

River Heights City


RIVER HEIGHTS CITY PLANNING COMMISSION AGENDA

Wednesday, July 5, 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 to Discuss a Kennel Conditional Use Request from Charlotte Maynard of 550 S 800 E
- 7:20 p.m. Request from Bryan and Lisa Roberts for Horses on Their Property at 580 S 600 E
- 7:40 p.m. Discuss Code Changes in Regards to Noise as a Nuisance and Home Occupation Licensing
- 8:00 p.m. Adjourn

Posted this 29th day of July 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

1 River Heights City Planning Commission
2 Minutes of the Meeting
3 July 5, 2017
4

5 Present: Commission members: Cindy Schaub, Vice Chair
6 Danny Petersen
7 Lance Pitcher
8
9 Councilmember Blake Wright
10 Recorder Sheila Lind
11 Public Works Director Clayton Nelson
12
13 Excused Commission Chair Mark Malmstrom
14 Commissioner Jake Zollinger
15
16 Others Present: Steve and Charlotte Maynard, Brian, Lisa and Sage
17 Roberts, Mike and Ruthann Nelson, Crystal Morrell,
18 Kevin Shanley
19
20

21 Motions made during the Meeting
22

23 Motion #1

24 Commissioner Pitcher moved to “approve the minutes of the June 7, 2017 Commission
25 Meeting.” Commissioner Petersen seconded the motion, which carried with Petersen, Pitcher
26 and Schaub favor. No one opposed. Malmstrom and Zollinger were absent.
27

28 Motion #2

29 Commissioner Pitcher moved to “approve the CUP request for Charlotte Maynard, of
30 550 S 800 E, for three indoor dogs with an outdoor kennel with the following conditions: 1)
31 When outdoors, the dogs will be on a leash unless they are being trained. 2) Owners will
32 provide documentation to indicate they are service animals. 3) The CUP expires upon the
33 applicant vacating the property.” Petersen seconded the motion, which passed with Petersen,
34 Pitcher and Schaub in favor. No one opposed. Malmstrom and Zollinger were absent.
35
36

37 Proceedings of the Meeting
38

39 The River Heights City Planning Commission met at 7:00 p.m. in the Ervin R. Crosbie
40 Council Chambers on July 5, 2017.

41 Adoption of Prior Minutes: Minutes for the June 7, 2017 Planning Commission Meeting
42 were reviewed.

43 **Commissioner Pitcher moved to “approve the minutes of the June 7, 2017 Commission**
44 **Meeting.” Commissioner Petersen seconded the motion, which carried with Petersen,**
45 **Pitcher and Schaub favor. No one opposed. Malmstrom and Zollinger were absent.**

46 Public Hearing to Discuss a Kennel Conditional Use Request from Charlotte Maynard of
47 550 South 800 East: Commissioner Schaub read the request from the application. Charlotte
48 Maynard then handed out some information which she discussed explaining the reasons they
49 have three dogs. Their older daughter has anxiety and PTSD. Their younger daughter most
50 likely has high functioning autism and ADD. The third dog is for her husband who is a disabled
51 veteran and has PTSD. They use the dogs as service dogs to help with their disorders.

52 Crystal Morrell, a neighbor, informed that the Maynards take good care of their dogs.
53 She seldom sees them outside and never without a leash. Kevin Shanley is supportive of the
54 dogs because he knows Steve Maynard is usually home and with the dogs. Mr. Maynard
55 agreed he is home most of the time and supervises the dogs. They were willing to apply for
56 service dog licensure, but the cost is \$150/dog. Mr. Maynard explained he doesn’t sleep well
57 and it helps to have a dog that will bark at unfamiliar noises. He has documentation from his
58 doctor, which states a dog would be therapeutic. Commissioner Petersen feels they need to
59 have some type of documentation. Lisa Roberts is a nurse practitioner and volunteered to
60 write a prescription for them, if needed.

61 **Commissioner Pitcher moved to “approve the CUP request for Charlotte Maynard, of**
62 **550 S 800 E, for three indoor dogs with an outdoor kennel with the following conditions: 1)**
63 **When outdoors, the dogs will be on a leash unless they are being trained. 2) Owners will**
64 **provide documentation to indicate they are service animals. 3) The CUP expires upon the**
65 **applicant vacating the property.” Petersen seconded the motion, which passed with**
66 **Petersen, Pitcher and Schaub in favor. No one opposed. Malmstrom and Zollinger were**
67 **absent.**

68 Commissioner Wright asked the Maynards if their yard was fenced. They said no, but
69 they have an outdoor kennel where the dogs can go when they are out. They always keep
70 them on leashes.

71 Request from Bryan and Lisa Roberts for Horses on Their Property at 580 South 600
72 East: Bryan Roberts distributed a handout which explained the events leading up to the
73 complaint that was filed against their horses. They have had the horses for about 6 months.
74 They assumed when they moved in there were animal rights in River Heights. They also have
75 goats and chickens. They got their first horse in the winter so there wasn’t a smell at that time.
76 They are on .78 acre and have a nice set up for animals, which their neighbors seemed fine
77 with. Then they got two more horses. Their neighbor left his hose on and flooded their corral,
78 which created an odor problem, which they wanted to solve. It was at this time that a
79 complaint was filed from a neighbor about the smell. Mr. Roberts would like to apply for a
80 conditional use permit. He noted the Westons have horses on their lot which is adjacent to
81 theirs. It seems like a double standard if some are allowed and others are not.

82 Ruthann Nelson pointed out that she does not love horses but when she has been to the
83 Roberts’ she has never noticed an odor. The stall was very clean.

84 Councilmember Wright explained the code does not allow livestock in a residential
85 zone, therefore, the Commission can’t consider their request. The Weston property has been
86 grandfathered in for horses since they have always had them there. He noted it was

87 unfortunate that the Roberts were told something that wasn't true when purchasing their
88 home. He suggested two options at this point. One would be to apply for a rezone, which he
89 doesn't guess would fly with the public. The other is to try to get a variance, but he isn't
90 optimistic for this avenue. He explained the appeal authority process; they would apply, the
91 city would reject the request and then the appeal authority would review the case.

92 Councilmember Wright said they are not entertaining the complaint, but rather the
93 infraction of the city code.

94 Lisa Roberts said its strange that they have a barn and other outbuilding if there never
95 were animals on the property. Commissioner Peterson said the building was used as a shop.

96 Councilmember Wright said he was happy to help facilitate the appeal board.

97 Ruthann Nelson asked if the Roberts could have an extension beyond July 21 (as stated
98 in the city's letter) to get things figured out. Councilmember Wright agreed the city would be
99 happy to work with them.

100 Discuss Code Changes in regards to Noise as a Nuisance and Home Occupation

101 Licensing: PWD Nelson explained that contractors like to pour concrete between 5:00 and
102 6:00am. On the current 600 East road project, a cement truck came in early and the cops were
103 called by an unhappy neighbor. This isn't the first time there have been complaints concerning
104 work done before 7:00 am. He wondered if there was a way for the code to address that
105 certain city projects may start earlier.

106 Commissioner Petersen agreed this is what contractors do because it gets so hot during
107 the day. Commissioner Pitcher pointed out that Conservice did pours all night long because
108 that's what had to be done. And now it's over.

109 PWD Nelson pointed out a few other cases where they have had to start before 7:00am.

110 Councilmember Wright suggested addressing "emergency" cases in the code.

111 Commissioner Petersen felt contractors should be allowed to start early if they notify
112 the neighbors prior.

113 PWD Nelson said there have been a few days where the city has needed to mow in the
114 park before 7:00am due to events scheduled in the park during the day.

115 Councilmember Wright expressed he has a problem with the recommended verbiage
116 because it looks like the city doesn't need to play by the same rules as everyone else. He
117 suggested: "Necessary services approved by PWD and/or mayor, emergencies, concrete or
118 asphalt paving construction." He would be in favor of letting the mayor and PWD Nelson
119 decide the time and other allowed activities. Mr. Nelson and Commissioner Petersen agreed.

120 Commissioner Schaub agreed to draft this verbiage for the next meeting (with
121 Councilmember Wright's assistance). Mr. Wright announced he would not be available to
122 attend the next meeting.

123 PWD Nelson pointed out it should be the city who dictates the project starting time, not
124 the contractor.

125 Councilmember Wright discussed changes made by the state legislature regarding home
126 occupations. The city attorney has given his interpretation, which Mr. Wright discussed. If a
127 home business has an impact on the neighborhood, then the city can still license and charge a
128 fee. He and Recorder Lind recommend redoing parts of 3-1 to remove the permitted uses
129 section and to address businesses that might impact the neighborhood. Rather than state

130 certain business, they suggested using types of activities that would be disruptive, such as;
131 traffic, noise-visual impact, etc.

132 There was a question on whether the city should license without charging a fee.
133 Recorder Lind would like to find out from Logan City how they are handling these changes.

134 Councilmember Wright suggested the commissioners come up with any other impacts
135 they could foresee which could affect the neighborhood, to discuss at the next meeting. He
136 reminded they are wanting to get away from listing specific businesses.

137 The meeting adjourned at 8:30 p.m.

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Sheila Lind, Recorder

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Cindy Schaub, Vice Chair

Public hearing date: July 5 2017
7:05

River Heights City Kennel Conditional Use Permit Application

The Keeping of Three or More Dogs

Name of Dog Owner: Charlotte Maynard Date: 6/15/17

Phone #: 801-162-9825 Email: thebugroom@gmail.com

Address: 550 S 800 E

Number of dogs requested: 3 Property for animal support (sq ft): 10,018 ft

Description of shelter provided, care of animals, etc: Indoor dogs. Cared
by family of 4. There is an outdoor kennel.
All 3 are loved babies. Outdoors on leashes.
Other than training.

Application fee is \$100 and is nonrefundable.

Date paid 100.00 Check number 1035 By Syf

After receipt of the application and fee, the city will schedule a public hearing with the Planning Commission, within one month. Neighbors within 300 feet of your property will be notified of your request, intent and of the hearing.

If granted, the conditional use permit shall be on indefinite duration, non-transferrable but subject to revocation for violation of City Code or regulation, or failure to meet imposed conditions. Revocation will be only by majority vote of the River Heights City Council after written notice to the permit holder has been served and a hearing has been held.

Animal Assisted Therapy

ADHD, Anxiety, PTSD, HF Autism (Possible)

Animal Assisted Therapy (AAT) is commonly used to treat many mental health issues in children and adults.

Approximately 20% of children and adolescents will need mental health services in their lifetime.ⁱ



There is an “interdependence and interactional nature of [human and animal] relations. Several theories that explain the animal-human relationship were described, including *biophilia*, (emotional connection to other living things), and *attachment* (a bidirectional connectivity between humans and animals).”ⁱⁱ

AAT has also been beneficial for helping children and adolescents with specific outcomes, such as reducing anger and improving coping skills.ⁱⁱⁱ

Often, the interactions not only elevate the participant's mood, but also help the participant reduce depression and improve self-esteem. AAT has also been effective in helping children work through traumas such as sexual abuse. Other applications of AAT with children and adolescents target disorders that may be developmental, emotional, or behavioral. As with adults, one of the aims of cognitive behavioral therapy in these contexts is to help the children and adolescents draw parallels between aspects of their lives and the context of the therapy animal working with them.^{iv}



Impulse control is inherent in dog handling and training, as greater strides can often be made when the handler tailors his or her style to that of the dog they are working with. The implication is that the youths must learn to set aside some of their preconceived notions and inclinations and alter their own behavior to progress their therapy dog's compliance. Thus, the youths must learn to adapt their teaching style to the therapy dogs' learning processes.^v

Three RCTs found mixed results with no significant differences overall, but significant differences for a subset of the most distressed children^{vi}. ...and significantly lower levels of distress and cortisol levels among the experimental group in comparison to the control group, but no significant between group differences regarding pain ratings and parental anxiety,^{vii} found children in the guinea pig condition exhibited significant improvements in social skills (teacher report) and problem behaviors (teacher and parent report) in comparison to the control group. No significant changes in academic competence (teacher report) or social skills (parent support) were found, however.

One study examined AAT for ADHD using an RCT design. Both the experimental and the control groups demonstrated improved social skills, positive behaviors, and reduced problem behaviors. Both groups also showed reductions in the severity of ADHD, although children in the experimental intervention group showed greater decreases in symptoms^{viii}.



The presence of a dog attenuates cortisol and heart rate in the Trier Social Stress Test compared to human friends, by John P. Polheber and Robert L. Matchock

The literature seems to suggest that pet ownership conveys an array of physiological (e.g., reduced blood pressure: Anderson et al., 1992) and psychological (e.g., diminished sense of loneliness^{ix}).

Mental-health experts have been looking into canine-centric therapies for years. Sandra Barker, a psychiatry professor at Virginia Commonwealth, published a study in 1998 that found psychiatric patients' anxiety dropped twice as much after spending 30 minutes with dogs as it did following standard therapeutic recreation involving music and art. A 2003 Barker study reported a "significant reduction" in fear among patients awaiting electroconvulsive therapy after spending only 15 minutes with dogs. And in March she published a study detailing the "buffering effect" dogs have on the stress experienced by their human partners, as measured through cortisol levels, heart rate and blood pressure^x.



ⁱ U.S. Department of Health and Human Services, 1999 (U.S. Department of Health and Human Services. (1999). *Mental health: A report of the surgeon general*. Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health.

ⁱⁱ Amiot and Bastian (2015)Amiot, C. E., & Bastian, B. (2015). Toward a psychology of human-animal relations. *Psychology Bulletin*, 141(1), 6–47.

doi:10.1037/a0038147[CrossRef], [PubMed], [Web of Science ®], [Google Scholar]

ⁱⁱⁱ Chandler, 2005; Hanselman, 2001; Zasloff et al., 2003

^{iv} Contemporary Justice Review, 2015, Vol. 18, No. 4, 421–434,
<http://dx.doi.org/10.1080/10282580.2015.1093686>

^v (Contemporary Justice Review, 2015, Vol. 18, No. 4, 421–434,
<http://dx.doi.org/10.1080/10282580.2015.1093686>)

^{vi} Havener et al., 2001Havener, L., Gentes, L., Thaler, B., Megel, M. E., Baun, M. M., Driscoll, F. A., ... Agrawl, N. (2001

^{vii} Vagnoli et al., 2015Vagnoli, L., Caprilli, S., Vernucci, C., Zagni, S., Mugnai, F., & Messeri, A.(2015). *Developmental Psychobiology*, 57(5), 584–595.

doi:10.1002/dev.21310[CrossRef], [PubMed], [Web of Science ®], [Google Scholar]

^{viii} Schuck et al., 2015Schuck, S. E., Emmerson, N. A., Fine, A. H., & Lakes, K. D. (2015). Canine-assisted therapy for children with ADHD: Preliminary findings from the positive assertive cooperative kids study. *Journal of Attention Disorders*, 19(2), 125–137.

doi:10.1177/1087054713502080[CrossRef], [PubMed], [Web of Science ®], [Google Scholar].

^{ix} Zasloff & Kidd, 1994) benefits (see Barker & Wolen, 2008; Jennings, 1997 for a review

^x Bringing Dogs to Heal. By: Thompson, Mark, Time, 0040781X, 11/22/2010, Vol. 176, Issue 2



Matt Moores, a retired Marine sergeant, with his service dog, James.

PHOTO BY EWAN J. HARRIS FOR THE WASHINGTON POST

Dog therapy for veterans injured in mind and body

FAIZ SIDDIQUI
The Washington Post

Ryan Garrison's service dog wouldn't stop bugging him.

At a dinner outing with his wife, Julie, at Fleming's Steakhouse in Baltimore, Garrison was growing nervous, clenching his hands. Being in public spaces had been a problem for the veteran since his return from Iraq, where he fractured two disks in his spine escaping a grenade blast in 2007.

On that March night at the restaurant, his English black Labrador, Luke, nudged him.

"What's wrong?" wondered Garrison, 39, who retired from the Air Force in June as a staff sergeant. Normally reserved on these outings, Luke sprang up between Garrison's legs and looked him in the eye, "like, 'Hey, look at me.'"

"All of a sudden, my light bulb goes off, like 'Hey, my leg's bouncing. I'm having an anxiety attack,'" Garrison said, recalling how his new companion eased his nerves.

Garrison and his wife recently joined dozens at

a graduation ceremony for Luke and nine other pooches, service dogs who went through a rigorous, two-year training regimen to serve as companions for veterans overcoming the stress of combat.

Volunteers train the puppies from when they are eight to 10 weeks old until they reach age 2, when they go to live with veterans.

After being paired with Luke in March, Garrison — who recently received a diagnosis of post-traumatic stress disorder — saw a marked drop in the anxiety attacks that had been a twice-a-week affair. Now,

he said, he's more confident venturing out, going to restaurants and buying groceries.

"When I take Luke out now, all my focus is on him, making sure he's not smelling something, making sure he's not bothering anybody," Garrison said. "In return, he knows my anxiety cues."

The event in Rockville, Maryland, marked the fourth graduation exercise for Warrior Canine Connection (WCC), which uses dogs to help wounded veterans reconnect with daily life. The floppy-eared graduates were treated to all the commence-

ment hallmarks: a speaker, the ritual playing of "Pomp and Circumstance," hugs and kisses from the volunteers who reared them; and some crying in the crowd.

Julie Garrison broke into tears as she described Luke's impact. The stress of combat and chronic pain had led to bouts of "blind rage" in her husband, she said, but Luke had all but erased them.

Her husband's "dry wit that I fell in love with six years ago has returned, thankfully," she said. "It's just joyful now. Because of

Continued on next page

WARRIOR CANINE CONNECTION

<http://warriorcanineconnection.org/>

that soft presence of Luke.”
 In his keynote remarks, Robert Koffman, a physician and retired Navy captain who is the organization's chief medical adviser, praised canine therapy as “a means of coaxing emotion back into the warrior's

back and brain trauma in 2013 on his second deployment to Afghanistan - career-ending injuries, he learned on his return.

“I was in a really bad place,” said Moores, 32, of Germantown, Maryland. “Being with

“Dogs are good medicine.”

Robert Koffman, Warrior Canine Connection

soul forever robbed by combat of its naivete, and whenever possible whispering a whistle of childhood and innocence back into the hearts and minds of our wounded veterans.”

“Dogs are good medicine,” he added.

Rick Yount, the WCC's executive director, marveled at “the amazing healing power of the human-animal bond.”

Retired Marine Sgt. Matt Moores described the pairing in a different way: “It means everything.”

Moores suffered a broken

like was taken from me. That was going to be the rest of my life. When I lost it, I felt like I had lost everything.”

But meeting his golden retriever, James, now 2, changed his outlook, he said. He gained the confidence to interact with psychiatrists and medical staff, and had a tail-wagging companion in life.

“It made me feel like I had a purpose,” he said. “It made me feel like I have something that

my men, training them, living with them - you know, there's a real special bond, and it was something that I felt



Retired U.S. Marine Sgt. Seth Kimmel receives his service dog, Murphy, from Murphy's foster family, at the Warrior Canine Connection graduation.

I'm good at and that is doing good. And those are the two things I was missing in my life. To have that back is the best medicine.”

At the graduation, James

- apparently struggling to contain his excitement - shimmed up the stage with “puppy parents” Billy and Debi Isenstein, then leapt into Moores's arms.

James was named for Army Chief Warrant Officer 3 J. Groves III, who was killed when his helicopter crashed in Afghanistan in March 2013; members of his family walked onstage with Moores.

From birth, the dogs are reared for a career in service, said Cheryl Bingham, the “Puppy Parent” program manager. At three weeks, they start learning basic commands. At eight to 10 weeks, they are handed off to volunteer caretakers, who ferry them to weekly training classes, practice commands and fine-tune their social skills.

The most advanced training ground, Bingham said, is a familiar obstacle course for hundreds of thousands of District of Columbia residents: Metro.

“That is the king of all our training places,” she said. “Everything, from the noises, the smells for the dogs, the escalators that are just atro-

see Canine on p.

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NMLS# 1168275



Date: June 13, 2017

To: The River Heights City Mayor and City Council

Subject: Horses being pastured in a residential area of River Heights City

Dear Mayor and Council Members,

The recent windy weather has prompted me to let the city know that horses are being kept in town in violation of current zoning ordinances. It's possible that you are already aware of this issue and are currently taking steps to require compliance, and if so, that's great!

The animals in question are located at 580 South 600 East. When the wind blows just right, and our windows are open, our house gets a full dosage of "horse aroma", which we really do not care for.

I regret that I cannot sign my name to this letter for various reasons.

Thank you for your time,

The Downwinder

RECEIVED

JUN 15 2017



520 South 500 East
River Heights, Utah 84321
Phone & Fax (435) 752-2646

June 21, 2017

Brian and Lisa Roberts
580 S 600 E
River Heights UT 84321

Dear Mr. and Mrs. Roberts,

The city has received a formal complaint about the horses being kept on your property. In case you're unaware, horses are not allowed in a residential zone, in which you reside. The complaint basically mentions the smell as a nuisance.

Please take care of this violation by finding another place to pasture your horses, in which the zoning allows it. We ask for your compliance by July 21, 2017.

Thank you in advance for your attention to this matter.

River Heights City

Brian and Lisa Roberts - horses on property

Sequence of events leading up to "odor" complaint.

Our assumption that our property allowed the keeping of animals came from these indications:

1. The way the property was set up with buildings and boundary fences.
2. The existence of older, ineffective, barbed wire fencing on boundaries.
3. Accounts from the seller that the lot was used for animals and farming in its history.
4. The occasional use of the Weston's property behind us for horses, and the knowledge that we were in the same zoning type area.

December 20th 2016 - We gifted a horse to our daughter just before Christmas. She has always been interested in horses AND it serves as a treatment for Lisa's PTSD from her time in the military. It's a holistic alternative approach to treating her PTSD conditions, in the place of medications. We had no complaints when the horse arrived, and all adjacent neighbors verbally expressed their enjoyment of the animals on our property. We also currently have 3 goats and 8 chickens.

June 10th - we adopted 2 more horses from the Bureau of Land Management.

June 17th - Neighbor (Austin Ball) left a hose on, running water under his fence into our corral, for more than 8 hours, making a deep pool of water, in the area where the horses spend the most time. This was the height of what even WE felt was a "noticeable smell" from that area.

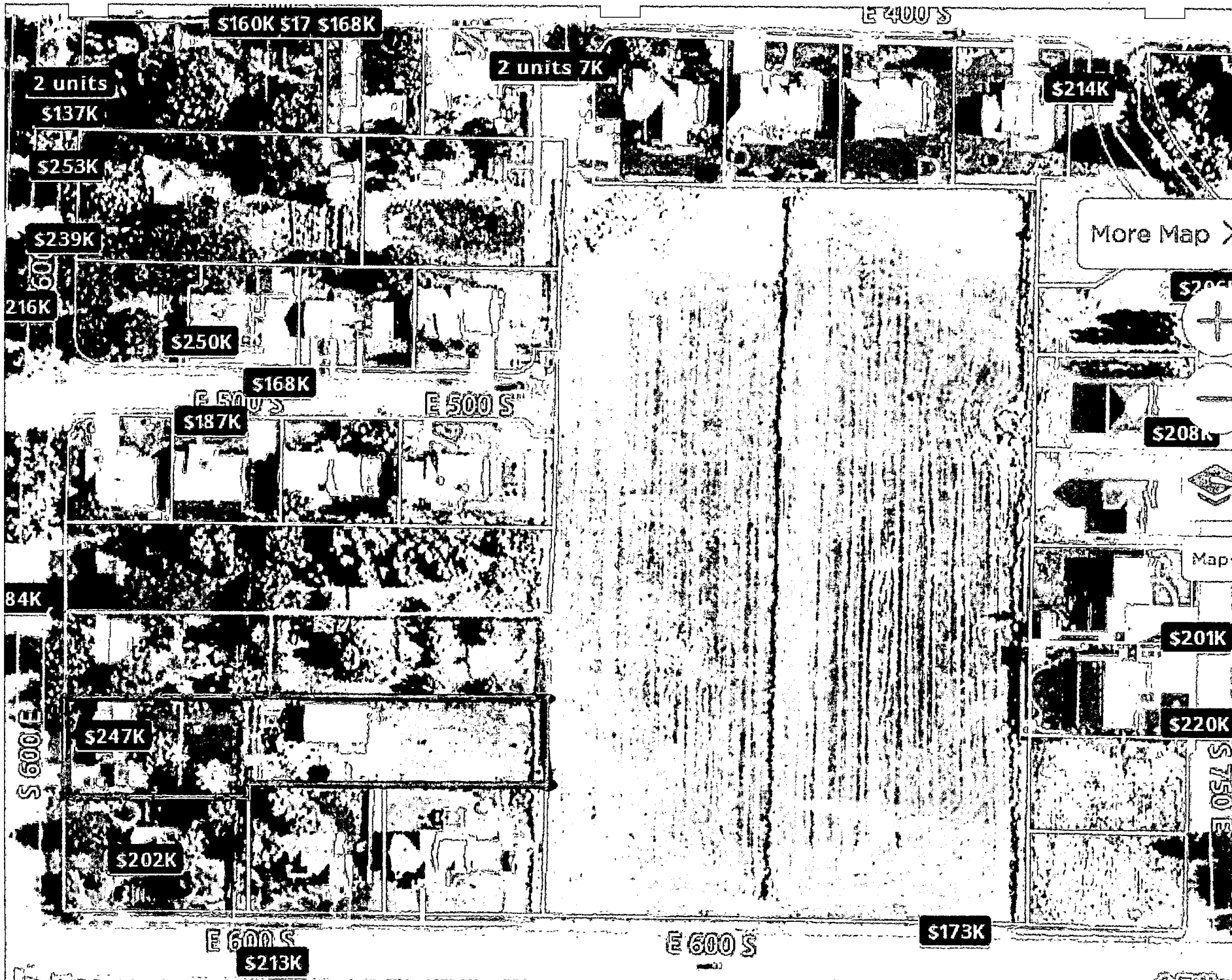
June 23rd - Letter received from City about the formal complaint.

Around this same time, we recognized that with the addition of the two horses, we will need to be significantly more proactive with the cleaning and maintenance of the stables. We don't like foul smells either.

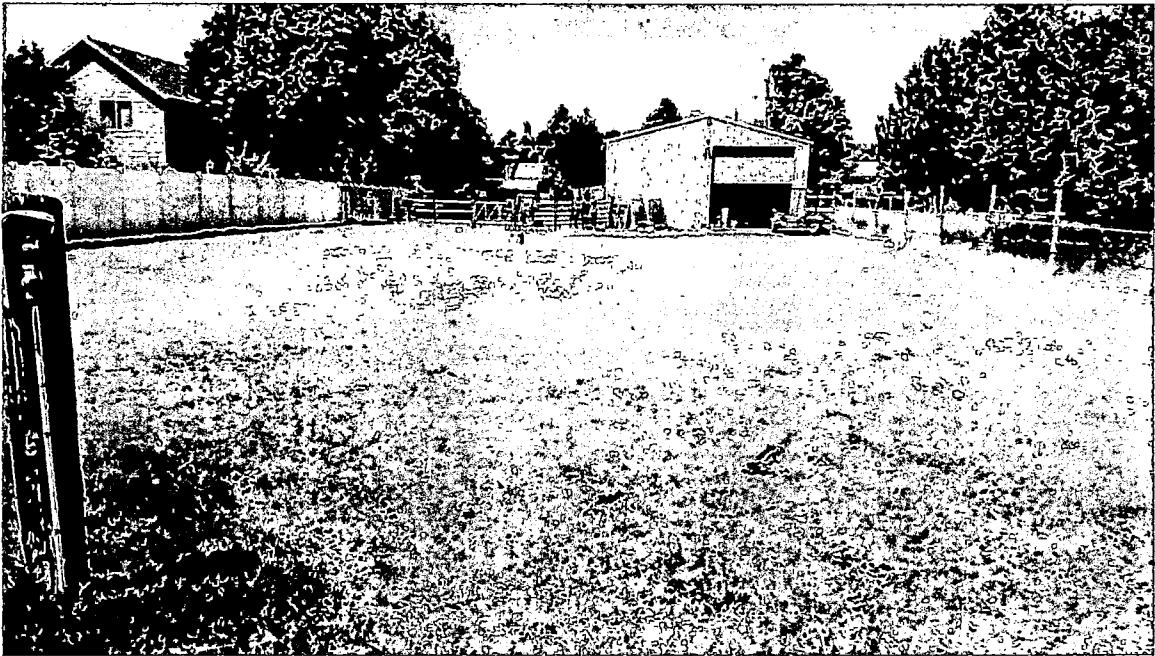
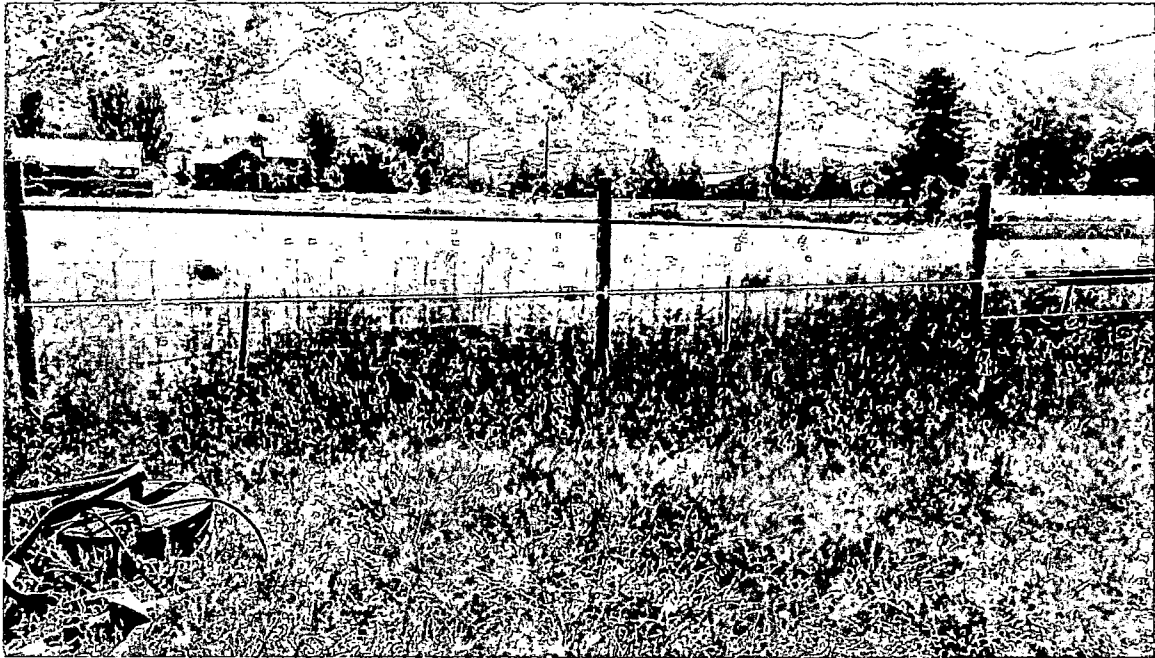
Our plan is to hire a backhoe two to three times per year to scrape out the corral, and take excess manure to the dump monthly.

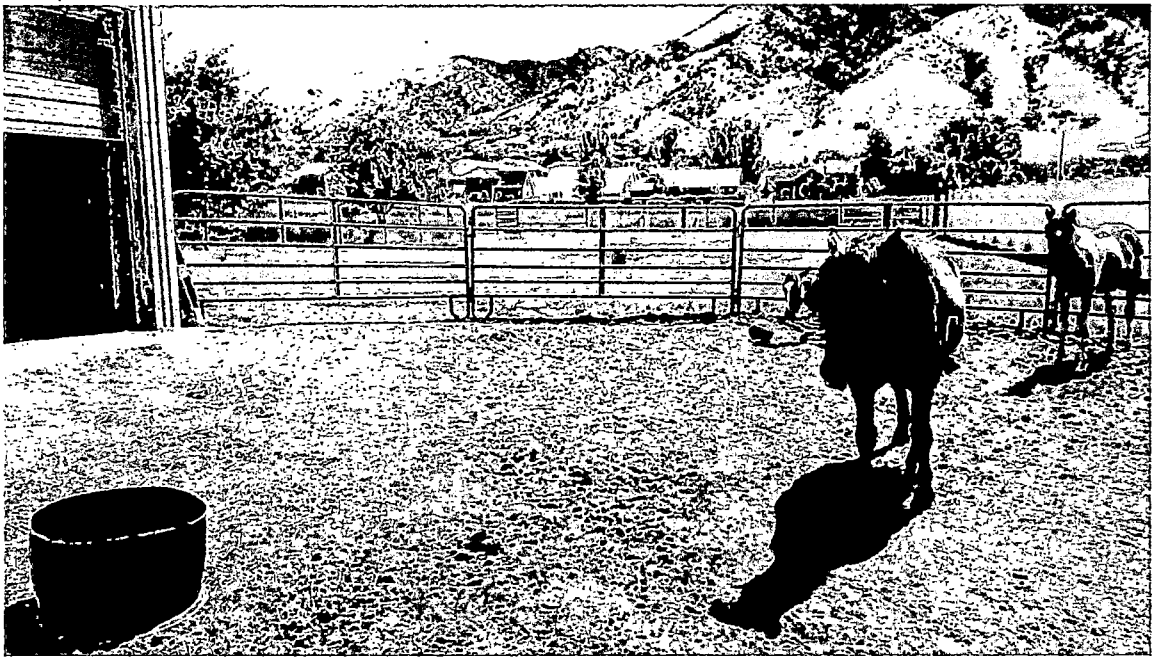
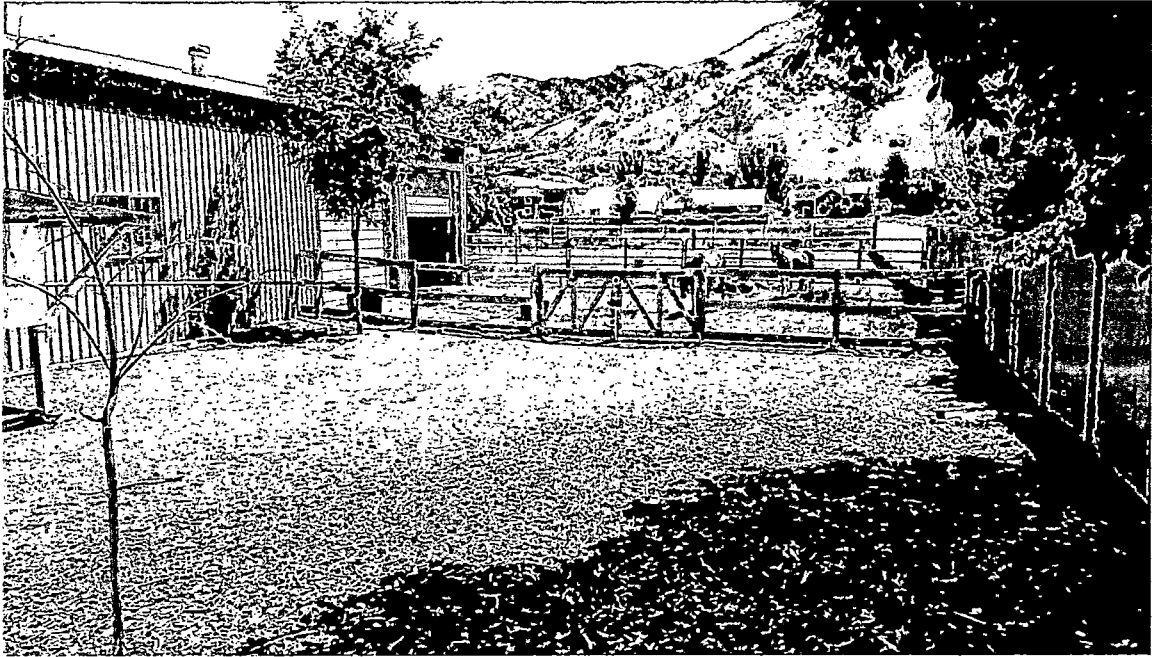
We are reasonable people, with the desire to be respectful to our neighbors and our community. We would first like the opportunity to address the "odor" complaint. We are perfectly willing to comply with this violation, but would like the opportunity to improve the smell, AND apply for a conditional use permit.

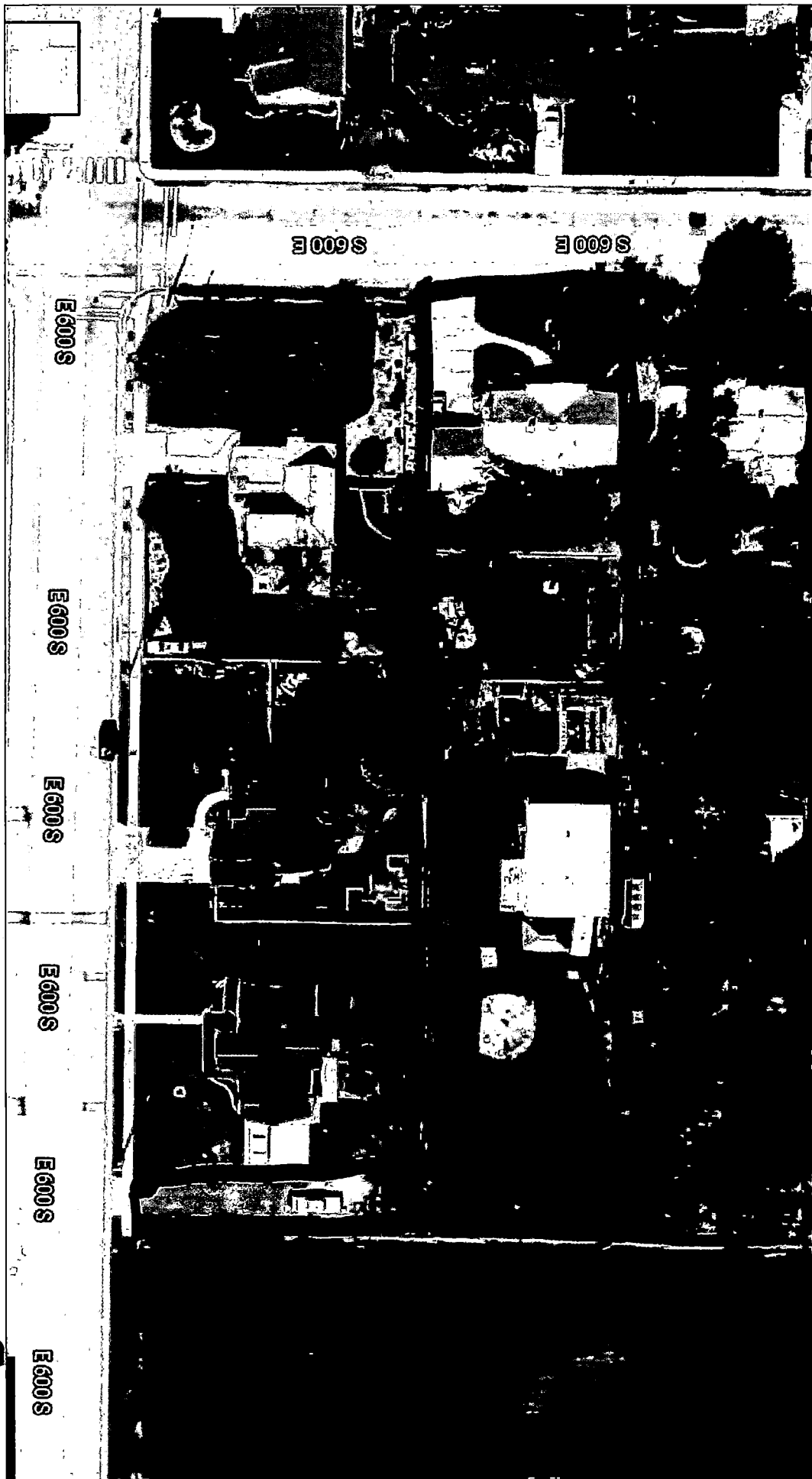
We'd ask for either an extension of the compliance date, July 21st, in order to apply for a conditional use permit, or a hearing to rule on a Conditional Use Permit before that date.



Property images







Based on noise complaints from the 600 East road project workers starting before 7:00 am, Mayor Brackner has asked the Commission to consider adding the following to the below section of code:

"Exception – Necessary services approved by city authorities."

Clayten will be in attendance to answer your questions regarding the situation and request.

Home Business Licensing: There has been a change in State Code, which will affect our City Code. Hopefully, Blake and I understand it by Wednesday, to be able to discuss what changes will need to be made.

5-4-5: NOISE AS NUISANCE

- A. Any sound or noise that continues beyond a reasonable length of time, or noises which occur at unreasonable hours, causing undue annoyance or distress shall be subject to official intervention. Included, but not limited to such nuisance noises are the following;
 - 1. Excessive noise by animals which is intrusive and disruptive to peaceful existence.
 - 2. Use of noisy machinery after 10:00 p.m. or before 7:00 a.m.
 - 3. Disruptive gatherings late at night, i.e. parties, rallies, assemblies, which persist past 10:00 p.m.
- B. It is the hope of the City Council that residents of River Heights City will handle most issues regarding the above noise occurrences, among neighbors, and be sensitive to others' welfare and peace. In such cases where this cannot be accomplished, residents may file official complaints at the River Heights City offices.
- C. The types of nuisances stated shall be deemed in no way a limitation of the nuisances subject to this chapter.

Memo

To: Planning Commission
From: Sheila Lind
Date: July 5, 2017
Re: Business and License Regulations

The State Legislature has recently amended the Local Government Licensing section of the State Code, which will affect the RH Code. Because parts of it are unclear, the city attorney was asked for his interpretation, in which he responded . . .

"The city can continue to license the home-based businesses, but cannot charge a fee (however, on home-based businesses if their off-site (external) impact is greater than the impact of normal residential use you can charge a fee—this is likely hard to measure, but essentially if the home-based business is really busy we should take look at it). Occasional businesses operated by minors are exempted both from licensure and fees (e.g. lemonade stand, etc). Also, the city generally is prohibited from requiring any license just for purposes of revenue, or any license from a non-profit organization. Non-home businesses are just as they were before."

Based on this reply, Blake and I feel Section 3-1-7 could be removed and other clarifications in the section could be made, specifically to 3-1-8. After looking at the current home businesses in RH, and trying to project future businesses we suggest a list of conditions to address, rather than specific businesses. Ideas we came up with are:

Traffic

Hours of operation

Air pollution

Visual impact (product, machinery, equipment, etc)

Noise impact

Requires state (or other) licensing

Number of employees

1 **LOCAL GOVERNMENT LICENSING AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jacob L. Anderegg**

5 House Sponsor: Marc K. Roberts

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to a municipality's or a county's authority to license
10 a business.

11 **Highlighted Provisions:**

- 12 This bill:
- 13 ▶ amends provisions authorizing a municipality or a county to license a business;
 - 14 ▶ prohibits a municipality or a county from requiring a license or charging a fee for
15 certain home based businesses; and
 - 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 10-1-203, as last amended by Laws of Utah 2016, Chapter 350

24 17-53-216, as last amended by Laws of Utah 2008, Chapter 250

25

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section 10-1-203 is amended to read:

28 10-1-203. License fees and taxes -- Application information to be transmitted to
29 the county assessor.

30 (1) As used in this section:

31 (a) "Business" means any enterprise carried on for the purpose of gain or economic
32 profit, except that the acts of employees rendering services to employers are not included in
33 this definition.

34 (b) "Telecommunications provider" means the same as that term is defined in Section
35 10-1-402.

36 (c) "Telecommunications tax or fee" means the same as that term is defined in Section
37 10-1-402.

38 (2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to
39 Subsection (7)(b), the legislative body of a municipality may license for the purpose of
40 regulation [~~and revenue~~] any business within the limits of the municipality, [~~and~~] may regulate
41 that business by ordinance, and may impose fees on businesses to recover the municipality's
42 costs of regulation. 10/15?

43 (3) (a) The legislative body of a municipality may raise revenue by levying and
44 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
45 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
46 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
47 Energy Sales and Use Tax Act.

48 (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
49 in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

50 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
51 1997, or a future franchise shall remain in full force and effect.

52 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
53 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
54 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

55 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
56 defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
57 a provision that:

58 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
59 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

60 (B) imposes the contractual franchise fee on or after the day on which Part 3,
61 Municipal Energy Sales and Use Tax Act is:

62 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305
63 is reduced; and

64 (II) [is] not superseded by a law imposing a substantially equivalent tax.

65 (ii) A municipality may not charge a contractual franchise fee under the provisions
66 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
67 fee or a tax on all energy suppliers.

68 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
69 municipality may raise revenue by levying and providing for the collection of a municipal
70 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
71 Tax Act.

72 (b) A municipality may not levy or collect a telecommunications tax or fee on a
73 telecommunications provider except as provided in Part 4, Municipal Telecommunications
74 License Tax Act.

75 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by
76 levying and collecting a license fee or tax on:

77 (A) a parking service business in an amount that is less than or equal to:

78 (I) \$1 per vehicle that parks at the parking service business; or

79 (II) 2% of the gross receipts of the parking service business;

80 (B) a public assembly or other related facility in an amount that is less than or equal to
81 \$5 per ticket purchased from the public assembly or other related facility; and

82 (C) subject to the limitations of Subsections (5)(c) and (d):

83 (I) a business that causes disproportionate costs of municipal services; or

84 (II) a purchaser from a business for which the municipality provides an enhanced level
85 of municipal services.

86 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
87 levy or collect a license fee or tax on a public assembly or other related facility owned and
88 operated by another political subdivision other than a community reinvestment agency without
89 the written consent of the other political subdivision.

90 (b) As used in this Subsection (5):

91 (i) "Municipal services" includes:

92 (A) public utilities; and

93 (B) services for:

94 (I) police;

95 (II) fire;

96 (III) storm water runoff;

97 (IV) traffic control;

98 (V) parking;

99 (VI) transportation;

100 (VII) beautification; or

101 (VIII) snow removal.

102 (ii) "Parking service business" means a business:

103 (A) that primarily provides off-street parking services for a public facility that is
104 wholly or partially funded by public money;

105 (B) that provides parking for one or more vehicles; and

106 (C) that charges a fee for parking.

107 (iii) "Public assembly or other related facility" means an assembly facility that:

108 (A) is wholly or partially funded by public money;

109 (B) is operated by a business; and

110 (C) requires a person attending an event at the assembly facility to purchase a ticket.

111 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
112 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
113 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax

114 under Subsection (5)(a)(i)(C)(I):

115 (A) the costs that constitute disproportionate costs; and

116 (B) the amounts that are reasonably related to the costs of the municipal services
117 provided by the municipality.

118 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
119 the costs of the municipal services provided by the municipality.

120 (d) (i) Before the legislative body of a municipality imposes a license fee on a
121 purchaser from a business for which it provides an enhanced level of municipal services under
122 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance
123 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

124 (A) the level of municipal services that constitutes the basic level of municipal services
125 in the municipality; and

126 (B) the amounts that are reasonably related to the costs of providing an enhanced level
127 of municipal services in the municipality.

128 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
129 the costs of providing an enhanced level of the municipal services.

130 (6) All license fees and taxes shall be uniform in respect to the class upon which they
131 are imposed.

132 (7) A municipality may not:

133 (a) require a license or permit for a business that is operated:

134 (i) only occasionally; and

135 (ii) by an individual who is under 18 years of age; or

136 (b) charge a license fee for a home based business, unless the combined offsite impact
137 of the home based business and the primary residential use materially exceeds the offsite
138 impact of the primary residential use alone.

139 ~~(7)~~ (8) The municipality shall transmit the information from each approved business
140 license application to the county assessor within 60 days following the approval of the
141 application.

142 ~~[(8)]~~ (9) If challenged in court, an ordinance enacted by a municipality before January
143 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
144 unless the business license fee is found to impose an unreasonable burden on the fee payer.

145 Section 2. Section 17-53-216 is amended to read:

146 **17-53-216. Business license fees and taxes -- Application information to be**
147 **transmitted to the county assessor.**

148 (1) ~~[For the purpose of this section, "business"]~~ As used in this section, "business"
149 means any enterprise carried on for the purpose of gain or economic profit, except that the acts
150 of employees rendering services to employers are not included in this definition.

151 (2) ~~[The]~~ Except as provided in Subsection (4)(a), and subject to Subsection (4)(b), the
152 legislative body of a county may by ordinance provide for the licensing of businesses within
153 the unincorporated areas of the county for the purpose of regulation ~~[and revenue], and may~~
154 impose fees on businesses to recover the county's costs of regulation.

155 (3) All license fees and taxes shall be uniform in respect to the class upon which they
156 are imposed.

157 (4) A county may not:

158 (a) require a license or permit for a business that is operated:

159 (i) only occasionally; and

160 (ii) by an individual who is under 18 years of age; or

161 (b) charge a license fee for a home based business unless the combined offsite impact
162 of the home based business and the primary residential use materially exceeds the offsite
163 impact of the primary residential use alone.

164 ~~[(4)]~~ (5) The county business licensing agency shall transmit the information from each
165 approved business license application to the county assessor within 60 days following the
166 approval of the application.

167 ~~[(5)]~~ (6) This section may not be construed to enhance, diminish, or otherwise alter the
168 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
169 144.