



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission
Meeting of 23 August 2016

PUBLIC HEARING ITEM NO. 1 STAFF REPORT

Applicant(s)/Engineer(s), Representative(s):

Zane Powell as Applicant representative

File(s): CUP 041-16

Analyst: Robert Hobbs

Requested Action Approval(s)/Recommendation(s) & Project Area/Location:

1. **Conditional Use Permit for above ground storage of fuels/oils/liquids in an IH Zone**

(Decision Required – Decision):

On land addressed as 0, 9364, 9326, and 0 Cherry Lane (an approximate 39.152 acre portion of Section 04, T3N, R2W, SE ¼, Tax 3, Tax 3-A, Tax 15197, and Tax 95440 in the SW ¼ of the SE ¼ of Section 04, T3N, R2W, BM, Canyon County, Idaho) – hereinafter the “Property”...

To consider storage of fuels/oils/liquids in association with operation of a distribution business with headquarters [office] and warehousing operations on the Property...

History:

Earlier this year the City received a request to annex and zone the Property to facilitate emplacement of an oil distribution business’s headquarters and associated warehousing/storage of product. That process culminated in June with Council’s passage of an ordinance to execute the annexation and zoning assignment following the customary two public hearing process associated with such matters. The Council, and the Planning Commission before them, made their decision after receiving Applicant and public testimony and a Staff report.

CONDITIONAL USE CONCLUSIONS OF LAW

Relevant **Conclusions of Law** (evaluation criteria) 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.**

NARRATIVE & FINDINGS

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 viewpoints 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 annexation and zoning hearings related to the Property's inclusion in the City (and its corresponding approval to be used for a site for the storage of fuels/oils/liquids in association with operation of a distribution business with headquarters [office] and warehouse operation) tested the waters of the that proposed use's propriety to operate on/from the Property. Following that process it came to light that Staff, for expediency's sake, should have also required a Conditional Use Permit in conjunction with the annexation/zoning application package to sanction the approved use.

Despite the distribution business being considered an allowed use in the IH Zone, and the Property being approved for the use by the City and that approval being already memorialized through enactment of a Development Agreement, N.C.C. § 10-20-3 requires that proposed land uses that harbor more than two thousand (2,000) water gallons of flammable liquids, class 1 and class 11 apply for a Conditional Use Permit to facilitate City review of their propose use notwithstanding Section 10-3-2's call out of the base use as being allowed by right. A Conditional Use Permit having been submitted for the matter being reviewed in this report, Staff notes and finds as follows regarding the current CUP application:

1. That the Property is within a Heavy Industrial (IH) Zone (refer to attached Vicinity Map); and,
2. That the currently adopted (Feb. 2012) Comprehensive Plan Future Land Use Map designates the Property as being within, and suitable for both "Light" and "Heavy" Industrial development (one side of the Property is in the light area, the other in the heavy setting). According to the City's Comprehensive Plan, the "Light and heavy designation [sic] would address a variety of uses including existing industrial and manufacturing operations, as well as "lighter" industry, storefront, warehousing, wholesaling, research and development activities.... Industrial land uses includes light and heavy designations that address a variety of uses including existing industrial, warehousing, general manufacturing, railroad, and industrial business park and a wide range of manufacturing and related establishments, research, supplies and sales."

Staff's view is that the proposed use, in general nature, best conforms to the precepts associated with heavy industrial zoning. Since 2004, the Comprehensive Plan's Future Land Use Map has been deemed capable of having its "settings" stretched to overlap adjoining properties without the need to formally amend the Comprehensive Plan. This provides warranted flexibility to property development especially where setting boundaries do not agree with property line locations or ownership patterns. Accordingly, the proposed project is construed as being agreeable to the City's master plan as the "Heavy Industrial" setting may be stretched over the half of the Property that lies currently within the "Light Industrial" setting (or vice versa) without creating a need to amend the Plan's map.... Accordingly, the Property is deemed suitable for either light or heavy industrial development; and,

3. That surrounding City Ag (Agricultural) zoned land adjoins the Property to the south, that City IH (Heavy Industrial) zoned land adjoins said Ag zoned land to its south, that County land zoned RR (Rural Residential) adjoins the Property to its west, north, County land zoned Industrial (Heavy?) lies to its east, and, that a section of IL (Light Industrial) zoned land lies kitty corner to the southwest of the Property across Cherry and Ten Lanes (see attached Vicinity Map); and,
4. That open land abuts the Property to the north, east and south, a mobile home park lies kitty corner to the southeast across Cherry and Ten Lanes, and rural residences lie to the west of the Property. South of the open land on the southern side of the Property is Amalgamated Sugar; and,
5. That the City has no record of any covenants, conditions & restrictions that appertain to the subdivision within which the Property is located and we have, or do we maintain, a record pertaining to the applicant and proprietor of the daycare...such issues are left to state Health & Welfare to regulate and oversee; and,
6. That the Applicant is the current record owner of the Property has provided evidence of Legal Interest vouchsafing that they have consented to the submittal of the application, or, that they have received consent of the current record owner of the Property to submit the Conditional Use Permit application made the subject of this report; and,
7. That agency/City department comments have been received regarding this matter. Such correspondence as received from agencies/departments or the citizenry regarding this application package [received by noon August 17, 2016] is hereafter attached to this report.
 - a. City Engineering has no objection(s) concerning the Conditional Use application,; and,
 - b. The Fire Department has no objection(s) concerning the Conditional Use application and has provided requirements in the event it is approved (see attached correspondence); and,
 - c. City services may be made available to the Property by bringing in sewer (dry-line) and a dry line pressure irrigation extension; the domestic water to service the site is in Cherry Lane already...emergency services are available; and,
 - d. The Property adjoins railroad tracks, an important part of the proposed business plan/infrastructure need for the intended use. The Property is located in an open, agricultural/rural residential like area; thus, some question of compatibility of the proposed use vs. existing neighboring properties' uses is likely, and understandably, an issue that will likely arise with this application.
8. The City (via the Planning and Zoning Commission and City Council) has already approved the use as contemplated by the CUP via the annexation/zoning process and considers the CUP as ancillary to that approval (i.e., "housekeeping") at this juncture; any further agency/department specific development conditions beyond those affirmed

in the Development Agreement associated with this matter are noted in the agency/department correspondence made a part of this report)...

RECOMMENDED CONDITIONS OF APPROVAL

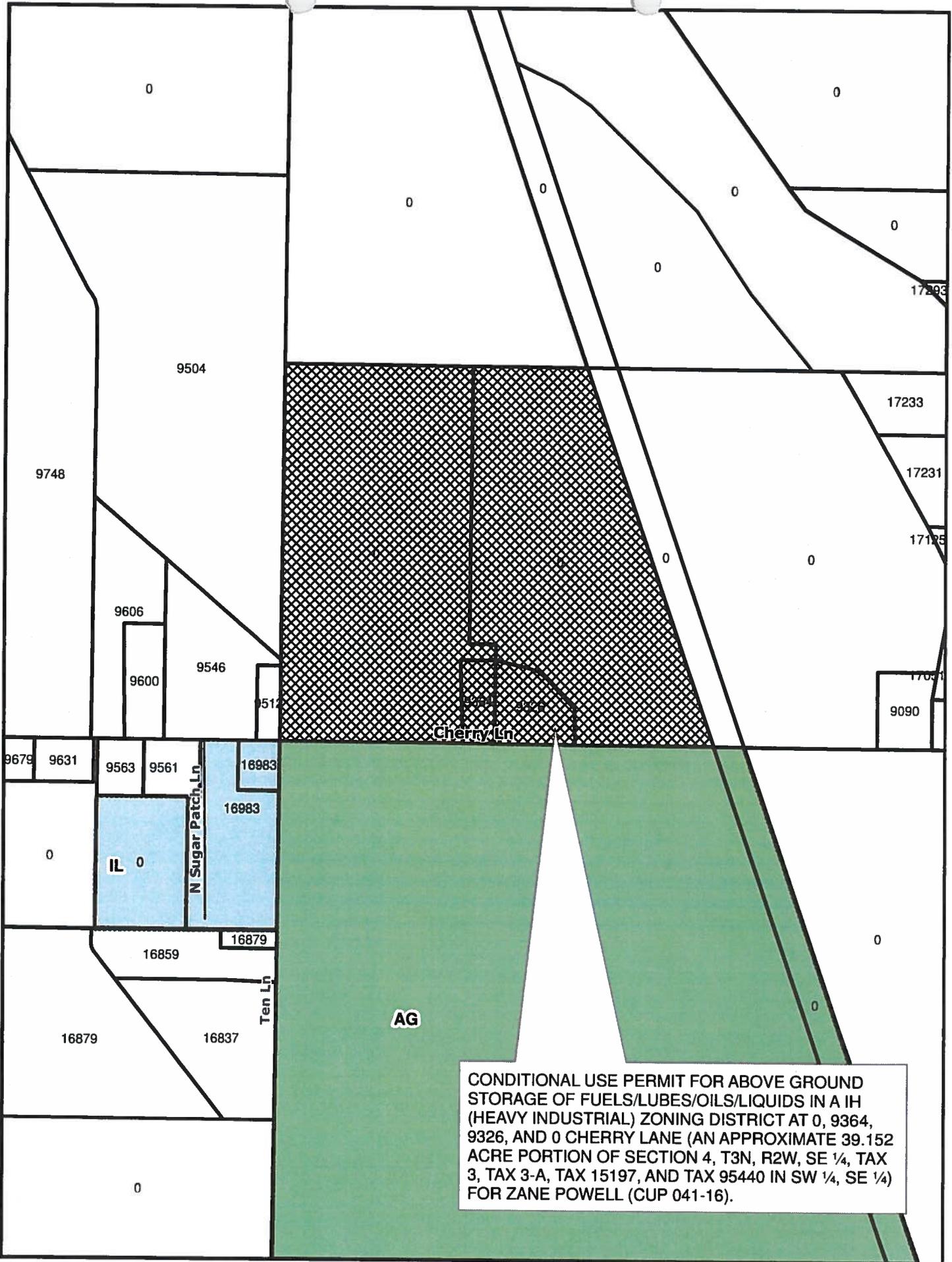
Should the Commission vote to approve the requested Conditional Use, Staff would then recommend that the Commission consider imposing the following Condition(s) of Approval on the Project/applicant(s):

Generally:

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 the CUP approval does not, and shall not have the effect of, abrogating the need to comply with lawful requirements administered by those agencies; and,
2. (Any [other] conditions imposed by the Commission)...

ATTACHMENTS

- Copy of Vicinity Map (page/Exhibit 6)
- Copy of CUP Application (page/Exhibit 7)
- Copy of aerial photo of the Property (page/Exhibit 8)
- Copy of Property map (page/Exhibit 9)
- Copy(ies) of any City department, outside City agency and/or citizen correspondence (pages/Exhibits 10+)



CONDITIONAL USE PERMIT FOR ABOVE GROUND STORAGE OF FUELS/LUBES/OILS/LIQUIDS IN A IH (HEAVY INDUSTRIAL) ZONING DISTRICT AT 0, 9364, 9326, AND 0 CHERRY LANE (AN APPROXIMATE 39.152 ACRE PORTION OF SECTION 4, T3N, R2W, SE ¼, TAX 3, TAX 3-A, TAX 15197, AND TAX 95440 IN SW ¼, SE ¼) FOR ZANE POWELL (CUP 041-16).



23
8/9/16
Rob CRT

Application for Conditional Use Permit

City of Nampa, Idaho

CUP 00041-2016

7

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: Zane Powell Phone: (208) 419-5886

Address: 2251 North Holmes Ave. City: Idaho Falls State: Idaho Zip Code: 83401

Applicant's interest in property: (circle one) Own Rent Other Employee, Construction Manager

Owner Name: Hansen & Hansen, LLP Phone: (208) 419-5886

Address: 2251 North Holmes Ave. City: Idaho Falls State: Idaho Zip Code: 83401

Address of subject property: Approx. 9326 Cherry Lane, Nampa, Idaho 83687

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 Provided with Annexation Application

OR, Subdivision _____ Lot _____ Block _____ 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: Recently annexed property and re-zoned IH - Heavy Industrial. CUP to allow storage of fuels/liquids, etc. as described in annexation and re-zone public hearings. Fuels, lubes, oils, liquids will be delivered to on site storage tanks via rail cars.

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

Date conditional use is expected to begin after permit is granted: 4 / 15 / 17

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

Anticipated start date of 9/15/16 on rail spur construction.

Dated this 5 day of July, 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 00041-2016 Project Name: STORAGE OF FUELS, LIQUIDS, ETC

8

Map



Address Candidates



Address Points



Hold

Proposed

Retired

Other

County Parcels



9

R30836012A

THIS MAP IS FURNISHED AS AN ACCOMMODATION STRICTLY FOR THE PURPOSES OF GENERALLY LOCATING THE LAND. IT DOES NOT REPRESENT A SURVEY OF THE LAND OR IMPLY ANY REPRESENTATIONS AS TO THE SIZE, AREA OR ANY OTHER FACTS RELATED TO THE LAND SHOWN HEREON.



10

Memorandum

To: Planning and Zoning
Cc: Tom Points, P. E., City Engineer
Cc: Daniel Badger, P.E., Staff Engineer
Cc: Michael Fuss, P. E., Nampa City Public Works Director
From: Jim Brooks – Engineering Division
Date: July 20, 2016
Rev:
Re: CUP – Above Ground Storage of Fuels, Lubes, Oils, and Liquids
Applicant: Zane Powell
Applicant Address: 2251 North Holmes Ave., Idaho Falls, Id. 83401
Parcel Address: TBD (9326 Cherry Lane, Nampa, Id. 83687)
CUP00041-16 for the August 9, 2016 Planning and Zoning Meeting

23

The Engineering Division has no concerns with the granting of this request.

Current fire flow at this location is better than 2,000 GPM.

Shellie Lopez

From: Brent Hoskins
Sent: Tuesday, July 12, 2016 8:07 AM
To: Shellie Lopez
Subject: RE: CUP for a Above Ground Storage of Fuels/Lubes/Oils/Liquids in a IH zone / 0, 9364, 9326, and 0 Cherry Lane CUP 041 2016

BT

Shellie,

The applicants will have to comply with the adopted Fire Code for the storage and use of flammable/combustible liquids. We will require them to get a fire protection engineer to design their site prior to submitting for building permits.

Thank you,
Brent

From: Shellie Lopez
Sent: Monday, July 11, 2016 11:40 AM
To: Amanda Morse; Beth Ineck; Brent Hoskins; Carl Miller; Craig Tarter; Daniel Badger; Don Barr; Eric Skoglund; Jennifer Yost; Jim Brooks; Michael Fuss; Neil Jones; Patrick Sullivan; Ray Rice; Robin Collins; Soyla Reyna; Sylvia Mackrill; Tina Fuller; Tom Laws; Vickie Holbrook
Subject: CUP for a Above Ground Storage of Fuels/Lubes/Oils/Liquids in a IH zone / 0, 9364, 9326, and 0 Cherry Lane CUP 041 2016

Good Morning! ☺

CUP 041-16:

Zane Powell has requested a Conditional Use Permit for a Above Ground Storage of Fuels/Lubes/Oils/Liquids in a IH (Heavy Industrial) zoning district at 0, 9364, 9326, and 0 Cherry Lane (An approximate 39.152 acre portion of Section 4, T3N, R2W, SE ¼, Tax 3, Tax 3-A, Tax 15197, and Tax 95440 in SW ¼, SE ¼).

The applicant will go before the Planning & Zoning Commission as a public hearing item on the August 09, 2016 agenda.

Please find attached the CUP 041-16 file for your review and send all comments to my attention or to Sylvia Mackrill (mackrill@cityofnampa.us) no later than July 27, 2016.

Thank you & have a great day!



Shellie A. Lopez, Administrative Assistant II
O: 208.468.4487, F: 208.468.5439
411 3rd Street South, Nampa, ID 83651
[Planning and Zoning - Like us on Facebook](#)

NAMPAProud