

**BRIGHAM CITY PLANNING COMMISSION
BRIGHAM CITY COUNCIL CHAMBERS
ELECTRONIC MEETING
Tuesday, June 2, 2020 6:00 p.m.**

PRESENT:	Dean Lester	Commissioner- Chair
	Steve Barsuhn	Commissioner- Vice Chair
	Scott Mildenhall	Commissioner
	Curtis Hoehn	Commissioner
	Cindy McConkie	Commissioner
	Reed Hancey	Commissioner
	Holly Bell	Commissioner

ALSO PRESENT:	Mark Bradley	City Planner
	Sarah-Jane Martin	Administrative Assistant
	Chris Biggs	Applicant

AGENDA

Approval of Minutes

Application #20-029 / Conditional Use Permit 1 - Major Home Occupation / Recreation Rentals / 1465 N. Kotter Drive / Chris and Heather Biggs, Open Sky Rentals

Discussion Item:

A. Title 29 Zoning

REGULAR MEETING

Regular session opened at 6:02 p.m. by Commissioner Lester and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES

Commissioner Hancey made a motion to approve the minutes as amended for May 19, 2020 meeting. The motion was seconded by Commissioner Mildenhall and passed unanimously.

Application #20-029 / Conditional Use Permit ¹ - Major Home Occupation / Recreation Rentals / 1465 N. Kotter Drive / Chris and Heather Biggs, Open Sky Rentals

Mr. Bradley gave a brief explanation of the application #20-029, stating he applicants would like to use their garage to store recreation rental items for their proposed business. The rentals initially would include a side by side and WaveRunner. The applicants have a three-car garage and demonstrate how they can continue to provide for the required two parking spaces required for the residential dwelling. The future rental items would be stored in the noted storage area of the garage. The garage floor plan was displayed. This type of home business should be managed as a small-scale operation as not to change the nature of a residential lot and dwelling. The application appears to work with little impact on the neighborhood due to the scale and storage of items in the garage. It is recommended that rental items should not extend into the

yard area as open outdoor storage for business-related items as well as not impact the ability to meet the required parking spaces for the residential use. Rentals would be for 24 hours and customers would not be coming to the home to pick up or return rentals.

Notices were sent to neighboring properties and Mr. Bradley received two emails, which he displayed and read into the record:

The following email is from the Kotter Canyon HOA Board:

*Mark Bradley and the Brigham City Planning Commission,
The Kotter Canyon HOA Board would like to respectfully show cause why this application should not be granted.
We believe the issuing of this license would be in violation of the Planned Unit Developments CC&R's.*

*(1) I have attached a full copy of the CC&R's, (2) a document containing the specific rules that apply to this issue and (3) pictures of the residents home where he wants to do business. In the photos I have included a picture from 2019 to show the pattern of use at the home. The next four photos are current.
Is there any other documentation the Planning Commission would like us to furnish before or during the meeting?*

We feel the most important article pertaining to this request is:

Item 10.3 - No Business or Commercial Uses

No portion of the Kotter Canyon Estates Subdivision may be used for any commercial business use; provided, however, that nothing in this provision is intended to prevent the use by any Owner of his Lot for a home occupation. No home occupation will be permitted, however which requires or encourages the Owner's clients, customers, patients or others to come to the Lot to conduct business, or which requires any employees outside of the Owner's immediate family or household. No retail sales of any kind may be made in the Kotter Canyon Estates Subdivision. No materials, machinery, equipment or inventory associated with any home occupation may be stored outside on any Lot. No signs associated with any home occupation are permitted.

We plan to contact Sarah-Jane for the link to join the meeting on Tuesday, June 2, 2020 at 6:00 p.m.

*Thank you for your time and effort,
Bruce Karn for the Kotter Canyon HOA
801-668-7003*

The following email is from Dustin Palmer:

My name is Dustin Palmer. I live in the Kotter Canyon subdivision with my family. I would like to oppose the granting of a Conditional Use Permit - Major Home Occupation out of the home within our neighborhood. The home is at 1465 N. Kotter Drive. There are few reasons for the objection.

First would be traffic. With any place of business, including storage, comes an increase in traffic. This is a residential neighborhood with kids that ride bicycles, scooters, and other toys. With increased traffic, comes more danger. Again, this is a residential neighborhood and I don't know anyone who would want to

increase traffic around their home. This home is located on the inside corner of an intersection surrounded by other homes. It complicates things with added traffic and vehicles pulling trailers.

Next issue would be the clutter and Conditional Use Permit "creep". The storage would progress to outdoor storage and may even progress to a repair shop either inside or outside the home. It may even progress to parking along the street or temporarily storing vehicles with trailers. With a storage/repair shop in the neighborhood that would create an eyesore and could devalue the homes and community.

With the traffic impact to other residents, storage in a residential neighborhood, and with the location of this residence, I would object to this Conditional Use Permit.

Thank you,

Dustin Palmer

Mr. Bradley responded to his email as shown:

Dustin,

I am in receipt of your email and will read it to the Planning Commission at the meeting tonight. They will consider the traffic impact. A couple comments: Customers will not be coming to the home. Rentals would be delivered to a predetermined location away from the subdivision and the rentals would be for at least a 24 hour period.

City Staff recommendation to the Planning Commission is a small scale operation only and that no rentals be allowed to be stored in the yard area. We agree with your comment on outdoor storage. Only storage in the garage with the ability to park two vehicles in the garage.

*Thanks,
Mark*

Mr. Palmer continued as follows:

Thank you getting back to us and for your comments.

I understand that customers would not be coming to the home. The traffic that I refer to would be the constant back and forth from the residents exchanging rental machines and/or their employees. There is a potential that there is an employee is based out of the garage.

On the other point about this being a small scale operation. I wouldn't think that I'd have a problem if it was 1 or 2 machines kept in the garage along with 2 vehicles. The house has a 3-car garage and allowing space for 2 other vehicles, that doesn't really leave much space to store the rentals. Maybe 1 or 2 rental machines. I don't think the intension of the application is to only create storage space for 2 rentals.

There is a good chance that this becomes a greater issue in the future. I.E. Storage in the yard, trailers on the street, repair parts outside and a possible repair shop. The location of the home at the intersection and coming off a hill doesn't lend much for room for errors or distractions

These are my thoughts. Thanks again.

Respectfully,

Dustin Palmer

Mr. Biggs addressed the Planning Committee. He has owned the equipment for many months and they have not been parked outside of his garage. He will not be lettering people pick up or drop off items at his home as he doesn't want strangers knowing where the equipment is stored.

Commissioner Hancey wanted to know if Mr. Biggs violates the terms of the agreement what recourse Brigham City have. Mr. Bradley stated that if he violates the conditional use permit, he could lose his permit and his business license.

Commissioner Hoehn had two questions. 1) Does Mr. Biggs plan on having a sign for his business at the home? 2) Does he plan on cleaning the rental equipment on-site? Mr. Biggs stated that he does not plan on having any signage and he will not be cleaning them at the home.

Commissioner McConkie wanted to know how long the rental period was. Mr. Biggs stated they would be for 24 hours.

Commissioner Mildenhall wanted clarification on rental return procedures. He understands the delivery aspect but what about the return of equipment. Mr. Biggs stated that he would meet the client away from his home to collect rented items. Customers would never be coming to his home.

Bruce Karn, the Kotter Canyon HOA president spoke to the committee. Three members of the board and a couple of residents met with Mr. Biggs. They discussed Mr. Biggs business plan. Neighbros had two concerns. 1) Increased traffic due to his business. 2) Parking of equipment outside of the garaged. However, as long as he meets the HOA's CCRs then they are comfortable with his conditional use permit being approved.

Commissioner Lester asked the applicant if he had read and agreed with all Staff Comments and HOA covenants. Mr. Biggs said that he had read and would comply with all items.

Motion: Commissioner Hancey made a motion to recommend approval to the City Council application #20-029 with the understanding that it is in compliance with the regulations for Home Occupation and the understanding that they are complying with the HOA requirements and subject to stipulations and Findings of Fact as listed 1) The use of an attached garage for a home occupation may be considered as a conditional use only under the following conditions as outlined in Chapter 29.30. Home Occupations; 2) The purpose and intent of Chapter 29.30 Home Occupations is "to allow persons residing in dwellings to use their mental or physical expertise and talent in providing a service, developing a product for sale to the public, operating certain kinds of small businesses or maintaining a professional or business office work space in the dwelling, or in an attached or detached garage or accessory building, or yard

space, while at the same time maintaining the peace, quiet and domestic tranquility within all residential areas of Brigham City, guaranteeing to all residents freedom from excessive noise, traffic, nuisances, hazards, and other possible adverse effects of limited business activities being conducted in such areas, and improving and maintaining the aesthetic quality of the neighborhood and the lot or parcel upon which the dwelling and home occupation are located. It is further the purpose and intent of this chapter that home occupations shall be clearly accessory and subordinate to the principal use of the property for dwelling purposes.” City Code Section 29.30.010; 3) Per City Policy regarding conditional use permit applications, neighborhood notices were mailed to record owners of properties within 300 feet of the applicant’s property; 4) Per Utah Code, a conditional use permit “shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” Section 10-9a-507(2)(a); and 5) Such use with the noted conditions and stipulations should not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property or improvements in the vicinity. The motion was seconded by Commissioner McConkie and passed unanimously.

Discussion Item

A. Title 29 Zoning

Mr. Bradley showed and explained the draft matrix table containing use categories and zones. He showed and explained how the matrix was to be used. He highlighted a few points in the matrix.

- Proposing elimination of R-1-40, R-1-20, and R-1-12 zoning districts.
- Coding each use category with P1, P2, etc. which would designate which type of approval the application needs.
 - P1- Staff Review
 - P2- Planning Commission
- Elimination of Conditional Use Permits where possible.

Commissioner Lester asked if the Planning Committee could get a working copy of the matrix so they could review it and have a meaningful conversation next time it is discussed.

A few members of the Planning Committee made comment that, if possible, they would like to see a matrix broken down by zoning district as well as the current one that is broken down by use category type.

Motion to adjourn

Motion: A motion was made by Commissioner Barsuhn to adjourn. The motion was seconded by Commissioner Hoehn and passed unanimously.

The motion passed unanimously and the meeting was adjourned at 7:12 p.m.

This certifies that the regular meeting minutes of June 2, 2020, is a true and accurate copy as approved by the Planning Commission on June 16, 2020.

Signed: _____

Sarah-Jane Martin, Administrative Assistant