

Decision of the Hearing Officer
West Haven Hearing Officer
Tyler Brown – Home Occupation Appeal
3416 W 3600 South
October 8, 2025

This matter involves a request for a home occupation involving an indoor training facility at 3416 West 3600 South in West Haven.

A hearing regarding the application was held on October 8, 2025, at 10 a.m. by Craig Call, West Haven Land Use Hearing Officer. Tyler Brown appeared as the Applicant. Representing the City of West Haven were Amy Hugie, City Attorney; Emily Green, Stephen Nelson, and Damian Rodriguez.

The record includes the audio recording of the October 8, 2025 hearing, an email chain involving the Applicant, city officials, and the hearing officer initiated on September 9, 2025 and continuing to October 9, 2025, when this decision was provided to the parties using that email chain; Appeal document filed September 8, 2025; Conditional Use Application (undated); the proposed Site Plan dated August 1, 2025; the Planning Commission Staff Review Memo dated August 27, 2025; and West Haven Planning Commission Minutes dated August 27, 2025.

Findings of Fact:

1. The property involved is approximately 1.2 acres in size.
2. The property is located on the intersection of 3600 South and 3400 West.
3. 3600 South is a busy street which serves as a collector road for an extended area.
4. The proposal is for an indoor training facility to be located on the property.
5. The proposed building which would house the training facility will be 9,750 square feet in size.
6. The indoor training facility use would involve the entire building.
7. The dwelling on the property is approximately 1,900 square feet in size.
8. The proposed use would utilize twelve parking spaces which are proposed for the property.
9. The applicant has projected traffic generation of five to ten client vehicles during peak hours.
10. The applicant proposes no signs identifying the home occupation on the premises.
11. The building proposed for the use is of a size, scale, and configuration which would be approved by the city as an accessory building for residential uses.
12. Such buildings are common in the city and provide for storage and utility purposes related to other residential uses on other properties.
13. The applicant initially requested the proposed home occupation in a 12,000 square foot building. That request was heard by the West Haven Planning Commission in July of 2025.
14. The applicant was advised in that July 2025 meeting that the code prohibits an accessory building of that size on the property.

15. The current revised application includes a building of 9,750 square feet, which meets the requirements of the ordinance related to the maximum lot coverage of accessory buildings in the zone.
16. The planning commission heard the revised application for a home occupation and conditional use permit on August 27, 2025, and denied the application.
17. The minutes of the planning commission meeting include a statement that the denial is based on two conclusions: 1) that the portion of the home occupation, as proposed, would not be able to remain secondary to the residential use; and 2) the proposed site plan does not comply with the purpose and intent of the Home Occupation ordinance in “maintain the peace, quiet, and domestic tranquility within all residential or agricultural areas of the city”.

Conclusions of Law

1. The City Code at §157.880 et. seq. provides for home occupations within the residential zones of the city.
2. The code provides at §157.880 that the purpose and intent of the home occupation subchapter is to, among other objectives, “maintain the peace, quiet, and domestic tranquility” within residential and agricultural zones of the city.
3. The Utah Court of Appeals has held that general language such as that cited in conclusion 2 is not adequate to support the denial of an application where the application meets the other criteria of an ordinance. "we will not find a violation of law simply because [the permitted use may appear] inconsistent with the general intent statement . . . when [the use] is in compliance with the substantive provisions of the ordinance." *Brown v. Sandy City Board of Adjustment*, 330 P3d 767 (Utah Ct. App., 1998).
4. The planning commission’s decision cannot be supported based on its second stated reason which relies only on the general purpose statements and not with the substantive provisions of the ordinance.
5. The focus of this review is therefore on the first stated basis for the decision of the planning commission – that the proposed use will not remain as secondary to the primary residential use as required by §157.882(B).
6. For simplicity’s sake, it can be stated that when an application is made for a home occupation to be located in an accessory building, there is first review of the home occupation application to determine if it complies with the generally applicable provisions of §157-880 through 883. If it does, then a second review would involve the consideration of allowing the use of an accessory building to house the home occupation through a conditional use review as required by §157-881(B)(1). These are separate issues.
7. The secondary use review is not a matter of mitigation. The mitigation of reasonably anticipated negative effects is required under the conditional use code (Utah Code 10-9a-507), but this application if approved, must meet the requirements of the home occupation code as well as qualify for a conditional use. The ability to mitigate any anticipated impact of a home occupation is not a required consideration under §157-882(B).
8. The interpretation and application of the wording of the ordinance has come up as an issue in this appeal.

9. Under Utah Law, at §10-9a-705, (4) The appeal authority shall: (a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and (b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
10. The plain wording of §157-882(B) refers to a "dwelling" and not to the property as a whole. But the code also provides in §157-882 that the three mandatory conditions of that section apply to all home occupations, whether permitted or conditional.
11. It is appropriate to apply the ordinance to the relevant use of the entire property and not just to the dwelling structure in this instance. In interpreting ordinances, our case law provides that "our plain language analysis is not so limited that we only inquire into individual words and subsections in isolation; our interpretation of a statute requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole." *2 Ton Plumbing LLC v. Thorgaard*, 2015 UT 29; 345 P.3rd 675, ¶32.
12. The provision requiring the secondary nature of the use is specifically stated, in the plain text at the beginning of §157-882, to apply to both permitted and conditional uses.
13. The plain language of §157-882(B) thus requires that the home occupation remain secondary to the residential use of the property, whether within a dwelling or in an accessory building.
14. To interpret the ordinance in any other manner would produce an absurd result – such an interpretation would require the city to approve any commercial home occupation (other than the few specifically prohibited or limited in the ordinance), of any scale or intensity that could be incrementally mitigated (but not eliminated), if the home occupation is to be conducted outside the dwelling.
15. That absurd result is compounded by the obvious fact that what goes on beyond the walls of the dwelling is much more likely to interfere with the residential character of the neighborhood than what happens inside the home.
16. The appropriate application of the ordinance in this instance would be to conclude that once the proposed use is to be located in an accessory building, the issue of whether the proposed home occupation use is secondary to the residential use must involve the consideration of what is allowed on the entire property and not just within the dwelling.
17. The planning commission therefore appropriately applied the provisions of §157-882(B), requiring that the proposed home occupation remain secondary to the residential use of the property.
18. The decision of the planning commission to deny the application because the proposed use would not remain secondary to the residential use of the property must also be based on substantial evidence.
19. Substantial evidence is defined in statute as "evidence that: (a) is beyond a scintilla; and (b) a reasonable mind would accept as adequate to support a conclusion.
20. Under the rules of evidence, such as Rule 702 of the Utah Rules of Evidence, qualified expert may provide evidence if:
 1. Their knowledge will help the trier of fact (such as the planning commission) understand the evidence or determine a fact at issue.
 2. Their testimony is based on sufficient facts or data.
 3. The testimony is the product of reliable methods.

4. They have applied those methods reliably to the case.
21. The Utah Court of Appeals has included the opinions of a professional planner as substantial evidence in reviewing a conditional use application, along with the opinion of a real estate appraiser and an expert in the industry involved. See *Kilgore Companies v. Utah County Board of Adjustment*, 2019 UT App 20 ¶¶ 6-7.
22. In this matter, the professional staff stated that the “proposed development would need to be further reduced in size so that the commercial aspect of the property is smaller than and secondary to the residential aspect of the property”. Staff Review, p.3.
23. The record includes a professional planner statement that the anticipated peak hour volume of traffic provided by the applicant is unusually high for a home occupation. Staff Review, p. 6.
24. The residential use of the property involves a 1,900 square foot residence generating the traffic of normal residential occupancy. The proposal was for a 9,750 square foot facility with twelve parking spaces that would involve traffic of five to ten vehicles during peak business hours
25. The traffic estimates and the building sizes are objective evidence.
26. While the opinion of the professional planner involves subjective considerations, as do most expert opinions, that opinion constitutes substantial evidence in the record.
27. There is therefore substantial evidence on the record that the proposed home occupation use would not remain secondary to the residential use.
28. The application is therefore inconsistent with §157-882(B) and does not meet the substantive provisions of the ordinance as required for approval.
29. The denial of the application for a home occupation in this instance was not arbitrary, capricious or illegal.
30. The decision of the planning commission to deny the application is therefore upheld.

Dated this 9th day of October 2025.

/s/Craig M Call
West Haven Land Use Appeals Hearing Officer