



City of Vermillion Planning & Zoning Commission Agenda

5:30 p.m. Regular Meeting

Monday, November 23, 2020

Upstairs Large Conference Room

City Hall, 25 Center Street, Vermillion, SD 57069

Virtual Meeting Available (see below)

For virtual meeting:

<https://us02web.zoom.us/j/87475991132?pwd=MWV6M1FRcWp4c1BPWVQ3Ni9vbHVyZz09>

Meeting ID: 874 7599 1132

Passcode: 045958

1. **Roll Call**
2. **Minutes**
 - a. October 26, 2020 Joint Meeting with County Planning Commission.
3. **Declaration of Conflict of Interests**
4. **Adoption of the Agenda**
5. **Visitors to Be Heard**
6. **Public Hearings**
7. **Old Business**
8. **New Business**
 - a. Appoint Commission Members to be Part of a Joint Committee with Members of the County Planning Commission to Discuss Goals, Objectives, and Policies for the Joint Jurisdictional Area's Comprehensive Plan.
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 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 Commission

Monday, October 26, 2020 Joint Planning Commission Meeting with Clay County

The joint meeting of the Vermillion Planning and Zoning Commission and Clay County Planning Commission was called to order in the City Council Chambers at City Hall on October 26, 2020 at 6:00 p.m.

1. Roll Call

City Planning and Zoning Commissioners Present: Fitzgerald, Forseth, Gestring, Heggstad, Mrozla, Tuve, Iverson.

City Planning and Zoning Commissioners Absent: Fairholm, Wilson

City Staff present: José Domínguez, City Engineer.

County Planning Commissioners Present: Bottolfson, Prentice, Mockler, Gilbertson, Hubert.

County Staff present: Drew Gunderson, Clay County Zoning Administrator

2. Minutes

a. September 28, 2020 Regular Meeting.

Moved by Commissioner Heggstad to adopt September 28, 2020 Regular Meeting minutes, seconded by Mrozla. Motion carried 7-0 (Fitzgerald - Yes, Forseth - Yes, Gestring - Yes, Heggstad - Yes, Mrozla - Yes, Tuve - Yes, Iverson - Yes).

3. Declaration of Conflict of Interest

Forseth noted that he owns investment property.

4. Adoption of the Agenda

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

5. Visitors to be Heard

None.

6. Public Hearing

a. Request to rezone the east 26 1/3 rods of the SE ¼ of the SE ¼, 17-92-51, except Lot H6 thereof, Fairview Township, Clay County, South Dakota, from A-1: Agricultural District to RR: Rural Residential District. (The land requested to be rezoned is located in the northwest corner of East Main Street and 466th Avenue.)

José Domínguez, City Engineer, stated that the County received a petition to rezone the aforementioned property (approximately 13.5 acres) from A-1: Agriculture District to RR: Rural Residential District to allow for development of residential lots. Domínguez provided background regarding the current ordinance for the Joint Jurisdiction Zoning Area (JJZA, adopted in 2013, explaining that the document allows the City to have a say in existing, and proposed, land uses in an area that would directly

affect the City's growth. He clarified that the rezone has been requested because the proposed development is not an allowable use as residential construction is based on density in the A-1: Agriculture District, and the proposed area has already reached the density cap. Additionally, any residential use in the A-1: Agriculture District must go through the conditional use permit process. Mr. Domínguez noted that in 2019, existing residential uses nearby were rezoned from A-1 to RR to allow further construction of residences in an area, which already had more residential uses than the density cap allowed, and to remove the hurdle of the conditional use permit process in the future.

Mr. Domínguez explained that strict interpretation of the adopted comprehensive plan dictates the project be denied. However, Staff believe that the intent of the goals was to avoid large residential development in the periphery of City Limits. Because large residential development was not defined, City Staff have taken the position that if no new streets are constructed or dedicated, then the residential development should be allowed and recommend approval of the rezone.

James Bohnsack (4419 E Main Street) requested clarification of the zoning boundary and which comprehensive plan is being utilized for the decision. Mr. Domínguez explained that only the 13.5-acre parcel located in the northwest corner of East Main Street and 466th Avenue as published on the agenda was part of the request and that the Commissions would be utilizing the JJZA Comprehensive Plan.

Drew Gunderson, Clay County Zoning Administrator, read a letter from Jim Johnson (2810 E Main Street). Mr. Johnson's letter outlined his concern about water, drainage, and potholes. He requested that the zoning boards not allow any further development in the area until the aforementioned issues have been resolved. Mr. Gunderson stated that the applicant will have an engineer study the potential drainage issues to make sure that the proposed development does not impact surrounding neighbors.

County Commissioner Mockler Stated drainage is a constant issue in the area and residents are always coming to the County to fix it. He doesn't want any more homes there until something is figured out. Responding to a question he explained that studies have been done for the road, and nothing new was learned.

James Bohnsack (4419 E Main Street) requested information regarding possible studies on sewer and how that would impact septic systems that exist on the bluff. Mr. Domínguez explained there is no bluff on the property in question as it is on the north side of E Main. He further explained that the proposed development would utilize septic systems. When asked what would be done about the water flowing from the proposed development across E Main Street to the south, County Commissioner

Mockler explained to Mr. Bohnsasck that the water flows west towards City limits and at this time it is unknown where it ends up.

Laura Murphy (4218 E Main Street) stated she rides horses in that area and noted that water flows west down the hill and then under Main Street via a culvert and creek that runs underneath the road. She stated she would prefer an answer to the question about where the water actually flows. Ms. Murphy questions whether the proposed development is suitable land for a septic system.

Nick Hovden (25 N 467th), the applicant, explained that water draining from the 13.5 acres runs across to the south of Main Street and runs back towards Vermillion. He also stated that the proposal should not be considered a housing development as only three to four lots are proposed.

Alec Johnson (2835 E Main Street), verified Mr. Hovden's explanation of the water drainage from the area requested to be rezoned. He further clarified that the water ultimately collects in the back lot of his property, and a neighboring property, as they do not have culverts under their approaches.

County Commissioner Mockler expressed concern that the installation of septic systems will only further saturate the soil in an area that is prone to water issues creating a bigger problem. He feels that the water and drainage issue must be addressed before any project should be considered.

Responding to a question from Mr. Gunderson, Mr. Hovden explained that there have been preliminary discussions with an engineer, but no assessment has taken place, as the investment in engineering costs is contingent on the outcome of the petition to rezone.

Mr. Domínguez noted that mitigation efforts on Mr. Hovden's property would not solve the existing issues in the area. Even if Mr. Hovden can make his parcels work, there will still be drainage issues in the ditches. He further explained that should the rezone be approved, Mr. Hovden must still go through the process of complying with the subdivision ordinance. Per the subdivision ordinance, plats will not be approved until the applicant proves a drainage plan among other items.

Barry Hulse (621 SD HYW 50) explained that he has had a 20-year water problem due to the Heine Development (on Princeton Street north of SD Hwy. 50). Homeowners in that area solve the problem by utilizing sump pumps to pump water to the ditch. Mr. Hulse continued saying the problem is that the water in the ditches has nowhere to go because local government does not require installation of culverts under driveway approaches. He then asked if it is a rule that if you have an approach you must have a culvert. County Commissioner Mockler replied that the

rule is in place and enforced. Mr. Hulse disagreed regarding the enforcement stating again that he's been dealing with it for 20 years. County Commissioner Mockler noted that Princeton, the road Mr. Hulse referred to, is under the management of the township and it is not a County road, therefore the County has no authority over its management.

Moved by Forseth to table the discussion, seconded by Tuve. Motion carried 7-0 (Fitzgerald -Yes, Forseth - Yes, Gestring - Yes, Heggestad - Yes, Mrozla - Yes, Tuve - Yes, Iverson - Yes).

7. Old Business

None

8. New Business

a. Public meeting presenting some of the proposed amendments to the Joint Jurisdiction Zoning Area's (JJZA) Comprehensive Plan. The proposed amendments would change portions of the plan dealing with demographics, development constraints, infrastructure assessments, and land use. Additionally, there are proposed changes to the introduction section of the document.

Mr. Domínguez explained that the current Comprehensive Plan is based on the City's "Vermillion Comprehensive Plan 2000 - 2020" (2020 Plan) and that after working with the County it was adopted, with amendments, by the City and County in 2011 for use in the JJZA. He noted that, at this point, amendments to the Comprehensive Plan pertain to five sections: (1)Introduction, (2)Demographic Conditions, (3)Development Constraints, (4)Infrastructure Assessment, and (5)Land Use.

James Bohnsack (4419 E Main Street) voiced disapproval of being a County resident but, via the JJZA, is regulated by the City. As he is unable to cast a vote for the governing body of the City, he does not feel the City should have the authority to dictate what happens on his property. He expressed that he is against the JJZA expanding what they have control over and feels he is not being represented. Chairman Iverson noted that the boundary of the JJZA would not be expanding. He also noted that the County Planning Commission and the Clay County Board of Commissioners represent County residents throughout the process. Mr. Bohnsack said that if the City wants to have jurisdiction then they should annex land before they can regulate it otherwise the County should take care of it.

Chris Larson, Clay Union Electric, requested verification regarding whether there are proposed changes to the boundary of the JJZA. Chairman Iverson verified that there are no proposed changes to the boundary of the JJZA.

Sally Schmitz (31647 Greenfield Road) asked for clarification on what land use is changing, as she does not have a copy of the 2020 Plan as a point of reference. Mr. Domínguez explained that the process hasn't moved that far, so at this time there are no changes to the Land Use section.

Dustin Carter (4424 E Main Street) stated he has a registered livestock operation on his property. He requested clarification as to why the JJZA was created and why it extends so far out of town. Commissioner Forseth stated that state law requires both the county and the city to develop comprehensive plans. Mr. Bohnsack asked who has the final say in the comprehensive plan, the city, the county, or the state? Chairman Iverson clarified by explaining the City Council and the Clay County Board of Commissioners meet together as a joint body. Mr. Domínguez further clarified by noting if the two bodies disagree, then the project in question denied.

9. Staff Report

None

10. Adjourn

Moved by Forseth to adjourn, seconded by Tuve. Motion carried 7-0. Iverson declared the meeting adjourned at 7:04 p.m.

Planning & Zoning Commission Agenda Memo

From: Jose Dominguez, City Engineer

Meeting: November 23, 2020

Subject: Appoint Commission Members to be Part of a Joint Committee with Members of the County Planning Commission to Discuss Goals, Objectives, and Policies for the Joint Jurisdiction Area's Comprehensive Plan.

Presenter: Jose Dominguez

Background: On October 26th the City and County Planning Commissions held a public meeting to present the completed sections of the comprehensive plan for the Joint Jurisdiction Area. The sections of the plan that have been discussed up to this point lay the foundation for the goals, objectives, and policy for the rest of the comprehensive plan.

Discussion: As noted, the completed portions of the comprehensive plan lay the ground work for the Commissions to start the process of discussing goals, objectives, and policies. These will directly affect any future development in the Joint Jurisdiction Area by providing direction for future planning and land uses.

Typically, these items would be discussed at in-person joint meetings with both Commissions, staff, and SECOG. To avoid difficulties associated with virtual meetings, SECOG, County staff, and City staff are recommending that a committee be created to come up with goals, objectives, and policies. The committee would be made of two County Planning Commissioners and two City Planning and Zoning Commissioners. County and City staff along with SECOG will provide assistance and direct the discussions at the meetings. Once the goals, objectives, and policies are finalized by the committee, they would be presented to the larger group for discussion and approval.

The meetings will occur on Wednesdays or Thursdays during the workday. The meetings will be in-person to facilitate discussion.

Compliance with Comprehensive Plan: Although not required by law, a comprehensive plan should be updated periodically. As a general rule, comprehensive plans have a lifespan. The intention of having a lifespan for the comprehensive plan is that as time

passes the area discussed in the document may experience enough change (such as social, economic, governing body policies, etc...) for the plan to be updated. A comprehensive plan essentially sets the goals, and expectations, of the governing entities for certain areas. As time passes, these goals and expectations may change, so the document would need to be updated to reflect these changes.

It should also be noted that comprehensive plans do not expire once their lifespan has passed. The plan is still the guiding document until it is replaced by a newer document.

Conclusion/Recommendations: The City Planning Commission is asked to appoint two Commissioners to the joint committee that would work with the two delegates from the County Planning Commission in creating goals, objectives, and policies for the Joint Jurisdiction Area's comprehensive plan.