



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission Meeting of 23 FEBRUARY 2016 Public Hearing No. 2

Analyst: Robert Hobbs

Applicant(s)/Engineer(s):

Tonya Ouckama

File(s): CUP 2132-16

Requested Action Approval(s) and Location:

1. Conditional Use Permit Approval:

To [pre]authorize a "non-commercial kennel license" for three (3) dogs to be kept as pets...

Pertaining to:

Property [land] addressed as 1929 W. Moose Creek Drive in Nampa in a RS 6 (Single-Family Residential, 6,000 sq. ft. min. lot size) Zone (being a .13 acre lot of land within a portion of the NW ¼ of Section 32, T3N, R2W and further identified as Lot 23 of Block 14 of Fall River Estates Subdivision (hereinafter the "Property"))...

CONDITIONAL USE CONCLUSIONS OF LAW

Relevant **Conclusions of Law** for a/this Conditional Use Permit hearing item:

- A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.**

- B. That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.**

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

COMMENTARY

Cities and counties in this country have for the past 100 or so years adopted and then administered zoning laws. Such laws, colloquially termed “codes”, are designed, in part, to help ensure orderly community population and structural growth, predictability of development rules, the upholding of property values, protection of the public’s health, safety and welfare, fair regulation of land use, and so forth. The level of detail of any such code, and, its aptitude in balancing the vested rights of individual property owners with those of their neighbors, varies from jurisdiction to jurisdiction.

Idaho, in the 1970s, adopted a set of laws to generally govern land use and development in the state. Said laws are collectively titled the “Local Land Use Planning Act” (I.C. 67-6501 et al). At the time of adoption, it was provided that cities and counties could choose to enact their own set of zoning laws and empower planning and/or zoning commissions to make certain land use related decisions. Nampa adopted a zoning ordinance many years ago and both renewed and revamped its ordinance in 1971. Since that time, varying amendments to the same have been passed into law. Commensurate with other zoning ordinances, Nampa identifies a number of possible land use types and establishes the permissibility of those uses within given land use districts (zones) that overlay the community. Uses thus may be deemed as permitted/allowed by right, not allowed/prohibited, or, allowed upon issuance of a “Conditional Use Permit” (N.C.C. § 10-25).

Conditional Use Permits (CUPs) are a common implement used by zoning codes and authorities to facilitate review of a given (or proposed) land use in a proposed location to ascertain the use’s perceived [future] compatibility with neighboring land uses as considered from a variety of view points and based upon a number of determined facts. Conditional Use Permits commonly invoke some form of formal review by a city or county, often requiring at least one public hearing. Nampa requires a public hearing to review those land uses that require Conditional Use approval (N.C.C. § 10-25-14).

A hearing allows vetting of any concerns of the public, the governing jurisdiction’s departments, or that of outside agencies. Such a hearing is used in part to discover land use related impacts that may stem from the proposed use and, if necessary, to levy any reasonable mitigations perceived necessary to keep the proposed use and the environment around in harmonious co-existence.

The care and keeping of more than two (2) dogs by any household in Nampa in a RS 6 Zone requires possession of a Conditional Use Permit (N.C.C. § 10-3-2, § 10-8-3). Ordinance No. 2729?, codified about a decade ago, allowed more than two (2) dogs to be kept on a property, provided a CUP was first granted to an applicant (as a sort of concessionary code change to try and make Nampa’s animal related zoning laws more flexible). Note that the care and keeping of more than two (2) dogs as pets is construed to create a “non-commercial” kennel. Keeping of more than two (2) dogs for business purposes (e.g., breeding and selling the animals) is defined as a “commercial kennel”. Non-commercial kennels may be considered in residential zones like RS 6; whereas, commercial kennels may not.

With respect to the request at hand, Staff would suggest that in considering this request that the Applicant, and any neighbors that attend the hearing, be asked by the Commission about the following matters or concerns:

1. Any past problems respecting limiting accumulation of solid waste on the premises (Title 3-4-7); and,
2. Any past problems with the animals chasing vehicles, bothering pedestrians, or trespassing onto private property; and,
3. Any past problems with barking issues...

The Commission should also remind the Applicant that the proposed animal quantity shall be capped at three (3) -- unless deemed otherwise by the Commission, as the animals are not fixed...

ABBREVIATED FINDINGS

1. Surrounding Zoning/Land Uses: Refer to attached Vicinity Map; immediate area is predominantly composed of single-family residences and is zoned RS 6; and,
2. The Property and surrounds were platted circa 2005; and,
3. Staff has provided the Commission with all of the information we have regarding the application according to what was submitted; and,
4. The Applicant seeks permission to keep more than two (2) dogs as pets on the Property; and,
5. The care and keeping of more than two (2) dogs as pets on a property within Nampa City is classified as a non-commercial kennel operation; and,
6. Non-commercial kennels in a RS 6 Zone require Conditional Use Permit approval to be held as legitimate; and,
7. The Applicant of this action has submitted a Conditional Use Permit (CUP) Application to seek approval to have a non-commercial kennel; and,
8. The City has deemed the CUP Application complete and received in the same for processing, review and decision; and,
10. Comments opposing the request have not been received from the public, other City departments/divisions or outside agencies; and,
11. City Staff have reviewed the CUP application and find possible warrant for the requested permit given that:
 - a. No opposition to the request has thus far been noted; and,
 - b. The City has approved other requests of a similar nature in similar circumstances; and,

- c. No complaints have been noted as having been received regarding the care and keeping of animals on/at the Property from Code Enforcement, Nampa Police or Animal Control; and,
- d. The Property's rear and side yards are fully enclosed with six foot (6') high solid screen fencing; and,
- e. The dogs proposed to be kept on site are all small statured as noted in the CUP application...

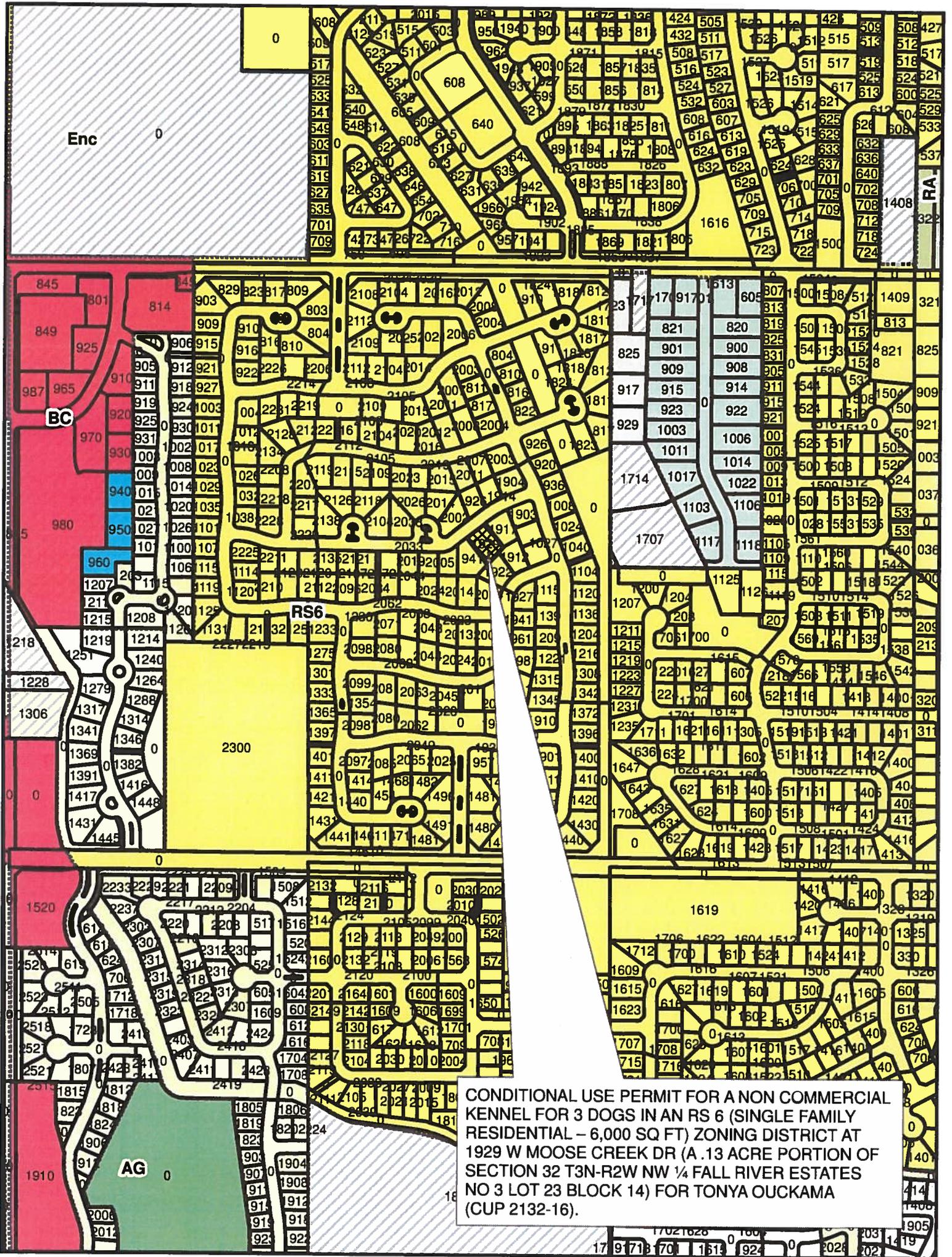
RECOMMENDED CONDITIONS OF APPROVAL

Should the Commission vote to approve the requested Conditional Use, Staff would then recommend that the Commission consider imposing the following Condition(s) of Approval against the use/Applicant:

1. The Applicant shall maintain their yard free from the accumulation of dog feces; and,
2. The Applicant shall prevent the dogs from excessively barking so as to constitute a nuisance to the neighbors; and,
3. That three or more citations issued against the Applicant by Animal Control officers be considered sufficient grounds to revoke the Conditional Use Permit, and render the same; and,
4. The animals shall be controlled so as to not run at large off the property; and,
5. The number of dogs allowed shall be no more than three (3); and,
6. That the Conditional Use Permit is issued to the Applicant only and is non-transferable to another party; and,
7. Any other conditions determined necessary by the Planning Commission following the public hearing.

ATTACHMENTS

- Zoning and location Vicinity Map
(page/Exhibit 5)
- Copies of CUP application/any agency correspondence/any citizen correspondence/aerial and street view photos of Property, etc.
(pages/Exhibits 6+)



CONDITIONAL USE PERMIT FOR A NON COMMERCIAL KENNEL FOR 3 DOGS IN AN RS 6 (SINGLE FAMILY RESIDENTIAL – 6,000 SQ FT) ZONING DISTRICT AT 1929 W MOOSE CREEK DR (A .13 ACRE PORTION OF SECTION 32 T3N-R2W NW ¼ FALL RIVER ESTATES NO 3 LOT 23 BLOCK 14) FOR TONYA OUCKAMA (CUP 2132-16).



2/23 PZ
Roh CRT

Application for Conditional Use Permit

City of Nampa, Idaho

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This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by the appropriate fee of \$234.00 (1 acre or less) or \$463.00 (more than 1 acre).

Name of Applicant/Representative: Tonya Ouckama Phone: 208 442 - 8578

Address: 1929 W. Moose Creek Dr City: Nampa State: ID Zip Code: 83686

Applicant's interest in property: (circle one) Own Rent Other

Owner Name: Gavin and Tonya Ouckama Phone: 208-442-8578

Address: 1929 W. Moose Creek Dr City: Nampa State: ID Zip Code: 83686

Address of subject property: 1929 W. Moose Creek Dr Nampa ID 83686

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement.

Subject Property Information

(Please provide the following REQUIRED DOCUMENTATION to complete the CUP):

Original Legal description of property AND a legible WORD formatted document. (Must have for final recording)
Old or illegible title documents will need to be retyped in a WORD formatted document

OR, Subdivision Fall River Estates Lot 23 Block 14 Book 36 Page 1

A sketch drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas, preliminary or final building plans and building elevations, together with any other information considered pertinent to the determination of this matter.

Project Description

State (or attach a letter stating) the reason for the proposed Conditional Use Permit: is to be able to apply apply for non commercial kennel license for three small shitzu - one 8lbs, one 7lbs and one 5.5lbs - 95% indoor dogs

Length of time requested for the Conditional Use Permit: 0 Months and/or 10 Years.

Date conditional use is expected to begin after permit is granted: 03/01/2016

Please note: Conditional use permits expire if not used within six (6) months after granting.

Dated this 15th day of Jan., 2016

Signature of applicant

Notice to Applicant

This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and it shall be granted or denied. Notice of public hearing must be published in the Idaho Press-Tribune 15 days prior to said hearing. Notice shall also be posted on the premises not less than 1 week prior to the hearing. Hearing notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearing and should be present to answer any questions.

If a Conditional Use Permit is granted by the Planning Commission it shall not become effective until after an elapsed period of 15 days from the date of Planning Commission action. During this time any interested person may appeal the action to the City Council. You will be notified of any pending appeals.

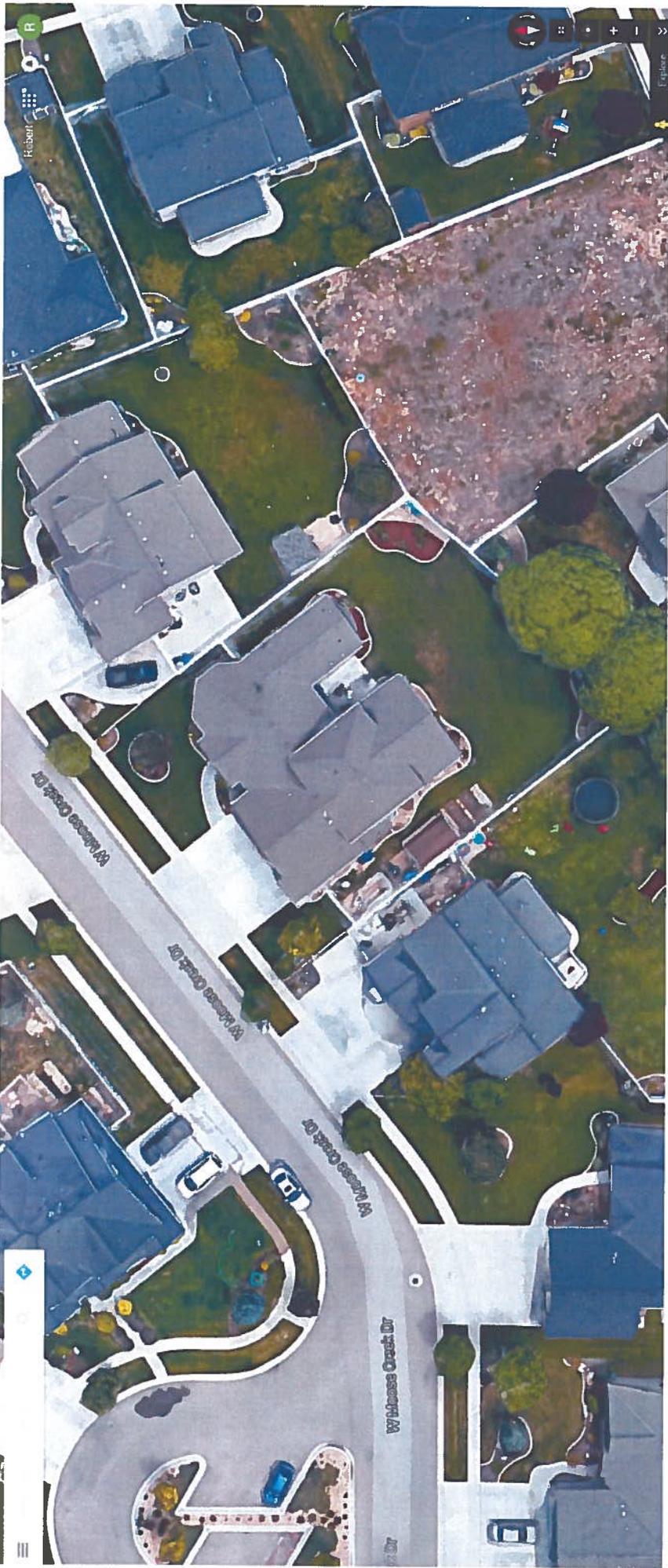
If the conditional use permit is denied by the Planning Commission, you may appeal the decision to the City Council within 15 days from the date such action is taken by the Planning Commission. At the time the Conditional use permit becomes effective you will be sent a document which constitutes an official "Conditional Use Permit". This document will enumerate the conditions attached to the issuance of the permit and state the consequences of failure to comply.

Acceptance by the City of this application does not exempt an applicant's need to comply with all other civil, local, state or federal agency laws, covenants or standards that may appertain to the proposed Conditional Use, including, where applicable, Home Owners' Association Board approval and compliance with private Covenants, Conditions and Restrictions.

For Office Use Only:

File Number: CUP 2132 -2016

Project Name: CUP For Kennel License



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1929 W Moosa Creek Dr
Meridian, Idaho
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Hide images >>



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Memorandum

To: Planning and Zoning

Cc: Daniel Badger, P.E., Staff Engineer

Cc: Michael Fuss, P. E., Nampa City Public Works Director

From: Jim Brooks – Engineering Division

Date: February 16, 2016

Rev:

Re: CUP – Non-commercial Kennel to keep 3-dogs on premises

Applicant: Tonya Ouckama

Address: 1929 W. Moose Creek Drive

CUP2132-16 for the February 16, 2016 Planning & Zoning Meeting

The Engineering Division does not oppose the granting of this conditional use permit.