Applicant(s)/Engineer(s), Representative(s):
Collection Bureau Incorporated, Debbie Greene, Representing
File(s): CUP 00132-19
Analyst: Kristi Watkins

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

1. Conditional Use Permit for a professional office/call center in an IL Zone

(Action Required – Decision):

On land addressed as 8925 E Birch Lane, Bldg 100 (on a portion of the lot described as R3103400000, in Section 10, T3N, R2W, BM, Canyon County, Idaho) – hereinafter the “Property”...

To consider permission for the use of a professional office and debt collection call center on an IL zoned Property...

History:
The City received a request for a Certificate of Occupancy for the debt collection agency to occupy the subject property. The previous use of the property was the administrative office for Pepsi Co, also located on the property. The administrative offices would have been considered and accessory use to the manufacturing business.
CONJECTURAL 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.

Despite the manufacturing business being considered an allowed use in the IL Zone and using this building for their administrative offices as an accessory use, a professional office unrelated to the manufacturing business will require a conditional use permit according to the code changes in N.C.C. § 10-3-2, that are going through the approval process currently. A Conditional Use Permit has 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 an IL (Light Industrial) Zone (refer to attached Vicinity Map); and,

2. That the surrounding zones are as follows: the land to the north, south and east is zoned IL (Light Industrial), and the property to the west is zoned IH (Heavy Industrial); and,

3. There is vacant land to the north and south and a developing industrial park to the east. The property to the west is Amalgamated Sugar and is separated from the subject property by railroad tracks and Northside Blvd; and,

4. That the Applicant is not the current owner of record on the Property, but has provided evidence of Legal Interest vouchsafing that they have consent to the submittal of the application, made the subject of this report; and,

5. 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 March 6, 2019] is hereafter attached to this report.

   a. City Engineering has no objection(s) concerning the Conditional Use application; and,

   b. The Nampa Highway District #1 Department has no objection(s) concerning the Conditional Use application; and,

8. The City (via the Planning and Zoning Department) has already approved the request for Certificate of Occupancy based on the previous use within the building. It was only after the issuance of the Certificate of Occupancy that staff realized a CUP would be required to allow this use separate from the manufacturing company that exists on the same property.
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 CUP Application (page/Exhibit 5-13)
- Copy of Vicinity Map (page/Exhibit 14)
- Copy of aerial photo of the Property (page/Exhibit 15)
- Copy(ies) of any City department, outside City agency and/or citizen correspondence (pages/Exhibits 16+)
APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING DEPARTMENT
411 3RD STREET S., NAMPA, IDAHO 83651 P: (208) 468-4487 F: (208) 465-2261

Nonrefundable Fee: $234.00 (1 acre or less)  Nonrefundable Fee: $463.00 (more than 1 acre)

Applicant's Name: Collection Bureau Incorporated
Home Address: 719-125 Street South
City: Nampa  State: ID  Zip Code: 83651
Email: debbiege@mlclarklaw.com

Property Owner Name: Admiral Beverage Corporation
Street Address: 821 Puilliam Avenue
City: Worland  State: WY  Zip Code: 82401

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

ADDRESS OF SUBJECT PROPERTY: 8935 Birch Lane East, Bldg 100 Nampa, ID 83687

Please provide the following REQUIRED DOCUMENTATION to complete the CUP
☑ A copy of one of the following: ☑ Warranty Deed ☐ Proof Of Option ☐ Earnest Money Agreement
☑ A sketch drawing of the site & any adjacent property affected, showing all existing & proposed
locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street
parking & off-street loading facilities and landscaped areas, preliminary or final building plans & building
elevations, together with any other information considered pertinent to the determination of this matter.
☑ Signed & Notarized Affidavit of Legal Interest (attached). Form must be completed by the legal
owner (If owner is a corporation, submit a copy of the Articles of Incorporation or other evidence to show
that the person signing is an authorized agent)
☐ 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.

Project Description
☑ State [or attach a letter stating] the reason for the proposed Conditional Use Permit: Call center

Dated this 11th day of February, 2019

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.

OFFICE USE ONLY
FILE NUMBER: CUP - 132 - 20.19  PROJECT NAME: Call Center + Admin Office

12/11/13 Revised
EXHIBIT “A” to LEASE
Building 100” located at 8925 Birch Lane East, Nampa, Idaho 83687

DESCRIPTION OF THE BUILDING
SPECIAL WARRANTY DEED
(Nampa, Idaho)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, BOTTLING GROUP, LLC, a Delaware limited liability company ("Grantor"), whose address is 1 Pepsi Way, Somers, New York 10589, does hereby grant, bargain, sell and convey unto ADMIRAL BEVERAGE CORPORATION, a Wyoming corporation ("Grantee"), whose address is 821 Pullman Avenue, Worland, Wyoming 82401, all of Grantor’s right, title and interest in and to the real property located in Canyon County, Idaho, legally described as follows:

See Schedule I attached hereto and incorporated herein by this reference

Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging to or in anywise appertaining, the rents, issues and profits thereof; and all estate, right, title and interest, as well in law as in equity, except as expressly provided otherwise herein (the “Property”).

TO HAVE AND TO HOLD the Property, with its all and singular appurtenances unto Grantee, and Grantee’s heirs, successors and assigns forever.

Grantor makes no covenants or warranties with respect to title, express or implied, other than that previous to the date of this deed, Grantor has not conveyed the same estate to any person other than Grantee and that such estate is at the time of the execution of this deed free from encumbrances made or suffered by the Grantor, or any person claiming under Grantor, subject, however, to those exceptions set forth on Schedule II attached hereto and incorporated herein by this reference.

DATED effective the 18th day of May, 2014.

[Signature page follows]
BOTTLING GROUP, LLC

By: [Signature]
Name: Cynthia M. Poggiogalle
Title: Director of Real Estate

STATE OF NEW YORK )
COUNTY OF DUTCHESS ) ss. POUGHKEEPSEIE

On this 16th day of May, 2014, before me, Lisa Buglione, a Notary Public in and for said State, personally appeared Cynthia M. Poggiogalle, known or identified to me to be the Director of Real Estate of Bottling Group, LLC, a Delaware limited liability company, and acknowledged to me that she executed the within instrument on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
Lisa Buglione
Notary Public
My commission expires 01/15/2017

LISA AMEE Buglione
Notary Public, State of New York
BU No. 01AM6273996
Qualified in Dutchess County
Commission Expires November 23, 2017
SCHEDULE I OF DEED

LEGAL DESCRIPTION

See Attached
PARCEL A:

A PARCEL OF LAND BEING A PORTION OF PARCEL "A" AS SHOWN ON RECORD OF SURVEY INSTRUMENT NO. 200421866, RECORDS OF CANYON COUNTY, IDAHO, AND SITUATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 10, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 10 BARES SOUTH 00°12'00" EAST 2647.42 FEET; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 10, SAID WESTERLY BOUNDARY ALSO BEING THE CENTERLINE OF NORTHSIDE BOULEVARD, SOUTH 00°12'00" EAST 80.11 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY NORTH 89°53'52" EAST 50.00 FEET TO THE EASTERN RIGHT-OF-WAY OF SAID NORTHSIDE BOULEVARD AND THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°53'52" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY OF BIRCH LANE 902.12 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY SOUTH 00°00'00" EAST 1110.43 FEET; THENCE SOUTH 89°56'06" WEST 630.65 FEET TO AN IRON PIN ON THE NORTHEASTERLY RIGHT-OF-WAY OF THE NORTHERN PACIFIC RAILROAD; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 19°27'20" WEST 811.42 FEET TO SAID EASTERN RIGHT-OF-WAY OF NORTHSIDE BOULEVARD; THENCE ALONG SAID EASTERN RIGHT-OF-WAY NORTH 00°12'00" WEST 344.45 FEET TO THE POINT OF BEGINNING.

PARCEL B:

A PARCEL OF LAND BEING A PORTION OF PARCEL "B" AS SHOWN ON RECORD OF SURVEY INSTRUMENT NO. 200421866, RECORDS OF CANYON COUNTY, IDAHO, AND SITUATED IN THE SOUTHWEST QUARTER, OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, OF SECTION 10, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 10 BARES SOUTH 00°12'00" EAST 2647.42 FEET; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 10, SAID WESTERLY BOUNDARY ALSO BEING THE CENTERLINE OF NORTHSIDE BOULEVARD, SOUTH 00°12'00" EAST 80.11 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY NORTH 89°53'52" EAST 50.00 FEET TO THE EASTERN RIGHT-OF-WAY OF SAID NORTHSIDE BOULEVARD; THENCE CONTINUING NORTH 89°53'52" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY OF BIRCH LANE 902.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°53'52" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY OF BIRCH LANE 341.21 FEET TO THE WESTERN RIGHT-OF-WAY OF NORCO WAY; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID WESTERLY RIGHT OF WAY SOUTH 00°13'00" EAST 371.50 FEET; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY SOUTH 89°53'52" WEST 342.62 FEET; THENCE NORTH 00°00'00" WEST 371.50 FEET TO THE POINT OF BEGINNING.
PARCEL C:

A PARCEL OF LAND BEING A PORTION OF PARCEL "C" AS SHOWN ON RECORD OF SURVEY INSTRUMENT NO. 200421866, RECORDS OF CANYON COUNTY, IDAHO, AND SITUATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 10, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 10 BEARS SOUTH 00°12'00" EAST 2647.42 FEET; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 10, SAID WESTERLY BOUNDARY ALSO BEING THE CENTERLINE OF NORTHSIDE BOULEVARD, SOUTH 00°12'00" EAST 80.11 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY NORTH 89°53'52" EAST 50.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF SAID NORTHSIDE BOULEVARD; THENCE CONTINUING NORTH 89°53'52" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY OF BIRCH LANE 1243.33 FEET TO THE WESTERLY RIGHT-OF-WAY OF NORCO WAY; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 00°13'00" EAST 371.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 00°13'00" EAST 370.32 FEET; THENCE LEAVING SAID WESTERLY RIGHT-AT-WAY SOUTH 89°56'06" WEST 344.02 FEET; THENCE NORTH 00°00'00" WEST 370.09 FEET; THENCE NORTH 89°53'52" EAST 342.62 FEET TO THE POINT OF BEGINNING.

PARCEL D:

A PARCEL OF LAND BEING A PORTION OF PARCEL "D" AS SHOWN ON RECORD OF SURVEY INSTRUMENT NO. 200421866, RECORDS OF CANYON COUNTY, IDAHO, AND SITUATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 10, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 10 BEARS SOUTH 00°12'00" EAST 2647.42 FEET; THENCE ALONG THE WESTERLY BOUNDARY OF SAID SECTION 10, SAID WESTERLY BOUNDARY ALSO BEING THE CENTERLINE OF NORTHSIDE BOULEVARD, SOUTH 00°12'00" EAST 80.11 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY NORTH 89°53'52" EAST 50.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF SAID NORTHSIDE BOULEVARD; THENCE CONTINUING NORTH 89°53'52" EAST ALONG THE SOUTHERLY RIGHT-AT-WAY OF BIRCH LANE 1243.33 FEET TO THE WESTERLY RIGHT-OF-WAY OF NORCO WAY; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 00°13'00" EAST 741.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 00°13'00" EAST 368.83 FEET, THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY SOUTH 89°56'06" WEST 345.41 FEET; THENCE NORTH 00°00'00" WEST 368.83 FEET; THENCE NORTH 89°56'06" EAST 344.02 FEET TO THE POINT OF BEGINNING.

APN: 31034000 0 - Parcel A; 31033010 0 - Parcel B; 31033010A0 - Parcel C; 31030000 0 - Parcel D

Commonly known as: 8925 Birch Lane, Nampa, ID 83687
SCHEDULE II OF DEED

APPROVED EXCEPTIONS

1. Water or mineral rights, claims or title to water or minerals.

2. Protective Covenants, Conditions, Restrictions and/or Easements, and other matters imposed by instrument recorded January 13, 2004 as Instrument No. 200402005, of Official Records.

3. Record of Survey/Boundary Line Adjustment and Lot Split for Nagel Beverage Company
   Recorded: April 23, 2004

4. An easement for public utilities and incidental purposes in favor of Idaho Power Company, a corporation
   Recorded: May 19, 2004
   (Affects Parcel A)

5. Terms, conditions, provisions and obligations set forth in that certain Agreement for Deferral of Curb, Gutter and/or Sidewalk Construction
   Between: The City of Nampa and Nagel Beverage Co.
   Recorded: December 14, 2004
   Instrument No: 200468388, of Official Records. (Affects Parcel A)

6. Terms, conditions, provisions and obligations set forth in that certain Conditional Use Permit Agreement granted by the City of Nampa
   Recorded: July 18, 2005
   (Affects Parcel A)

7. Terms, conditions, provisions, easements and obligations set forth in that certain Agreement for Permanent Easement
   Between: Nagel Beverage Company and the City of Nampa, Idaho
   Recorded: August 25, 2005
   Instrument No: 200552693, of Official Records. (Affects Parcel A)

8. Any taxes, fees, assessments or charges as may be levied by the Pioneer Irrigation District.

   Any taxes, fees, assessments or charges as may be levied by the Municipal Irrigation District of the City of Nampa.

9. Such state of facts as a current, accurate survey of the Property would disclose as of the date hereof.
AFFIDAVIT OF LEGAL INTEREST

STATE OF IDAHO

COUNTY OF CANYON

A. I, Edward Comstock, whose address is 8925 Birch Lane, Nampa, ID 83687, being first duly sworn upon oath, depose and say that I am the owner of record of the property described on the attached application.

B. I grant my permission to Collection Bureau Inc., whose address is 719 1st Street South, Nampa, ID 83651, to submit the accompanying application pertaining to the property described on the attached application.

C. I agree to indemnify, defend and hold the City of Nampa and its employees harmless from any claim or liability resulting from any dispute as to the statements contained herein or as to the ownership of the property which is the subject of the application.

Dated this 12 day of February, 2019.

Signature

SUBSCRIBED AND SWORN to before me the 12 day of February, 2019.

Kathy Dillon
Notary Public for Idaho
Residing at: Caldwell
Commission Expires: 126 2025
Date: February 26, 2019

Rev: 

To: Planning and Zoning
Cc: Daniel Badger, P.E., City Engineer
Cc: Tom Points, P. E., Nampa City Public Works Director
Cc: 

From: Jim Brooks – Engineering Division

Subject: Collection Bureau Call Center in an IL Zoning District

Applicant: Collection Bureau Incorporated

Applicant Address: 719-1st Street South, Nampa, Idaho 83651

Owner: Admiral Beverage Corporation

Owner Address: 871 Pulliam Avenue, Worland, Wyoming 82401

Parcel Address: 8925 East Birch Lane, Bldg. 100, Nampa, Idaho 83687

CUP-00132-2019 for the March 12, 2019 Planning & Zoning Meeting

The Engineering Division does not oppose granting of this Conditional Use Permit.
Good Afternoon Shellie,

Nampa Highway District #1 has no comment as it is not within our jurisdiction.

Thank you,

Eddy