



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

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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: 830 8746 7848    Passcode: 432809    Call: 1-346-248-7799

Zoning Commission Present: Jones, Meldahl, Smith, Seitz (via phone) and Hintz (via phone)

City Staff Present: Clerk/Treasurer Chamberlin, Planner Sanderson, Mayor Norby, FM/BI Rasmussen Deputy Clerk/Treasurer's Shanks and Schmierer

Other's Present: Ronald Barone, Brennan Gorder, Cardwell & Carla Berg, Bruce & Nancy Beiswanger, Alan Cooper, Kelly Childers, Don & Val Franz, Ken & Kim Usselman, John & Jessica Hoon, Leon Becker, Sara Romo, Kathy Nicolson, Garth & Joyce Kallevig, Camille & Kevin Clausen, Janelle & Troy Jensen, Tammy Pedersen, Tony Thiessen, Gary Schoepp, Jerry Hughes, Makayla Donahue, Bill & Sandy Fink, Brent Sukut, Tracy Click, Ben Larson, Brett & Lorraine Allen, Dick & Daine Sult.

## 1. New Business

### a. Hilltop Shop (Troy & Janelle Jenson) Zoning Change Request

Chair Jones called the Zoning/Board of Adjustment meeting to order to review the zoning change request of Hilltop Shop to change their zoning from B2-Neighborhood Business to CLM-Commercial Light Manufacturing.

Chair Jones stated because he has worked with the applicant and prospective buyers for this property, he is recusing himself from the discussion and decision making and Mr. Meldahl will Chair the meeting.

Mr. Meldahl opened the public hearing for the zoning change request of Hilltop Shop at 8:02am.

Planner Sanderson stated he provided his staff report to the Zoning Board that provides the history of the zoning of this lot. He stated the lots were originally county lots with industrial use with warehousing and storage. He stated when the City annexed the property in 2015 the zoning for this lot was discussed and the owners at the time requested CLM zoning to meet their current use, but the City Planner at the time recommended B2 as it was more consistent with surrounding zoning. During those discussions it was stated there would be another opportunity to review the zoning, but those discussions did not happen and the City Council annexed in the property with B2

zoning. B2 zoning does not allow for the industrial use but because it was annexed with that use it is considered a non-conforming lot that is allowed to continue with the current use but in time the expectation of non-conforming lots is to get its use in line with the zoning code. He further stated that the zone that would best fit the use of this lot would be B1-Central Business, but because it is not in the centrally located that zone was not considered. He stated the staff reports details the 12-point test and with all the information provided it is up to the Zoning Board to review the information provided, hear testimony and make a discretionary decision on if the zoning should be changed or not.

Mr. Meldahl called for any proponents to the zoning change. The following came forward:

Mr. Becker asked what the proposed use for the property will be.

Mrs. Jensen stated she is a member of the Hilltop Shop and is a proponent of the zone change.

Mr. Meldahl called for any opponents to the zoning change. The following came forward:

Mr. Fink asked how they can know to be opponents or proponents without knowing the plans and why the request was made.

Mr. Jensen stated he would like to speak as a proponent of the project and Mr. Meldahl stated he will be given the opportunity to speak as a proponent after the opponents are given their opportunity.

Mrs. Hoon stated their property is next door and they are opposed to the zone change because of concerns with traffic and safety for kids.

Mrs. Romo stated she lives in the area and is also an administrator for Sidney Public Schools who also own property in the area. She stated she is opposed because of traffic increase and the increase of danger to students and children who are in the area, including athletes who run up that road.

Mrs. Uzzelman stated she is opposed to the zoning change because of the increase in traffic and the unknown of what will happen.

Mrs. Kallevig stated she has concerns with ROI and kids in the community who walk ride bikes, run cross country and walk to events. She stated currently the drivers slow for pedestrians but it is a narrow road and it wouldn't take much to wipe out a kid.

Mr. Franz stated he is opposed to the zoning change until he knows more details.

Mrs. Sult stated she is opposed to the zoning change and is concerned an oil company could move in.

Mrs. Claussen stated she is opposed to the zoning change for the same reasons provided.

Mrs. Pedersen stated she is opposed to the zoning change for traffic and safety reasons.

Mrs. Beiswanger stated she is opposed to the zoning change for the same reasons provided.

Mr. and Mrs. Berg stated they are opposed to the zoning change for various reasons.

Mr. Thiessen stated the notice provided some of the 2015 growth policy that the zoning change would implement, but it goes against many more including less congestion of streets, advance infrastructure and not detract from quality of life, reasonable characteristics for uses and neighborhood characteristics, not negatively impact value of buildings and adjoining properties and best use of land without impacting neighbors. He stated the zoning change does go with some of the growth policy but there are more that it is against and it will hugely negatively affect the area and congest streets and because of this he strongly opposes the zoning change.

Mr. Ray Johnson (via FM/BI Rasmussen) opposed the zoning change due to truck traffic in residential areas, decrease in home values and such things should benefit community not just one property.

Mr. Sukut, Superintendent of Sidney Public Schools, stated should there be development in Eastern Montana and it increases enrollment, the school has property in this area to build another school. He stated this would only increase the number of students and kids using this road. He stated he is not aware of the proposed use of the property, but if it increased truck traffic he opposes the zoning change on behalf of Sidney Public Schools.

Mr. Barone stated there might be land north of this property that is more properly zoned to purchase.

Mr. Cooper stated if an oilfield can move into that property, it could cause environmental issues beyond traffic issues as there could be radioactive materials and he is opposed to the zoning change.

Mr. Meldahl called for any further opponents to the proposed zoning change, three times, and none further came forward.

Mr. Meldahl called for any further proponents and Mr. Jensen stated he is owner of the Hilltop Shop and applicant for this zoning change. He stated when he built the shop currently on the property it was in the County and has always been industrial use. He stated when the City annexed the City knew it was industrial use but did not zone it CLM. He stated they want the zoning to match the current use and there is no plans for oilfield and/or increased truck traffic because of the change in zoning for this property. He stated he lives in this area and his son ran cross country up that hill and he does not want to see increased truck traffic or safety issues for kids. He stated the property is for sale and the proposed owners would have the same current use of the shop but the zone has to be changed to fit current use to sell. He stated the proposed new owners are looking to move their business into the shop and possibly build a home next to it. He stated he is trying to keep businesses in Sidney and keep community families by having their business purchase the shop for storage use. He stated they would use the same type of one-ton dually pick-ups currently used in that area and he feels it would be a good fit. He stated his plans if the property is sold is to purchase another smaller property for his business and fix it up. He stated when against the zoning change it is against businesses growing as this is not a change in

current use and not bringing in a big trucking company to that area. he stated the community is facing challenges with other businesses closing and this is bringing business and keeping businesses and is a good thing.

Mr. Meldahl called for any further proponents, three times, with non further coming forward.

Mr. Meldahl closed the public hearing at 8:33 am and opened the floor to board discussion.

Mr. Meldahl asked Planner Sanderson about the growth policy and he stated it is not a simple response with the growth policy as it has good and bad outcomes, which is why it is a decision based on the whole discussion.

Mr. Meldahl asked if the zoning is changed, any business can move into that property that meets the CLM codes and Planner Sanderson stated that is correct and you cannot restrict zoning. He further stated that his analysis and the known facts is that there is a significant amount of traffic on a substandard street. He stated the CLM zoning cannot be modified to exclude certain allowed uses, it is all allowed uses are allowed or the zoning should not be changed. He stated with the non-conforming code the City can create sideboards and keep the current zoning and current non-conforming use. He stated if the zone is changed the City cannot control future owners as long as they are meeting allowed uses in CLM zoning. He stated after hearing the testimony provided today it is his recommendation to keep the zoning B2 and enact sideboards for the non-conforming use. Mr. Meldahl asked if the property owner or business changes, the non-conforming use does not go away and Planner Sanderson stated it stays with the property, similar or less non-conforming allowed.

Mr. Seitz asked if a variance or CUP could be looked at and Planner Sanderson stated no, a variance needs to show hardship and a CUP has to be allowed under code. Mr. Seitz asked if the new owner could be required to comply with City curb, gutter and sidewalk code and Planner Sanderson stated that is a Public Works question but if it is a same use or less he would consider it and unjust burden to require such things on the new property owner.

Mr. Thiessen asked is a residence is prohibited in CLM and Planner Sanderson stated that is correct. Mr. Jensen stated they would have to subdivide the lot and change the zoning of the homesite. Planner Sanderson stated the zoning codes were recently updated to allow residences in certain business districts, but not in CLM.

Mr. Jensen stated they would prefer to have the zone changed to B1-Community Highway Business as it best fits the current use, protects the residential area surrounding and would allow a residence. Planner Sanderson stated a different zone cannot be discussed today, but if they truly want to pursue B1 instead of CLM they could withdraw their current application and resubmit with the B1 zoning change, which would likely be processed in November. He stated Mr. Jensen can also request the application be tabled, but there is no guarantee that the Committee will un-table the application.

Mr. Franz asked how the property is accessed and Mr. Jensen stated the east front property is accessed on 22nd Avenue and currently the west back property, which he does not plan to sell at this time, is accessed via the front property, but there is a road platted to the south he could develop to have direct access that stops at his property. Mr. Thiessen asked if there are

easements and Mr. Jensen stated it is public right of way. Mr. Franz stated that if changed to CLM then any allowed uses could be done on the west back lot and then the traffic would increase in front of his house with the southern access. Mr. Jensen stated the west property has development issues with infrastructure the and the cost to do the required improvements, so he does not have plans at this time to develop it.

Mr. Jensen stated he would like to continue the current application process and depending on the outcome may apply for a zoning change to B1-Community Highway Business.

Motion was made to recommend to the City Council the denial of the zoning change of Hilltop Shop from B2 zoning to CLM zoning. In discussion Mr. Seitz asked if they table the request, can they look into the B1 zone instead and Mr. Meldahl stated the B1 zone cannot be discussed with the current application.

Motion made by Smith, Seconded by Hintz.

Voting Yea: Smith, Seitz, Meldahl, Hintz

Voting Abstaining: Jones