



City of Sidney, MT
Zoning/Board of Adjustment Meeting 11-8-23
November 08, 2023 8:00 AM
115 2nd Street SE | Sidney, MT 59270

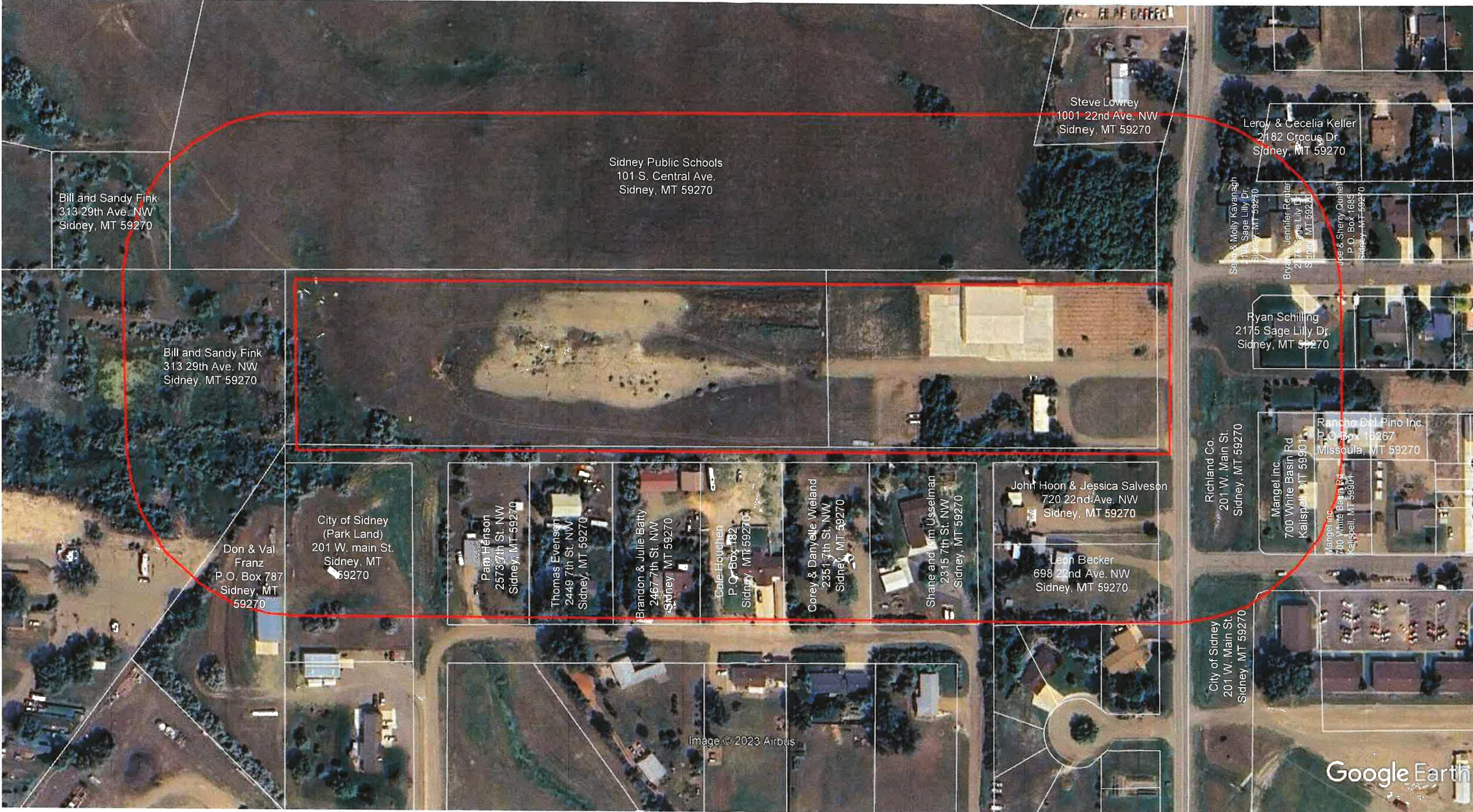
The City Council meetings are open to the public attending in person, with masks encouraged when social distancing cannot be accomplished. If the public does not wish to participate in person, they are also invited to participate via a Zoom meeting. You can participate via phone:

Meeting ID: 713 080 5898 Passcode: 4332809

Call: 1-346-248-7799

1. New Business

- a. [Hilltop Shop Zoning Change Request from B-2 to B-1](#)



Bill and Sandy Fink
313 29th Ave. NW
Sidney, MT 59270

Sidney Public Schools
101 S. Central Ave.
Sidney, MT 59270

Steve Lowrey
1001 22nd Ave. NW
Sidney, MT 59270

Leroy & Cecelia Keller
2182 Crocus Dr.
Sidney, MT 59270

Sean & Molly Kavanagh
218 Sage Lilly Dr.
Sidney, MT 59270

Jennifer Reiter
217 Sage Lilly Dr.
Sidney, MT 59270

Jane & Sherry Quinlan
P.O. Box 1683
Sidney, MT 59270

Bill and Sandy Fink
313 29th Ave. NW
Sidney, MT 59270

Ryan Schilling
2175 Sage Lilly Dr.
Sidney, MT 59270

City of Sidney
(Park Land)
201 W. main St.
Sidney, MT 59270

Don & Val Franz
P.O. Box 787
Sidney, MT 59270

Pam Henson
2573 7th St. NW
Sidney, MT 59270

Thomas Evenson
2449 7th St. NW
Sidney, MT 59270

Brandon & Julie Batty
2467 7th St. NW
Sidney, MT 59270

Cole Houchen
P.O. Box 182
Sidney, MT 59270

Corey & Danyelle Wieland
2351 7th St. NW
Sidney, MT 59270

Shane and Kim Usseiman
2315 7th St. NW
Sidney, MT 59270

John Hoon & Jessica Salvesson
720 22nd Ave. NW
Sidney, MT 59270

Leon Becker
698 22nd Ave. NW
Sidney, MT 59270

Richland Co.
201 W. Main St.
Sidney, MT 59270

Mangel Inc.
700 White Basin Rd
Kalispell, MT 59901

Rancho Del Pino Inc.
P.O. Box 16267
Missoula, MT 59270

City of Sidney
201 W. Main St.
Sidney, MT 59270

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Google Earth

City of Sidney



Montana's Sunrise City

APPLICATION TO AMEND THE ZONING CODE WITHIN THE CITY OF SIDNEY

The undersigned hereby makes an application to re-zone or amend the Sidney Zoning Ordinance as set forth herein.

Name of Applicant: Hilltop Shop, LLC (Troy and Janelle Jensen)

Address of Applicant: P.O. Box 652, Sidney MT 59270

Phone Number of Applicant: Troy: 1-(406)-480-0906

If the request is for a change in Zoning Classification, complete the following:

- 1. Present Zoning: B-2 Neighborhood Business Proposed Zoning: B-1 Community Highway Business
- 2. Legal Description of the land to be re-zoned: Lots 1 & 2, Block 1, Anderson Subdivision
- 3. Re-zoning request if for the following reason: The current use (before annexation) was Commercial and we would like to keep it as close to the same usage.

If the request is for a change to the text, complete the following:

- 1. Text to be changed is found in Section: _____ Page: _____
- 2. Change text to read: _____

(use additional pages if necessary)

- 3. Explain the reason for proposed change: _____

(use additional pages if necessary)

In addition to the above, submit a plot plan drawn to scale on paper not larger than 11" x 17" which includes all existing and proposed structures and proposed variance measurements, a list of names, mailing addresses, and labels of all property owners within 300ft of the subject property and a \$300 filing fee. The application will not be considered complete until all information is submitted.

Applicant Signature

For Office Use Only

Date Filed:	<u>10-18-2023</u>	Filing Fee:	<u>Waived</u>
Zoning Commission		Action Taken:	_____
Public Hearing:	<u>11-8-2023</u>	Action Taken:	_____
City Council Hearing:	<u>11-20-2023</u>	Action Taken:	_____

PUBLIC HEARING NOTICE

The Sidney Zoning Commission will conduct a public hearing on a proposed Zoning Change submitted by Troy and Janelle Jensen (Hilltop Shop LLC) from B-2 (Neighborhood Business) to B-1 (Community Highway Business District). The hearing is scheduled for **8:00 A.M., in the City Council Chambers, on Wednesday, November 8th, 2023.**

Existing Zoning: Neighborhood Business (B-2).

PURPOSE AND INTENT

The purpose and intent of the B-2 Zoning District is to provide for such retail and service activities that are frequented by nearby residents on a day to day basis, while reducing the hazards of local traffic by limiting the kinds of retail activities to those which deal directly with consumers and produce-only goods that are sold on the premises including restaurants.

Proposed Zoning: Community Highway Business District (B-1)

PURPOSE AND INTENT

The purpose and intent of the B-2 Zoning District is to provide for retail and service functions for broad community areas of the city and for travelers coming through the city. Hotels, motels, shopping centers, and similar activities requiring automobile access are provided for in this district. This district shall accommodate large-scale commercial services typically found along major corridors into the city.

The proposed regulations are designed to:

- Implement the 2015 Sidney Growth Policy;
- Secure the public from fire and other dangers;
- Promote public health, public safety, and the general welfare; and
- Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

In addition to the above items, the Zoning Commission will consider the following items in the adoption of zoning regulations:

- The recommendation of the City Zoning Administrator;
- The recommendation of the City Contracted Planner;
- The reasonable provision of adequate light and air;
- The effect on motorized and nonmotorized transportation systems;
- Promotion of compatible urban growth;
- The character of the district and its peculiar suitability for particular uses, and
- Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

A copy of the Zone Change Request, the Prevailing City of Sidney Zoning Regulations, and Zoning Map is available for public review at Sidney City Hall during regular business hours. Questions may be directed to Kale Rasmussen, Building Official at 433-1117 or buildingofficial@cityofsidneymt.com. Public comment is encouraged.

Publish October 22nd and 29th, 2023



City of Sidney

Notices



Item a.

Hilltop Zone Chg to B-1 Zoning PH [Edit](#)

[Notice Preview](#) →

[Activity Log](#) →



Newspaper
Sidney Herald



Publication Dates

Oct 22, 2023 Oct 29, 2023



Status

Awaiting Invoice Creation ⓘ



Invoice Due

Awaiting Invoice Creation



Account Number

447470

Quick Actions ⚡



VIEW PROOF



VIEW INVOICE



PAY INVOICE



CANCEL NOTICE

PUBLIC HEARING NOTICE

The Sidney City Council will conduct a public hearing on a proposed Zoning Change submitted by Troy and Janelle Jensen (Hilltop Shop LLC) from B-2 (Neighborhood Business) to B-1 (Community Highway Business District). The hearing is scheduled for **6:30 P.M., in the City Council Chambers, on Monday, November 20, 2023.**

Existing Zoning: Neighborhood Business (B-2).

Purpose and Intent

The purpose and intent of the B-2 Zoning District is to provide for such retail and service activities that are frequented by nearby residents on a day to day basis, while reducing the hazards of local traffic by limiting the kinds of retail activities to those which deal directly with consumers and produce-only goods that are sold on the premises including restaurants.

Proposed Zoning: Community Highway Business District (B-1)

Purpose and Intent

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Publish October 29th and November 5th, 2023



City of Sidney

Notices



Item a.

Hilltop Zone Chg to B-1 Council PH [Edit](#)

[Notice Preview](#) →

[Activity Log](#) →



Newspaper
Sidney Herald



Publication Dates

Oct 29, 2023 Nov 5, 2023



Status

Awaiting Invoice Creation ⓘ



Invoice Due

Awaiting Invoice Creation



Account Number

447470

Quick Actions ⚡



[VIEW PROOF](#)



[VIEW INVOICE](#)



Success!



Your notice has been submitted.





Re: To amend the zoning code for Hilltop Shop LLC

Dear City of Sidney Resident,

This is notice that Hilltop Shop, LLC is requesting to amend the zoning code from B-2: Neighborhood Business to B-1: Community Highway Business District, to better fit current use of property. The legal address is Lots 1 & 2, Block 1, Anderson Subdivision.

A Board of Adjustments Meeting/Zoning Board will be called for **November 8th, 2023 at 8:00 am at City Hall temporary office** to decide on this matter. If you have any comment for or against this rezoning request please either attend the Zoning Board meeting or contact City Clerk/Treasurer Jessica Chamberlin, who will present to the Board.

Existing Zoning: Neighborhood Business (B-2).

PURPOSE AND INTENT

The purpose and intent of the B-2 Zoning District is to provide for such retail and service activities that are frequented by nearby residents on a day to day basis, while reducing the hazards of local traffic by limiting the kinds of retail activities to those which deal directly with consumers and produce-only goods that are sold on the premises including restaurants.

Proposed Zoning: Community Highway Business District (B-1)

PURPOSE AND INTENT

The purpose and intent of the B-2 Zoning District is to provide for retail and service functions for broad community areas of the city and for travelers coming through the city. Hotels, motels, shopping centers, and similar activities requiring automobile access are provided for in this district. This district shall accommodate large-scale commercial services typically found along major corridors into the city.

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In addition to the above items, the Zoning Commission will consider the following items in the adoption of zoning regulations:

The City of Sidney is an equal opportunity provider.

- The recommendation of the City Zoning Administrator;
- The recommendation of the City Contracted Planner;
- The reasonable provision of adequate light and air;
- The effect on motorized and nonmotorized transportation systems;
- Promotion of compatible urban growth;
- The character of the district and its peculiar suitability for particular uses, and
- Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

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If you have any questions please do not hesitate to contact City Hall at the above contact information.

Thank you,



Jessica Chamberlin
City Clerk/Treasurer
City of Sidney

Bill and Sandy Fink
313 29th Ave NW
Sidney MT 59270

Sidney Public Schools
101 S. Central Ave
Sidney MT 59270

Steve Lowrey
1001 22nd Ave NW
Sidney MT 59270

Leroy & Cecelia Keller
2182 Crocus Drive
Sidney MT 59270

Sean & Molly Kavanagh
2198 Sage Lily Drive
Sidney MT 59270

Bryan & Jennifer Reuter
2176 Sage Lily Drive
Sidney MT 59270

Joe & Sherry Quinell
PO Box 1685
Sidney MT 59270

Ryan Schilling
2175 Sage Lily Drive
Sidney MT 59270`

Richland County
201 W. Main Street
Sidney MT 59270

Mangel Inc.
700 White Basin Rd
Kalispell MT 59901

Rancho Del Pino Inc.
PO Box 16267
Missoula MT 59808-6267

City of Sidney
115 Second Street SE
Sidney MT 59270

John Hoon & Jessica Salveson
720 22nd Ave NW
Sidney MT 59270

Leon Becker
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Shane & Kim Usselman
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Corey & Danyelle Wieland
2351 7th St NW
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Cole Houchen
PO Box 182
Sidney MT 59270

Brandon & Julie Batty
2467 7th St NW
Sidney MT 59270

Thomas Evenson
2449 7th St NW
Sidney MT 59270

Pam Henson
2573 7th St NW
Sidney MT 59270

Don & Val Franz
PO Box 787
Sidney MT 59270



Montana's Sunrise City

115 2nd Street S.E., Sidney, Montana - 406-433-2809

PLANNING STAFF REPORT

Jensen Zone Change Request

October 30, 2023

Applicant:

Hilltop Shop LLC
Troy and Janelle Jensen
PO Box 652
Sidney MT 59270

Application Submitted: October 19, 2023

Zoning Commission Date: November 8, 2023

City Council Date: November 15, 2023

Legal Description: Lots 1 and 2 Block 1, Anderson Subdivision, Section 30, Township 23 North, Range 59 East P.M.M., City of Sidney, Richland County, Montana

Background: The properties included in this rezone petition were annexed and assigned zoning in 2015 as areas wholly surrounded by the City of Sidney. At the time of annexation, the owner of the property pointed out that the existing use of the property was most compatible with Commercial Light Manufacturing (CLM) and requested that the zoning assignment be CLM.

The recommendation from the City Planner at the time was that B-2 was “more flexible to accommodate more types of businesses.” The owner questioned types of businesses that would and would not be acceptable and was told, “there would be another opportunity to settle the zoning for this area.”

The Zoning Commission accepted the recommendation of the Planner, and that recommendation was affirmed by the City Council and the Zoning was assigned as B-2 at the time of annexation. There is no record of the owner exercising the ‘opportunity’ to settle or change the zoning until this request in 2023.

The owner submitted a request in September 2023 to change the zoning from B-2 to CLM, this request was withdrawn by the owner following the Zoning Commission hearing and recommendation to deny the request.

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Subsequently, the owner submitted this current request to change the zoning from B-2 to B-1. The B-1 is currently assigned to property adjacent to the subject property and the B-1 provides a wider array of uses when compared to the B-2.

Discussion: The use of the property at the time of annexation was storage, the use of the property has not changed. Storage, by definition, is an Industrial Use. By assigning B-1 to the property, the existing and continued use is nonconforming, and while protected and allowed to continue, the continuation is subject to the Non-Conforming Use Section of the Sidney Zoning Regulations. It is important to remember that the intent of the Non-Conforming Use Section is to provide time for the use to transition to a conforming use. In most instances, the protections afforded by non-conforming use section provide the security and assurance to owners that their rights, privileges, and investments will be protected. In most instances the only time those protections are questioned is at refinance or sale.

As we learned during the request for CLM, the owner is desirous of selling a portion of the property and is looking to provide opportunities that are compatible with the zoning of the property. It also provides greater flexibility than the continuation of the non-conforming use and the limitations imposed on said non-conforming uses.

From the Sidney Zoning Regulations, what follows is the purpose and intent, as well as the use regimen of the existing and proposed zoning:

Existing Zoning: Neighborhood Business (B-2).

Purpose and Intent

The purpose and intent of the B-2 Zoning District is to provide for such retail and service activities that are frequented by nearby residents on a day to day basis, while reducing the hazards of local traffic by limiting the kinds of retail activities to those which deal directly with consumers and produce-only goods that are sold on the premises including restaurants.

Allowed Uses B-2			
Permitted			
Bakery	Home Occupation Section Error! Reference source not found.	See	Day Care, Group Section Error! Reference source not found.
Day Care, Family Section Error! Reference source not found.	Public Parks & Recreation	See	Barber & Beauty Shops
Professional Office	Florist		Pharmacy
Grocery Store	Funeral Home		Self Service/ Automatic Laundry
Restaurant	Government Buildings, Facilities		Worship Facility
Medical Office	Theatre; No Drive-In		
Conditional			

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School	Wireless Communication Facility	Tavern
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Proposed Zoning: Community – Highway Business (B-1)

Purpose and Intent

The purpose and intent of the B-1 Zoning District is to provide for retail and service functions for broad community areas of the city and for travelers coming through the city. Hotels, motels, shopping centers, and similar activities requiring automobile access are provided for in this district. This district shall accommodate large-scale commercial services typically found along major corridors into the city.

Allowed Uses		
B-1		
Permitted		
Retail Sales & Services	Auto, R.V. & Marine Sales and Service	Bowling Alley
Building Materials Sales, wholesale	Restaurant	Financial Institutions
Liquor Stores/Sales Off Premise Consumption of Alcohol	Convenience Stores Including Motor Fuel Sales	Hotels & Motels
Public Buildings	Automobile Washing	Health & Exercise Clubs
Tavern, Bar, Night Club On Premise Consumption of Alcohol	Theaters	Veterinarian Clinic
Medical Offices		Laundry Facilities; Dry-Cleaning
Conditional		
Electrical substation	Multi-household Dwellings; Townhomes, Duplexes, & Single Household	Worship Facility
Library	School	Bed & Breakfast; See Section Error! Reference source not found..Error! Reference source not found.
Day Care, Group; See Section Error! Reference source not found.	Mini-warehouse storage	Cemeteries
Wireless Communication Facility	Assisted Living, >8 Persons Served	Fire, Police or Public Utility Buildings

FINDINGS OF FACT

The City of Sidney is an equal opportunity provider.

The City of Sidney is an incorporated City within the State of Montana with powers established by the City Charter. The power and processes for the City to establish zoning regulations are found in §76-2-301 et. seq. M.C.A.

In the State of Montana, all jurisdictions proposing to zone or rezone property or to adopt or revise their zoning regulations must issue findings of fact on a twelve-point test that constitutes the rational nexus/legal basis for the adoption of or amendments to a zoning district or zoning regulations.

I. Is the zoning in accordance with the growth policy;

- The proposed zoning is a generally applicable district assignments under the Sidney Zoning Regulations.
- The Growth Policy encourages the grouping together of like and compatible land uses and imposing performance standards to ensure future compatibility.
- The B-1 is an assigned District adjacent to the subject property.
- The B-1 is closer to compliance with the 2015 Growth Policy, and the existing and anticipated use of the property.
- The fact that the use of the property predates both the Growth Policy and Zoning and should be factored into the decision making process.

Finding: The proposed zoning is in accordance with the Growth Policy and other adopted rules and regulations of the City of Sidney.

II. Is the zoning designed to lessen congestion in the streets;

- 22nd Avenue NW is a city collector street serving a mixture of uses.
- The existing zoning encourages compact walkable development in most every district as well as expand opportunities within existing lots.
- The proposed zoning encourages compact urban development and multi-modal approaches to travel.
- It is plausible that the proposed zoning may have a detrimental impact on 22nd Avenue NW. That said, the use and development of the property preexists zoning designations by the City.

Finding: The proposed zoning is designed to lessen congestion in the streets by ensuring orderly growth and development of the property.

III. Is the zoning designed to secure safety from fire, panic, and other dangers;

- The proposed zoning is a generally applicable district within the City of Sidney. The district provides setbacks, density and other development standards that provide safety from fire panic and other dangers.
- Generally applicable districts provide for consistency in development along with provision of police and fire protection.

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- The proposed zoning has restrictions on lot coverage, grading and development on steep slopes and other areas that are potentially hazardous.

Finding: The proposed zoning is intended to provide safety to residents and visitors to the city from fire, panic and other dangers.

IV. Is the zoning designed to promote health and the general welfare;

- The rules within the proposed zoning imposing setbacks, height limits and building restrictions will remain unchanged.
- The existing zoning groups together like and consistent uses within existing neighborhoods and this amendment is consistent with the intent of the Zoning.
- The existing zoning is a generally applicable districts assigned within the City of Sidney.

Finding: The extension of multi modal transportation systems along with the grouping together of like and consistent uses promotes the health and general welfare of all citizens of the City of Sidney. Further, the proposed zoning is substantially consistent with the land use in the neighborhood.

V. Is the zoning designed to provide adequate light and air;

- The existing zoning is a generally applicable districts within the Cit of Sidney.
- The proposed zoning imposes building setbacks, height limits, limits on the number of buildings on a single parcel, and reasonable area limits on new development.

Finding: The proposed zoning ensures the provision of adequate light and air to residents of the City through various development limitations.

VI. Is the zoning designed to prevent the overcrowding of land;

- The proposed and existing zoning are commercial in nature. These types of districts rarely overcrowd land in terms of population density.
- The zoning regulations impose minimum lot size, use regulations and other limitations on development.

Finding: The proposed zoning will prevent the overcrowding of land.

VII. Is the zoning designed to avoid undue concentration of population;

- The proposed and existing zoning are commercial in nature. These types of districts rarely overcrowd land in terms of population density.
- The proposed zoning is a generally applicable districts within the City of Sidney. They are part of the holistic approach to land use regulation for the entirety of the City and is not focused on any single special interest.

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- The proposed zoning takes advantage of areas that were created and intended as suitable for a healthy mixture of uses.
- The proposed zoning imposes minimum lot sizes, reasonable use restrictions on the subject property, fencing limitations and setback standards.

Finding: The proposed zoning is intended to and will prevent the undue concentration of population by encouraging the most appropriate use and development of property within the City of Sidney.

VIII. Is the zoning designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

- The proposed zoning along with other regulations established by the City Council establish minimum standards for the provision of infrastructure such as roads, sidewalks, water sewer, wire utilities and storm water management.
- The proposed zoning encourages compact urban scale development and groups together similar uses that will not detract from the quality of life expected in Sidney while providing the economies of scale to extend water, sewer, streets, parks, quality schools and other public requirements.

Finding: The standards of the proposed zoning and other adopted standards of the city will ensure the adequate provision of transportation, water, sewerage, school, parks and other public requirements.

IX. Does the zoning give reasonable consideration to the character of the district and its peculiar suitability for particular uses;

- The proposed changes do not impact any of the adopted district standards that were established to ensure that the regulations provide for land uses that are compatible with existing uses and neighborhood characteristics.
- The existing and proposed zoning groups together like and consistent uses and is consistent with the existing zoning in the neighborhoods.
- The proposed zoning is consistent with existing zoning adjacent to the subject property. In general, the B-1 should have been the assignment at the time of annexation rather than an island of B-2 or CLM as was requested.

Finding: The proposed zoning gives due consideration to the character of the existing neighborhoods, within the City as well as suitability for the particular uses.

X. Does the zoning give reasonable consideration to the peculiar suitability of the property for its particular uses;

- The proposed changes do not impact any of the adopted district standards that were established to ensure that the regulations provide for land uses that are compatible with existing uses and neighborhood characteristics.

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- The proposed zoning groups together like and consistent uses and is consistent with the existing zoning in the neighborhoods.
- B-1 is expected to be compatible with the residential properties to the east and south of the subject property. The B-1 is adjacent to many residential districts in the City.
- The subject property has been used for storage, which is and industrial use, predating the annexation and initial zoning in 2015.

Finding: The proposed zoning gives due consideration to the suitability of the property for particular uses.

XI. Will the zoning conserve the value of buildings;

- The decision to include or exclude specific uses has the potential to serious positive and negative impacts on the value of buildings within the city.
- The proposed zoning groups together like and consistent uses and is consistent with the existing zoning in the various neighborhoods of the City of Sidney.
- The subject property has been used for storage, which is and industrial use, predating the annexation and initial zoning in 2015.

Finding: The proposed zoning along with the other protections afforded in the balance of the Sidney Zoning Regulations will conserve or in many cases enhance the value of buildings.

XII. Will the zoning encourage the most appropriate use of land throughout the municipality?

- The subject property has been used for storage, which is and industrial use, predating the annexation and initial zoning in 2015.
- The proposed zoning provides for grouping like and compatible uses.
- The city recognizes that the impacts of certain land uses stretch well beyond property boundaries and that the benefits of the new use may be offset by adverse impacts to other properties. We believe that these regulations accomplish this delicate balancing act.

Finding: The proposed zoning implements land use opportunities within the city while providing reasonable performance standards to ensure that this review criterion is addressed.

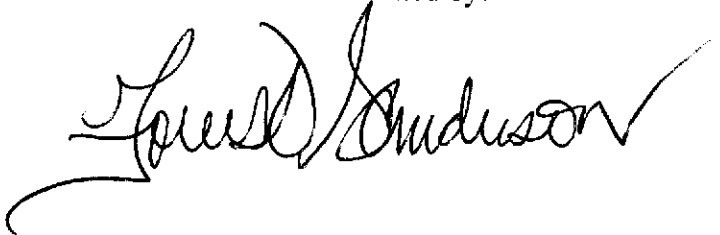
RECOMMENDATION:

1. Both the B-1 and CLM are legitimate assignments for the property in question. At our last meeting it was determined that CLM was potentially impactful to the surrounding neighborhood.

The City of Sidney is an equal opportunity provider.

2. The Staff Recommendation is that the Zoning Commission recommend that the City Council find that the proposed Zoning Change from B-2 to B-1 reflects the 2015 Growth Policy; that the rational nexus for the adoption of zoning has been met or exceeded by the proposed amendments; and that the citizens of Sidney have participated in the amendment of the Zoning Regulations.

Reviewed and submitted by:

A handwritten signature in black ink, appearing to read "Forrest Sanderson". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Forrest Sanderson, AICP, CFM
City of Sidney, Contract Planner