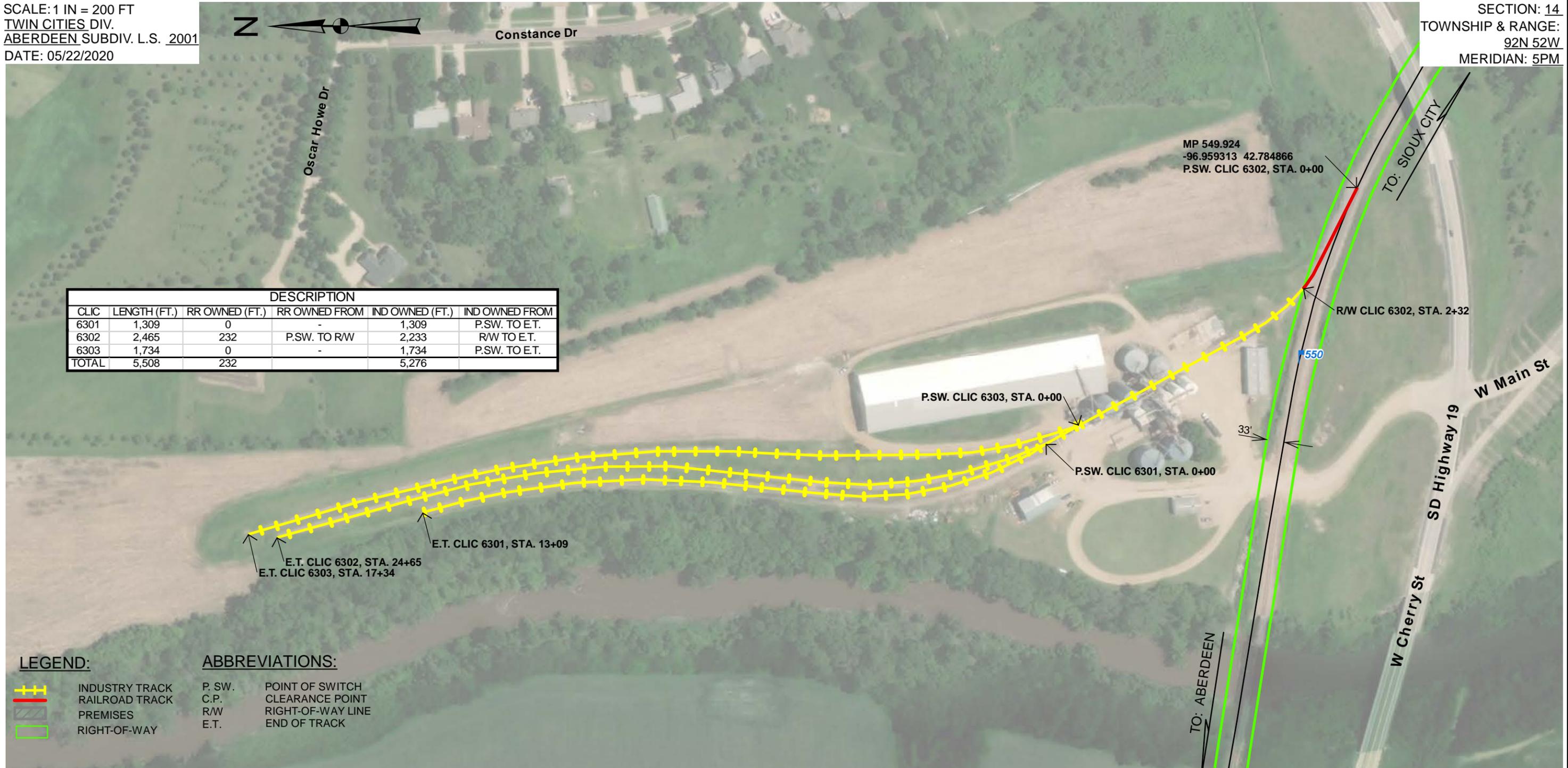
**EXHIBIT "A"**  
 ATTACHED TO CONTRACT BETWEEN  
**BNSF RAILWAY COMPANY**  
 AND

**AG OPPORTUNITIES, INC.**

SCALE: 1 IN = 200 FT  
 TWIN CITIES DIV.  
 ABERDEEN SUBDIV. L.S. 2001  
 DATE: 05/22/2020

SECTION: 14  
 TOWNSHIP & RANGE:  
 92N 52W  
 MERIDIAN: 5PM

MAP REF. 170610



DESCRIPTION					
CLIC	LENGTH (FT.)	RR OWNED (FT.)	RR OWNED FROM	IND OWNED (FT.)	IND OWNED FROM
6301	1,309	0	-	1,309	P.S.W. TO E.T.
6302	2,465	232	P.S.W. TO RW	2,233	R/W TO E.T.
6303	1,734	0	-	1,734	P.S.W. TO E.T.
<b>TOTAL</b>	<b>5,508</b>	<b>232</b>		<b>5,276</b>	

**LEGEND:**

- INDUSTRY TRACK
- RAILROAD TRACK
- PREMISES
- RIGHT-OF-WAY

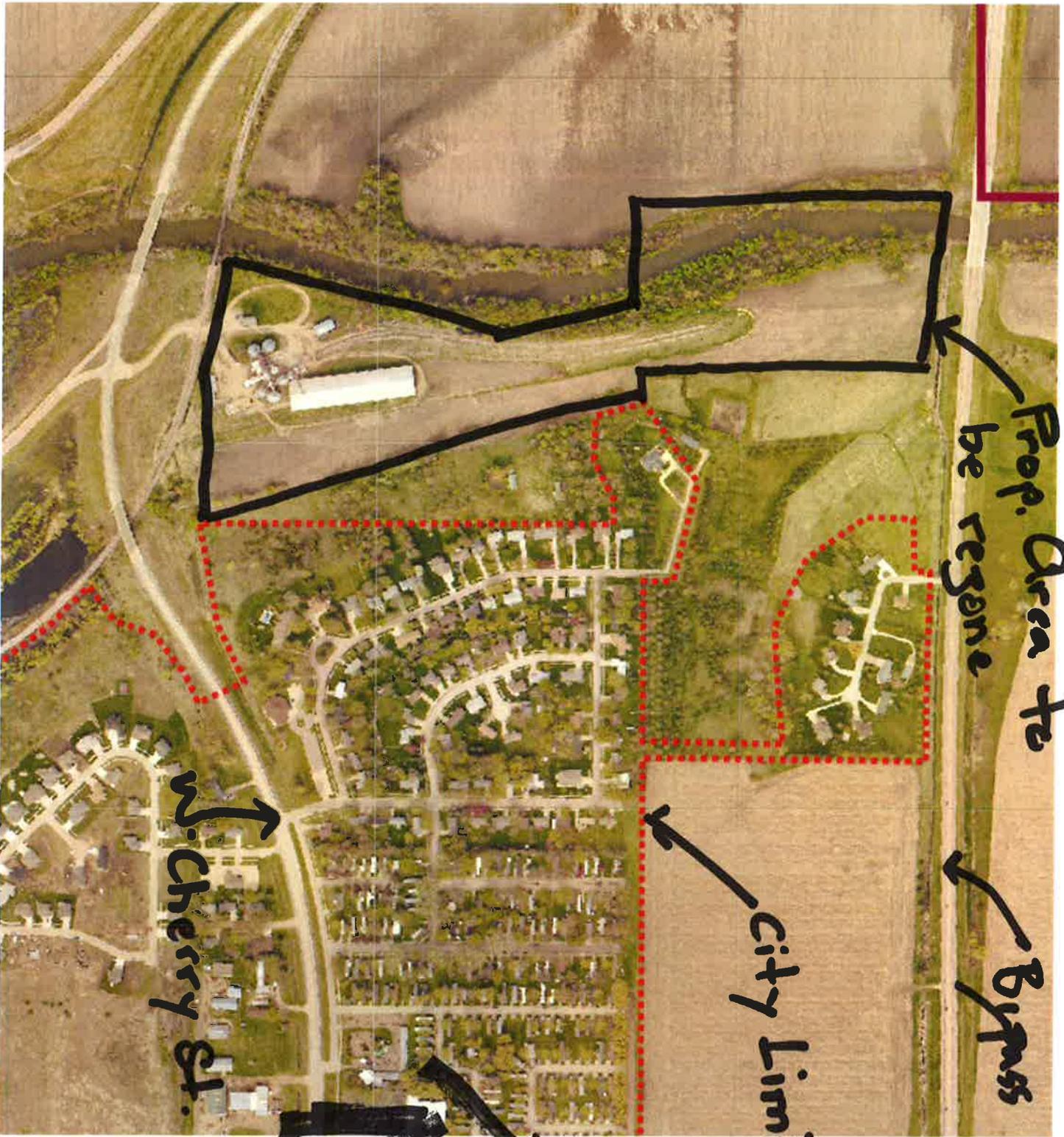
**ABBREVIATIONS:**

- P. SW. POINT OF SWITCH
- C.P. CLEARANCE POINT
- R/W RIGHT-OF-WAY LINE
- E.T. END OF TRACK

VERMILION  
 COUNTY OF CLAY

STATE OF SD

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Prop. Area to be rezoned

Bypass

City Limits

W. Cherry St.

IN

# Clay County Joint Jurisdiction Rezoning Petition

<b>File Number</b>	21-105
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Application Fee - \$175

Applicant is:  Owner     Agent/Contractor

Section 1: Applicant/Owner/Contact Information			
	Applicant	Owner	Contractor
Name	Myron, Kevin	Ag Opportunities Inc	
Address	1919 W Cherry St Vermillion SD 57069	PO Box 473 Vermillion, SD 57069	
Phone			
E-mail			

Section 2: Property Information	
Street Address	1919 W Cherry St Vermillion, SD 57069
Legal Description	See Below
Parcel ID	11700-09252-140-00, 11700-09252-143-03, 11700-09252-140-02, 11000-09252-142-07

Section 3: Zoning District/Land Use of Adjacent Property			
A-1 Agricultural	North	A-1 Agricultural	East
NA	South	LI Light Industrial	West

Section 4: Reason for Rezoning Petition
Rezone to HI: Heavy Industrial District for a Grain Terminal/Grain Processing facility.

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 4: Continued

**Legal Description:**

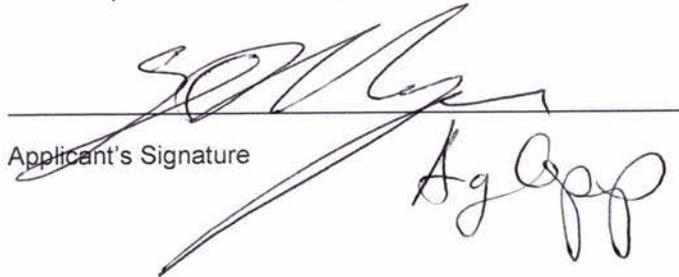
Lot 1(Except Terminal Grain Tract 1 of said Lot 1), and Lots 2, 3, &4 of Alber's Subdivision, being an official replat of Lot 2 of Lot A in the Southwest Quarter of the Northwest Quarter (SW1/4NW1/4), and Lot 2 of Lot A in the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4); Terminal Grain Tract 1 of previously platted Lot 1 of Alber's Subdivision; and Terminal Grain Tract 2 of previously platted Lot A in the North Half of the Northwest Quarter (N1/2NW1/4), all in section Fourteen (14), Township Ninety-Two (92) North, Range Fifty-Two (52), West of the 5th P.M., Clay County, South Dakota, according to the recorded plat thereof, subject to reservations, restrictions and easements of record, if any.

As taken from Deed 72-566, 06/04/2003

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.

Applicant's Signature



10/26/21

Date

**received**  
10/26/2021 DG

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

CLAY COUNTY  
211 W MAIN SUITE 201  
VERMILLION SD 57069

OFFICIAL RECEIPT#

68390

DATE: 10/26/21  
RECEIVED FROM: AG OPPORTUNITIES INC  
CHECK#: 37573

KEYED BY: DD  
DELIVERED BY: DREW

---FOR---  
PETITION TO CHANGE ZONING ORD  
JOINT JUR

GL#  
10100R3461200

AMOUNT  
175.00

