

**Sheridan City Planning Commission
Meeting Agenda
June 13, 2022
7:00 PM, City Council Chamber, City Hall**

1. Call to Order and Roll Call of Members

2. Approval of Agenda as Presented

Motion by:

Second:

Vote:

3. Review, correction, and approval of minutes of the May 23, 2022 meeting.

Motion by:

Second:

Vote:

Old Business

New Business

4. Consideration of Ordinance 2250, regarding a Gambling Moratorium within the Downtown Development District.

Motion by:

Second:

Vote:

5. Consideration of PL-22-21, Ordinance 2253, Bender Rezone. The applicant, Hartland Enterprises, LLC and Scott Berber and Ayme Ahrens, are requesting to rezone 1.53 acres from M-1 Industrial District to R-3 Residence District. Located at 1700 Bender Lane. PIN 56843530001933.

Motion by:

Second:

Vote:

6. Comments from commissioners and staff.

7. Adjourn



MEMO

TO: Planning Commission

FROM:

RE: Review, correction, and approval of minutes of the May 23, 2022 meeting.

Motion by:

Second:

Vote:



MEMO

TO: Planning Commission
FROM: Wade Sanner, Community Development Director
RE: Consideration of Ordinance 2250, regarding a Gambling Moratorium within the Downtown Development District.

Staff Recommendation

Staff recommends a positive recommendation be sent to the City Council regarding Ordinance 2250, a Gambling Moratorium within the Downtwon Development District. (See attached staff memorandum.)

Attachments

Staff Memo
Zoning Map
Downtown Development District
Ordinance
Governor's Letter

TARVER, KERNS & BUNTING, LLP

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MEMORANDUM

Date: June 9, 2022
To: City Governing Body
RE: Ordinance 2250 – Gambling in the Sheridan Downtown

Over the last few years, the Wyoming Legislature has greatly expanded the availability of gambling within the State. The City of Sheridan has witnessed this expansion. Gambling is a unique economic enterprise, which often can evoke passions and opinions of citizens and businesses because it can fundamentally alter a community. Whether that change is for good or bad is not at issue or the reason for this proposed ordinance amendment.

The Sheridan Downtown has a unique character that is obviously the cultural heart of the City. Changes to that culture and character should be debated and discussed thoughtfully. The Mayor has requested that City staff propose an ordinance which would prevent gambling from fundamentally altering the character, nature and uniqueness of the Sheridan Downtown.

Municipalities are only granted the powers that have been given to them by the Legislature. Unfortunately, as the Legislature has expanded gambling, it has not provided municipalities with regulatory tools. This issue is highlighted by Governor Gordon in his letter which is included in your packet. As a consequence, the City can only regulate gambling through its zoning power.

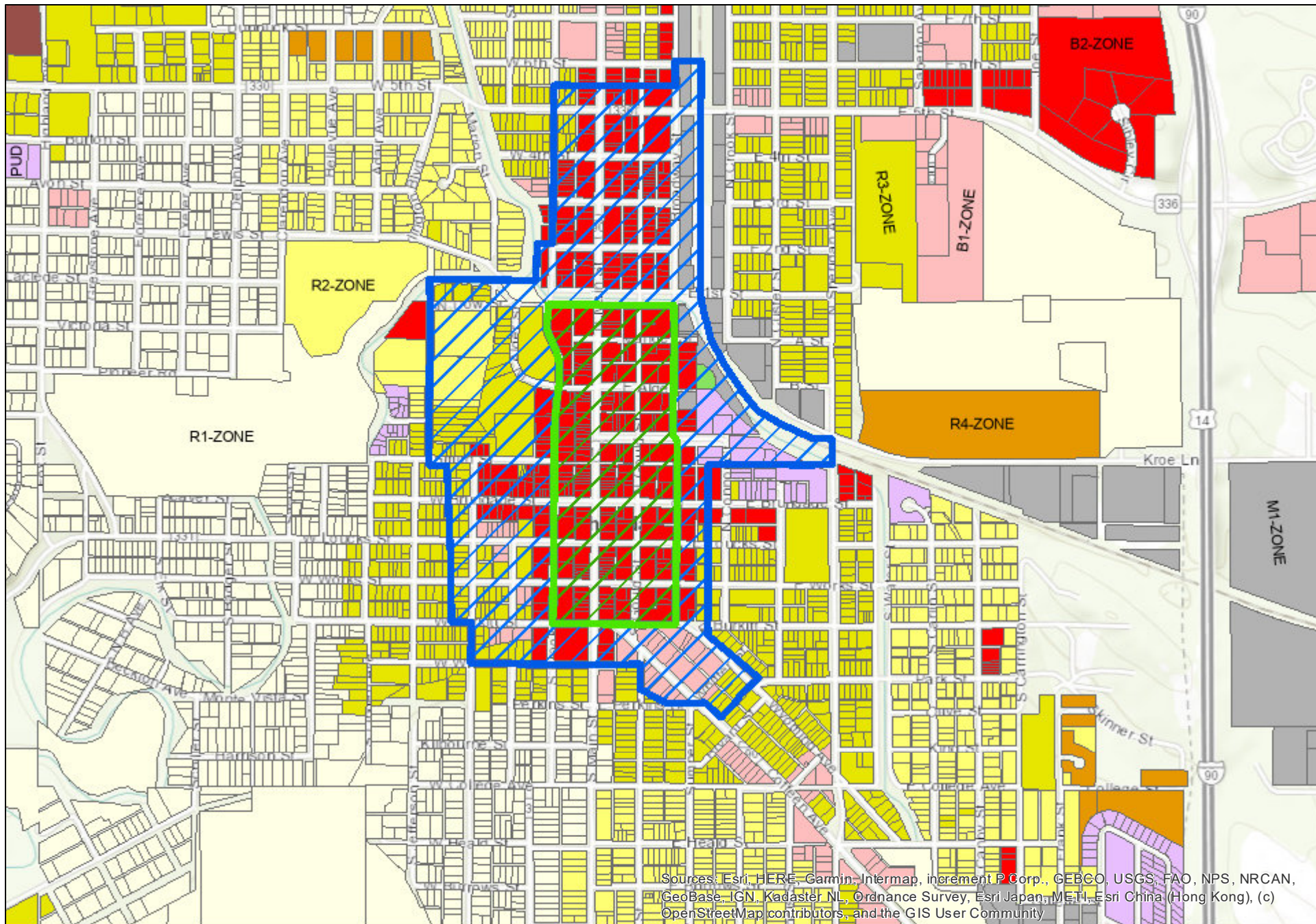
Ordinance 2250 is a proposed zoning change that would prevent gambling for B-1 zoned properties in the Downtown District and limit gambling to 6 devices in areas zoned B-2 in the Downtown District. B-1 and B-2 zoned properties outside of the Downtown District would be unaffected. None of the properties within the Downtown District would be in violation of this Ordinance and the State Gaming Commission has reported that they have no pending applications for Sheridan.

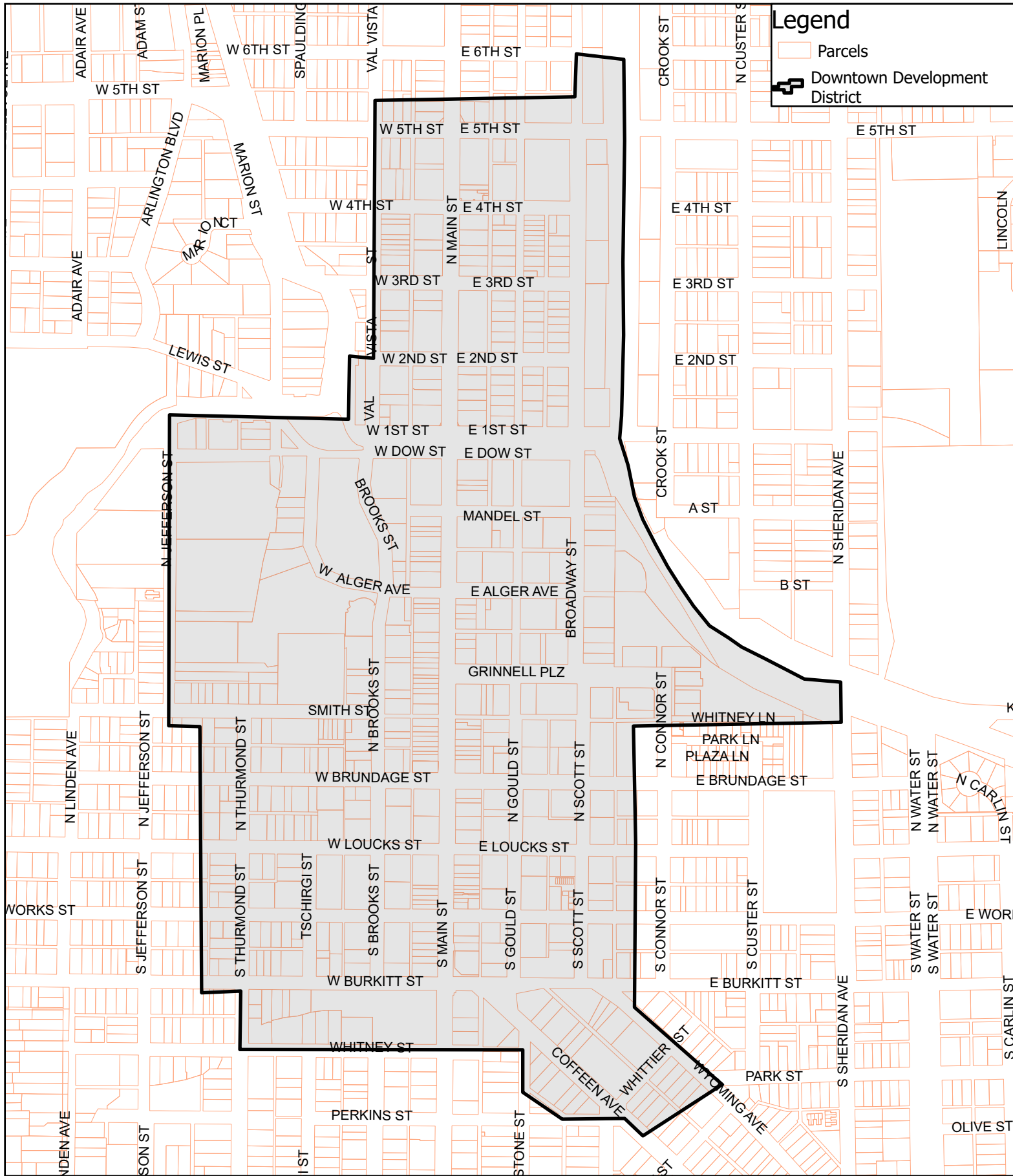
This Ordinance is only intended to be a 2-year moratorium. On December 31, 2024, the Ordinance would automatically expire unless Council approved a new ordinance. The purpose of the moratorium is to provide the Wyoming Legislature the opportunity to address this matter and to give City staff the ability to fully evaluate this issue. This freeze is intended to be temporary to allow everyone the opportunity to fully explore this issue and avoid an unfortunate situation of materially altering the Downtown District because of a lack of foresight.

TARVER, KERNS & BUNTING, LLP

A handwritten signature in blue ink, appearing to read "Brendon Kerns". The signature is fluid and cursive, with the first name "Brendon" being more prominent than the last name "Kerns".

Brendon E. Kerns





ORDINANCE NO. 2250

AN ORDINANCE ADOPTING PROVISIONS CONCERNING GAMBLING FOR APPENDIX A:

WHEREAS, the City of Sheridan recognizes that gambling, provides business opportunities for local entrepreneurs, and encourages economic activity in our community; and

WHEREAS, the Wyoming legislature has continued to expand the types of gambling allowed in Wyoming which the City of Sheridan anticipates will continue; and

WHEREAS, the Wyoming legislature has not granted Wyoming municipalities any special powers to regulate gambling within their jurisdictions and therefore is limited to addressing gambling within the context of zoning district approved uses; and

WHEREAS, the City of Sheridan Ordinances do not specify in which zoning districts gambling is appropriate; and

WHEREAS, the City of Sheridan recognizes that the Sheridan Downtown Development District has a unique character and differentiates it from other similarly zoned areas within the City.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SHERIDAN, WYOMING:

That Appendix A, Section 2 Definitions shall be amended to be included within the alphabetical order:

Gambling. Means risking any property for gain, contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, pari-mutuel event, pari-mutuel wagering, or skill based amusement game over which the person taking a risk has no control, excepting for any exclusions provided by W.S. § 6-7-101(a)(iii)(B through H and K).

Gaming or Gambling Device. Means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine;

That Appendix A, Section 7 B-1 Business District shall be amended to include the following:

D. *Gambling*. Gambling as defined in Appendix A Section 2 of the City of Sheridan Code is prohibited within the Downtown Development District as established by Ordinance 2-74.

1. Sunset. This prohibition shall terminate and be removed from City Code on December 31, 2024 without any further action required by the City Governing Body.

That Appendix A, Section 8 B-2, Subsection A Business District shall be amended to include the following:

A. *Use Regulations*. Any use shall be permitted except the following:

1. Acetylene gas manufacture or wholesale storage.
2. Acid manufacture.
- 2a. Adult Oriented Business. No permit shall be issued for the placement of an adult oriented business unless and until it conforms to all of the criteria of City Ordinance Appendix A, Section 10, Subsection 21.
3. Ammonia, bleaching powder or chlorine manufacture.
4. Arsenal.
5. Asphalt manufacture or refining. Paving mixture plant.
6. Blast furnace.
7. Bag cleaning.
8. Boiler works.
9. Brick, tile or terra cotta manufacture.
10. Cement, lime, plaster of Paris or gypsum manufacture.
11. Central mixing plant for cement, mortar, plaster or concrete.

12. Creosote treatment or manufacture.
13. Disinfectants manufacture.
14. Distillation of bones, coal or wood.
15. Dyestuff manufacture.
16. Explosives or fireworks manufacture or storage.
17. Exterminator and insect poison manufacture.
18. Fat rendering.
19. Fertilizer manufacture.
20. Forge plant.
21. Garbage, offal or dead animals incinerations, reduction or dumping.
22. Gas manufacture or storage, drilling or production.
23. Glue, size or gelatin manufacture.
24. Iron, steel, brass or copper mill.
25. Junk, used material, auto wrecking, salvage, paper, scrap, bottles or rags, baling or storage except where such activities are conducted wholly within a building.
26. Mills, feed or flour.
27. Oiled goods manufactured from raw materials.
28. Ore reduction or smelting.
29. Paint, oil, shellac, turpentine or varnish manufacture.
30. Paper and pulp manufacture.
31. Petroleum and its products, refining or wholesale storage.
32. Rubber or gutta percha manufacture or treatment.
33. Shoe polish manufacture.
34. Soap manufacture.

35. Soda and compound manufacture.
36. Slaughter and dressing of animals, but not including poultry and rabbit dressing.
37. Stockyards.
38. Tallow, grease or lard manufacture or refining including processing of animal fat.
39. Tanning, curing or storage of raw hides or skins.
40. Tar distillation or manufacture.
41. Tar roofing or waterproofing manufacture.
42. Vinegar manufacture.
43. Wool pulling or scouring.
44. Yeast plant.
- 44a. Crematorium for human remains.

45. And those uses which may be, and as ordinarily operated generally, are obnoxious or offensive by reason of emission of odor, dust, smoke or noise.

46. *Gambling.* Gambling as defined in Appendix A Section 2 of the City of Sheridan Code, shall be allowed provided that no establishment within the Downtown Development District as established by Ordinance 2-74 has more than 6 gambling devices.

a. This prohibition shall terminate and be removed from City Code on December 31, 2024 without any further action required by the City Governing Body.

WHEREUPON, a motion was passed and this Ordinance and was declared adopted this _____ day of _____, 2022.

CITY OF SHERIDAN, WYOMING

Mayor

ATTEST:

City Clerk

FIRST READING: _____

SECOND READING: _____

THIRD READING: _____

PUBLISHED: _____

EFFECTIVE THE DAY OF , 2022.



March 10, 2022

The Honorable Dan Dockstader
President of the Wyoming Senate
Wyoming Senate
200 W. 24th Street, Capitol Building, E201
Cheyenne, Wyoming 82002

Re: 2022 Senate Enrolled Act 14 – Wyoming Gaming Commission-scrivener error correction.

Dear President Dockstader:

Through Senate Enrolled Act 14, Wyoming's 66th Legislature adopted a much needed correction to 2021 Wyoming Session Laws, Chapter 109 (2021 Senate File 56). The 2021 law was intended to lift the sunset date on the Legislature's 2020 authorization of skill games while retitling and expanding the membership of the Parimutuel Commission and its scope to include skill games present in the state at the time. Instead unfortunately, the 2021 law unwittingly repealed the statute that created the Gaming Commission. I appreciate the 66th Legislature's attention and subsequent swift action to correct the portion of this error relating to the membership and naming of the Gaming Commission through Senate Enrolled Act 14.

I am, however, disappointed that the Legislature did not introduce a bill this session to limit the expansion of skill game expansion across the state to those that were contemplated in the 2020 session bill. The plain language of 2021 Wyoming Session Laws, Chapter 109 allows new skill game applicants to seek licensure from the Gaming Commission. Moreover, as long as the statutory criteria is met by the applicant, the Gaming Commission must grant such licensure. The 66th Legislature never expressly considered the question of expansion even though reportedly there are several opinions on this topic.

During our multiple meetings on this issue, some legislators advised that in adopting 2021 Wyoming Session Laws, Chapter 109, they did not intend to bring more skill games into the state. Other legislators, however, advised that the law's plain language accurately reflected their intent to open up skill game licensure to new applicants. I had hoped – and would have appreciated – the Legislature's consideration of a statutory amendment imposing a maximum cap on the number of skill game machines lawfully able to operate in Wyoming; but no such

amendment was considered this session. Such an amendment would have either succeeded or failed thereby indicating the will of the Legislature on this topic.

I am left with an incomplete solution to this question of expansion. Thus, I must conclude: if the legislative intent to expand skill games were unclear before, it no longer is. By adopting in 2021 the plain language authorizing new skill game applicants to seek and obtain licensure - and by failing to even consider alternative language this session - the Legislature, as a body, clearly intended to allow the number of skill game licensees to grow.

Although I personally do not agree with the policy to further expand skill games in Wyoming without giving local jurisdictions at least some say in the matter, I recognize that I must nonetheless sign Senate Enrolled Act 14. My failure to do so would result in a chaotic outcome, at best resetting the clock and at worst enabling skill games and online sports betting to be present in Wyoming but without an appropriate regulatory body to oversee their operations.

I would like to once again express my hope that in future sessions, the Wyoming Legislature will reassess whether a limit on the number of skill game operators, vendors, and machines should be imposed, or if local governments should have the authority to prohibit skill games in their jurisdiction. That future discussion will be especially needed as we witness the growth of skill games and gambling expand over the course of the next year. To default into such a posture vis-à-vis gaming without a substantive legislative discussion related to expansion in this session is truly a disappointment.

Sincerely,



Mark Gordon
Governor

MG:rm:kh

cc: Ellen Thompson, Chief Clerk



MEMO

TO: Planning Commission
FROM: Wade Sanner, Community Development Director
RE: Consideration of PL-22-21, Ordinance 2253, Bender Rezone. The applicant, Hartland Enterprises, LLC and Scott Berber and Ayme Ahrens, are requesting to rezone 1.53 acres from M-1 Industrial District to R-3 Residence District. Located at 1700 Bender Lane. PIN 56843530001933.

Staff Recommendation

Staff recommends the Planning Commission send a positive recommendation to the City Council regarding PL-22-21, Ordinance 2253, the Bender Rezone. The applicant, Hartland Enterprises, LLC and Scott Berber and Ayme Ahrens, are requesting to rezone 1.53 acres from M-1 Industrial District to R-3 Residence District. Located at 1700 Bender Lane (PIN 56843530001933).

Findings of Fact

Neither state statute nor City Code contains required findings that must be made in changing a property's zoning designation. State statute does provide some requirements for zoning regulations in general, which the Planning Commission and City Council should be aware of:

WS §15-1-601(d)

d) All regulations shall be made:

In accordance with a comprehensive plan and designed to:

- A. Lessen congestion in the streets;*
- B. Secure safety from fire, panic and other dangers;*
- C. Promote health and general welfare;*
- D. Provide adequate light and air;*
- E. Prevent the overcrowding of land;*
- F. Avoid undue concentration of population; and*
- G. Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements.*

- ii. With reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses;*
- iii. With a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city or town; and*
- iv. With consideration given to the historic integrity of certain neighborhoods or districts and a view to preserving, rehabilitating and maintaining historic properties and encouraging compatible uses within the neighborhoods or districts, but no regulation made to carry out the purposes of this paragraph is valid to*

the extent it constitutes an unconstitutional taking without compensation.

The Preamble of the City's Zoning Ordinance (Appendix A) states that the purpose of the zoning ordinance is to, *"promoting the health, safety, morals and general welfare of the inhabitants of the City of Sheridan by lessening congestion in the streets; securing safety from fire, panic and other dangers providing adequate light and air; preventing the overcrowding of land; avoiding the undue concentration of population, facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements."*

The future land use map designates this area as right on the border of commercial and residential uses, so the proposed rezone is in accordance with the future land use map. It is important to note that the City would like to see the south part of Sheridan Avenue transition from industrially zoned properties to commercial and residentially zoned properties, more conducive with the existing land uses.

Background

The applicants, Hartland Enterprise, LLC, Scott Berber and Ayme Ahrens, are requesting to rezone 1.53 acres from M-1 Industrial District to R-3 Residence District on the property located at 1700 Bender Lane (PIN 56843530001933).

The property is bordered to the west by a large-lot single-family home zoned M-1, to the south a large-lot single-family home zoned M-1, to the east two single-family homes zoned M-1, and to the north by Little Goose Creek. The property at one time contained a number of mobile homes, but these mobile homes have been removed in the last few years, and the property is currently vacant. The applicant is proposing to rezone the property from the M-1 Industrial District to the R-3 Residence District.

It is important to note that though the property is not adjacent to residentially zoned properties, the M-1 zone is not in line with the future land use map, which designates this area as a transition from residential to commercial. The proposed rezone is more in compliance with the future land use map.

As part of the request to rezone this property, staff sent notices to the 10 property owners within 300 feet, placed a legal notice in the newspaper, and posted a sign on the property. At the time of writing this staff report, no inquiries or comments were received by staff. The applicant has been in consistent talks with the adjacent property owners.

Attachments

Petition

aerial

exhibit

PETITION FOR REZONING

TO THE CITY COUNCIL OF THE CITY OF SHERIDAN, WYOMING:

Pursuant to the provisions of W.S. 15-1-601, 15-1-602, 15-1-603 et. seq., and other applicable statutes, and Appendix A, Sec. 16 of the Sheridan City Code, the undersigned landowner(s) respectfully petition and show the City Council as follows:

1. This is a petition for the rezoning of parcels of land within the city limits of Sheridan, Wyoming, having a legal description as follows:

A tract of land in the NW1/4SW1/4 of Section 35, Township 56 North, Range 84 West of the 6th Principal Meridian, Sheridan County Wyoming, more particularly described as follows:

Beginning at a point which bears N27°05'52"E, 1477.93 feet from the southwest corner of said Section 35; Thence N02°50'35"E, 258.37 feet; thence S68°24'51"E, 47.74 feet; thence S86°43'33"E, 70.66 feet; thence N62°43'00"E, 91.92 feet; thence S00°09'34"W, 19.35 feet; S89°50'29"W, 54.98 feet; thence S00°20'31"W, 296.91 feet; thence N89°48'34"E, 262.72 feet; to the point of beginning.

Containing 1.53 acres more or less.

2. Hartland Enterprises, LLC, Scott Gerber, and Ayme Ahrens are the owners or authorized agents of said described land proposed to be rezoned.

3. A map of the area sought to be rezoned is attached hereto and made a part hereof.

4. Petitioners hereby request that said lands be zoned R-3.

Therefore, Petitioners pray said parcel(s) be rezoned R-3, pursuant to and in accordance with the applicable Wyoming Statutes and City Ordinances after proper notice and public hearing.

Dated this 19th day of October, 2021

Signed by the Petitioners:

Sam E. Ahrens

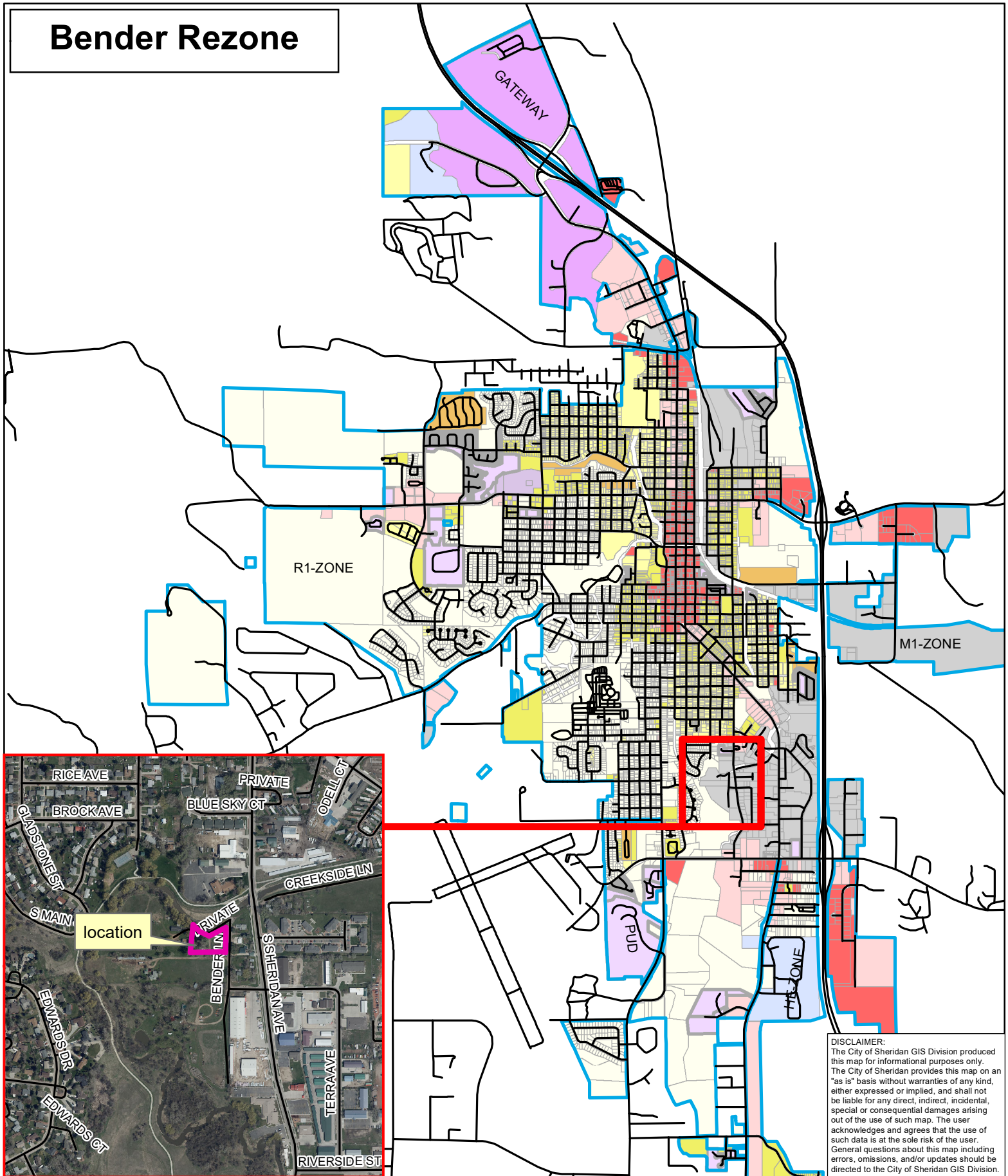
Ayme Ahrens

Subscribed and Sworn before me this 19th day of October, 2021.



Cheri R. Fry
Notary Public
My Commission Expires: July 1, 2024

Bender Rezone



DISCLAIMER:
The City of Sheridan GIS Division produced this map for informational purposes only. The City of Sheridan provides this map on an "as is" basis without warranties of any kind, either expressed or implied, and shall not be liable for any direct, indirect, incidental, special or consequential damages arising out of the use of such map. The user acknowledges and agrees that the use of such data is at the sole risk of the user. General questions about this map including errors, omissions, and/or updates should be directed to the City of Sheridan GIS Division.

Legend	
— Roads	B2 - Business District
— City of Sheridan Boundary	M1 - Industrial District
R1 - Residence District	MA - Medical Arts District
R2 - Residence District	HE - Higher Education District
R3 - Residence District	RUCA - Restricted Use Control Area
R4 - Residence District	PUD - Planned Unit Development
B1 - Business District	GATEWAY - Gateway District



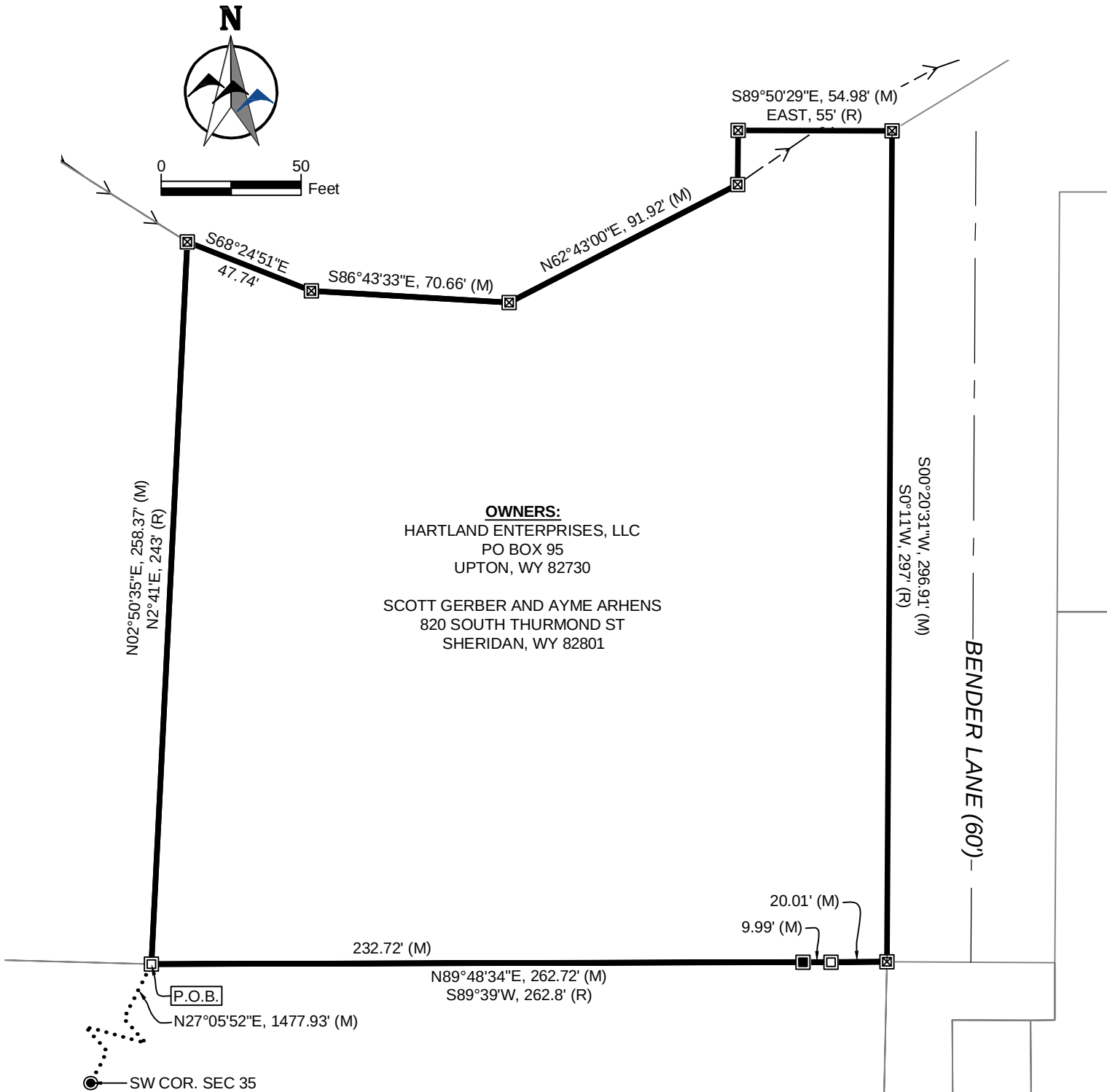
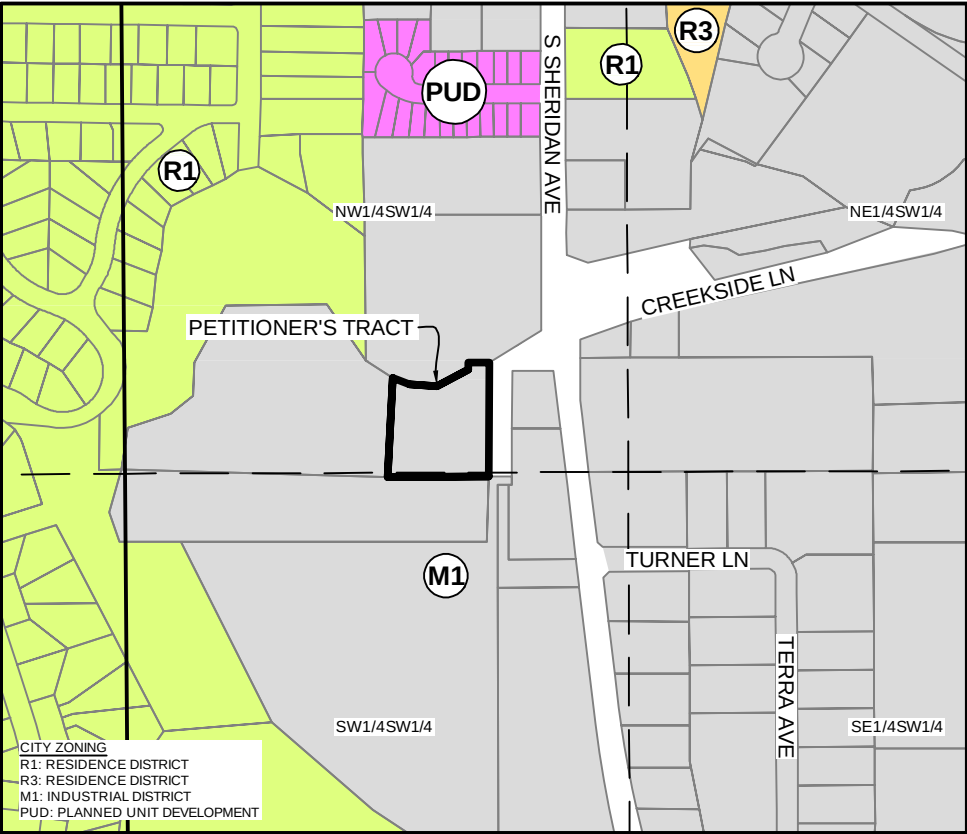
0 0.275 0.55 1.1 Miles

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LEGAL DESCRIPTION

A tract of land located in and being a portion of the NW1/4SW1/4 of Section 35, Township 56 North, Range 84 West of the 6th Principal Meridian, Sheridan County Wyoming, being more particularly described by metes and bounds as follows:

Beginning at a point from which the southwest corner of said Section 35 bears S27°05'52"W, 1477.93 feet; thence N02°50'35"E, 258.37 feet, more or less, to a point in the thread of Little Goose Creek; thence along the thread of Little Goose Creek for the next 3 calls, S68°24'51"E, 47.74 feet; thence S86°43'33"E, 70.66 feet; thence N62°43'00"E, 91.92 feet; thence leaving said thread, N00°09'34"E, 19.35 feet; thence S89°50'29"E, 54.98 feet, more or less, to the extension of the west line of Bender Lane; thence along the west line of Bender Lane, S00°20'31"W, 296.91 feet; thence N89°48'34"E, 262.72 feet, more or less, to the Point of Beginning and contains 1.53 acres, more or less, and is subject to any and all easements, rights-of-way, reservations, and other encumbrances that have been legally acquired.

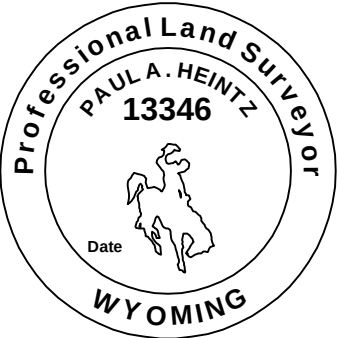


CURRENT ZONING WITHIN 1000' OF PETITIONER'S TRACT
1" = 500'

- CALCULATED CORNER
- SET REBAR WITH ALUMINUM CAP PLS #13346
- RECOVERED ALUMINUM CAP
- PETITIONER'S TRACT
- PROPERTY LINE
- ROAD CENTERLINE
- LITTLE GOOSE CREEK CENTERLINE

CERTIFICATE OF SURVEYOR

I, PAUL A. HEINTZ, A PROFESSIONAL LAND SURVEYOR LICENSED UNDER THE LAWS OF THE STATE OF WYOMING, HEREBY CERTIFY THAT PLAT HEREON WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION FROM A SURVEY COMPLETED AUGUST 2021 AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



PREPARED BY:
WWC ENGINEERING
1849 TERRA AVE.
SHERIDAN, WY 82801
(307) 672-0761
www.wwcengineering.com

PROJECT NO.: 2021-115

SCOTT GERBER

REZONE APPLICATION EXHIBIT
NW1/4SW1/4, SECTION 35, T.56N., R.84W.,
SHERIDAN COUNTY, WYOMING

DESIGNED BY: TLG
DRAWN BY: CIG
CHECKED BY: JPC
DATE: 5/11/22

SHEET
1