Planning & Zoning Department
Before the Planning & Zoning Commission
Meeting of 26 November 2019

Staff Report – Public Hearing #6

Conditional Use Permit for Vape Sales in a GB1 (Gateway Business 1) Zoning District at 5840 E. Franklin Rd. for Nugget CBD, Craig Bedford (CUP 157-19).

Applicant/Owner: Bedford Enterprises dba Nugget CBD/Cameron S-Sixteen Retail LLC

File No: CUP 157-19

Prepared by: Kristi Watkins
Date: November 19, 2019

Requested Action: Conditional Use Permit
Purpose: Vape Sales, accessory to retail sales of CBD products

GENERAL INFORMATION

Status of Applicant: Renting

Existing Zoning: GB1 (Gateway Business 1)

Location: 5840 E. Franklin Rd. and part of tax 05814 in Lot 1, Block 8 Idaho Center situated in the SW ¼ of Section 7, T3N, R2W, BM.

Size of Property: A portion of a 1.1-acre parcel.

Surrounding Land Use and Zoning:
North- Hampton Inn and Suites, GB1
South- Walmart, GB1
East- Office and Retail, GB1
West- Office and Retail, GB1
Comprehensive Plan Designation: Highway Commercial – Page 105 Nampa

Comprehensive Plan 2035, Section 5.9.3 Highway Commercial: This land use would be located off highway interchanges, major arterials and some collectors, based upon design and function, which provide access to major commercial development that accommodates large volumes of traffic (traffic ordinate business). These land uses will be more intense than other commercial land uses. Portions of these areas could be redeveloped over time into Transit-Oriented Developments that would also include residential uses, design and development standards are recommended that would help to make developments within existing commercial districts more attractive, engaging and accessible places. This would include development of multiple access points to disperse traffic, and a complete system of internal streets, sidewalks and pedestrian and bicycle paths to provide circulation within the district and connections to the surrounding roadway and bicycle route system. Examples include: big box projects, major shopping center, hospitals, retail, services, drive-in restaurants, office complexes, institutes of higher learning and other destination land uses.

Zoning & Planning History: Location always zoned GB1 and previously occupied for retail purposes. Retail uses continue in this tenant space.

Applicable Regulations: Section 10-3-2 Schedule of District Land Use Controls allows Tobacco Shops by conditional use permit in GB1 districts. Though not specifically listed, staff has determined that vape sales be considered the same as Tobacco Shops. Section 10-3-2 B. Unlisted Land Uses: The director or his/her designee shall interpret the appropriate district for land uses not specifically listed by determining the district in which similar uses are permitted, … Where a use is proposed and ambiguity exists concerning the appropriate district or procedure for the establishment of that particularly proposed use, said use may be established by obtaining of a conditional use permit...

Chapter 25 sets forth the criteria of approval. These criteria require that the use be compatible with and not adversely affect the livability or appropriate development of the surrounding neighborhood.

Description of Existing Land Use: Vacant commercial unit within an existing retail building.

Description of Proposed Land Use: The proposed ALLOWED use is for the retail sales of CBD products. This request is to allow the accessory sales of vape products.

Definition of Vaping: Vaping is the act of inhaling and exhaling the aerosol, often referred to as vapor, which is produced by an e-cigarette or similar device. When the device is used, the battery heats up the heating component, which turns the contents of the e-liquid into an aerosol that is inhaled into the lungs and then exhaled.

Parking: Existing off-street parking exists at the location for store customers.

SPECIAL INFORMATION

Public Utilities:
12" water main in E. Franklin Rd.
8" sewer main along the northerly property boundary
10" irrigation main along the northerly subdivision boundary
Public Services: All available.

Transportation: The business access is from E. Franklin Rd. into the parking lot.

Physical Site Characteristics: Developed vacant, available commercial unit.

Environmental: No areas of concern.

Aesthetics/Landscaping: Existing landscaped commercial area.

Correspondence: No correspondence from any area property owners, businesses or residents have been received for or against the establishment vape sales at the subject location.

Agency correspondence from the Nampa Building Department indicates that a tenant improvement permit is required. The tenant improvement permit has been submitted and approved for the CBD store. The vape sales will commence later should this application be approved by the Commission.

**STAFF FINDINGS AND DISCUSSION**

The retail sales of CBD products is an allowed commercial use in the GB1 zoning district, provided it meets the appropriate state regulations for the sales of such products. However, since the adjacent tenant was recently required to obtain a conditional use permit for vape sales, staff felt it was appropriate to require the same of this tenant.

As stated previously, where ambiguity exists concerning the appropriate district or procedure for a use, the use may be established by obtaining a conditional use permit. Tobacco Shops or Smoke Shops are retailers of tobacco produces in various forms. Tobacco Shops are specifically listed as a Conditional Use in the GB1 zone. Vape Shops specialize in the selling of electronic cigarette products. I understand that nicotine is the primary agent in both regular cigarettes and electronic cigarettes. For these reasons I determined that vape sales should be treated the same as a Tobacco Shop and that a CUP should be required for their establishment in the GB1 zone.

The location is reasonable for vape sales because of its’ proximity to other commercial retailers in the area and the fact that it is accessory to primary use of the tenant space for CBD sales. From a land use standpoint, the location is shown on the comprehensive plan for highway commercial land use and the requested use is an eligible conditional use in the GB1 zone.

With regards the conditional use permit, use of the commercial unit for vape sales is compatible with the surrounding commercial and professional neighborhood.

If the Commission votes to approve of the CUP, the following findings are recommended:

1) The location, size and design of the proposed Vape Store will be reasonably compatible with and not adversely affect the livability or appropriate development of the surrounding neighborhood if the below conditions are required.
2) The location, design, and site planning of the proposed Vape Store will be as attractive as the nature of the use and its location and setting warrants.

3) The proposed Vape Store will enhance the successful operation of the surrounding area in its basic community function and provide an essential service to the community.

**SUGGESTED CONDITIONS OF APPROVAL**

If the Commission votes to issue a conditional use permit the following Planning and Engineering conditions are recommended to be attached:

1) All requirements of the Nampa fire and building departments regarding vape sales use shall be satisfied.

2) The conditional use permit is issued for the life of the commercial unit for sales of vape products.

**ATTACHMENTS**

1) Application (Pages 5)
2) Vicinity zoning and location map (Page 6)
3) Aerial/street view of parcel and neighborhood (Page 7)
4) Legal description (Page 8)
5) Agency and other correspondence (Page 9+)
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 Name: BEDFORD ENTERPRISES LLC
D.O.A. NUGGET CBD

<table>
<thead>
<tr>
<th>Address</th>
<th>Home Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>4477 OREGON AVE.</td>
<td>208-371-1568</td>
</tr>
<tr>
<td>Caldwell, ID 83607</td>
<td></td>
</tr>
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</table>

Property Owner Name: CAMERON S-SIXTEEN RETAIL LLC

<table>
<thead>
<tr>
<th>Address</th>
<th>Home Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>225 N JULIE ST, SUITE 530</td>
<td>208-422-2848</td>
</tr>
<tr>
<td>Boise, ID 83702</td>
<td>208-249-5248</td>
</tr>
</tbody>
</table>

Applicant’s interest in property: ( ) Own (X) Rent ( ) Other

ADDRESS OF SUBJECT PROPERTY: 5840 E. FRANKLIN RD, 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: TENANT WILL SELL CBD PRODUCTS TO INCLUDE VAPE

Dated this 29 day of OCTOBER 2019

Applicant Signature

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-157-2019 PROJECT NAME: "NUGGET CBD-VAPE SALES"

12/11/13 Revised

BY: [Signature]

10-31-19 SCANNED
Legal Description for 5840 E. Franklin Road

A portion of Lot 8 in Block 1 of The Idaho Center, as shown on the official plat thereof on file in the office of the Canyon County Recorder in Book 23 of Plats at Page 40, more particularly described as follows:

Commencing at the Southeast corner of said Lot 8 in Block 1 and running
North 89°22'45" West 300.77 feet along the Southerly boundary of said Lot 8 to the Point of Beginning; thence continuing
North 89°22'45" West 163.06 feet along said Southerly boundary of Lot 8 to a point;
thence
North 86°34'30" West 79.26 feet along said Southerly boundary of Lot 8 to a point;
thence
North 0°37'15" East 196.90 feet to a point; thence
South 89°22'45" East 242.22 feet to a point; thence
South 0°37'15" West 200.78 feet to the Point of Beginning.
Hi Shellie,

Nampa Highway District #1 has no comment.

Thank you,

Eddy

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From: Shellie Lopez <lopes@cityofnampa.us>
Sent: Tuesday, November 5, 2019 7:34 AM
Subject: CUP-00157-2019

Good Morning Everyone! 😊

Re: CUP-00157-2019

Craig Bedford, Bedford Enterprises LLC d.b.a. Nugget CBD has requested a Conditional Use Permit for Vape Sales in a GB1 (Gateway Business 1) zoning district at 5840 E. Franklin Rd. (A portion of Lot 8 in Block 1 of The Idaho Center, as shown on the official plat thereof on file in the office of the Canyon County Recorder in Book 23 of Plats at Page 4 and a portion of the SW ¼ Section 7, T3N, R1W, BM).

This application will go before the Planning and Zoning Commission as a public hearing item on the November 26, 2019 agenda.

Please find attached the CUP-00157-2019 file for your review and send all comments to my attention or to Sylvia Mackrill (mackrill@cityofnampa.us) no later than November 08, 2019.

Thank you & Have a great day!
Building Department will require a Certificate of Occupancy or a Tenant Improvement application for this space, before the tenant can move in.

Good Morning Everyone! 😊

Re: CUP-00157-2019

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Please find attached the CUP-00157-2019 file for your review and send all comments to my attention or to Sylvia Mackrill (mackrill@cityofnampa.us) no later than November 08, 2019.

Thank you & Have a great day!
DATE: November 6, 2019
TO: Planning and Zoning Department
FROM: Peter Nielsen, Sr. Eng. Plans Examiner
CC: Daniel Badger, P.E., Nampa City Engineer
CC: Tom Points, P.E., Nampa City Public Works Director
APPLICANT: Craig Bedford
OWNER: Cameron S-Sixteen Retail, LLC
ADDRESS: 5840 E Franklin Rd
RE: CUP-00157-2019 – Vape/ CBD Sales in a GB1 Zone

The Engineering Division does not oppose this application as the site is already constructed with existing access and utility services. Required utility use fees, if any, will be determined at time of Tenant Improvement Permit.