

CITY OF SIDNEY PLANNING COMMISSION MEETING, MONDAY, OCTOBER 17, 2022, 5:30 P.M.

AGENDA

Call to Order

Pledge of Allegiance

Welcome

Business and Reports:

1. Announcement of Public Meetings Act: The Open Meetings Law poster is posted at the rear of the room, please refer to posted information if you have any questions regarding the open meetings law.
2. Approval of minutes as printed:
  - a) July 18, 2022
  - b) September 6, 2022
3. Consideration of the application of *Conditional Use Permit* for Dream Estates, LLC (Travis Arellano), to store used shingles until they can be recycled. A parcel of land located in the Northwest Quarter of Section 32, Township 14 North, Range 49 West of the Sixth P.M., Cheyenne County, Nebraska. Current zoning M1.
4. Clarification on Enforcement & City Codes requested by Victoria Loghry

ADJOURNMENT

# Open Meetings Act

## Effective Date – July 21, 2022

### **84-1407. Act, how cited.**

Sections [84-1407](#) to [84-1414](#) shall be known and may be cited as the Open Meetings Act.

### **84-1408. Declaration of intent; meetings open to public.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

### **84-1409. Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section [81-15,175](#) are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

### **84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section [81-1801.02](#), discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of

holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**84-1411. Meetings of public body; notice; contents; when available; right to modify; duties concerning notice; videoconferencing or telephone conferencing authorized; emergency meeting without notice; appearance before public body.**

(1) Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and

(e)(i) Except as provided in subdivision (2)(e)(ii) of this section, no more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or

(ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which there will be present: (i) A member of the educational service unit board, council, community college board of governors, governing body of a public power district, governing body of a public power and irrigation district, Nebraska Brand Committee, or entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3)(f) of this section;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that:

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

**84-1412. Meetings of public body; rights of public; public body; powers and duties.**

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body may require any member of the public desiring to address the body to identify himself or herself.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making a telephone conference call available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act;

(f) Reasonable arrangements are made to provide viewing at other in-state locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area; and

(g) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) The public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting.

(8) Public bodies shall make available at the meeting or the in-state location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

**84-1413. Meetings; minutes; roll call vote; secret ballot; when.**

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state

how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

**84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides

for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Sidney, Nebraska, July 18, 2022

A meeting of the Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 p.m., on July 18, 2022 in the City Council Chambers, located at 1115 13<sup>th</sup> Avenue. Present were: Chairman Schmitt and Commissioners: Benzel, Loghry, Long, Smith. Others present: City Manager, David Scott, Chief Building Official, Marshall Hall, and City Clerk, Lori Borchert. Notice of the meeting was given in advance thereof by publication in The Sidney Sun Telegraph, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Chairman and all members of the Commission, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Chairman Schmitt announced that a current copy of the Nebraska Open Meetings Act was available for review at the rear of the room.

Chairman Schmitt called for a motion to approve the June 20, 2022 minutes. Long moved, Schmitt seconded, "That the minutes from June 20, 2022 be approved." Roll call vote: Yeas: Loghry, Long, Smith, Schmitt. Nays: None. Abstain: Benzel Absent: England, Glenn, Sweetser. Motion passed.

Chairman Schmitt announced "That the Planning Commission would be considering an application for a conditional use permit by New Freedom Yurt Structures, LLC., to display a temporary Yurt cabin at Lot 3 Block 1 Sidney Business Park Addition, Lands Inside Sidney; commonly known as 100 Commerce Court. Current zoning is C3." Schmitt opened the public hearing at 5:31 p.m. Kurtis Kaiser, CMO of New Freedom Yurt Structures was present to represent. Also present were Ken Sawyer, CFO of New Freedom Yurt Structures and Trent Santero of Nexgen Outfitters. Kaiser stated that the company currently has a Yurt displayed at their warehouse but wants to be more visible to the public. Smith asked for a description of a Yurt. Kaiser responded that they are cabins in the shape of a Yurt, with insulated walls, floors and ceilings. Yurts are currently being sold all over the United States, as well as other countries. Yurts can be placed on a foundation or designed to be non-permanent. Kaiser continued, that the Yurts would be set up at Nexgen as a temporary structure. Schmitt asked if there was a time frame requested to display the Yurts. Kaiser stated that there was no specific time frame in mind. Long asked if they were requesting one structure. Kaiser responded by asking if he could have more than one structure. Discussion was held and it was determined by the Commission that three Yurts would be allowed with a five-year time frame, ending July 18, 2027. Chief Building Official, Marshall Hall stated that any Yurt that is accessible to the public would have to be ADA compliant, including having paths and ramps. There were no further comments. Schmitt closed the public hearing at 5:47 p.m. and asked for a motion. Benzel moved, Loghry seconded, "That Freedom Yurt be issued a conditional use permit to allow three structures, for a five-year term and each structure that has public access must be ADA compliant." Roll call vote: Yeas: Loghry, Long, Schmitt, Smith, Benzel Nays: None Absent: England, Glenn, Sweetser Motion passed.

Chairman Schmitt announced "That a public hearing would be held regarding Resolution 20220702; approval of the City of Sidney Redevelopment Area Substandard/Blight Area; and recommendation to City Council."

Bobbi Pettit, Five Rule Rural Planning, stated that there would be three separate public hearings for the three blight areas, A, B & C.

Pettit stated that publications were published in the newspaper to allow the public to be informed as required by law. A map of the three blight areas can be viewed at 1115 13<sup>th</sup> Avenue/City Clerk office.

Schmitt opened the public hearing for Redevelopment A at 5:49 p.m. Pettit stated that in no event can a city of a first class designate more than thirty-five percent of the city as blighted. Area A encompasses 379 acres. Area A met four out of six substandard factors - deterioration; age/obsolescence; conditions that endanger life or property by fire and other causes; inadequate provision for ventilation, light, air, sanitation or open spaces. Area A also met six subjective blight factors - substantial number of deteriorated or deteriorating structures; existence of defective or inadequate street layout; improper subdivision or obsolete platting; insanitary or unsafe conditions; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; existence of conditions that endanger life or property by fire and other causes; and one blight objective factor - area had either stable or decreasing population based on the last two decennial censuses. Pettit stated that due to the substandard determination and the blight factors present, the area needs redevelopment projects that should be completed and encouraged by the Planning commission, City Council and Community Redevelopment Authority. There were no further comments. Schmitt closed the public hearing at 6:08

p.m.

Schmitt opened the public hearing for Redevelopment B at 6:10 p.m. Pettit said Area B encompasses 9 acres. Area B met five out of six substandard factors – Dilapidation; deterioration; age/obsolescence; conditions that endanger life or property by fire and other causes; inadequate provision for ventilation, light, air, sanitation, or open spaces. Area B met four subjective blight factors - substantial number of deteriorated or deteriorating structures; deterioration of site or other improvements; insanitary or unsafe conditions; existence of conditions that endanger life or property by fire and other causes; and three blight objective factors – The average age of the residential or commercial units in the area is a least forty years; more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; area has had either stable or decreasing population based on the last two decennial censuses. Pettit stated that due to the substandard determination and the blight factors present, the area needs redevelopment projects that should be completed and encouraged by the Planning commission, City Council and Community Redevelopment Authority. There were no further comments. Schmitt closed the public hearing at 6:19 p.m.

Schmitt opened the public hearing for Redevelopment C at 6:19 p.m. Pettit stated that Area C encompasses 1,076 acres. Area C met five out of six substandard factors – Dilapidation; deterioration, age/obsolescence, conditions that endanger life or property by fire and other causes; inadequate provision for ventilation, light, air, sanitation or open spaces. Area C met four blight subjective factors – Substantial number of deteriorated or deteriorating structures; deterioration of site or other improvements; faulty lot layout in relation to size adequacy, accessibility, or usefulness; existence of conditions that endanger life or property by fire and other causes; and one blight objective factor – more than half of the plotted and subdivided property in an area in unimproved land that has been within the city for forty years and has remained unimproved during that time. Pettit stated that due to the substandard determination and the blight factors present, the area needs redevelopment projects that should be completed and encouraged by the Planning commission, City Council and Community Redevelopment Authority. There were no further comments. Schmitt closed the public hearing at 6:29 p.m.

Schmitt asked for a motion to approve the Blight Study. Schmitt moved, Loghry seconded, “That Resolution 20220702; the City of Sidney Redevelopment Area Substandard/Blight Area; and recommendation to City Council for Areas A, B & C be approved.” Roll call vote: Yeas: Loghry, Long, Schmitt, Smith, Benzel Nays: None Absent: England, Glenn, Sweetser Motion passed.

In other business, Schmitt asked about the status of the burned apartment building on Fort Sidney Road. Chief Building Official Hall stated that he will get in contact with Attorney Leef to see if he can propose imminent danger so the city can demo it. Schmitt stated that he is worried about the children in the area.

Schmitt asked about the stretch between the swimming pool and the ditch on Fort Sidney Road. Schmitt inquired about a sidewalk. City Manager Scott stated that he has designs and plans to fix that and is trying to find grants for that project. Scott stated that he realizes it is extremely important and suggested to the Planning Commission that they bring it up in the Master Comp Plan to City Council.

There were no further comments.

Meeting adjourned at 6:36 p.m.

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CHAIRMAN

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CITY CLERK

Sidney, Nebraska, September 6, 2022

A joint meeting for the purpose of the Master Comp Plan with City Council and Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 p.m. on September 6, 2022 at WNCC. Present were: Council: Marva Ellwanger, Brad Sherman, Burke Radcliffe. Planning Commission: Ben Schmitt, Bob Long, Caleb Sweetser, Doug Loghry, Matt Benzel Others present: City Manager David Scott, City Attorney J Leef and City Clerk Lori Borchert. Staff: Joe Aikens, Michael Palmer, Tom VonSeggern, Lane Kizzire. Notice of the meeting was given in advance thereof by publication in *The Sidney Sun Telegraph*, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the members of the City Council and Planning Commission. A copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Council Brad Sherman informed the public of the location of the posted Open Meetings Act.

Sherman opened the public meeting for Council at 5:35 pm. Schmitt opened the public meeting for the Planning Commission at 5:35 pm.

Amy Haase, AICP Project Manager for RDG Planning & Design, presented a power point. Haase stated the reason for this joint meeting was to get feedback as we are at the initial stages of planning. Haas continued, that a comprehensive plan should provide a basis of what is good for the community as a whole. It should ensure future growth that produces maximum economic benefit; that also provides a safe, convenient and effective access to all parts of a growing city as well as maintaining character and connectedness of the city as it grows. The comprehensive plan also ties to all the other systems, such as transportation, trails, parks, recreation and schools. The plan will also provide direction as to where we see commercial, residential and industrial going. Haase gave a tentative timeline of goals from July 2022 through March of 2023.

Schmitt asked if this plan would include areas that already have development on it. Haase responded that it would be a definite potential.

Haase asked for a word or phrase to describe Sidney today. Resilient, friendly, caring, potential, were a few of the descriptions of Sidney. Haase then asked to describe Sidney in the future. Growing, inclusive, engaging and diversified were suggested. Haase asked to describe the biggest threats to future growth/stability. Lack of housing, the workforce, age demographics and lack of recreation were some of the biggest issues. Haase asked what the biggest opportunities to future growth/stability were. Comments were location, infrastructure ready and willingness to grow.

Haase concluded by stating they will be back in October, the 12<sup>th</sup> and the 13<sup>th</sup> to do a workshop to get more feedback.

There were no further comments.

Sherman adjourned the Council Meeting at 6:36 pm

Schmitt adjourned the Planning Commission Meeting at 6:36 pm

\_\_\_\_\_  
/s/BEN SCHMITT, CHAIRMAN

\_\_\_\_\_  
ATTEST: /s/LORI BORCHERT, CITY CLERK


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**MEMORANDUM**

DATE: September 19, 2022

MEMO TO: Planning Commission

FROM: Marshall Hall, Chief Building Official

RE: Travis Arellano, Conditional use permit for plot, 32 14 49 PART N/2 N/2 LANDS INSIDE SIDNEY

**SUMMARY:** Travis Arellano is currently using a plot of land Zoned M1 for the dumping of roofing shingles. "Building Rubbish". (See attached Pictures).

**BACKGROUND/DISCUSSION:** August 26/22 Joe Aikens advised the building department that Travis Arellano is dumping demoed Shingles in a field off Elm Street, near the UP rail yard. Travis owns this parcel of property. Joe Aikens and Marshall Hall have had conversations in regard to the dumping of "Building Rubbish" (see definition (a) (Demoed Shingles) on Travis Arellano's site or, any other site. Dumping of "Building Rubbish" is Illegal and must be removed. We both agreed that our goal was to gain compliance with Travis rather than immediately prosecuting. Both Joe Aikens and Marshall Hall have had conversations with Travis as to why he is dumping "Building Rubbish" on this site. Travis explained that he going to recycle the materials. Travis Also has another plot of land at intersection CR 16 & CR 125 which he is storing "Building Rubbish" materials. Travis has explained to the County Sheriff as well that he is going to recycle those materials. (See Pictures). Joe Aikens and myself have asked Travis not to dump anymore rubbish on this site until the Planning Commission makes a decision about a conditional use. NOTE: Shingles are not classified as a Hazardous Material Per the NDEQ.

**RECOMMENDATION:** My recommendation is to deny the Conditional Use Application. My reasoning for this is threefold; Per City Ordinance definitions section 1240.03, require appurtenances which at this time are not in place. (See definitions below). 1) A recycling collection point is to be public, or a quasi- public area. 2) All Recycling Center work is to be done indoors. 3) Finally, see pictures of another one of Travis Arellano's collection points.

- (a) **BUILDING RUBBISH:** The term "building rubbish" shall mean all discarded or unwanted material or waste material from the construction, remodeling and repair operations on houses, commercial buildings and other structures including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and repairs.

**Ord. 1060.03 DESIGNATED LANDFILLS AND WASTE COLLECTION AREAS.**

- (a) Council, or the solid waste agency of which the City is a member, shall, by ordinance or resolution, designate a place or places, public or private, for the operation of a sanitary landfill to be used for the disposal of solid waste and other offensive or obnoxious substances.

(b) No person shall dump, deposit or otherwise dispose of any solid waste, hazardous waste, building rubbish, demolition debris, commercial or industrial waste, infectious waste or offensive or obnoxious substances within the corporate limits of the City upon any ground, premises or place other than a landfill or disposal facility licensed by the State of Nebraska or other State regulatory authority for the disposal of specific waste

(110) **Recycling center.** "Recycling center" means an establishment, place of business, or operation that collects and processes recyclable materials and scrap limited to paper, cardboard, aluminum, glass, plastic, metal, and similar household or business wastes. No hazardous material, as defined by State and Federal law, shall be accepted. No salvage material shall be stored or kept outside a building unless authorized by the Planning Commission. "Recyclable" shall mean suitable for any process of separating, cleaning, treating, and reconstituting waste or other discarded materials for the purpose of recovering or reusing the resources contained therein.

(111) **Recycling collection point.** "Recycling collection point" means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed. This facility shall generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

*This Picture is The Site off Elm st.*

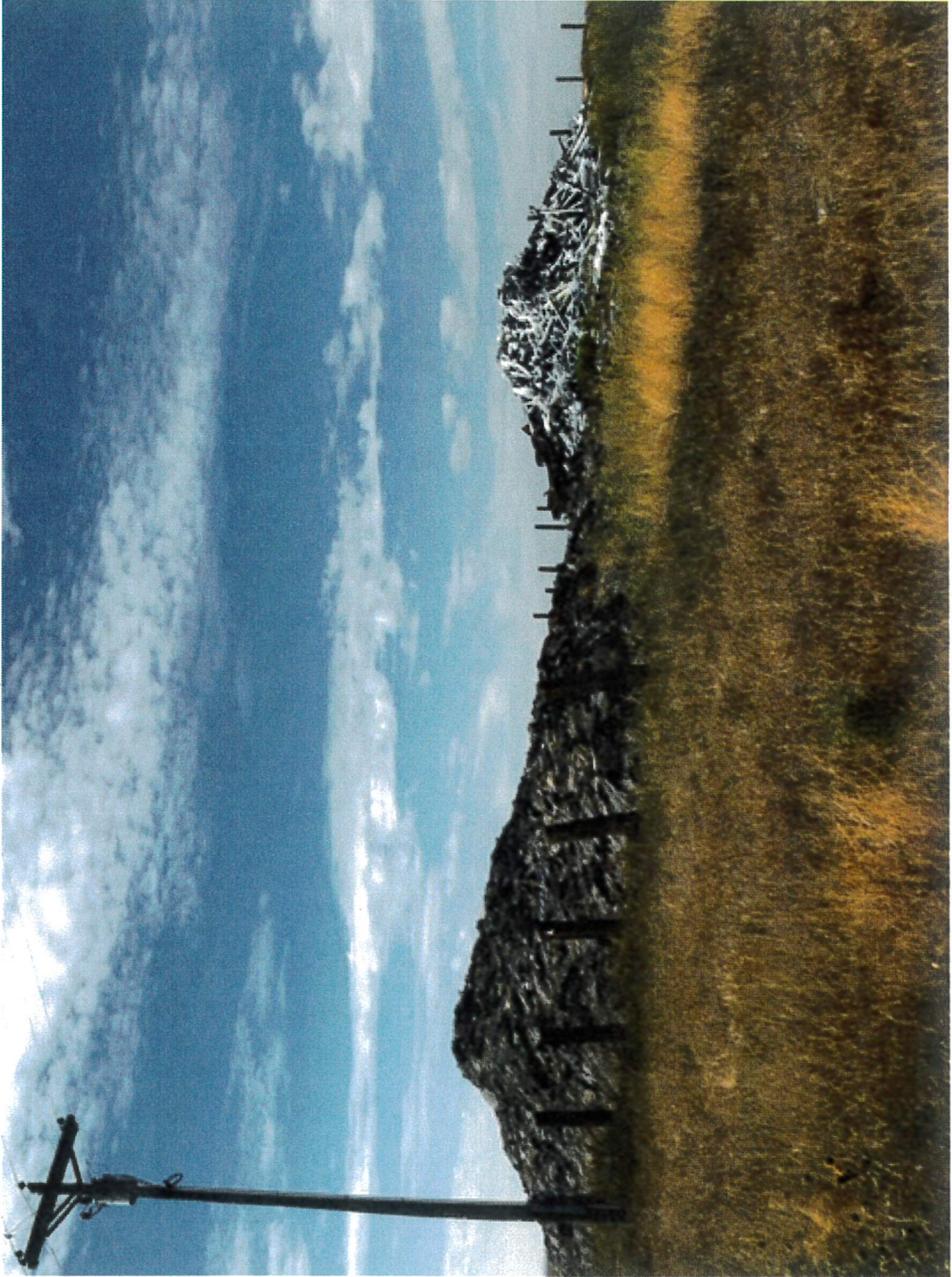


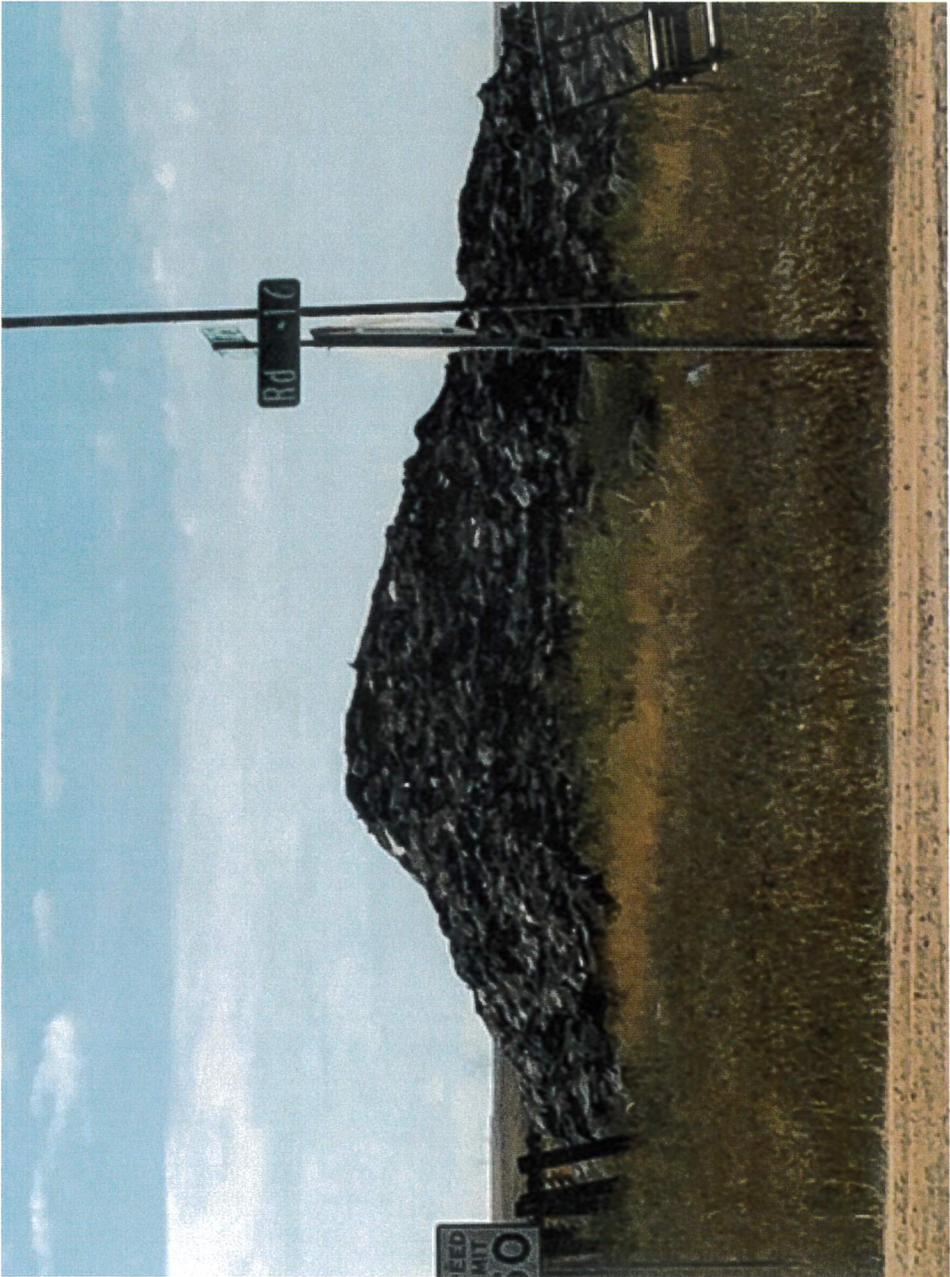
Sent from my iPhone

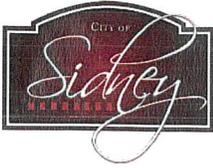
*Intersection @ CR 16 & CR 125*











# City of Sidney, Nebraska

1115 13th Avenue, P.O. Box 79, Sidney, NE 69162, (308-254-5300)

## APPLICATION FOR CONDITIONAL USE PERMIT

DATE: 9-12-22

Filing Fee: \$200.00

Receipt No.: \_\_\_\_\_

NAME OF OWNER(S): DreamLand Estates:LLC - Travis Arellano

ADDRESS OF OWNER(S): 2361 Whitetail Dr Sidney

ADDRESS OF CONDITIONAL USE PERMIT: see Attached page

LOT: \_\_\_\_\_ BLOCK: \_\_\_\_\_ ADDITION: \_\_\_\_\_

CURRENT ZONING: M1 ZONE THE USE IS PERMITTED: yes M1 w/CUP

DESCRIPTION OF USE: Store Shingles temporarily to be grinded down for recycling

STATE REASON OR REASONS WHY THE PERMIT SHOULD ISSUED:

Recycling A product that is just being dumped into the Landfill. RAS - Recycled Asphalt Shingles are being used as a road base and it also is burned into the Hot Asphalt roads like Highways

Phone number of Applicant/Owner: 249-5287

Travis Arellano  
Signature of Owner/Owners

Official Use Only \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_ CHAIRPERSON, PLANNING COMMISSION

\_\_\_\_\_ SECRETARY, PLANNING COMMISSION

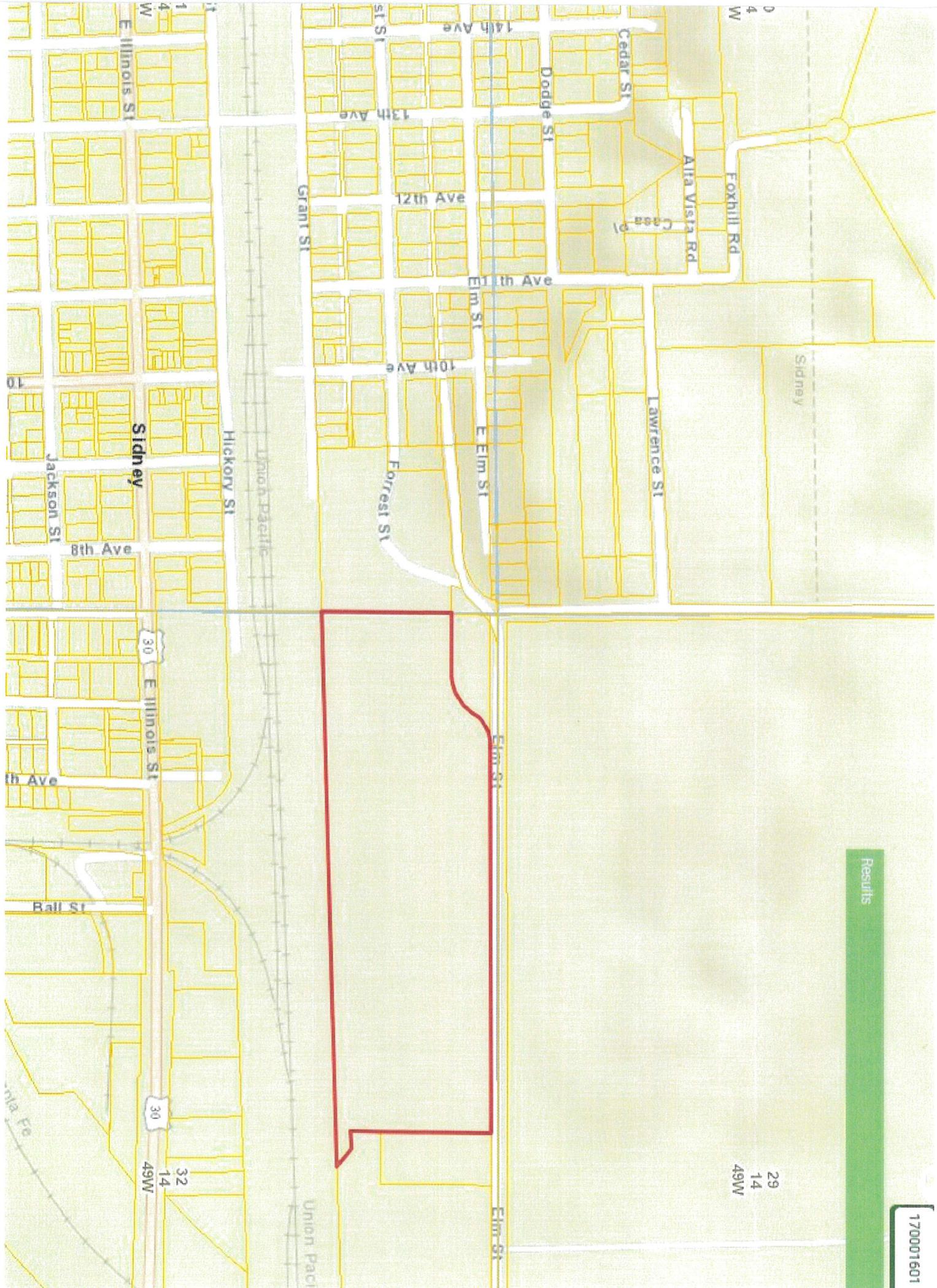
PERMIT No. ISSUED: \_\_\_\_\_

DATE PERMIT EXPIRES: \_\_\_\_\_

## EXHIBIT "A"

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 14 NORTH, RANGE 49 WEST OF THE SIXTH P.M., CHEYENNE COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 32; THENCE S89°51'36"E (ASSUMED BEARING) ON THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 533.88 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND DESCRIBED AND RECORDED IN DEED BOOK 148, PAGE 577 AND THE POINT OF BEGINNING; THENCE CONTINUING S89°51'36"E ON SAID NORTH LINE, A DISTANCE OF 1567.09 FEET; THENCE S01°14'28"E, PARALLEL WITH AND 50.00 FEET DISTANT FROM THE WEST LINE OF MUNSON'S SUBDIVISION, A DISTANCE OF 576.19 FEET; THENCE S89°43'19"W, A DISTANCE OF 1551.07 FEET; THENCE N83°41'27"W, A DISTANCE OF 442.10 FEET; THENCE N68°42'48"W, A DISTANCE OF 133.12 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER; THENCE N00°07'28"E ON SAID WEST LINE, A DISTANCE OF 279.77 FEET TO THE SOUTH LINE OF SAID PARCEL OF LAND DESCRIBED IN DEED BOOK 148, PAGE 577; THENCE N87°53'10"E ON SAID SOUTH LINE, A DISTANCE OF 247.79 FEET; THENCE NORTHEASTERLY ON THE EASTERLY LINE OF SAID PARCEL AND ON A 200.00 FOOT RADIUS CURVE TO THE LEFT, AN ARC DISTANCE OF 201.19 FEET, THE CHORD OF SAID CURVE BEARS N59°04'04"E, 192.81 FEET; THENCE NORTHEASTERLY ON SAID EASTERLY LINE AND ON A 140.00 FOOT RADIUS CURVE TO THE RIGHT, AN ARC DISTANCE 146.31 FEET, THE CHORD OF SAID CURVE BEARS N60°11'16"E AND A CHORD DISTANCE OF 139.74; THENCE N00°08'24"E ON SAID EASTERLY LINE, A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING, CONTAINING 25.80 ACRES, MORE OR LESS.

LD0238241



Results

29  
14  
49W

170001601

Arellano

RE: M1 Zoned parcel.

- D 15, "Sanitary landfill". Requires Special use application

(116) Sanitary landfill. "Sanitary landfill" means a solid waste disposal area on a discrete area of land or excavation which receives solid waste and includes all contiguous land and structures within the surveyed legal description of the permitted area, other appurtenances and improvements on the land used for the disposal of solid wastes or improvements necessary to carry out the disposal of solid wastes. Solid waste disposal areas shall include, but not be limited to the following disposal areas: municipal solid waste disposal areas, construction and demolition disposal areas, fossil fuel combustion ash disposal areas, industrial disposal areas, delisted hazardous waste disposal areas and land application units for repeated disposal or treatment of special wastes. (NE-DEQ, Title 132, Ch-1 Definition #120, 6/9/2008)

- F 22, " Recycling Collection Point". (allowed)

(111) Recycling collection point. "Recycling collection point" means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed. This facility shall generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

- G 17, Scrap and waste collection, processing and sales including all types of metals, plastic, paper, cardboard, glass and junk. (Requires Special use application and 8' class 6 fence) No proper definition for "Scrap and Waste". See below.

(117) Scrap metal processing facility. "Scrap metal processing facility" means any establishment or place of business which is maintained, operated, or used which has facilities and equipment for processing ferrous and nonferrous metals and scrap and whose principal product is nonferrous scrap for sale.

(118) Scrap metal processing. "Scrap metal processing" means compacting, cutting, chopping, grinding, shredding, shearing, baling, bundling, mechanical sorting or cleaning, or other work on ferrous and nonferrous metals and scrap that prepares a product suitable for sale and subsequent use as a raw material by a foundry or mill.

No definition for "Scrap and Waste".

- H 5. "Recycling Center". (Allowed).

(110) Recycling center. "Recycling center" means an establishment, place of business, or operation that collects and processes recyclable materials and scrap limited to paper, cardboard, aluminum, glass, plastic, metal, and similar household or business wastes. No hazardous material, as defined by State and Federal law, shall be accepted. No salvage material shall be stored or kept outside a building unless authorized by the Planning Commission. "Recyclable" shall mean suitable for any process of separating, cleaning, treating, and reconstituting waste or other discarded materials for the purpose of recovering or reusing the resources contained therein.

- H 3. "Construction storage". (q) A yard shall be enclosed with a minimum of a six foot Class Five fence to screen the contents of the yard from the general public.

No Definition for "Construction" or, "Construction Storage"

- K 17. "Solid waste disposal/sanitary landfill". (A) Requires Special use application.

See definition #116

## GENERAL DEFFINITIONS

### **Sidney, NE Sidney, NE Code of Ordinances**

...1060.01 DEFINITIONS. For the purpose of this chapter, the following definitions shall prevail: (a) BUILDING RUBBISH: The term "building rubbish" shall mean all discarded or unwanted material or waste material from the construction, remodeling and repair operations on houses, commercial buildings and other structures including, but not limited to, excavated earth, stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and repairs.

### **Sidney, NE Sidney, NE Code of Ordinances**

...(a) As used in this section, "litter" shall include, but not be limited to: (1) Building rubbish, as defined in Section 1060.01 (a), garbage, as defined in Section 1060.01 (e), refuse, as defined in Section 1060.01 (j), and solid waste, as defined in Section 1060.01 (m); (2) Wood, plaster, cement, brick, sheetrock or stone building rubble; (3) Lawn trimmings, dead leaves and tree and shrubbery trimmings, provided, however, that these things shall not be considered litter if they are in the process of being composted; and (4) Offal and dead animals.

## **Chain of events**

August 26/22

Joe Aikins advises the Building department that Travis Arellano is dumping Shingles in a field off of Elm Street near the UP rail yard.

September 9/22.

spoke with J Leef with regard to the definitions, non-permitted, and permitted uses. J Leef believes the Term "Construction Storage" is the closest fit. As there is no definition for "Construction "or "Construction Storage". (Leaves the discussion wide open).

September 9/22.

Spoke with Joe Aikins about the definitions with regard to Travis Arellano special use application. We discussed the term "Building rubbish", where it is to be disposed and locations not allowed.

September 12/22.

Travis Arellano submitted Special use application.

September 13/22

Called Travis to tell him to not use this site any longer as a dump site until a decision has been made with regard to his Conditional use application.

## Parcels

PID	OwnerName	PropertyAddress	OwnerAddress	LegalDesc
170179753	DAN'S AUTO & METAL LLC	227 EAST ELM STREET SIDNEY	C/O DAN MUNSON 1378 SOLANO DRIVE SIDNEY NE 69162-2477	32-14-49 LOT 1 BLOCK 1 S/D OF BLOCK 1 MUNSON'S S/D SIDNEY

## Sections

14	T	49W	R	32	SEC	633.26467	acres
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# Parcels

PID	OwnerName	PropertyAddress	OwnerAddress	LegalDesc
170170349	MISSOURI PACIFIC RAILROAD COMPANY MS YAN LIU, PROP. TAX DEPT		1400 DOUGLAS ST, STOP 1640 OMAHA NE 68179-1640	31-14-49 PT NE/4NE/4 LANDS INSIDE SIDNEY (IOLL)

# Sections

14	T	R	SEC	31	646.85527	acres
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# Parcels

PID	OwnerName	PropertyAddress	OwnerAddress	LegalDesc
170180727	ATC ACQUISITION LLC	151 EAST ELM STREET SIDNEY	700 OFFICE PARKWAY ST. LOUIS MO 63141-7105	32-14-49 LOT 2 BLOCK 1 S/D OF BLOCK 1 MUNSON'S S/D SIDNEY

# Sections

14	T	49W	R	SEC	32	633.26467	acres
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\$ 200<sup>00</sup>

# City Of Sidney

37879

Sidney, Nebraska

9/19

20 22

Received of Travis Arellano

Two hundred & 00/100 DOLLARS

For Permit (conditional use)

401/60301



City Cashier

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<b>TRAVIS ARELLANO</b>		82-136/1021	3765
<b>PREFERRED ROOFING, LLC</b>			
PH. 308-249-5287			
2361 WHITETAIL DRIVE		DATE <u>9-12-22</u>	
SIDNEY, NE 69162			
PAY TO THE ORDER OF	<u>City of Sidney</u>	\$ <u>200.00</u>	
	<u>two hundred &amp; 00/100</u>	DOLLARS	 Security Features Included. Details on back.
 <b>POINTSWEST</b> Community Bank	809 Illinois St., PO Box 167 Sidney, NE 69162 Ph. 308-254-7110		
MEMO <u>Permit</u>	<u>Travis Arellano</u>		
+ 102101360 10123149 3765			

+ planning  
+ zoning



SMALL TOWN VALUES

1115 13TH AVENUE PO Box 79  
SIDNEY NEBRASKA 69162

BIG TIME OPPORTUNITIES

PHONE (308) 254-5300 FAX (308) 254-3164  
www.cityofsidney.org

### REQUEST FOR FUTURE AGENDA ITEM

If you have a specific topic that you would like the City Council to consider at a future meeting, please list your name, address, telephone number and the specific topic and suggested solution. Written back up information is also encouraged. The item will be reviewed and possibly scheduled for a future meeting, or forwarded to City Staff for appropriate action.

Name: Victoria Lohry

Address: 840 9th Ave + 830 11th Ave

Telephone Number: 308-249-6288

Date of Request: Sept 26, 2022

Description of Requested Topic and suggested solution: Confusion of many aspects of city processes for business + buildings - solution clarification on enforcement and city codes

Signature: [Handwritten Signature]