

# City of Sidney

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## ZONING COMMISSION RECOMMENDATION

March 9, 2022

**SUBJECT:** Zoning Text Amendment  
 Wyman – City of Sidney

Application Submitted: 2/14/22

**Applicants:**

Zoning Commission Date: 3/9/22

Judy Wyman  
 305 8<sup>th</sup> Ave NE  
 Sidney MT 59270

City of Sidney  
 115 – 2<sup>nd</sup> Street East  
 Sidney MT 59270

City Council First Reading: 3/21/22

### Legal Description:

The proposed regulations will be applicable to and affect all lands within the Corporate Limits that are now or are hereafter zoned Manufacturing Industrial (M-I) or Highway Business (B-1).

### GENERAL INFORMATION:

The Specific text of the Zoning Regulations to be amended are as follows:

Amend §11.10.40 Allowed Uses B-1 Conditional  
 Multi- household Dwellings; Townhomes, Duplexes, & **Single-Family Residences.**

Amend §11.14.40 Allowed Uses M – I Conditional  
**Single-Family Residences.**

### FINDINGS OF FACT

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 text amendment is designed to clarify the regulations and ease administrative provisions as discussed in the 2015 Growth Policy.
- The Growth Policy encourages a reasonable mixture of uses within the City Zoning Districts while discouraging uses that potentially have adverse impacts on the prevailing use within any given District.
- The Growth Policy encourages conditional use when a proposed use may not be completely compatible with the underlying district standards and use regimen. In order to ensure compatibility, conditions, standards or other mitigation measures can be imposed to protect the prevailing uses with a given district.
- The text amendments are primarily to ease the administration of the regulations, to clarify the legislative intent of the governing body and provide a clear definition of when required infrastructure will be installed. The existing section has been deemed less than clear and therefore inconsistent with the intent of the City of Sidney and the Growth Policy.

Finding: The existing zoning as well as the proposed amendments are 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;

- The proposed text amendment and the existing zoning encourages compact walkable development in most every district as well as expanded opportunities within existing lots.
- The existing zoning encourages compact urban development as such the need for vehicular travel is supplemented by other forms of alternative transportation.
- The existing zoning makes limited accommodations for residential development in each of these Districts, this change will expand opportunities especially for those structures that have were existing and classified as “NON-CONFORMING”.
- The existing zoning in conjunction with the development standards adopted with the Subdivision Regulations will provide for flow through development, logical extension of the gridded infrastructure network, and encourage bike and pedestrian- friendly growth.

Finding: The existing zoning along with the proposed text amendments are designed to lessen congestion in the streets by ensuring orderly growth and development of the property that is consistent with the zoning and other regulations adopted by the City of Sidney.

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

- The proposed amendments are intended to clarify standards related to the allowable uses within existing city established zoning districts. Uses in each

district represent a balancing act between adverse impacts and uses allowed. Part of the balancing act is to ensure safety from fire, panic, and other dangers.

- The existing zoning will provide for consistency in development along with provision of police and fire protection.
- The existing zoning regulations incorporates enforcement of development standards, setbacks and compliance with the International Building Code program adopted by the City of Sidney.
- The existing zoning has restrictions on lot coverage, grading and development on steep slopes and other areas that are potentially hazardous.

Finding: The existing zoning and the proposed text amendments are 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 separation of uses and the grouping together of like and consistent uses is the primary outcome of locally adopted zoning regulations.
- The request to include dwellings within the M-I was submitted by an owner within the district that has the desire to reside within the M-I District.
- The B-1 District has a number of non-conforming dwellings that owners have difficulty selling as a residence. Conversely, not all residential structures can be readily converted to conforming commercial properties.
- The existing zoning imposes setbacks, height limits and building restrictions.
- The existing zoning groups together like and consistent uses within existing neighborhoods. The inclusion of residential uses via Conditional Use
- The proposed text amendments address specific requests made to City Staff with respect to uses in the M-I and B-1 Districts.

Finding: The grouping together of like and consistent uses promotes the health and general welfare of all citizens of the City of Sidney. Further, the conditional use process will ensure that any proposed land use is substantially consistent with existing zoning and other uses in the neighborhood.

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

- The proposed amendment does not impact this specific criterion.
- The existing zoning imposes building setbacks, height limits, limits on the number of buildings on a single parcel, and reasonable area limits on new development.
- As part of the Conditional Use Permit process, new residential development in the B-1 or M-I the setback requirements can be enhanced or augmented to provide additional space and therefore light and air.
- The text of the regulations in the existing zone implements the concept that the City of Sidney was developed historically on a gridded network. The existing zoning requires the perpetuation of this pattern. In doing so as the City plans for growth, the spacing and layout of new development will facilitate provision of light and air to new development.

Finding: The existing zoning ensures the provision of adequate light and air to residents of the City through various development limitations. Additionally, the Conditional Use process for residential development will ensure that adequate light and air are provided.

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

- The Sidney Zoning Regulations as a whole represent a comprehensive approach to managed growth and development and population densities within the city.
- The zoning regulations impose minimum lot size, use regulations and other limitations on development.
- The 5,000 square foot minimum lot size established with the new zoning provides for ease of transition from rural to urban zoning. The minimum lot size in the urban zone is exactly ½ of the rural zone. This standard encourages annexation to the city and development at a scale that justifies the capital extension of water and sewer while spreading the costs out on an equitable basis.
- The regulations encourage compact urban scale development while preventing undue overcrowding in any given segment of the community.
- The regulations encourage the creation of adaptive open space uses in conjunction with more intensive uses of property.
- The current proposed amendments do not decrease any of the prevailing performance standards with respect to setbacks or minimum lot sizes.
- The Conditional Use Permit requirement ensures that there is adequate separations and space between uses.

Finding: The proposed text amendments do not negatively impact this review criterion. The existing standards of the existing zoning will prevent the overcrowding of land.

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

- The proposed amendment will not have a direct impact on the concentration of population other than to provide additional development options to landowners via a Conditional Use Permit process.
- The existing zoning is part of the holistic approach to land use regulation for the entirety of the City of Sidney and is not focused on any single special interest.
- The existing zoning takes advantage of areas that were created and intended as suitable for a healthy mixture of uses.
- The existing regulations create five residential zoning districts that provide a continuum of residential densities and manage development to create land use compatibility.
- The existing zoning imposes minimum lot sizes, reasonable use restrictions on the subject property, fencing limitations and setback standards.

Finding: The proposed text amendments will not materially impact the concentration of population. The existing standards of the zoning are intended to and will prevent the undue concentration of population by encouraging the most appropriate use and development on the subject property.

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

- The proposed amendments are intended to standardize the administration and provide consistency of uses within and adjacent to each District.
- The prevailing zoning and other development regulations created by the City establishes minimum standards for the provision of infrastructure such as roads, sidewalks, water sewer, wire utilities and storm water management.
- The prevailing 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 existing zoning 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 existing text amendments clarify development standards in all zoning districts and solidify the legislative intent of the City Council that was stated in the initial adoption of the regulations.
- The proposed changes include a change to 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 new uses are subjected to Conditional Use Permit processes. These processes exist to ensure compatibility between the prevailing use of the district and uses that may have or create conflict between the uses.
- The existing zoning groups together like and consistent uses and is consistent with the existing zoning in the neighborhoods.

Finding: The existing zoning gives due consideration to the character of the existing neighborhoods, within the city as well as suitability for the particular uses. Additionally, the standards and protections afforded by the Conditional Use Permit process will provide reasonable consideration to the character of the district and proposed residential uses.

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

- The Conditional Use Permit process ensures that any potential limitations on the prevailing uses in the district are protected from impacts associated with potentially compatible uses. These protections exist to ensure that the intended uses of each district are not encumbered or limited.
- The existing zoning amendment is designed to clarify development standards in two (2) of the adopted districts created by the City to implement the significant sections of the 2015 Growth Policy.
- The 2015 Growth Policy represented a major turning point in the theory of land use and land use regulation for the City of Sidney.
- The Growth Policy ties directly to and values the City's history and existing use of property and structures, the tools used to encourage development of property needed to be designed to reflect this change in direction.

Finding: The recommended zoning considers the peculiar suitability of the property for particular uses by establishing uniform standards for consideration of uses that may or may not be suitable or compatible with the prevailing uses of property in the district.

XI. Will the zoning conserve the value of buildings;

- The clear expectation in Commercial and Industrial Districts is to provide a place where potential negative externalities are expected or seen as advantages to supporting operations. Where the entry into these districts is via Conditional Use only the advantages afforded to commercial and industrial uses should not be impacted, thereby conserving the value of buildings.
- The existing zoning groups together like and consistent uses and is consistent with the existing zoning in the various neighborhoods of the City of Sidney.
- The existing zoning reinforces that residential properties should have flexibility in their location provided that the underlying prevailing use within a given commercial or industrial district is not infringed.
- The proposed zoning recognizes that certain residential buildings, subject to reasonable restrictions can be located in a variety of districts without negatively impacting the value of adjoining properties.

Finding: The recommended 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 proposed amendments will provide the opportunity of expanded uses while not having an impact on the prevailing uses within any given district.
- The existing zoning provides for grouping like and compatible uses.
- The proposed zoning recognizes that residential buildings that are located in restricted residential areas have options either to remain as they are or to be placed

in a manner that reflect the highest and best use, in the owner's opinion, for the subject property.

Finding: The proposed text amendments provide a mechanism and process that reflect the highest and best use, in the owner's opinion, for the subject property do not adversely impact this review criterion. The existing zoning regulations are intended to encourage the most appropriate uses where adequate infrastructure and public services are available to residents and owners in the respective districts.

#### **RECOMMENDATIONS AND CONDITIONS OF APPROVAL**

The Zoning Commission recommends that the City Council find that the proposed Zoning Text Amendments 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:

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