



# SANDY CITY COMMUNITY DEVELOPMENT

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## Staff Report Memorandum August 3, 2023

To: Planning Commission  
From: Community Development Department  
Subject: Tino's Small Engines (Conditional Use Permit – Category II Home Occupation)  
238 E. Shelly Louise Dr.  
[Crescent White Willow, #10]

CUP07032023-006560

R-1-20(A)  
.28 Acres

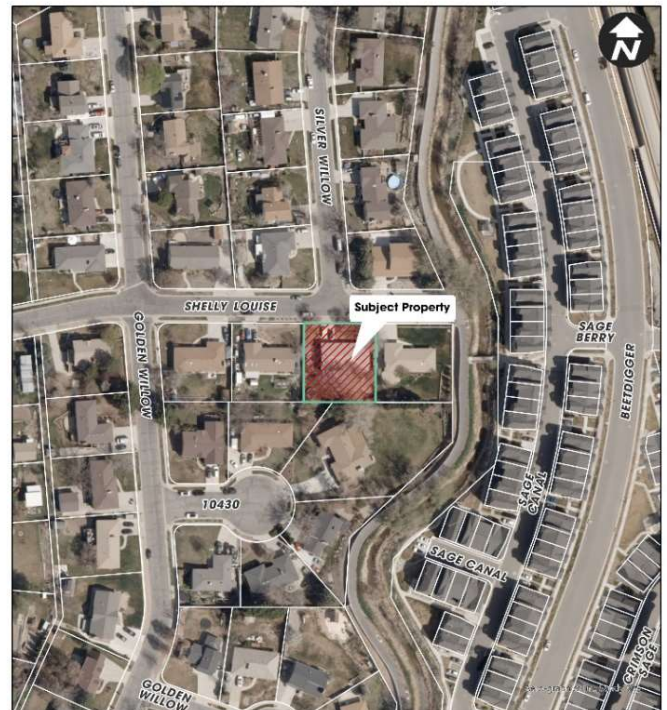
**Meeting Notice:** This item has been noticed to property owners within 500 feet of the subject area, on public websites and at public locations.

### Request

The applicant, Justin Openshaw, with permission from the property owner, Jennifer Mergens, is requesting approval of a conditional use permit for a category II home occupation for a property located at 238 E. Shelly Louise Dr. The applicant is requesting to run a small engine repair and maintenance shop in his garage and as a mobile business. The conditional use permit is for the use of his garage space as a workshop for the business. See application letter (Exhibit A) and application materials (Exhibit B).

### Background

The subject property is located in the R-1-20A zone and is 12,197 square feet. The subject property is lot 135 in the Little Willow Estates 4 subdivision. The property is adjacent to single family homes zone R-1-20A on the north, south, east, and west sides of the property.



0 30 60 120 180 240 300 Feet

CUP07032023-006560  
Conditional Use Permit  
238 E SHELLEY LOUISE DR  
Sandy City, Community Development Department

### **Public Notice and Outreach**

This item has been noticed to property owners within 500 feet of the subject area by mail. A neighborhood meeting was held on July 18, 2023 and four neighbors attended the meeting. The following comments were made about the small engine repair shop:

1. Concerns about extra traffic and where customers will park.
2. Noise created from workshop and engines was mentioned several times as a concern.
3. Concerns about storage of gas and oil and the creation of possible fire hazards.

In addition, staff received two emails from neighbors (Exhibit C).

### **Analysis**

**Section 21-11-05(F)(5)** of the Sandy City Development Code states that any home occupation utilizing a work shop for repairs including welding, carpentry, sheet metal work, furniture manufacturing, upholstery, and other similar manufacturing activities, is classified as a Category II Home Occupation. Category II Home Occupations must be reviewed by the Planning Commission and granted a Conditional Use Permit before pursuing a Home Occupation Business License through the Business License Office.



The applicant is proposing to use half of his attached garage space to conduct a small engine repair and maintenance shop including lawn mowers, leaf blowers, weed whackers, etc. The applicant will also make mobile visits to customers' homes. The applicant is proposing to work between the hours of 9:00am – 5:00pm Monday through Friday and 9:00am – 12:00pm on Saturday. The applicant will keep the garage door closed in order to minimize noise during business hours. The applicant does not plan to store any more gas or oil than would be kept for typical home uses and has passed the Fire Inspection for his business license.

**Section 21-11-05(F)(6)** of the Sandy City Development Code identifies regulations for any home occupation which proposes or conducts activities within an outbuilding, accessory building, attached or detached garage. The following guidelines shall be used to determine the maximum impacts permitted:

1. The applicant for the Home Occupation Business License shall designate the areas of the home, attached/detached garage or accessory structure that will be used for the home occupation. If approved, the home occupation may be conducted only in the designated area.
2. No more than a maximum of 200 sq. ft., or in the alternative, no more than 50% of the total floor space (whichever is greater) of any accessory structure, or attached or detached garage may be used for a home occupation unless there are specific exceptions granted by the Planning Commission.
3. Any home occupation uses in an attached or detached garage may not eliminate minimum parking requirements for the particular zone wherein the home occupation is located.
4. Any accessory structure used for a home occupation must maintain the architectural aesthetics or compatibility of the home and the immediate neighborhood.
5. The home occupation may utilize one unanimated, non-illuminated flat sign to be attached to the accessory structure where the home occupation is being conducted in lieu of a sign attached to the home or in a window. The sign may not have an area greater than one square foot.

The applicant is proposing to use approximately 200 square feet or half of his garage to conduct the home occupation. This may not eliminate minimum parking requirements and the space must be cleared away each night so a car can be parked in the space. All materials have to be stored in the garage. No outside storage is allowed. The applicant will have no more than two customers per hour or eight per day (Sec. 21-11-5(e)(2)).

**Section 21-11-05(G)(9)** of the Sandy City Development Code addresses prohibited home occupations. Auto body repair or

motor vehicle repair of any kind including, cars, motorcycles, RV's, and recreational vehicles is not an allowed home occupation. The applicant is proposing to work on small engines only including lawn mowers, tillers, leaf blowers, etc.

### **Conditional Use Standards**

The City may impose conditions on a conditional use based on certain standards of review found in section 21-33-04 of Sandy City Land Development Code. The following items from that list are applicable to this particular request and merit discussion or additional consideration by the Planning Commission (staff analysis is found below in *italics*):

### **Sec. 21-33-4. Conditions.**

In order to achieve compliance with the standards set forth herein, the City may impose conditions that address:

- (1) Size, configuration and location of the site and the proposed site plan layout.

*The applicant is proposing to use half of his attached garage space. All business materials and supplies will be stored so cars can be parked in the garage.*

- (5) Site circulation patterns for vehicular, pedestrian and other traffic.

*All customer parking will be off-street parking.*

- (9) Fencing, screening and landscape treatments, and other features designed to increase the attractiveness and safety of the site and protect adjoining property owners from noise, visual, and other impacts.

*All activities will be performed inside of the garage with the door closed in order to mitigate noise pollution. The applicant will only be working with small engine repair and nothing will be stored outside the home.*

- (10) Measures directed at minimizing or eliminating possible nuisance factors, including, but not limited to, noise, vibrations, smoke, dust, dirt, debris, plant materials, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.

*Noise generated by the business should not exceed that of acceptable decibel levels during hours of operation. The use shall be limited to small engine repair and not include any vehicle engine repair of any kind.*

- (12) The regulation of operating hours for activities affecting normal schedules and functions.

*The applicant is proposing to operate Monday – Friday from 9:00 a.m. - 5:00 p.m. and Saturday from 9:00 a.m. - 12:00 p.m.*

- (13) Identifying a time for regular review and monitoring, as determined necessary, to ensure the use continues to operate in compliance with all conditions and requirements of approval.

*To be reviewed upon legitimate complaint.*

- (15) Such other conditions determined reasonable and necessary by the City to allow the operation of the proposed conditional use, at the proposed location in compliance with the requirements of this title.

### **Staff Concerns**

Staff is concerned about the garage space being utilized for the business operation and the applicant not being able to use the garage for parking vehicles as required by city code. Each home is required to provide a total of four off street parking spaces (two car garage and two car stalls within the driveway). The applicant will need to utilize those areas for parking while not conducting business.

### **Recommendation**

Staff recommends that the Planning Commission approve a Conditional Use Permit for a Category II Home Occupation as described in the staff report for the property located at 238 E. Shelly Louise Dr. based on the following findings and subject to the following conditions:

### **Findings:**

1. This type of business is allowed as a Category II Home Occupation.

2. The applicant is willing to mitigate impacts.
3. The applicant has passed the fire inspection by the Fire Department required for a business license.

**Conditions:**

1. That the garage door be closed during business operations to mitigate noise.
2. All excess material and any waste material be stored inside the garage and/or removed from the property. No outdoor storage is allowed.
3. That the hours of operation be limited to Monday through Friday from 9:00 a.m. - 5:00 p.m. and Saturday from 9:00 a.m. - 12:00 p.m.
4. Outside of business hours the garage must be clear of materials and supplies so two cars can be parked in the garage.
5. That the repair activity be limited to small engines only and may not include any vehicular engine repair of any kind.
6. That the applicant complies with all Building & Safety, and Fire & Life codes.
7. That the applicant be responsible for meeting all provisions of the Sandy City Development Code, Business Licensing regulations, and all conditions of approval imposed by the Planning Commission.
8. That this Conditional Use Permit be reviewed upon legitimate complaint.

Planner:



Sarah Stringham  
Planner

File Name: S:\Users\PLN\STAFFRPT\2023\CUP07032023-006560 Tinos Small Engines

## Exhibit "A"

**To:** The Sandy City Planning Commission

**From:** Justin Openshaw

**Subject:** Proposed Conditional Use Permit for 238 E Shelly Louise DR

I am proposing the following for my home business, Tino's Small Engines:

-I will be doing small engine (lawnmowers, leaf blowers, etc.) repair and maintenance, mainly mobile, with customers as needed visiting my residence to drop-off/pick-up their property. I will be keeping the noise to a minimum as I will only be turning on the engine to ensure its operation then turning it off. The garage door will be closed most of the day to minimize noise.

-I will be operating between the hours of 9:00 am to 5:00 pm, Monday through Friday and 9:00 am to 12:00 pm on Saturday. There will be no noise or business conducted outside of these hours.

-There will be 0-8 people visiting (as dictated by code) for less than 30 minutes a day, so there will be no impact on traffic. I will be utilizing 1/2 of the 2-car garage that is attached to the house. I do have security cameras that will monitor and record any visitors/transactions. There will be no displacement of any vehicles from our property or additional cars parked at the residence. Customers will be parking in the driveway to drop-off/pick up their property.

-There will be no other employees.

-I will not be storing gas or oil in amounts that would prove a concern for the community. I will have a few gallons of gas and a few quarts of oil at maximum at any given time. The Sandy City fire department and Sandy City building inspectors have been to the residence and have passed the business area.

-The impact I will have on the community and the city is that I will be creating sales tax revenue and helping the community to lower carbon footprint by helping to ensure that small engines are operating efficiently and effectively to lower run time/noise pollution and consumption of gas/oil.

Thank you for your consideration.

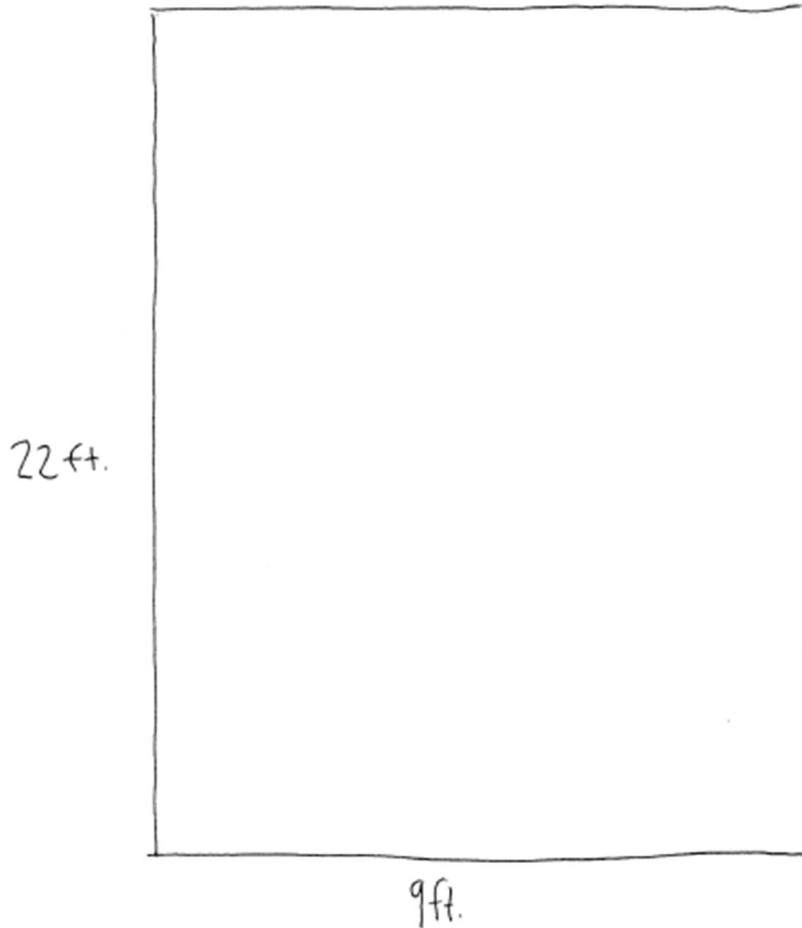
Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Openshaw', is written over a horizontal line. The signature is fluid and cursive.

Justin Openshaw

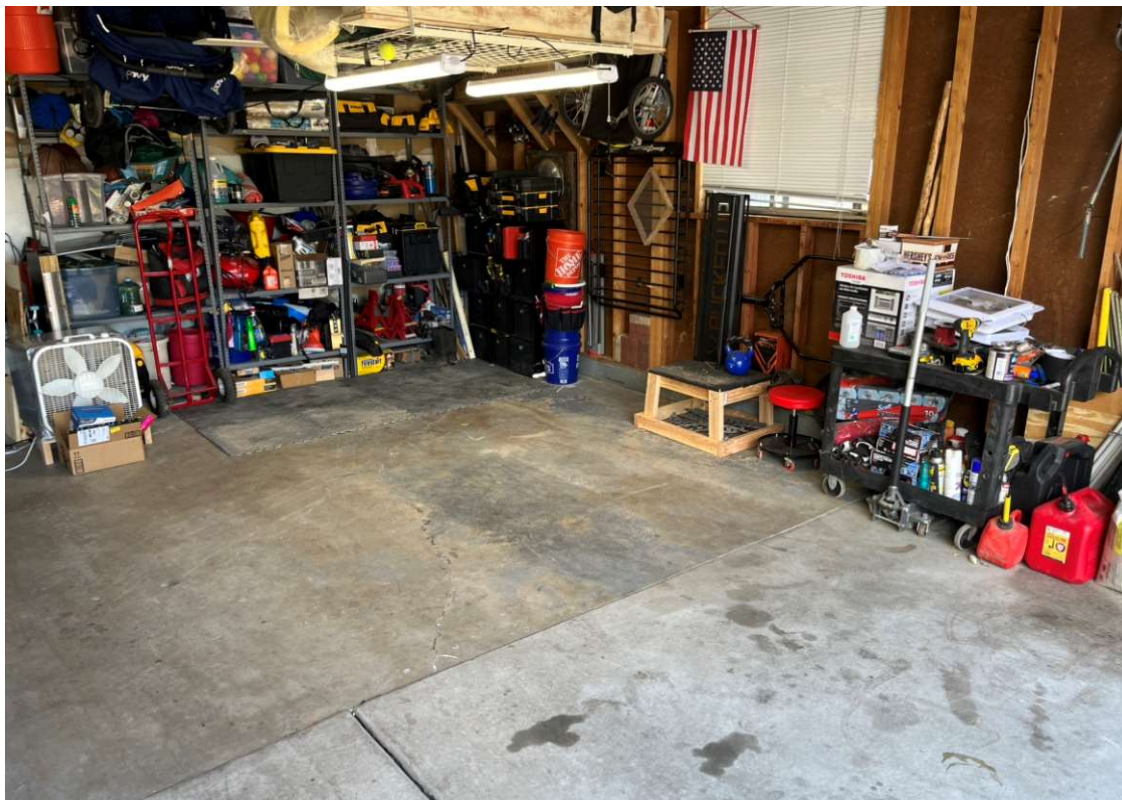


Exhibit "B"



- Utilizing 1 car garage space of a 2-car garage.
- 198 sq. ft. total area.
- Building area will be utilized to conduct repair and maintenance on small engines.

Exhibit "B" continued



## Exhibit "C"

To Whom It May Concern:

My name is Jace Turner, and we recently received a letter in the mail stating that the resident at 238 E. Shelly Louise Dr that lives within 500ft of our residence is holding a meeting/hearing to be able to obtain a permit to open a small engine repair shop. Since moving into our house three years ago we have had a constant noise issue with the resident at this address. The noise issue we have is that they continually have barking dogs that bark all hours of the day. If you talk to Sandy City Animal Services, you will see that over the past two years they have had been reported numerous times for noise. (more than 4) We have tried to alleviate the situation on our own by going and talking to the neighbor, but the door has not been returned with an answer. When we call animal services, and an officer comes to the house he is greeted by the owner.

This is extremely hard for us as both my spouse and I work from home and own multiple businesses that forces us to be on calls all throughout the day. Its extremely hard to concentrate when there's a constant dog barking in the background. My main concern is that this neighbor does not care for the noise ordinance during the day the likelihood that he will be caring enough of his neighbors while operating a small engine repair shop is not likely.

While we are open to attending the meeting/hearing that will be talked about with the community we are extremely concerned what this means for us going forward as we have had major noise issues.

Sincerely

Jace R. Turner

**Jace Turner**

President | Network Director

**Direct (208) 906-1228**

Office (208) 906-1230



## Exhibit "C" continued

I do not think a conditional use permit should be granted for the property at 238 E Shelly Louise Drive, Sandy Utah.

1. Residential areas should be protected from businesses. People moved into the area because it was residential not a business area. Businesses should be run in areas zoned for them, not right in the middle of a neighborhood of homes.
  2. Granting this would open the doors to more problems for a residential area. Keep it how it is, a plan was made for this area to be home use. It should not be changed.
  3. There will be an increase in noise. Why should homeowners that bought in a residential neighborhood have to deal with an increase in noise.
  4. There will be an increase in traffic. Even if it is a small amount it is an increase in traffic.
- Please keep our neighborhood business free.

It is not safe to put a small engine repair shop next to homes. If a fire occurred it would put all the homes at risk. That is not a risk worth taking. Here is a recent fire from a small engine repair shop that happened just this year.

[Fayetteville small-engine repair business total loss after fire - ABC11 Raleigh-Durham](#)

Shalauna Barker  
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