



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

5:30 p.m. Joint Meeting with  
Clay County Planning Commission  
Monday, May 23, 2022  
Council Chambers

City Hall, 25 Center Street, Vermillion, SD 57069

**1. Roll Call**

**2. Minutes**

a. May 9, 2022

**3. Declaration of Conflict of Interests**

**4. Adoption of the Agenda**

**5. Visitors to Be Heard**

**6. Public Hearings**

- a. Request for a Conditional Use Permit to construct a new Single-Family Dwelling at the East 355-feet of the South 320-feet in the E ½ SW ¼ SW ¼, Exc Lot H-3, 16-92-51, 5<sup>th</sup> PM, Clay County, South Dakota.
- b. Ordinance 1338 Amending the City of Vermillion Code of Ordinances Title XV, Land Usage; Chapter 155, Zoning Regulations; Section 155.008, Definitions; and Section 155.071, Accessory Use and Structures to include a definition for “Chicken Coop” and to Provide Regulations for Such Structures.

**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, May 9, 2022 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 May 9, 2022 at 5:30 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: Fairholm, Fitzgerald, Forseth, Gestring, Merrigan, Tuve, Wilson (5:31 p.m.).

City Planning and Zoning Commissioners Absent: Heggestad, Steele  
City Staff present: José Domínguez, City Engineer; Kalin Bird, Building Official; Stone Conley, Asst. to the City Manager

2. Minutes

a. April 25, 2022 Joint Planning Planning and Zoning Commission Meeting.

Moved by Commissioner Tuve to adopt the April 25, 2022 meeting minutes as published, seconded by Fitzgerald. Motion carried 6-0.

3. Declaration of Conflict of Interest

Forseth noted that he owns investment property in lower Vermillion.

4. Adoption of the Agenda

Moved by Fairholm to adopt the agenda as published, seconded by Wilson. Motion carried 7-0.

5. Visitors to be Heard

None.

6. Public Hearings

a. Request for a Conditional Use Permit to Construct and Operate a Kennel at 1017 Cornell Street, Legally Known as the East 80-foot of the South 170-foot of Lot 7, Collins Addition, City of Vermillion, Clay County, South Dakota.

Dominguez presented to the Commission the agenda memo from the City's Planning and Zoning Commission packet regarding the requested conditional use permit for the construction and operation of a kennel at 1017 Cornell Street. Dominguez read all of Staff's comments in response to the items considered by the Commission when reviewing conditional use permits. Staff recommended that the conditional use permit for the construction and operation of a kennel at 1017 Cornell Street be granted without any conditions.

Forseth opened the floor to public comment.

Ms. Kasey Jensen (future owner) gave a brief introduction and explained the need for the business in Vermillion stating that there are currently

no "dog daycares" or kennels in Vermillion and that there are a many that travel to Yankton or Sioux Falls to leave their pets.

Commissioner Merrigan asked if there were any State requirements for running such business. Ms. Jensen explained that the State regulates the business.

Commissioner Fairholm asked how many dogs will be kept during the day and how many could be kenneled. Ms. Jensen stated that there could be between 60 and 80 dogs during the day, and that there will be 15 kennels. Ms. Jensen explained that since some dogs could be kenneled together the number of dogs being kenneled would not be more than 40.

A member of the public that did not introduce themselves asked how the noise from barking dogs would be addressed. Ms. Jensen explained that the dogs would be outside only during the day and that if one would start barking that dog would be brought inside the building. Additionally, Ms. Jensen stated that the building will be insulated to dampen the noise from barking dogs. She explained that similar insulation is used in other kenneling facilities and that barking is not heard within 100-feet of the facilities.

Discussion followed.

Moved by Merrigan to grant the conditional use permit for the construction and operation of a kennel at 1017 Cornell Street, Legally Known as the East 80-feet of the South 170-feet of Lot 7, Collins Addition, City of Vermillion, Clay County, South Dakota, seconded by Wilson. Motion carried 7-0.

#### 7. Old Business

None.

#### 8. New Business

None

#### 9. Staff Report

Staff reported that City crews are completing repairs on streets getting them ready for the slurry and chip seal projects.

Staff also notified the Commission that there would be a meeting on May 23<sup>rd</sup> to discuss a zoning ordinance amendment allowing chicken coops, and a JJZA item discussing a conditional-use permit.

#### 10. Adjourn

Moved by Tuve to adjourn, seconded by Gestring. Motion carried 7-0, Forseth declared the meeting adjourned at 5:53 p.m.

## *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** May 23, 2022

**Subject:** Request for a Conditional Use Permit to construct a new Single-Family Dwelling at the East 355-feet of the South 320-feet in the E ½ SW ¼ SW ¼, Exc Lot H-3, 16-92-51, 5th PM, Clay County, South Dakota

**Presenter:** Jose Dominguez

**Background:** The County received a Conditional Use Permit application for the construction of a single-family dwelling on April 11, 2022 from NDH Enterprises. The single-family dwelling would be constructed on the north side of East Main Street approximately half a mile east from the east City Limits along East Main Street. The area is currently zoned as A-1: Agricultural district.

**Discussion:** Besides State statutes, the City has two official documents that guide the City through the decision making process in the JJZA. These documents are the Vermillion 2000-2020 Comprehensive Plan, which is the City of Vermillion/Clay County Joint Comprehensive Plan (JJZA Comprehensive Plan) and the Joint Zoning Regulations for Clay County and the City of Vermillion (JJZA Zoning Regulations).

The regulations that govern this area and use are found in the JJZA Zoning Regulations. The JJZA Zoning Regulations allow for the construction of single-family dwellings in A-1: Agricultural district as a conditional use. Additionally, there is a density cap for this type of use. The cap limits the number of single-family dwellings in a quarter quarter to three. Besides the density cap, the ordinance also requires that the minimum lot size to be 1 acre. In this instance, the proposed lot will be 2.6 acres.

The JJZA Zoning Regulations chapter 16 also has a set of criteria which the commissions need to review when considering a conditional use permit. These are:

- Criteria 1. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.

Staff's observation: All areas surrounding the proposed location are within the A-1: Agricultural district. There is a residential use directly east of the proposed location. The proposed use should have a minimal, if not negligible, negative impact on the on adjacent properties.

- Criteria 2. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.

Staff's observation: Staff does not believe that additional measures are necessary. The Commissions may place any measures based on the discussion at the meeting.

- Criteria 3. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, orientation or other measures.

Staff's observation: Staff does not believe that any additional measures are necessary. The Commissions may place additional measures based on the discussion at the meeting.

- Criteria 4. The proposed use shall not adversely affect the public.

Staff's observation: Staff believes that the construction and use of the proposed single-family dwelling will have a minimal, if not negligible, negative impact on the public. Staff does not propose any additional conditions. However, the Commissions may place additional measures based on the discussion at the meeting.

**Compliance with Comprehensive Plan:** The JJZA Comprehensive Plan has several sections that address development within the JJZA.

**Conclusion/Recommendations:** The Planning and Zoning Commission is asked to take public comment and grant, grant with conditions, or deny the Conditional-Use Permit application. Staff recommends granting the conditional use without any conditions.



City Limits

366th

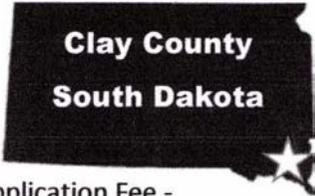
0.34-miles

0.25-miles

Main St.



# Joint Jurisdiction Conditional Use Application



<b>File Number</b>	22-035	<b>Date</b>	4/11/2022
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Application Fee -  
\$100

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

Section 1: Applicant/Owner/Contact Information			
	Applicant	Owner	Contractor
Name	<b>NDH Enterprises</b>	Nick Hovden (member)	<b>N/A</b>
Address		25 N. 466th Ave Vermillion, SD 57069	
Phone		<b>605-670-0492</b>	
E-mail		nickhovden@gmail.com	

Section 2: Property Information	
Street Address	<b>TBD E. Main Street</b>
Short Legal Description	<b>E 1/2 SW 1/4 SW 1/4 EXC LOT H3 16-92-51 FAIRVIEW TWP</b>
Parcel ID	TBD - 2.61 acres in Southeast corner of legal description (355' East Main x 320' east boundary line)
Zoning District	<b>Agricultural</b>

**Section 3: Description of Use/Purpose/Work to be Done**

One residential lot - 2.61 acres in size - for single family dwelling  
(This will be the second of three residential structures permitted in the quarter-quarter)

Full legal : East 355 feet of the South 320 feet in the E 1/2 of the SW 1/4 of the SW 1/4 exc Lot H-3 of Section 16, T92N, R51W, of the 5th. PM Clay County South Dakota Fairview TWP

# Joint Jurisdiction Conditional Use Application

## Section 4: Site Plan

Yes	No	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1. The address of the property and the legal description.
<input type="checkbox"/>	<input type="checkbox"/>	2. The name of the project and/or business.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. The scale and north arrow.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	4. All existing and proposed buildings or additions.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	5. Dimensions of all buildings.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	6. Distance from all building lines to the property lines at the closest points.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	7. Building height and number of stories.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	8. Dimensions of all property lines.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9. Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	10. Screening; show height, location, and type of material to be used.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.

Notes: This is for a building lot. Most above requirements do not apply.

## Section 5: Joint Planning Commission Hearing

<input type="checkbox"/>	Approved	<input type="checkbox"/>	Denied
Date:			
Explanation:			

## Section 6: Joint Commission/Council Hearing

<input type="checkbox"/>	Approved	<input type="checkbox"/>	Denied
Date:			
Explanation:			

CLAY COUNTY  
211 W MAIN SUITE 201  
VERMILLION SD 57069

OFFICIAL RECEIPT#

68702

DATE: 4/14/22  
RECEIVED FROM: NDH ENTERPRISES LLC  
CHECK#: 1015

KEYED BY: DD  
DELIVERED BY: DREW

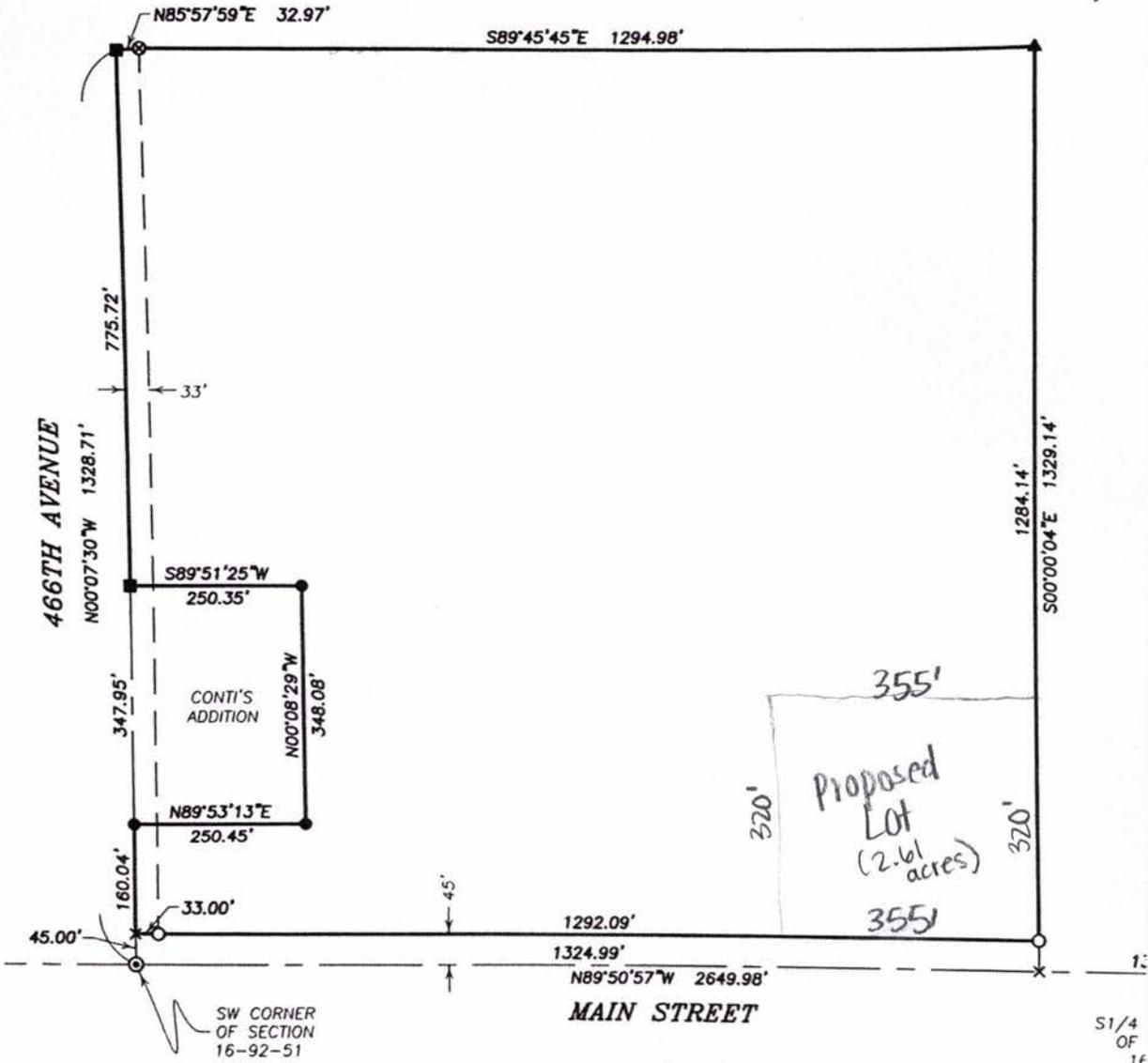
---FOR---

CONDITIONAL USE PERMITS  
JOINT JURISDICTION CONDITIONAL  
USE,

GL#  
10100R3461100

AMOUNT  
100.00

250.35'



Address: TBD E. Main St. (2.61 acres)  
 Legal Description: Southeast corner of  
 E 1/2 SW 1/4 SW 1/4 EXC LOT H3  
 16-92-51 Fairview Twp

# *Planning & Zoning Commission Agenda Memo*

**From:** Jose Dominguez, City Engineer

**Meeting:** May 23, 2022

**Subject:** Ordinance 1338 Amending the City of Vermillion Code of Ordinances Title XV, Land Usage; Chapter 155, Zoning Regulations; Section 155.008, Definitions; and Section 155.071, Accessory Use and Structures to include a definition for “Chicken Coop” and to Provide Regulations for Such Structures

**Presenter:** Jose Dominguez

**Background:** The City Council, at the May 16, 2022 meeting, removed Ordinance 1338 from the table so the Commission could reconsider it. Additionally, the Council also asked that the Commission review the proposed ordinance language that the Policies and Procedures Committee drafted.

Ordinance 1338 was tabled indefinitely by the City Council at their May 2, 2016 meeting. Due to renewed interest, the City’s Policies and Procedures Committee reviewed Ordinance 1338 and 1337 (which would amend Chapter 93 to include definitions, conditions, limitations, and permit requirements related to backyard chickens), and asked the Council to remove the items from the table and reconsider them.

**Discussion:** The proposed amendment will define “Chicken Coop” and specify when a chicken coop will be considered an accessory structure. Based on the ordinance, chicken coops will be considered an accessory structure when they are 120-square feet or larger. Having a minimum area does not exclude a smaller chicken coop from being constructed.

Besides the language being proposed by the Council, Staff also propose that the Commission consider adding a definition for a “Chicken Run” and for an “Exercise Yard.” These are defined in Ordinance 1337. Additionally, Staff recommend that the Commission consider including the area required for a “chicken run” to be included in the area for a “chicken coop” since both structures are supposed to be attached to each other.

**Compliance with Comprehensive Plan:** The JJZA Comprehensive Plan does not necessarily address this topic. This is an administrative policy issue.

**Conclusion/Recommendations:** The Planning and Zoning Commission is asked to consider the amendments and make a recommendation to the City Council. The Council will consider this item at the June 6<sup>th</sup> meeting.

**PROPOSED ORDINANCE NO. 1338**

**AN ORDINANCE AMENDING CITY OF VERMILLION CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 155 ZONING REGULATIONS, TO INCLUDE CHICKEN COOPS AS AN ACCESSORY STRUCTURE AND PROVIDING REGULATIONS FOR SUCH STRUCTURES.**

**BE IT ORDAINED**, by the Governing Body of the City of Vermillion, South Dakota and it is hereby ordained by authority of the same that Chapter 155 be amended as set forth below:

**§ 155.008 DEFINITIONS.**

**CHICKEN COOP.** The structure for the keeping or housing of chickens permitted by ordinance.

**CHICKEN RUN.** A fully enclosed and covered area attached to a chicken coop where the chickens can roam.

**EXERCISE YARD.** A larger fenced area that provides space for exercise and foraging for the birds.

**§ 155.071 ACCESSORY USE AND STRUCTURES.**

Accessory uses and structures shall conform to the following standards:

- (A) A private residential garage used only for the accessory storage of the primary structure. Roofing and siding materials shall be of a type customarily used on site-constructed residence.
- (B) Any accessory building that covers more than 120 square feet shall be secured to the ground to prevent the structure from being moved or damaged by high winds.
- (C) Accessory buildings may not be used for dwelling purposes.
- (D) Accessory buildings in excess of 750 square feet in area should be approved only if there is a legitimate residential purpose for accessory buildings. Special care should be taken to ensure that the applicant is not using the structure for the operation of any business and that the applicant understands that any commercial or industrial use would not be permitted in the accessory building.
- (E) Yard setbacks may be adjusted as according to § 155.082.
- (F) Chicken Coops
  - a. Chicken coops and the attached chicken run shall be considered an accessory structure if more than 120 square feet. according to the regulations outlined in this section.
  - b. ~~The construction of chicken coops shall be allowed after obtaining a permit from the Building Official. A fee for such permit may be established from time to time by resolution of the City Council.~~
  - c. Any chicken coop must follow the regulations outlined in Chapter 93 of the City of Vermillion revised ordinances.

Dated at Vermillion, South Dakota this X day of X, 2022.

THE GOVERNING BODY OF THE CITY  
OF VERMILLION, SOUTH DAKOTA

By \_\_\_\_\_  
Kelsey Collier-Wise, Mayor

ATTEST:

By \_\_\_\_\_  
Katie E. Redden, Finance Officer

First Reading: TBD  
Second Reading: TBD  
Publish: TBD

May 13, 2022 Draft

Effective Date: TBD

DRAFT