

**City of Sweet Home**

Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Staff Report Presented to the Planning Commission

REQUEST: The applicant is requesting a conditional use permit in order to establish a home occupation (home business) on their property. The home occupation would consist of the manufacture and sale of firearms that would be operated by a resident of the property within the dwelling located on the property. The firearms will be sold primarily on-line with a small number of local sales. The applicant expects local sales to be one to two firearms per month and will be by appointment only. The applicant will be the only employee

The subject property contains approximately 5,850 square feet and is in the Residential Medium Density (R-3) Zone.

APPLICANT: Grover L Hubbard Jr

PROPERTY OWNER: Grover and Nancy Hubbard

FILE NUMBER(S): CU20-07

PROPERTY LOCATION: 1207 44th Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AB Tax Lot 01500.

REVIEW AND DESIGN CRITERIA: Sweet Home Municipal Code Section(s) 17.04.030, 17.30.030, 17.80.040

HEARING DATE & TIME: **February 1, 2021 at 6:30 PM**

HEARING LOCATION: City Hall, Council Chambers at 3225 Main Street, Sweet Home, Oregon 9738

STAFF CONTACT: Angela Clegg, Associate Planner
Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov

I. PROJECT AND PROPERTY DESCRIPTION**ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:**

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Medium Density (R-3)	Medium Density Residential
Property North	Residential Medium Density (R-3)	Medium Density Residential
Property East	Residential Medium Density (R-3)	Medium Density Residential
Property South	Residential Medium Density (R-3)	Medium Density Residential
Property West	Residential Medium Density (R-3)	Medium Density Residential

Floodplain: Based on a review of the FEMA FIRM Maps; Panel 41043C0914G dates September 29, 2010, the subject property is not located in the 100-year floodplain.

Wetlands: The subject property does not contain wetlands that are inventoried on the Sweet Home Local Wetlands Inventory or the National Wetlands Inventory (NWI) Map.

Access: The subject property has frontage along 44th Avenue.

Services: The property is connected to City water and sewer services.

TIMELINES AND HEARING NOTICE:

Application Received: December 28, 2020

Application Deemed Complete: January 5, 2021

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: January 6, 2021

Notice Published in New Era Newspaper: January 20, 2021

Date of Planning Commission Hearing: February 1, 2021

120-Day Processing Deadlines: May 5, 2021

II. COMMENTS

CEDD Engineering: Project & Location: This residence home occupation is located in a residential neighborhood, a short distance from the intersection with 44th Ave and Airport Road.
Streets & Stormwater: 44th Ave is a local category street, with the proposal generating minimal traffic on this block segment. The home occupation will not affect any impervious surfaces.
Water & Sanitary: The residence is connected to City services.
Comments & Recommendations: CEDD-IS has no concerns. This proposed use in the residence of 1207 44th Avenue does not appear to impact the roadway right-of-way or traffic.

Public Works Division: Public Works has no issues with this request.

Building Division: The Building Program does not object to this request for a Conditional Use. Please note that if there is any storage of flammables/explosives with regards to the proposed business, all items stored will be in accordance with State Code requirements.

Fire Department: Public Works has no issues with this request.

Public Comments: No comments as of the issue of this Staff Report.

III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a conditional use permit are listed below in bold. Staff findings and analysis are provided under each review and decision criterion.

A. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws [SHMC 17.80.040(A)].

Staff Findings: A home occupation is defined as: “a lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence.” [SHMC 17.04.030 Definitions]

The standards for home occupations are listed in SHMC 17.80. Home occupations are not discussed in the individual zoning chapters. Based on the above, it is staff’s interpretation of the SHMC that home occupations can be established accessory to a residential use under the conditional use criteria listed in SHMC 17.80.

With the application of SHMC 17.80 and the above referenced condition, the application complies with this criterion.

B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering, but not limited to, the following:

1. **Building size;**
2. **Parking;**
3. **Traffic;**
4. **Noise;**
5. **Vibration;**
6. **Exhaust and emissions;**
7. **Light and glare;**
8. **Erosion;**
9. **Odor;**
10. **Dust;**
11. **Visibility;**
12. **Safety;**
13. **Building, landscaping or street features [17.80.040(B)].**

Staff Findings: The applicant is requesting this conditional use permit in order to establish a home occupation the manufacture and sale of firearms that would be operated by a resident of the property within the dwelling located on the property.

1. Building size: The proposed home occupation would be located within the existing single-family home. There are no issues with the building size.
2. Parking and Traffic: The proposed use has no employees. The applicant states that there will be 1-2 clients per month visiting the residence. Staff finds that there will be little to no traffic or parking impact.

3. Noise: The applicant has not indicated the proposed home occupation is sensitive to neighborhood noise levels. The potential for the home occupation to create noise, is addressed in the following subsection of this report.
4. Vibration: The applicant has not indicated that the proposed home occupation creates or is sensitive to vibrations. The proposed use, however, is not one that will create vibrations as it is an office type use.
5. Exhaust and emissions: The proposed home occupation is not anticipated to create exhaust or emissions.
6. Light and glare: The applicant has not indicated that the proposed use will create light and glare different than what is normal in a residential zone.
7. Erosion: Staff has not identified any significant impacts from erosion that would preclude the proposed development.
8. Odor: The proposed home occupation would not create odor.
9. Dust: The proposed home occupation would not create dust.
10. Visibility: The proposed home occupation would not affect visibility of any person on or off the subject property.
11. Safety: Staff has not identified any negative safety impacts that would adversely affect the establishment of the proposed home occupation on the subject property.
12. Building, landscaping or street features: The proposed home occupation would not generate any significant additional traffic beyond that associated with typical single-family residential use. No changes are being made to the building, landscaping, or any street features.

With the above referenced safety condition, the application complies with this criterion.

C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter [SHMC 17.80.040(C)].

Staff Findings: The applicant has proposed to a firearms business. The home occupation would consist of the manufacture and sale of firearms that would be operated by a resident of the property within the dwelling located on the property. The firearms will be sold primarily on-line with a small number of local sales. The applicant expects local sales to be one to two firearms per month and will be by appointment only. The applicant will be the only employee. No potential impacts are identified.

The application complies with this criterion.

D. All required public facilities have adequate capacity, as determined by the city, to serve the proposed use [SHMC 17.80.040(D)].

Staff Findings: As the proposed use has no employees. The client stated he will have 1-2 clients per month visiting the home. There would be no traffic or parking impact and no need for any public facilities improvements.

The application complies with this criterion.

E. Home occupations must meet the following standards:

1. **The home occupation shall be secondary to the residential use [SHMC 17.80.040(E)(1)].**

Staff Findings: The applicant is the owner and resides on the subject property. The owner would be the sole participant in the business operation. The home occupation is secondary to the residential use.

The application complies with this criterion.

- 2. All aspects of the home occupation shall be contained and conducted within a completely enclosing building [SHMC 17.80.040(E)(2)].**

Staff Findings: The home occupation, according to the applicant, would be conducted within the existing house.

The application complies with this criterion.

- 3. No materials or mechanical equipment shall be used which are detrimental to residential use of the dwelling or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with the electrical grid, radio or television reception or other similar factors [SHMC 17.80.040(E)(3)].**

Staff Findings: The applicant indicates the home occupation will not use any materials or mechanical equipment that will create any impacts on the neighborhood.

The application complies with this criterion.

- 4. Vehicles related to the home occupation shall be parked in a manner so as to not block any driveway or impede the safe flow of traffic [SHMC 17.80.040(E)(4)].**

Staff Findings: No additional vehicles would be involved in the home business other than the normal vehicles associated with a residential use. The applicant stated he will have 1-2 clients per month visiting the home. There would be no traffic or parking impact

The application complies with this criterion.

- F. In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole. [SHMC 17.80.050]**

- 1. These conditions may include, but are not limited to, the following:**
 - a) Requiring larger setback areas, lot area, and/or lot depth or width;**
 - b) Limiting the hours, days, place and/or manner of operation;**
 - c) Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor or dust;**
 - d) Limiting the building height, size or lot coverage, or location on the site;**
 - e) Designating the size, number, locations and/or design of vehicle access points, parking areas, or loading areas;**
 - f) Increasing the number of required parking spaces;**
 - g) Requiring street rights-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, are roughly proportional to the impact of the proposed development;**

- h) Limiting the number, size, location, height and lighting of signs;
- i) Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
- j) Requiring fencing, screening, landscaping, berms, drainage, water quality facilities or other facilities to protect adjacent or nearby property, and the establishment of standards for their installation and maintenance;
- k) Designating sites for open space or outdoor recreation areas;
- l) Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and historic or cultural resources;
- m) Requiring ongoing maintenance of buildings and grounds;
- n) Setting a time limit for which the conditional use is approved. [SHMC 17.80.050(A)]

Staff Findings: This provision of the SHMC allows the Planning Commission to impose conditions of approval. This is an opportunity for the Planning Commission to determine if conditions are needed in order to ensure compliance with the "decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole." As specified in SHMC 17.80.050, conditions could include, but are not limited to: expanding setbacks, limiting hours of operation, requiring site or architectural design features, imposing additional sign standards, and so forth.

If this application is approved, staff recommends the Planning Commission impose no conditions of approval as there are no potential impacts which need mitigation except for procedural conditions to assure the operation of the home occupation as represented by the applicant.

G. A conditional use permit shall be void one year after the date of the Planning Commission approval if the use has not been substantially established within that time period. [SHMC 17.80.070]

Staff Findings: As required under this section, the conditional use permit shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.80.070(A), within that time period. As stated in the SHMC, the City Planner may grant one extension of up to one year for a conditional use permit that contained a one-year initial duration upon written request of the applicant and prior to the expiration of the approved period. Requests other than a one-year request made prior to the expiration of the approved period must be approved by the Planning Commission. A conditional use permit not meeting the above time frames will be expired and a new application will be required.

IV. CONCLUSION AND RECOMMENDATION

If the Planning Commission approves this application, staff recommends that the conditions of approval listed below be required in order to ensure that the application is consistent with the findings in the Review and Decision Criteria (Section III) and as required by the Sweet Home Municipal Code and other provisions of law. Appeals to the Land Use Boards of Appeals (LUBA) may only be based on Review and Decision Criteria listed above.

Recommended Conditions If the Application is Approved:

1. The home occupation will be conducted in a manner consistent with the representations made by the applicant in the application and hearing process.
2. All aspects of the home occupation shall be contained and conducted within a completely enclosed building as proposed in this application. Parking may occur outdoors in compliance with the SHMC.
3. The applicant shall comply with all Alcohol, Tobacco and Firearms (ATF) regulations.
4. Vehicles related to the home occupation shall be parked in a manner so as to not block any driveway or impede the safe flow of traffic.
5. The property owner shall obtain and comply with all other applicable local, state, and federal permits and requirements.

V. PLANNING COMMISSION ACTION

In taking action on a Conditional Use Permit, the Planning commission will hold a public Hearing at which it may either approve or deny the application(s). If the application is denied, the action must be based on the applicable review and decision criteria. If approved, the Planning Commission may impose conditions of approval. Staff's recommended conditions are included in Section IV

Appeal Period: Staff's recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the notice of decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an order that is signed by the Chairperson of the Planning Commission. The Order would memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

Motion : After opening the public hearing and receiving testimony, the Planning Commission's options include the following :

1. Move to approve application CU20-07; which includes: adopting the findings of fact listed in the staff report and the conditions of approval listed in Section IV of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny applications CU20-07; which includes: adopting the findings of fact (specify), including the setting of a 12-day appeal period from the date of mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other.

VI. ATTACHMENTS

- A. Subject Property Map
- B. Application

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 8:00 AM and 5:00 PM, Monday through Friday, excluding holidays.



AIRPORT

44TH

CITABRIA



1 inch = 71 feet

Subject Property Map
CU20-07
1207 44th Avenue

Date: 01/05/21