

STAFF REPORT



SUBJECT: Case No.: CP2022-001

Applicant Collin Parsons is requesting a Conditional Use permit for a home occupation to be operated at 1317 Inglewood Drive, Parcel R31164, being Lot 2 & 3 of Block 1 of the Dale Avenue North Addition to the City of Stephenville, Erath County, Texas.

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

RECOMMENDATION:

To consider granting the Conditional Use Permit for a home occupation.

BACKGROUND:

The applicant is requesting a conditional use permit to allow a home occupation for firearm sales.

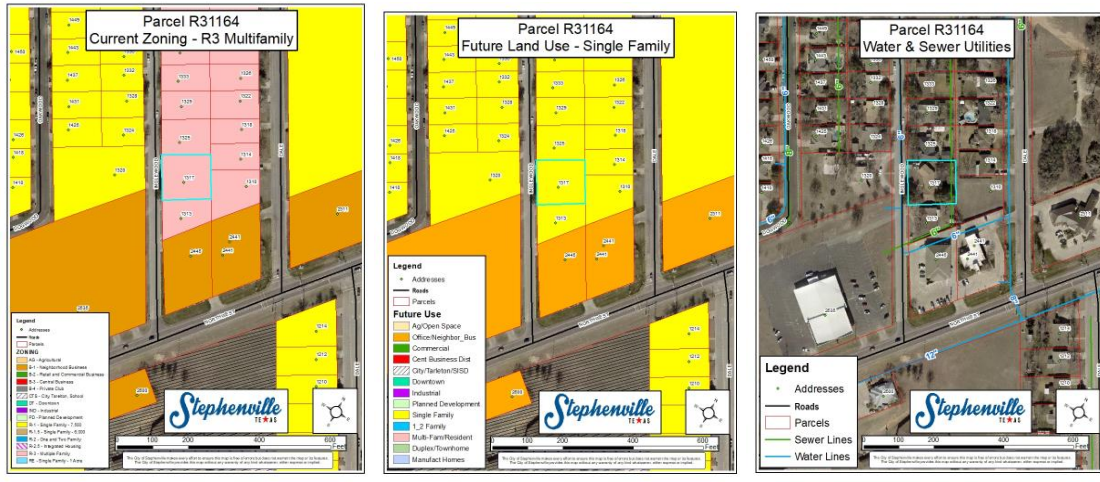
In May, 2021, a similar request was approved for a residential property in Golf Country Estates. In that case, the Bureau of Alcohol, Tobacco and Firearms (ATF) was considering license revocation for the following requirements set forth by the Bureau:

1. Any transaction involving firearm transfers must occur at the locale listed on the licensee's application and;
2. The licensee must comply with all local ordinance and regulations and therefore,
3. The applicant was deemed to be in violation as City Ordinance prohibits home occupations that result in the generation of significant traffic to the property.

On May 13, 2022, staff contacted the ATF and confirmed that they will not issue a permit from their office unless the local municipality approves the use.

If the request is approved, Staff recommends the Conditional Use be granted with the stipulation that the use must comply with all criteria applicable to home occupations and violation thereof will result in revocation.

PROPERTY PROFILE



ZONING

Sec. 154.05.6. Multiple family residential district (R-3).

5.6.A Description. This residential district provides for medium to high-density city neighborhood development. The primary land use allows for single-family dwellings, two-to-four family dwelling units, and multiple family housing buildings and complexes platted as one parcel and sole source management. All R-3 zoning will be appropriate to a city-style neighborhood. Recreational, religious and educational uses are also permitted so as to contribute to the natural elements of a convenient, balanced and attractive neighborhood. Development within this district is intended to be protected from the encroachment of land activities that do not contribute to the esthetic and functional well being of the intended district environment.

5.6.B Permitted Uses.

- (1) Single-family detached dwelling, limited to occupancy by a family having no more than three individuals who are unrelated by blood, legal adoption, marriage or conservatorship. The owner and any agent of the owner shall be legally responsible for directly or indirectly allowing, permitting, causing, or failing to prohibit residential use of a dwelling in this district by more than three unrelated individuals;
- (2) Two-to-four family dwellings, with each family limited as in division (1) above;
- (3) Multiple family dwellings, with each family limited as in division (1) above; Student living complexes will be subject to a variance request for units designed to occupy more than three unrelated students per unit;
- (4) Assisted living center;
- (5) Convalescent, nursing or long term-care facility;
- (6) Retirement housing complex;
- (7) Accessory buildings;
- (8) Churches, temples, mosques and related facilities;
- (9) Community home;
- (10) Park or playground;
- (11) SISD school—public;
- (12) Bed and breakfast/boarding house;
- (13) Group day care home;
- (14) Registered family home;
- (15) Day care center; and

(16) Fraternity or sorority house.

5.6.C Conditional Uses.

- (1) Home occupation;
- (2) Common facilities as the principal use of one or more platted lots in a subdivision;
- (3) Adult and/or children's day care centers;
- (4) Foster group home; and
- (5) Residence hall.

HOME OCCUPATION

Sec. 154.03 - Definitions.

Home occupation. An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises zoned for residential purposes. A *home occupation* must comply with all the following specific criteria:

- (1) Home occupations shall be allowed without the necessity of a conditional use permit, if such uses relate solely to the use of home areas as further detailed herein by the resident of the premises, and such use does not create on-street parking, significant neighborhood traffic, or other disruption to the residential character of the property.
- (2) The occupation shall produce no alterations or change in the character appearance of the principal building from that of a dwelling and no signage or advertisement of the home occupation or property address is allowed in the yellow pages advertisements in a telephone directory nor via electronic media, or classified advertisements of the property where the home occupation is being conducted.
- (3) The occupation shall not require or provide for the employment of more than one additional person other than members of the household in which the home occupation occurs.
- (4) Not more than two business-related vehicles shall be present at one time, and the proprietor shall provide adequate, paved off-street parking for such vehicles and customer vehicles on the property where the use is located.
- (5) Such use shall be incidental and secondary to the use of the premises for residential purposes and shall not utilize an area exceeding 20% of combined gross floor area of the dwelling units and accessory building used for the home occupation and no outdoor/exterior storage (related to the home occupation) will be allowed.
- (6) The occupation shall not violate any other rules or regulations in the Code of Ordinances.
- (7) The occupation shall not offer a ready inventory of any commodity for sale on the premises.

FACTORS TO CONSIDER:

Sec. 154.20.3. Planning and zoning commission—Conditional use permit.

20.3.A Definition. A conditional use permit is defined in Section 154.03. The terms "Conditional Use Permit" and "Special Use Permit" may be used interchangeably.

20.3.B Effective Date. A Conditional Use Permit shall be deemed effective upon the date approved by the City Council.

20.3.C Termination of Conditional Use Permit. A Conditional Use Permit shall terminate and become null and void as follows:

- (1) Failure to Commence the Use: Upon a finding by the City Manager that the conditional use for which the Conditional Use Permit was issued has not commenced within 180 calendar days after the effective date of the

Conditional Use Permit or the date set forth in the Conditional Use Permit, whichever is applicable. For purposes of this paragraph, the use shall be deemed to have commenced:

- a. If no new construction or renovation of an existing building is required, when actual use for the purposes described in the permit commences; or
 - b. If new construction or renovation of an existing building is required before the use can commence, when a completed application for a building permit, all required construction drawings, and the applicable permit fees have been delivered to the City Building Inspections Department;
- (2) Failure to Commence Actual Use Within Two Years of New Construction or Renovation: If new construction or renovation of an existing building is required before the use can commence, upon a finding by the City Manager that actual use of the property has not commenced within two (2) years after the effective date of the Conditional Use Permit or the date set forth in the permit, whichever is applicable;
- (3) Cessation of Use Not Related to Destruction of Property: After commencement of the actual use of the property for the purpose set forth in the permit, upon a finding by the City Manager that actual use of the property for the purpose for which the Conditional Use Permit was approved:
- a. Has not occurred for a period of 180 consecutive days after the commencement of the actual use for which the Conditional Use Permit was approved; and
 - b. That the conditional use ceased for reasons other than destruction of buildings due to fire, flood, or windstorm;
- (4) Cessation of Use Related to Destruction of Property: After commencement of the actual use of the property for the purpose set forth in the permit, upon a finding by the City Manager that actual use of the property for the purpose for which the Conditional Use Permit was approved has not occurred for a period of two consecutive years after the date of destruction by fire, flood, or windstorm of the buildings in which the use was occurring;

Upon a finding of the City Manager that the use of the property has not been or is not in compliance with the provisions of the permit, the City Manager shall send written notice that the permit will be terminated fifteen (15) days from the date of the receipt of the notice, said notice to be sent by certified mail, return receipt requested to the owner of the property at the last known address indicated on the property rolls of the Erath County Appraisal District, a copy of which notice shall also be placed on the property. Said notification shall contain a summary of the findings by the City Manager citing the provisions of the permit or City Code which have been violated.

20.3.D Appeals.

- (1) Appeal of Termination for Non-Compliance: The owner of the property may file a written appeal of the City Manager's decision with the City Council by delivering to the City Secretary a summary of the property owner's basis for appeal not later than ten (10) calendar days from receipt of the City Manager's notice. The appeal shall be heard at the next regular City Council meeting which occurs on or after the tenth calendar day following the receipt of the notice of appeal. The appeal to the City Council shall be conducted in accordance with procedures adopted by the City Council.

On appeal, the City Council may:

- a. Uphold the decision of the City Manager and terminate the permit;
 - b. Uphold the decision of the City Manager, but grant additional time for compliance, after which date the permit shall terminate if the City Council determines that compliance has not been achieved during the additional time; or
 - c. Overrule the decision of the City Manager. The decision of the City Council shall be final.
- (2) Failure to File an Appeal: If the owner of the property fails to file an appeal as set forth in Section 1, above, on the fifteenth day following delivery of written notice to the owner of the property for which a Conditional Use Permit is issued that the City Manager has determined that violates the provisions of the permit, the conditional use permit will be terminated.

(Ord. No. 2018-O-28 , 8-7-2018)

ALTERNATIVES

- 1) Recommend the City Council approve the request for a conditional use.
- 2) Recommend the City Council deny the request for a conditional use.