



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission Meeting of 22 MARCH 2016 Public Hearing No. 3

Analyst: Robert Hobbs

Applicant(s)/Engineer(s):

Anthony Smith

File(s): CUP 2148-16

Requested Action Approval(s) and Location:

1. Conditional Use Permit Approval:

To authorize use of property for a "firearms sales via internet" and subsequent, at home, background check and transfer of firearm to buyer...

Pertaining to:

Property [land] addressed as 7469 Newbrook Drive in Nampa in a RS 6 (Single-Family Residential, 6,000 sq. ft. min. lot size) Zone (and comprising some .174 acres in the Sunset Oaks No. 1 Subdivision in Section 11, T3N, R2W, BM) -- 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

There is, as one might suspect, a wide range of disparate business types and operations [and in the case of some cottage businesses, the materials used] that persons operate from their residential properties. Customarily, a city or county will have a limited set of laws and some type of permitting system that registers the businesses and provides to their operators a copy of the laws that may bear on their home business practice. Such is the case with our city. In Nampa, beyond a simple recognition process, certain types of home based businesses [occupations] applications are considered to be potentially impacting enough to surrounding properties as to require review by the Planning and Zoning Commission.

“Repair garages including truck, auto, motorcycle, boat, etc.; major appliance repair; paint shops; welding; woodworking and cabinet shops; daycare home occupations in certain zones with seven (7) or more children (including the caregiver's if they are under 6 years of age); and any other use determined by the planning director to be similar to the aforementioned activities” (N.C.C. § 10-1-10) are such kinds of home occupations. Usually, client traffic, noise, hours of operation, and the presence of any hazardous materials or possibly hazardous industries are the themes most talked about during the ensuing public hearing that takes up the question of one of those kinds of home occupations.

Unfortunately, but understandably, the code is not designed in a form to custom address each possible business model. Thus, the hearing allows vetting of any concerns of the public or City/outside agencies or departments. It is used to discover land use related impacts that may stem from the proposed business and, if necessary, to levy any reasonable mitigations perceived necessary to keep the proposed use and the residential environment around it in harmonious co-existence.

Similar home occupations to that proposed by the Applicant have been approved in the City in the past with discovery questions by the Commission focused on safety/security (e.g. does the applicant have a safe for firearms, maybe an alarm system if relevant, what about excessive ammunition or ammunition components storage, etc.). Staff does alert the Bureau of Alcohol, Tobacco and Firearms and Explosives when home occupations that involve firearms are approved.

Naturally, it will be incumbent on the Applicant to live on the Property and to operate the business in accordance with the City's “Home Occupation” rules which are as follows:

- B. Home Occupation Standards:** “Home occupation” shall mean any occupation or profession carried on by a member of the family residing on the premises (in or from the dwelling unit or structures accessory thereto), provided the following conditions are satisfied:
1. Signs: No sign is used other than a nameplate not over two (2) square feet in area and non-illuminated.
 2. Space: The amount of floor area used solely for the home occupation (either in the dwelling unit or in an accessory building beside or behind the dwelling unit) shall not exceed twenty five percent (25%) of the gross floor area of the dwelling unit involved.

3. **Storage And Display:** There is no outdoor display of goods or outside storage of equipment or materials used in the home occupation that would indicate from the exterior that the building is being used in whole or in part for any purpose other than residential use. (Ord. 3878, 8-17-2009)
 4. **Commercial Vehicles:** Not more than one commercial vehicle, not to exceed fifteen thousand (15,000) GVWR, may/shall be kept by the operator of the home occupation on their residentially zoned property. (Ord. 3960, 4-4-2011)
 5. **Employment:** There are not outside paid employees (except in short term instances when the resident operator must be temporarily away from home).
 6. **Traffic:** It is intended that vehicular or pedestrian traffic to or from a residential property operating a home occupation not be generated in volumes beyond that normal to the residential zoning district in which the home occupation is located. If additional parking for the home business is needed, then that parking shall be provided upon the property whereupon the home occupation is to be/is being operated. The parking area (including driveway access to the same) shall be paved, any right of way permit needed for it obtained, shall be for no more than two (2) vehicles, where possible shall not be located in front of the house relative to a street, and shall comply with any required parking area setbacks.
 7. **Residential Appearance:** The building retains the appearance of residential use in terms of operating characteristics and does not destroy the residential character of the neighborhood.
 8. **Nuisances:** No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises. Home occupations involving storage of flammable or combustible materials shall conform with the city fire code for residential occupancy.
 9. **Sales:** Infrequent residential or out of home sales (i.e., garage sales, estate auctions/sales, moving sales, block sales, patio sales) may occur in residential areas *, provided sales are conducted not more than three (3) days at a time and no more frequently than once per calendar quarter. The seller shall not be in the business of regularly selling the same or similar property as that which is offered for sale at the yard. No temporary use permit is required for this kind of activity.
- (* -- It should be noted here that condition number nine (9) that addresses sales was drafted to address the type of sales mentioned/typified. Out of home sales related to uses like the one at hand as well as activities like Tupperware or similar parties, Avon sales or similar, Scentsy parties or similar, sale of other products other than firearms (e.g., woodcrafts, food items, handicrafts, machine parts, Craigslist items (including person belongings) etc. should be kept to reasonable levels in residential areas but there is no specific science behind what transaction counts should be....)

ABBREVIATED FINDINGS

1. Surrounding Zoning/Land Uses: Refer to attached Vicinity Map; immediate area has a mix of residential lots and building types; the Property is residentially (RS6) zoned; and,
2. The City of Nampa, acting under its authority to regulate the use and development of land within its incorporated limits has established by ordinance allowance, regulations, and permits affecting the operation of certain businesses from homes/residences by their owners; and,
2. The intended land use associated with the application under review is the sale of firearms by the Applicant via the internet to persons or parties who will then retrieve the arms from the Applicant's Property; and,
3. Sales and/or service of firearms and firearm products from personal residences has been construed by the Planning and Zoning Department of the City to require a Conditional Use Permit in addition to a Home Occupation Permit in accordance with N.C.C. § 10-1-10.A.; and,
4. A Conditional Use Application has been submitted to, and received by, the City of Nampa in conjunction with the Applicant's request; and,
5. A Home Occupation Application has been submitted to, and received by, the City of Nampa in conjunction with the Applicant's request; and,
6. Both the Conditional Use and Home Occupation Permit Applicants are complete and requisite fees have been paid; and,
7. The Applicant has indicated via their completion of the Home Occupation Permit that the business is intended to be located in and conducted wholly from the Applicant's residence and that they are willing and expecting to adhere to the home occupation regulations as set forth in Nampa's adopted laws; and,
8. No comments from the public have been received to date by the City regarding this application; and,
9. City Engineering does not oppose the Applicant's proposed home occupation type; and,
10. Code Enforcement does not oppose the Applicant's proposed home occupation type; and,
11. Pioneer Irrigation District does not oppose the Applicant's proposed home occupation type; and,
12. The Nampa Highway District does not oppose the Applicant's proposed home occupation type; and,
13. Staff has provided the Commission with all of the information we have regarding the application according to what was submitted and reviewed as of March 14, 2016 by 12 noon....

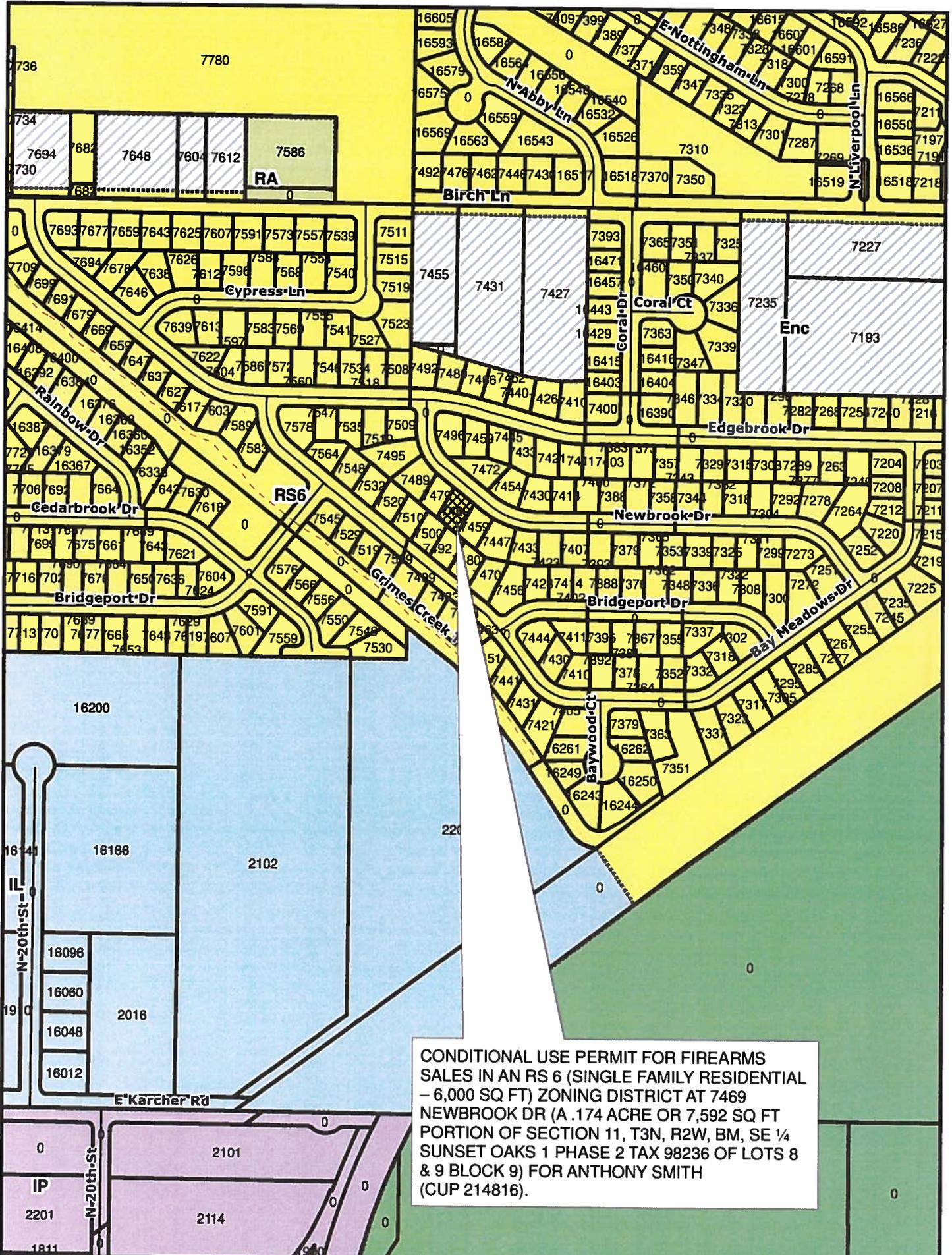
RECOMMENDED CONDITIONS OF APPROVAL

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 on the Project/applicant(s):

1. Owner/operator/Applicant(s) shall comply with all applicable requirements [including obtaining proper permits*] as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc.) as well as Federal and/or State agencies that may be involved in this matter as the CUP (and home occupation) approval does not and shall not have the affect of abrogating requirements from those departments or agencies...
2. Any other conditions imposed by the Commission or by City departments or outside agencies in relation to the/this CUP request (e.g., hours of operation, customers per day limit, security/safety devices, etc.)...

ATTACHMENTS

- Copies of Zoning and location Vicinity Map, Conditional Use Application, copy of Home Occupation Application, Applicant's narrative, agency or City department correspondence/any citizen correspondence, Property photos, etc. (pages/Exhibits 6+)



CONDITIONAL USE PERMIT FOR FIREARMS SALES IN AN RS 6 (SINGLE FAMILY RESIDENTIAL - 6,000 SQ FT) ZONING DISTRICT AT 7469 NEWBROOK DR (A .174 ACRE OR 7,592 SQ FT PORTION OF SECTION 11, T3N, R2W, BM, SE 1/4 SUNSET OAKS 1 PHASE 2 TAX 98236 OF LOTS 8 & 9 BLOCK 9) FOR ANTHONY SMITH (CUP 214816).



3/22/16
Robert

Application for Conditional Use Permit

City of Nampa, Idaho

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: Anthony Smith Phone: 208 949 1769
 Address: 7469 Newbrook City: Nampa State: ID Zip Code: 83687
 Applicant's interest in property: (circle one) Own Rent Other _____
 Owner Name: Anthony Smith Phone: _____
 Address: 7469 Newbrook City: Nampa State: ID Zip Code: 83687
 Address of subject property: 7469 Newbrook Nampa ID

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 Sunset Oaks Lot _____ Block 9 Book _____ Page _____
- 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: To operate a business performing background checks, FFL transfers and firearm sales via the internet marketing
 Length of time requested for the Conditional Use Permit: _____ Months and/or 5 Years.

Date conditional use is expected to begin after permit is granted: _____
 Please note: Conditional use permits expire if not used within six (6) months after granting.

Dated this 12 day of February, 20 16

[Signature]
 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: R56

File Number: CUP 2143 -20 16 Project Name: Anthony Smith Gun Sales

Home Occupation Occ 2149, 2016



HOME OCCUPATION REGISTRATION

City of Nampa Fees: \$90.00
Planning and Zoning Department
411 3rd Street S., Nampa, Id 83651

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Applicant Name: Anthony Smith Phone: (208) 949 1769

Property Address: 7469 Newbrook City: Nampa St: ID Zip: 83687

Property Owner: Anthony Smith

Business Name: _____ Type of Occupation: Gun Sales

Is this application a Code Enforcement action? () Yes No

NOTICE: The intent of home occupation provisions is to only allow for home occupations that are compatible with the neighborhoods in which they are located. Full scale commercial or professional operations, which would change the appearance or condition of a residence, be detrimental to neighborhood character, or ordinarily be conducted in a commercial or industrial district, should not be conducted at home. The following home occupations cannot be established without having first obtained approval for the issuance of a Conditional Use Permit from the Planning Commission: Repair garages (including truck, auto, motorcycle, boat, etc.); major appliance repair; paint shops; welding; woodworking and cabinet shops; and any other use(s) determined by the Planning Director to be similar to the aforementioned.

General Information

Yes No

- Is the home occupation clearly incidental and secondary to the use of the property for dwelling purposes? (Applicant must be able to provide proof of residence for the above address)
- Will the home occupation be conducted entirely within the dwelling and/or garage?
(The Home occupation shall not exceed twenty-five percent (25%) of the gross floor area of the dwelling unit involved).
- Do you propose to have an employee?
(No outside paid employees are permitted, except in short- term instances when the resident operator must temporarily be away from the home.)
- Will you have a sign? (Only a non-illuminated nameplate less than two (2) square feet in area is permitted)
- Will the home occupation cause abnormal automotive or pedestrian traffic?
(Vehicular or pedestrian traffic shall not be generated in volumes beyond that normal to the use in the zoning district in which the home occupation is located. If additional parking is needed it shall be met off-street and not in the landscaped front yard).
- Will the home occupation cause any unsightliness or emission of odor, dust, smoke, noise, glare, heat, vibration or similar disturbances to the outside of the outside of the dwelling or accessory building used for the home occupation?
(No equipment or process shall be used which creates noise, vibration, glare, fumes, and/or odors in excess of those created by normal residential use. Home occupations involving storage of flammable or combustible materials shall conform to the adopted International Fire Code.)
- Will the activity of the home occupation change the residential character of the dwelling?
(The building must retain the appearance of residential use in terms of operating characteristics and cannot destroy the residential character of the neighborhood).

Please Note the following Additional Regulations:

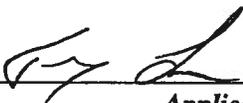
- **Storage and Display.** There is no outdoor display of goods or outside storage of equipment or materials used in the home occupation that would indicate from the exterior that the building is being used in whole or in part for any purpose other than residential use.
- **Commercial Vehicles.** Not more than one (1) commercial vehicle not to exceed fifteen thousand (15,000) GVWR, may/shall be kept by the operator of the home occupation on their residentially zoned property.
- **Yard Sales.** Infrequent yard sales (includes garage sales, moving sales, block sales, patio sales, flea markets, etc.) of short duration may occur in residential areas without compliance with standard number 3, provided the sales are conducted not more than three days at a time and no more frequently than once per calendar quarter. The seller shall not be in the business of selling the same or similar property as that which is offered for sale at the yard sale. All other home occupation standards shall be complied with.

Additional Submittal Requirements

1. The application must include a notarized Affidavit of Legal Interest (use attached form).
2. A scale drawing of the site.
3. Please provide a detailed statement describing the nature of the proposed Home Occupation, including type of business, equipment used, operating hours (hours per day, and days per week), and average daily number of people that will be coming to your home for your home occupation.

****Acceptance by the City of this registration does not abrogate an applicant's need to comply with all other civil, local, state or federal agency laws, covenants or standards that may appertain to operation of a home based business.**

CERTIFICATION: I am aware of the standards and conditions under which my home occupation is allowed and that if any of the standards are violated I am guilty of a misdemeanor. I am aware that this statement of compliance is for the stated occupation and business and that if I change addresses, change occupations, or discontinue the occupations that this statement becomes invalid and another statement would need to be filed.

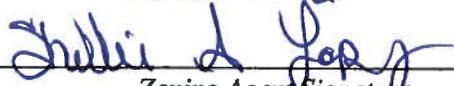

Applicant Signature

2 / 12 / 16
Date

Planning and Zoning Dept. Use:

File # OCC 2149 - 2016 Zone RS1e

Project Name: Anthony Smith Gun Sales


Zoning Agent Signature

2 / 22 / 16
Date

CUP - 2148 - 2016

2/19/16

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This home occupation will be an internet based Gun Sales business. All marketing will be done via the internet. All transfers and transactions will be done in the garage of 7497 Newbrook in Nampa. The hours of operation will be Monday through Saturday 10 Am to 7 Pm.

FL

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: March 9, 2016

Re: CUP - Home Occupation: Background Checks, FFL Transfers, and Internet
Firearms and Ammo sales

Applicant: Anthony Smith

Address: 7469 Newbrook Drive

CUP2148-16 for the March 22, 2016 Planning and Zoning Meeting

Fire flow is 2,000 GPM.

The Engineering Division does not oppose the granting of this conditional use permit with the condition that the owner comply with all necessary regulations and conditions as set forth by the Planning Commission.

Sylvia Mackrill

From: Kent Lovelace
Sent: Friday, February 26, 2016 11:02 AM
To: Sylvia Mackrill
Subject: RE: CUP Anthony Smith/Gun Sales/7469 Newbrook Dr CUP 2148 16

No violations seen at this time

From: Shellie Lopez
Sent: Tuesday, February 23, 2016 3:42 PM
To: Amanda Morse; Beth Ineck; Brent Hoskins; Carl Miller; Craig Tarter; Daniel Badger; Don Barr; Greg Goodman; Jennifer Yost; Jim Brooks; Juan Vergara; Kent Lovelace; Marlen Salinas; Martin Bautista; Michael Fuss; Neil Jones; Patrick Sullivan; Ray Rice; Robin Collins; Sylvia Mackrill; Tina Fuller; Tom Laws; Vickie Holbrook
Subject: CUP Anthony Smith/Gun Sales/7469 Newbrook Dr CUP 2148 16

Good Afternoon!

CUP 2148 - 16:

Anthony Smith has requested a Conditional Use Permit for the property located in a RS 6 (Single Family Residential - 6,000 sq. ft.) zoning district at 7469 Newbrook Drive, a 0.18 acre parcel (11 - 3N-2W SE Sunset Oaks Subdivision #1, PH #2 TX 98236, Lots 8, & 9 block 9).

Mr. Smith is requesting the CUP for a Home Occupation to operate a Business running background checks, FFL transfers and Firearm sales via internet marketing.

The Conditional Use Permit application will go before the Planning & Zoning Commission as a public hearing item on the March 22, 2016 agenda.

Please find attached the CUP 2148-16 file for your review and send all comments to my attention or to Sylvia Mackrill (mackrill@cityofnampa.us) no later than March 9th.

Thank you & have a great day!



Shellie A. Lopez

Administrative Assistant II

Christopher Daly

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From: Mark Zirschky <mark@pioneerirrigation.com>
Sent: Wednesday, March 09, 2016 10:41 AM
To: Christopher Daly
Subject: RE: Notice of Public Hearing Planning and Zoning Commission

Christopher,

The proposed changes within the submitted document do not impact any Pioneer Irrigation District owned or operated facilities.

Mark Zirschky, Superintendent
208-459-3617
208-250-8481



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From: Christopher Daly [<mailto:dalyc@cityofnampa.us>]
Sent: Monday, March 07, 2016 4:56 PM
To: awestfall@nsd131.org; bocc@canyonco.org; Kristen.baumchen@vallivue.org; gwiles@nampachristianschools.com; pnilsson@canyonco.org; bob.parsons@phd3.idaho.gov; Tim.Wright@phd3.idaho.gov; bhamlin@designwestid.com; tfuller@compassidaho.org; djohnston@idahopower.com; lbishop@idahopower.com; cgrant@nmid.org; nmid@nmid.org; Mark Zirschky <mark@pioneerirrigation.com>; deerflat@fws.gov; eddy@nampahighway1.com; Nick@nampahighway1.com; chopper@canyonhd4.org; Jessica.mansell@intgas.com; Monica.taylor@intgas.com; Ben.melody@intgas.com; Ron Johnson <johnsonr@cityofnampa.us>; Melissa Close <closem@cityofnampa.us>; Brent Hoskins <hoskinsb@cityofnampa.us>; Reggie Edwards <edwardsr@cityofnampa.us>; Richard Davies <daviesr@cityofnampa.us>; Eric Skoglund <skoglundl@cityofnampa.us>; Jennifer Yost <yostj@cityofnampa.us>; Phillip Roberts <robertsp@cityofnampa.us>
Subject: Notice of Public Hearing Planning and Zoning Commission

NOTICE OF PUBLIC HEARINGS BEFORE THE CITY OF NAMPA, IDAHO

Notice is hereby given that on March 22, 2016 at 7:00 p.m. (or as soon after 7:00 p.m. as the matter may be heard), in the City Hall Council Chambers, 411 3rd Street South, Nampa, Canyon County, Idaho, public hearings on the following will be held before the Nampa Planning & Zoning Commission:

- 1) Annexation and Zoning to RS 6 (Single Family Residential – 6,000 sq ft) for 2208 Sunny Ridge Rd (A .66 acre or 28,954 sq ft portion of Section 34, T3N, R2W, BM, SE ¼, Tax 14 in SW ¼ SE ¼ less Road RD) for Nathan Pyles (ANN 2146-16).
- 2) Conditional Use Permit for Firearms Sales in an RS 6 (Single Family Residential – 6,000 sq ft) zoning district at 7469 Newbrook Dr (A .174 acre or 7,592 sq ft portion of Section 11, T3N, R2W, BM, SE ¼ Sunset Oaks 1 Phase 2 Tax 98236 of Lots 8 & 9 Block 9) for Anthony Smith (CUP 214816).

Norm Holm

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From: Eddy Thiel <eddy@nampahighway1.com>
Sent: Wednesday, March 09, 2016 10:04 AM
To: Norm Holm
Subject: CUP 2148-16

Good Morning Norman,

The Nampa Highway District #1 has no objection to the Conditional Use Permit for Firearms Sales in an RS 6 zoning district at 7469 Newbrook Dr. for Anthony Smith as it is not within our jurisdiction.

If you have any questions or comments feel free to contact us.

Thank you,

Eddy

Eddy Thiel
ROW
eddy@nampahighway1.com
4507 Highway 45. • Nampa, id 83686
TEL 208.467.6576 • FAX 208.467.9916

This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation



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