



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

Zoning Board Present: Meldahl, Hintz, Jones, Smith, Seitz

Others Present: Mayor Norby, Planner Sanderson, Building Inspector/Fire Marshal Rasmussen, Clerk/Treasurer Chamberlin, Deputy Clerk/Treasurer Shanks, Deputy Clerk/Treasurer Schmierer, Compliance Officer Schroeder, Greg Hitchcock (Sidney Herald), Joe Steinbeisser, Garth Kallevig, Bill and Sandy Fink, Janelle and Troy Jensen, Carla Berg, Nancy and Bruce Beiswanger, Kim and Shane Usselman, Leon Becker, Brett Allen, Anthony Thiessen, Makayla Donahue, Brennan Gorder, Ray Johnson, Diane and Dick Sult and John Hoon (via phone).

1. New Business

a. Hilltop Shop Zoning Change Request from B-2 to B-1

Chair Jones called the Zoning Board meeting to order and recused himself from the Hilltop Shop Zoning Change due a conflict of interest.

Planner Sanderson stated the request before the Zoning Board is a resubmittal for the Hilltop Shop who withdrew their previous request to change to their zoning CLM and is now proposing changing it to B-1: Community Highway Business. He stated this property was annexed in 2015 as wholly surrounded property and zoned as B-2 with the record stating the owner could request or settle the change of zoning at a future point. He stated there is a substantial difference in the request as CLM industrial uses are not contemplated in B-1 but it does contemplate a residential component that assists in the concerns with the residential districts surrounding. He stated this change is substantially more compatible with the neighborhood, with that zoning present in the area. He stated his staff report contains the 12-point test and this application is favorable, and he does recommend approval after the public hearing today and at the City Council public hearing on November 20th. Mr. Seitz asked if there are any additional infrastructure needs for the proposed zoning to be sold that would be required, such as curb and gutter or sidewalk. Planner Sanderson stated if the new owner is doing a conditional use, then the City Council could require it to support that use, but only through the CUP process. He stated they would have to keep the impact of the change of use in mind with the current use but could not be to correct current impacts. Mr. Seitz

asked what constitutes a highway for this zoning and if there are requirements for highways, such as a setback from the highway. Planner Sanderson stated 22nd being an arterial street it would meet the requirements for the highway business district, and with it being assignable in 2015 in the annexation it would be assignable today. Mr. Meldahl stated in the findings it states it is a current non-conforming use and that should be kept under consideration and Planner Sanderson stated the non-conforming current use is warehouse, which would have been appropriate to zone CLM but with concerns addressed because it was annexed with current use B-1 zone gives the owner a broader array of uses to convert the property to a conforming business or keep the current industrial warehouse being a non-conforming. It is a closer zoning appropriate for the non-conforming use and getting it to a conforming use.

Mr. Meldahl called the public hearing for the Hilltop Shop Zoning change request to order at 8:12 am.

Mr. Meldahl called for any opponents to the zoning change request.

Mr. Johnson stated he is mostly opposed, it is clear something needs to be done for the non-conforming use but B-1 zoning would still allow an increase in traffic and he also has concerns with the additional 6-acres that are not currently being used that could be sold, subdivided and businesses allowed. He stated this would also open the door to other zone changes to have more businesses in that subdivision. He stated the existing B-1 is not between R-1 zones.

Mr. Joe Steinbeisser stated he is opposed until he knows more about it. He stated in another city there was a duplex purchased, zone changed and a large building built and he would not like to see that happen.

Mrs. Sult stated she is opposed and agrees with the previous stated, wanting to know exactly what is planned as this would allow hotels, motels, restaurants and bars, which would dramatically change the neighborhood. She also addressed concerns with these types of businesses going in next to the school property where a school could be built in the future.

Mr. Leon Becker stated he is opposed because the neighborhood does not need any more traffic, it is busy enough with semi's, and kids using the road.

Mrs. Kim Usselman stated she is opposed to the zone change.

Mrs. Carla Berg stated they are opposed to the zone change. She stated 22nd is a residential street and until it is improved it is not conducive to a lot of retail traffic. She further stated with the parks, ROI, kids walking up and down the street she does feel it is an appropriate location. She stated she also has concerns with the wild life and habitat that could be affected by this should it be built out with new zoning.

Mr. Anthony Thiessen stated he is opposed and has been through the 12-point test and read the zoning code and he disagrees with Planner Sanderson that this change is conducive to the test. He stated he feels it was set a B-2 because it was in the middle of residential, it is not consistent with existing zoning, does not follow growth policy, and 22nd is not a major

corridor into city to allow for this type of zone. He further stated it will have adverse effects on property values and negatively affect current residential zone and growth. He stated the zoning ordinance B-1 intent for that reason especially he is opposed.

Mr. Bill Fink asked if the property will have the option to tie into City water and sewer and PWD Hintz stated it is not at that property but they could put the infrastructure in to connect. Mr. Fink stated he had to pay hundreds of thousands of dollars to get his property connected and the Jensen's did not want to participate. He stated he does not feel one property should profit and multiple more lose in their property values.

Mr. Garth Kallevig stated in 2015 when this was annexed they zoned it B-2 with no change in use preceding this request. He stated this is the same situation and with the unknown of what is planned or could be done has a lot of people concerned. If the change is made future owners can take advantage of allowed uses in B-1, which is a concern.

Mrs. Nancy Beiswanger stated she is opposed for the same reasons previously stated. She stated once it is changed it cant be changed back to prevent a hotel or something large coming to that location.

Mr. Bret Allen stated he is also opposed for the previous stated mainly property values and safety concerns.

John and Jessica Hoon submitted the following written opposition: "We are against changing the zoning because we do not want increase traffic due to so many families with little kids in the area and being right next door. We already have issues with trucks using 22nd Ave even though they aren't supposed to, that any more excess traffic isn't going to help matters"

Mr. Meldahl called for further opponents three times with no more coming forward.

Mr. Meldahl called for any proponents to the zoning change request.

Mrs. Janelle Jensen stated is a member of Hilltop Shop and is in favor. She stated there are other properties zoned B-1, the current use of warehouse is an allowable use.

Mr. Troy Jensen stated he is a member of Hilltop Shop and owner of the property. He stated the warehouse was built when it was county property and ran a couple of businesses out of the property and the traffic was more then. He stated they do not own 22nd avenue and cannot control who uses it and how it is built. He stated they live in that area and share the same concerns. He stated he has proposed widening and installing curb and gutter and sidewalk for 22nd. He stated he is marketing the land for sale with 3 opportunities that are small local businesses with owners who live and have family in the community that would not increase traffic. He stated this B-1 zone sales and service would be 8-5 businesses and he does not foresee negative impact only opportunities for Sidney to grow. He stated if the shop is sold, he will purchase a smaller shop within the community and if not sold he will not purchase and improve one of those. He stated this zoning is restrictive to develop future plans and he has no plans for the back 6-acres lot but included it in the change request as it is also currently zoned B-2. The water is a significant challenge for that property without adequate supply so to develop that property they would have update the tank and water

lines for hundreds of thousands of dollars. He stated sewer is more available but there would be a large fee for the connection. He stated he does not have plans anytime soon to develop that property without the City putting millions of dollars into the infrastructure. He stated he hopes the Zoning Board follows the recommendation of Planner Sanderson.

Mr. Meldahl called for any further proponents, three times, with none coming forward.

Mr. Johnson who asked if there is no intended use for the change, why would the change be allowed for the back property.

Planner Sanderson asked if Hilltop Shop would consider keeping the back lot of 6-acres as B-2 and Mr. Jensen stated they would as long as there is the opportunity to revise it to allow for housing opportunities that are needed in Sidney. Specifically single level single-family homes with maintenance services provided, which B-1 would allow. He stated similar to town-homes and so might be changed in the future if infrastructure needs are improved.

Mr. Thiessen stated Planner Sanderson's recommendation is based off the 12-point test and is wondering how he came to the conclusion of approval when doing the 12-point test. He stated he went through the 12-point test and at least half does not abide by with this change and he disagrees with Planner Sanderson's recommendation.

Mrs. Berg stated they did not like the traffic when it was busier either.

The public hearing was closed at 8:39am.

In discussion Planner Sanderson stated this is not a perfect situation and is what happens when you annex un-zoned rural property and there are components that are problematic and others that are supported. He stated with the B-1 flexibility of residential it does get closer to what is going on in the neighborhood and be consistent with current use and future use. With looking at the hole nexus, it is not simple and easy.

Mr. Meldahl stated he would prefer to only consider the front building that is next to 22nd as the back property does not sit on the street for a community highway business zone change.

Mr. Hintz stated the reason the properties were annexed is because several properties were wanting to build and also wanted water and sewer. He stated he had concerns that because the properties were not annexed and zoned, they could be developed in any way so the annexation was processed. He stated there were proposals for many buildings that the annexation and zoning prevented.

Planner Sanderson stated they can sever and split the request in their recommendation to the City Council.

Mr. Meldahl stated the subdivision at this time would be residential with a B-1 area for a local grocery store was the original intent, which he believes was considered in the growth policy. He stated he would want to see the back property severed from the zone change.

Motion was made by Mr. Seitz to recommend severing and dropping Lot 2 from the zone change request, keeping it B-2. Mr. Smith seconded the motion and all present voted aye, with Mr. Jones abstaining.

Mr. Meldahl stated Lot 1, which is on 22nd Avenue, is still under consideration for the zone change, which is 4-acres. Mrs. Sult asked if multiple buildings could be built on the 4-acres for businesses and Planner Sanderson stated it is one lot, one use, so unless they subdivide the lot, which would apply improvements to the surrounding infrastructure, they could not build more on that lot.

Mr. Seitz stated his memory has the subdivision designed to allow a type of store to service the residents in that area. He stated that is why the B-2 was allowed in the area and CLM was allowed in the industrial park. He stated he agrees with Mr. Jensen that it was a county property prior to annexation with an acceptable intended use and when annexed it was with the intent to protect to surrounding properties. He stated ultimately the City Council make the final decision but there has been precedent set on the same street for this zoning and the legal standpoint has to be considered. He stated he is torn as he does not want to see additional traffic on the road but the process should proceed and allow the elected officials make that final decision.

Motion was made to recommend approval of the zone change to B-1 for Lot 1.

In discussion Mr. Seitz stated the ultimate decision is the City Council and it is a tough decision that all sides need to be heard. Mr. Smith stated he agreed and there is probably not any winners in this situation. Mr. Hintz asked if the trailer is gone and Mr. Jensen stated it is in the process of being removed. Mr. Hintz asked if the change of zoning would prohibit the trailer from coming back and Planner Sanderson stated it would no longer be grandfathered in with the original annexation. Mr. Thiessen asked if with the zone change they would be responsible for improvements and Planner Sanderson stated only if it is an expanded use, such as a residential development, it would, and they would have to follow all B-1 zoning rules and regulations and airport affected zoning for height.

Mr. Fink stated he feels the board voting to recommend approval is them passing the buck to the City Council and the recommendation to approve gives it credibility to the City Council. Mr. Beiswanger stated now that the lots have been severed, it has not changed the minds of those who opposed it originally because they have no idea what is going to happen on the property and the property values. He stated he does not feel it should have a recommendation to approve and it should be opposed so the City Council knows the approval is not there for final approval.

Mr. Jensen stated it is an opportunity for a business and if you are against business and growth then oppose this, if you are for growth and business you should be in favor of the opportunity for a business to work out of an existing building. Mr. Thiessen stated they are for business and growth but the property location is not the appropriate location and still opposes it with the split of the lots.

Mr. Meldahl stated there are uses in the B-1 he would object to in that particular area.

Motion made by Seitz, Seconded by Smith.

Voting Yea: Smith, Seitz

Voting Nay: Meldahl, Hintz

Voting Abstaining: Jones