

BRIGHAM CITY PLANNING COMMISSION

BRIGHAM CITY COUNCIL CHAMBERS
Tuesday, December 17, 2019 6:00 p.m.

PRESENT: Dean Lester Chairperson
Steve Barsuhn Vice Chair
Cindy McConkie Commissioner
Reed Hancey Commissioner
Holly Bell Commissioner
Zachary Roberts Commissioner

ALSO PRESENT: Mark Bradley City Planner
Tony Ekins Associate Planner
Sarah-Jane Martin Administrative Assistant
Mike Christiansen City Attorney

EXCUSED: Scott Mildenhall Commissioner
Curtis Hoehn Commissioner

AGENDA

Approval of Minutes

Application #19-110 / Conditional Use Permit ¹ / Vacation Rental / 620 E. Cottonwood Circle / Jeffrey and Elaine Packer

REGULAR MEETING

Regular session opened at 6:00 p.m. by Dean Lester and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES

Commissioner Bell made a motion to approve the minutes from the October 15, 2019 meeting as written. The motion was seconded by Cindy McConkie and passed unanimously.

Application #19-110 / Conditional Use Permit ¹ / Vacation Rental / 620 E. Cottonwood Circle / Jeffrey and Elaine Packer

Commissioner Bell asked to abstain from voting, unless there is a tie, as she is personal friends with the applicants.

Mr. Bradley came to the table to and gave an overview of the agenda item being discussed. Jeffery and Elaine Packer are requesting a vacation rental with a conditional use permit in a residential district. Mr. Bradley referenced the standards used for a vacation rental in city code 29.05.260. Mr. Bradley directed their attention to the comments from the different city departments, noting that the majority of comments will be from the Community and Economic Department because of zoning concerns related to this application.

Photographs of the exterior and interior of the proposed vacation rental were displayed for all in attendance to see. Noting the exterior entrance, two tandem parking spots, bathroom, two bedrooms, one bedroom needing an egress window, and living/kitchen area. A site plan, floor plan, and an aerial photo of the house were included.

Staff recommendation is that this application is not consistent with the standards and regulations required in the city code for a vacation rental and that it creates a multi-family use in a single-family zone.

A letter from Sandra Nelson, who could not be in attendance, was read aloud.

My name is Sandra Nelson and I live, at 623 Cottonwood Circle in Brigham City. I am unable to attend this meeting, due to being out of town. I live across the street from the neighbors that are proposing the Short Term Vacation Rental in their basement apartment.

I have lived in this neighborhood for the past 27 years. Over those years we have seen a great many things take place. When we moved in we were aware of the Christmas decorations that were displayed and we have gladly participate in this event. We have experienced Christmas decorations and traffic, garage bands, trunk or treats, wedding receptions, neighbor picnics and heavy snows. One winter because of the number of cars parked on the street, the snow was not plowed, causing the garbage collection to not take place for a short time. My son's spent considerable amounts of time at the neighbors playing with their daycare children. We have shared ice pickles (for you older than 6, they are called popsicles) and treats with one another. Each household has raised children here and it appears that each has had a great time over the years. Our neighborhood has been successful in meeting many of each other needs. Including picking up mail for each other, watching houses when neighbors have been on vacations, helping to shovel snow in the winter, moving piano's and many other things. I feel that we each have helped built a sense of community over the years because of all the things that we have experienced together. We have tried to be good neighbors to all who have lived here and we have tried to make it a great place to live. As neighbors is seems the goals have been similar for the future of the neighborhood.

In the past, all seemed to have the same view of a R1 zoned neighborhood. It is now apparent not everyone sees the future the same.

However this planning commission decides, renting a basement apartment, long term or short term, to someone other than a family member, would seem to make the home more than a single family dwelling unit.

This vacation conditional use permit for the basement apartment across the street will definitely change the neighborhood.

I do not want to have a vacation rental in the basement apartment across the street in our R1 single-family residential neighborhood.

Whatever decision is made by this Planning Commission, we will continue try to be the best neighbors and rebuilt our relationships with each neighbor.

Thank you for allowing me to share my thoughts with the Planning Commission of Brigham City.
Sandra Nelson

Lee Nelson came to the table to express his concerns. His main concern is zoning. He believes the Packer's application creates a multi-family unit. If the application is approved, it violates the zoning laws in an R-1-10 zone. If approved

the commission is redefining the definition of a single family dwelling. He is also concerned about the additional cars that will be parked.

Richard E. Felt came to the table. He address two concerns with the application for a vacation rental in their neighborhood.

1. Mr. Packer's basement apartment creates a multi-family unit in an R-1-10 zone. He does not want to live in a multi-family zone and asks the committee to deny the application because it doesn't meet the criteria of an R-1-10 zone.
2. He is concerned about the additional space that will be needed for parking. With more cars being parked in the cul-de-sac he is concerned that snow removal, garbage collection, and fire/ems services will be hindered in completely their assigned tasks.

Commissioner Lester invited Jeffery Packer to the table to address the Planning Commission.

Mr. Packer addressed four concerns with the Staff Review:

1. The city attorney found the vacation rental provision to be unclear and is asking the city to grant his request before the code is updated. He feels he should be grandfathered in because he meets the current definitions that are applicable in the code. He is also willing to meet any reasonable requirements the Planning Commission decides on.
2. The Land Use Authority can approve a conditional use if reasonable conditions are met. Mr. Packer stated he is willing to meet all reasonable conditions.
3. Staff's belief that this application doesn't meet the intent of vacation rental provision and nature of a single-family zoning district where the existing dwelling would be occupied by the owners/applicants as their primary dwelling and as a vacation rental that creates a multiple family type of use with the dwelling. Mr. Packer questioned why vacation rentals are allowed in R-1-10 zone if his application doesn't fit the intent.
4. Staff's conclusion that the additional rental use of the home with the primary occupants would be more than a clearly minimal impact on adjacent residential properties and neighborhood. He doesn't believe his neighbors have given sufficient evidence that it would be more than a minimal impact.

Commissioner Lester mentioned they would go around the table with questions starting with Commissioner Hancey.

At this time Commissioner Hancey held off asking any questions and mentioned that he may need to abstain from voting as his daughter had rented from the Packers about 10 years ago.

Cindy McConkie asked if the missionaries would be living in the home while using it as a vacation rental. Mr. Packer stated they would be. Ms. McConkie asked for clarification on where the missionaries lived in the home. Mr. Packer stated that they were both in the basement of his home but that his home is

substantial in size and the two areas were two separate spaces. Ms. McConkie asked if they have separate entrances. Mr. Packer clarified by stating that the vacation rental had a separate entrance from the main house, but that the missionaries were required to use the main front door as one of the stipulations from the LDS church.

Commissioner Barsuhn was looking for more understanding of the legalities involved in regards to code and how it applies to single-family dwelling vs. multiple family dwelling in an R-1-10 zone.

Commissioner Lester referenced code 29.05.260 vacation rental special condition.

The purpose of a vacation rental is to allow an existing dwelling to be used and occupied as a short term rental for vacationers and maintain its character and function as a residential dwelling.

Commissioner Lester's concerns apply to the phrase "an existing dwelling" not multiple dwellings in an R-1-10.

Commissioner Lester referenced Brigham City Code 29.05.260 Section A.

Granting of a conditional use permit for a vacation rental facility shall not exempt the application from meeting other applicable ordinances, covenants, codes or laws recognized by Brigham City.

Commissioner Lester believes this application violates the zoning codes for a single-family zone.

City Attorney, Michael Christiansen was asked to the table to explain his opinion on the matter.

Mr. Christiansen references code 29.05.260 Section B item 3:

The vacation rental floor plan and principle function shall remain as a residential dwelling to be used for its main purpose when not used as a vacation rental.

Mr. Christiansen focused on three parts:

1. The primary function shall remain as a residential dwelling, it doesn't suggest two dwellings or two multiple uses, but one common use.
2. Emphases on the phrase "when not used" in the above paragraph. Implying it is to be used as a vacation rental or residence, but not as both simultaneously.
3. Does the principal function of the floor plan keep to the integrity of a residential dwelling when not used as a vacation rental?

Commissioner Roberts' concerns consisted of his belief that the applicant is attempting to use his home as a multi-family home in a single-family zone. The only way to be compliant with the code would be for the Packers to leave the home when it is being rented.

Commissioner Bell gave an overview of the responsibility of the Planning Commission and their responsibility when comes to making decisions on behalf of Brigham City.

Commissioner Lester asks for any more comments from the commission and Mr. Packer.

Motion: Commissioner Hancey made a motion to deny Application 19-110. It was seconded by Commissioner Roberts. Commissioner Lester states the motion has been denied based upon zoning conflicts. Mr. Bradley reminded the commission to include findings of fact.

Commissioner Hancey made a motion to deny application #19-110 based on Finding of Fact that: This application does not meet the intent of vacation rental provision and nature of a single family zoning district where the existing dwelling would be occupied by the owners/applicants as their primary dwelling and as a vacation rental that creates a multiple family type of use with the dwelling

The motion was seconded by Commissioner Roberts

The motion passed with a 4-0 vote. Commissioner Bell abstained from voting.

DISCUSSION

MOTION TO ADJOURN

Motion: A motion was made by Holly Bell to adjourn.

The motion was seconded by Steven Barsuhn.

The motion passed unanimously and the meeting was adjourned at 7:32 p.m.

This certifies that the regular meeting minutes of December 17, 2019 are a true and accurate copy

as approved by the Planning Commission on _____.

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Signed: _____

Sarah-Jane Martin, Administrative Assistant