

River Heights City

RIVER HEIGHTS CITY PLANNING COMMISSION AGENDA

Wednesday, April 19, 2017

Notice is hereby given that the River Heights City Planning Commission will hold their regular meeting beginning at 7:00 p.m. in the River Heights City Office Building at 520 S 500 E.

- 7:00 p.m. Adoption of Prior Minutes
- 7:05 p.m. Public Hearing for a Conditional Use Permit Request from Robert Kraus for a Home Occupation
- 7:30 p.m. Adjourn

Posted this 14th day of April 2017



Sheila Lind, Recorder

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.

River Heights City

River Heights City Planning Commission
Minutes of the Meeting
April 19, 2017

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5 Present: Commission members: Mark Malmstrom, Chairman
6 Danny Petersen
7 Lance Pitcher
8 Cindy Schaub
9 Jake Zollinger
10
11 Councilmember Blake Wright
12 Recorder Sheila Lind
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14 Others Present: Robert Kraus, Jerry Pence, Mike and Ruthann
15 Nelson, Condon Hansen, Jacob Olsen
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18 Motions made during the Meeting
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20 Motion #1

21 Commissioner Petersen moved to "approve the minutes of the March 29, 2017
22 Commission Meeting." Commissioner Schaub seconded the motion, which carried with
23 Malmstrom, Petersen, Pitcher, Schaub and Zollinger in favor. No one opposed.
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25 Motion #2

26 Commissioner Schaub moved to "approve the Conditional Use Permit submitted by
27 Robert Kraus for his Trampolines and Plaything business located at 562 East 600 South and 609
28 South 600 East, with the conditions of complying with the sign ordinance and customer parking
29 will be on or adjacent to his properties." Commissioner Zollinger seconded the motion, which
30 passed with Malmstrom, Pitcher, Schaub and Zollinger in favor. Petersen was against.
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33 Proceedings of the Meeting
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35 The River Heights City Planning Commission met at 7:00 p.m. in the Ervin R. Crosbie
36 Council Chambers on April 19, 2017.

37 Adoption of Prior Minutes: Minutes for the March 29, 2017 Planning Commission
38 Meeting were reviewed.

39 Commissioner Petersen moved to "approve the minutes of the March 29, 2017
40 Commission Meeting." Commissioner Schaub seconded the motion, which carried with
41 Malmstrom, Petersen, Pitcher, Schaub and Zollinger in favor. No one opposed.

42 Public Hearing for a Conditional Use Permit Request from Robert Kraus for a Home
43 Occupation: Commissioner Malmstrom read through Mr. Kraus' application for his business of
44 Trampolines and Playthings. Mr. Kraus said he's had his business for over 35 years with no

45 complaints from neighbors except one. He doesn't see the justification behind his neighbor's
46 recent complaint. In regards to the parking issue, he said there are far more cars that pull over
47 on his road for school than for his business. Mr. Malmstrom asked for public comments.

48 Jerry Pence lives north of the Kraus home. They moved in nine years ago and asked if
49 Mr. Kraus hadn't had a license all that time. Commissioner Malmstrom said he did have a
50 business license but not a conditional use permit, which he needs based on his outdoor
51 displays. Mr. Pence said since the city issued a license, one would assume the city was fine with
52 Mr. Kraus' business.

53 There was confusion about what the issue was. Councilmember Wright explained that
54 the city's current ordinance requires a CUP for Mr. Kraus' use. What we don't know is what the
55 law was when he started his business. He hasn't been able to show proof of when the business
56 started. The timing is critical since there is a past ordinance that would allow his use and
57 another one that wouldn't. Without proof Mr. Kraus needs to fall under the current ordinance.
58 Mr. Kraus always thought his business was legal. It wasn't until a recent neighbor asked the city
59 to see his CUP, which they didn't have and Mr. Kraus couldn't prove, that it became an issue. It
60 seemed the best way to take care of the situation was to have him apply for a CUP under the
61 current ordinance.

62 Mr. Kraus said he found some business information from spring of 1983.

63 Commissioner Wright read from the 1983 Ordinance which first addressed Home
64 Occupations, but not CUPs. He interpreted from this that Mr. Kraus' business wouldn't have
65 been allowed then because his full business wasn't contained inside his home.

66 Commissioner Wright read from the 1971 Ordinance, which didn't address home
67 occupations at all. If there were proof that the business was in place before 1983, they
68 wouldn't need to be here.

69 Ruthann Nelson said she grew up in River Heights and has lived across the street from
70 Mr. Kraus for 14 years. She remembers his business always being there. Her family has never
71 had an issue with his business and felt it's been an asset to the neighborhood.

72 Commissioner Petersen said he has a state contractor's license but it doesn't take care
73 of his city business license. He said people need to find out the rules and abide by them.

74 Mr. Kraus said he's always had a city business license for his business. He was unaware
75 he needed anything more.

76 Condon Hansen asked what the 1997 ordinance said. Commissioner Malmstrom read
77 from it, which would require Mr. Kraus to have a CUP based on his distribution of products.

78 Commissioner Schaub asked if the issue was the display of the equipment from the
79 street. Commissioner Malmstrom stated the biggest concern, which he's aware of, is traffic
80 from the business. Ruthann Nelson said there are far more cars associated with the school than
81 Mr. Kraus' business.

82 Commissioner Petersen stated the current ordinance says there should be no outdoor
83 displays or signs. Mr. Kraus asked if he could continue these things since he's been doing it for
84 so long.

85 Commissioner Malmstrom read from the sign ordinance, which said a home occupation
86 business could have a sign that was window or wall mounted.

87 Commissioner Schaub felt the playground equipment was too close to the road.

88 Mr. Kraus thought he could produce proof that he was in business in 1982.
89 Councilmember Wright asked him if he really wanted to pursue this avenue, rather than get the
90 CUP.

91 Mike Nelson said the real issue is that a neighbor doesn't like Bob Kraus and didn't even
92 show up to the meeting. He said Mr. Kraus operates a good clean business. He's been fair and
93 gotten his business license every year. Mr. Nelson thinks the city should work on how to help
94 businesses succeed, not make it hard for businesses.

95 Commissioner Malmstrom assured the city wasn't trying to shut the business down.
96 Because this issue had attorneys involved, the city needed to figure out if the business was
97 legal, and if not to get it to that point. It certainly has involved going through some hoops but it
98 means the city will be protected, as well as Mr. Kraus.

99 Commissioner Malmstrom addressed the sign ordinance, which stated signage needs to
100 be wall or window mounted.

101 Ruthann Nelson asked if the sign being attached to the swing set would count.
102 Commissioner Petersen reiterated, *'wall or window mounted.'*

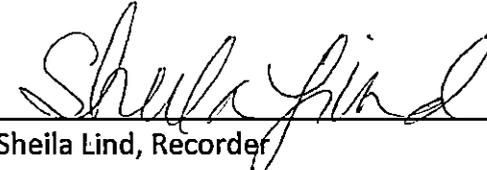
103 Commissioner Malmstrom doesn't believe the sign is bad or obtrusive, but asked
104 Councilmember Wright what could be done besides changing the ordinance. Mr. Wright
105 guessed that when the ordinance was written it was for businesses taking place inside the
106 home. He suggested the Commission could make sign ordinance compliance as one of the
107 conditions. In the meantime, the city's attorney can be consulted on his interpretation.

108 Commissioner Petersen asked which ordinance they would go by. Councilmember
109 Wright answered it will be the current one. Mr. Petersen asked for the current ordinance to be
110 read. *'Direct sales and distribution'* puts Mr. Kraus into a CUP.

111 Commissioner Schaub noticed Mr. Kraus owns two properties and has his equipment
112 basically on 609 South 600 East. His home is at 562 E 600 South.

113 **Commissioner Schaub moved to "approve the Conditional Use Permit submitted by**
114 **Robert Kraus for his Trampolines and Plaything business located at 562 East 600 South and**
115 **609 South 600 East, with the conditions of complying with the sign ordinance and customer**
116 **parking will be on or adjacent to his properties."** Commissioner Zollinger seconded the
117 **motion, which passed with Malmstrom, Pitcher, Schaub and Zollinger in favor. Petersen was**
118 **against.**

119 The meeting adjourned at 7:55 p.m.

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124 Sheila Lind, Recorder

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126 Mark Malmstrom, Chairman

River Heights City Conditional Use Application

For office use	
Date Received	<u>Mar 23, 2017</u>
Receipt #	_____
Hearing Date	<u>Apr 19</u>
Approved	_____
Denied	_____

Please fill out all applicable information.

1. APPLICANT

Name: Robert Kraus
Mailing Address: 562 East 600 So Rider Heights
Phone #: 770 9150 Fax #: — e-mail: KrausRV@gmail.com

Please check one of the following: Owner buyer renter agent other

2. PROJECT INFORMATION

Name: Trampolines & Playthings LLC
Address/Location: Same

Property Tax ID: _____ Existing zone: _____

What is the current use of the property? Trampolines & Playthings

How many employees will be working at this location including applicant, immediate family members, and non-family members? 1

How many vehicles will be coming and going daily, weekly, or monthly? 4 or 5 monthly

I agree to abide by the River Heights City Parking Ordinance (10-13). Initial RK

I agree to abide by the River Heights City Sign Ordinance (10-14). Initial RK

Description of Request: _____

Continue Playground Sale's That I have
been doing the past 35 years at
this location.

3. SUBMITTAL REQUIREMENTS

- _____ Completed and signed application form
- _____ \$100 application fee
- _____ 8 1/2" x 11" copy of plans
- _____ List of property owners names and addresses within 300 feet of the property lines, not the location of the request. This list must be obtained from the County Recorder (179 N Main).
- _____ Provide to River Heights City a Fire Protection evaluation from the County Fire Chief.

4. ACKNOWLEDGMENT OF RESPONSIBILITY

This is to certify that I am making an application for the described action to the City and that I am responsible for complying with all City requirements in regard to this request. I realize in order to do any construction on the property, I will be required to obtain a Zoning Clearance Permit from River Heights City and a County Building Permit. I will also meet the ordinances and standards of River Heights City for any improvements. The documents and/or information I have submitted are true and correct. I understand that my application is not deemed complete until the Planning Commission has reviewed the application and has given their approval in the form of a permit. I understand additional fees may be charged for the City's review of the proposal. I agree to reimburse River Heights City for any costs of enforcement including reasonable attorney fees, and/or any other costs of enforcement incurred by the City resulting from my failure to comply with the Land Use Ordinance and terms of this Conditional Use Permit.

Signature of Applicant:

Robert Kraus
 Sign

Robert Kraus
 Print

23 March 2017
 Date

5. AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm I am the fee title owner of the above described property or I have written authorization from the owner to pursue the described action with a copy of the authorization attached.

Robert Kraus
 Sign

23 March 2017
 Date