

# River Heights City

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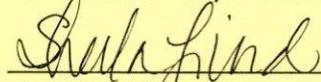
## River Heights City PLANNING COMMISSION AGENDA

**Tuesday, June 14, 2022**

Notice is hereby given that the River Heights Planning Commission will hold its regular meeting beginning at **6:30 p.m.**, anchored from the River Heights City Office Building at 520 S 500 E. Attendance can be in person or through Zoom.

- 6:30 p.m. Pledge of Allegiance
- 6:32 p.m. Adoption of Previous Minutes and Agenda
- 6:35 p.m. Public Comment on Land Use
- 6:40 p.m. Public Hearing to Discuss and Hear Comments on a Rezone Request from River Heights City to Rezone Various City-Owned Properties from Residential Zone to Parks, Recreation and Open Space (PR) Zone
- 6:50 p.m. Public Hearing to Discuss and Hear Comments on a Rezone Request from Cache County School District to Rezone School Playfields from Residential Zone to Parks, Recreation and Open Space (PR) Zone
- 6:55 p.m. Public Hearing to Discuss and Hear Comments on a Conditional Use Permit Request from the Boys and Girls Club of Northern Utah for Approval to Use the Old School, Located at 420 S 500 E to Provide Out of School Care to School-Aged Children
- 7:30 p.m. Public Hearing to Discuss and Hear Comments on Proposed Changes to the River Heights City Code
- 8:00 p.m. Adjourn

Posted this 9<sup>th</sup> day of June 2022

  
\_\_\_\_\_  
Sheila Lind, Recorder

To join the Zoom meeting:

<https://us02web.zoom.us/j/86209208180?pwd=b3FJZ29pT2FmYXMwXpVdFdBcnd6Zz09>

Attachments for this meeting and previous meeting minutes can be found on the State's Public Notice Website ([pmn.utah.gov](http://pmn.utah.gov))

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

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## River Heights City Planning Commission

### Minutes of the Meeting

June 14, 2022

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5  
6 Present: Commission members: Noel Cooley, Chairman  
7 Heather Lehnig  
8 Lance Pitcher  
9 Cindy Schaub  
10 Troy Wakefield  
11  
12 Councilmember Blake Wright  
13 Recorder Sheila Lind  
14 Tech Staff Councilmember Chris Milbank

15  
16 Others Present: Jenny Schultz, Tim Keady, Christine Willie, Von and  
17 Sandra Farnsworth  
18  
19

### Motions Made During the Meeting

#### Motion #1

20  
21  
22  
23 Commissioner Lehnig moved to “approve the minutes of the May 31, 2022, Commission  
24 Meeting with the adjustment discussed, as well as the evenings agenda.” Commissioner Wakefield  
25 seconded the motion, which carried with Cooley, Lehnig, Schaub, and Wakefield in favor. No one  
26 opposed. Pitcher was absent.  
27

#### Motion #2

28  
29 Commissioner Wakefield moved to “Recommend to the City Council approval of the River  
30 Heights City rezone request of seven parcels from Residential Zone to Parks, Recreation and Open  
31 Space Zone.” Commissioner Lehnig seconded the motion, which carried with Cooley, Lehnig, Schaub,  
32 and Wakefield in favor. No one opposed. Pitcher was absent.  
33

#### Motion #3

34  
35 Commissioner Lehnig moved to “recommend to the City Council approval of the Cache County  
36 School District Rezone Request of two parcels of the school playfields from Agricultural Zone to Parks,  
37 Recreation and Open Space Zone.” Commissioner Schaub seconded the motion, which carried with  
38 Cooley, Lehnig, Schaub, and Wakefield in favor. No one opposed. Pitcher was absent.  
39

#### Motion #4

40  
41 Councilmember Pitcher moved to “recommend adoption of code addition 10-20-1:G to the  
42 City Council.” Commissioner Wakefield seconded the motion, which carried with Cooley, Lehnig,  
Pitcher, Schaub, and Wakefield in favor. No one opposed.

45 Motion #5

46 Commissioner Schaub moved to “approve the Conditional Use Application as submitted by  
47 the Boys and Girls Club of Northern Utah, represented by Jenny Schultz, dated May 23, 2022, based  
48 on the lease agreement dated June 14, 2022, in its entirety with the following conditions: 1) Staff  
49 parking set forth on page 9, paragraph I, be clarified with the mayor of River Heights, 2) The concern  
50 of traffic flow and drop off be addressed to the city’s satisfaction, and 3) The lease will be signed  
51 within 30 days.” Commissioner Lehnig seconded the motion, which carried with Cooley, Lehnig,  
52 Pitcher, Schaub, and Wakefield in favor. No one opposed.

53

54 Motion #6

55 Commissioner Wakefield moved to “pass on the code changes to the City Council for their  
56 discussion.” Commissioner Schaub seconded the motion, which carried with Cooley, Lehnig, Pitcher,  
57 Schaub, and Wakefield in favor. No one opposed.

58

59

60

### Proceedings of the Meeting

61

62 The River Heights City Planning Commission met at 6:30 p.m. in the Ervin R. Crosbie Council  
63 Chambers on June 14, 2022.

64 Pledge of Allegiance

65 Adoption of Prior Minutes and Agenda: Minutes for the May 31, 2022, Planning Commission  
66 Meeting were reviewed. Commissioner Schaub had one change.

67 **Commissioner Lehnig moved to “approve the minutes of the May 31, 2022, Commissioner  
68 Meeting with the adjustment discussed, as well as the evenings agenda.” Commissioner Wakefield  
69 seconded the motion, which carried with Cooley, Lehnig, Schaub, and Wakefield in favor. No one  
70 opposed. Pitcher was absent.**

71 Public Comment on Land Use: There was none.

72 Public Hearing to Discuss and Hear Comments on a Rezone Request from River Heights City to  
73 Rezone Various City-Owned Properties from Residential Zone to Parks, Recreation and Open Space  
74 (PR) Zone: Commissioner Cooley clarified the properties which were included in the rezone request.  
75 According to the city’s General Plan, these properties were to be zoned as Parks and Recreation at  
76 some point. There was no public comment or commissioner discussion.

77 **Commissioner Wakefield moved to “Recommend to the City Council approval of the River  
78 Heights City rezone request of seven parcels from Residential Zone to Parks, Recreation and Open  
79 Space Zone.” Commissioner Lehnig seconded the motion, which carried with Cooley, Lehnig,  
80 Schaub, and Wakefield in favor. No one opposed. Pitcher was absent.**

81 Public Hearing to Discuss and Hear Comments on a Rezone Request from Cache County School  
82 District to Rezone School Playfields from Agricultural Zone to Parks, Recreation and Open Space (PR)  
83 Zone: Councilmember Wright explained the request, which would rezone the south halves  
84 (approximately) of the two parcels owned by the school district, in an effort to clean up the zoning  
85 map to reflect the current parks use, as shown in the General Plan. The property the school sits on  
86 would stay in the agricultural zone. Mr. Wright had presented this rezone to Superintendent Steve  
87 Norton, who agreed and signed the application.

90 Commissioner Lehnig moved to “recommend to the City Council approval of the Cache  
91 County School District Rezone Request of two parcels of the school playfields from Agricultural  
92 Zone to Parks, Recreation and Open Space Zone.” Commissioner Schaub seconded the motion,  
93 which carried with Cooley, Lehnig, Schaub, and Wakefield in favor. No one opposed. Pitcher was  
94 absent.

95 Commissioner Schaub asked about a triangular piece, shown as agricultural on the corner of  
96 600 South 1000 East. Councilmember Wright explained the General Plan showed it as residential.  
97 The recent boundary adjustment between the properties of Nick Larsen and Aleyda Luu hadn’t been  
98 reflected on the map yet. He agreed the city could approach them to see if they would consider a  
99 rezone of their properties to residential zone.

100 Commissioner Pitcher arrived at the meeting.

101 Public Hearing to Discuss and Hear Comments on a Conditional Use Permit Request from the  
102 Boys and Girls Club of Northern Utah for Approval to Use the Old School, located at 420 S 500 E to  
103 Provide Out of School Care to School-Aged Children: Commissioner Cooley asked Councilmember  
104 Wright if the addition to the code change, regarding city facility use, would need to be adopted  
105 before the Conditional Use Permit (CUP) Request could be considered. Councilmember Wright  
106 explained that the Planning Commission can approve the CUP, but they don’t approve the code  
107 changes. They can only make recommendations to the City Council. Commissioner Cooley pointed  
108 out that the CUP doesn’t take effect until two weeks after the hearing, when the minutes are  
109 approved.

110 Commissioner Cooley read the proposed 10-20-1:G., “River Heights City Facilities Use: When a  
111 person, entity, or organization rents, leases, or uses a River Heights City-owned public facility  
112 continuously for 30 days or more within a year’s time, a conditional use permit is required. The  
113 planning commission will assure that the permitted use does not adversely affect or damage the  
114 facility, does not interfere with the use by the general public and is harmonious with the surrounding  
115 area.”

116 Councilmember Wright informed; City Attorney Jon Jenkins agreed with the verbiage.

117 **Councilmember Pitcher moved to “recommend adoption of code addition 10-20-1:G to the**  
118 **City Council.” Commissioner Wakefield seconded the motion, which carried with Cooley, Lehnig,**  
119 **Pitcher, Schaub, and Wakefield in favor. No one opposed.**

120 Commissioner Cooley invited Jenny Schultz to explain the use the Boys and Girls Club (Club)  
121 were requesting. Ms. Shultz said they had been looking for a building to use for the children of the  
122 Club in the Cache Valley area. She reported that several childcare facilities shut down during the  
123 pandemic, which raised the needs for the Club. The residents of River Heights would certainly benefit  
124 from having the Club located nearby.

125 Commissioner Wakefield asked Ms. Shultz to clarify what the Club does. She informed that  
126 they open their doors as soon as school is out, after school and all day during the summer. They offer  
127 sports, art, character building, many activities, take them to lunch, and provide a safe place for the  
128 children to be. She reported that when kids are not engaged, they lose a lot of math and reading  
129 skills, which can put them behind their peers at school. The Club provides a safe place for kids to  
belong when parents are working. The Club would pick up kids at their school and bring them to the  
facility using their own vans. They work with local school districts, who provides school lunch during  
the summer. The Club would provide snacks on site.

131           Regarding the cost for children to join, Ms. Schultz said they obtain grants, so it only costs the  
132 children a \$5 field trip fee and a \$10 membership fee. They planned to start with 120 kids at this site  
133 during the first year to see how it affects the neighborhood. It is a K-12 program, but they will focus  
134 on elementary age kids at the River Heights site.

135           Commissioner Wakefield asked about traffic. Ms. Schulz guessed there would be about 60  
136 cars picking up children. They would be staggered depending on when parents get off work or start  
137 work (in the summer). Pick-ups are quick, so the traffic wouldn't stick around. She had been working  
138 with the mayor and PWD Nelson on the best traffic route.

139           Regarding staff, the Club hires youth professionals. They are social workers or teachers in  
140 training. The Club does a lot of training with their leaders. They have a positive history with their  
141 Club and are now on many continents and throughout the country. The idea is for the kids to move  
142 around, and not be sitting like at school. The kids have choices from different activities. The Club  
143 plans about 90 activities a day in the summer in an organized way. There won't be children running  
144 around unsupervised. They plan to use the green space on the property a couple times a week. They  
145 will transport the kids to other parks in the valley. They won't have a nurse on the premise, but the  
146 staff must be CPR certified. The Northern Utah Club has been around for 25-30 years and have  
147 learned a lot about what works. They currently have programs in Tremonton and Box Elder County.

148           Councilmember Wright said a resident he talked to had questions. He wondered the  
149 supervisor to child ratio. Ms. Shultz answered 1:15. The resident also wondered if the Club used the  
150 Cache Valley Transit system to transport kids. Ms. Shultz said they hadn't checked into it. Mr. Wright  
151 informed that the ridership in River Heights is minimal so there are plans to remove the stop directly  
152 across from the Old School. He suggested they may want to talk to the Transit District about the  
153 possibility of keeping the stop for their use.

154           Commissioner Cooley brought up and reviewed Exhibit B of the lease agreement. The use of  
155 Ryan's Place Park and the green space around the building will be limited to specific times and days.  
156 The softball field will be off limits. The terms of the schedule can be altered by the city with a one-  
157 week notice. The terms of the lease can be renegotiated every 90 days, which would allow the city to  
158 make changes if there were concerns that came up. Mr. Cooley reviewed the portions of the building  
159 which the Club will have available to them.

160           Commissioner Cooley suggested the inclusion of a stipulation allowing a one-week notice for a  
161 resident to use the gym. Ms. Schultz reminded that they wouldn't be using the building at all on  
162 evenings or weekends. She said they have shared a building with Brigham City and found the key to  
163 success is communication between groups and entities.

164           Councilmember Wright asked if they would operate the program this summer. Ms. Schultz  
165 said they plan to use the summer to get set up and train their staff. They hoped to have children  
166 attend starting fall. Councilmember Wright informed that the city planned to make this a long-term  
167 agreement if everything went well for the Club and the City.

168           Discussion was held on the lease draft and how they could incorporate conditions for the  
169 permit. Commissioner Cooley suggested they require that the lease be signed within 30 days after  
170 approval. They could also reiterate that they would need to follow the conditions in Exhibit B of the  
171 lease.

172           Commissioner Schaub stated she felt comfortable with the lease the mayor and city attorney  
173 came up with.

174 Commissioner Wakefield asked who would be responsible for repairs of the building.  
175 Commissioner Cooley said the lease stated the Club will be responsible for damages. The City will  
176 take care of normal wear and tear, along with the grounds. The Club will do the daily cleaning.

177 Tim Kaedy had been working with the Club for several years and gave credit to Jenny Schultz  
178 for a phenomenal job, as well as the other board members and staff. He was excited to have the Club  
179 started in River Heights to give children a place to go where they feel cared for and successful.  
180 Studies have shown that being involved as a youth in the Club sets them up for a good future.

181 Commissioner Cooley closed the public hearing and asked for commissioner input.  
182 Commissioner Wakefield liked the idea of helping children be active and could see a lot of good being  
183 done by their club. He was cautiously optimistic with how it would affect the neighborhood. He liked  
184 that the building would be used.

185 Commissioner Schaub liked that it would be a safe place where children would feel welcome.

186 Commissioner Lehnig had no problem with them using the city's building. She was concerned  
187 that lower income families may not be able to get in if River Heights kids took up most of the spots.  
188 Ms. Schultz responded that the Club needed a place to start. She said she had been working with kids  
189 and families for 25 years and had determined that it doesn't matter how much money a family has,  
190 the kids still need support. Sadly, they are all at risk.

191 Councilmember Wright didn't see traffic and neighborhood impact addressed in the lease. He  
192 suggested a one-way direction for traffic to pick up and drop off. Ms. Schultz said she was in the  
193 process of discussing traffic patterns with the mayor and PWD Nelson. Commissioner Cooley felt  
194 confident it would be addressed by the mayor.

195 Parking was discussed. Von Farnsworth said the mayor didn't want them parking on 400  
196 South but said they could park on the south side of the building. Councilmember Wright read from  
197 the parking section of the lease on page 9.

198 Commissioner Cooley felt comfortable having the lease signed within 30 days.  
199 Councilmember Wright suggested they pass along to the mayor that paragraph I be revised and that  
200 drop off and pickup be addressed in the lease.

201 **Commissioner Schaub moved to "approve the Conditional Use Application as submitted by**  
202 **the Boys and Girls Club of Northern Utah, represented by Jenny Schultz, dated May 23, 2022, based**  
203 **on the lease agreement dated June 14, 2022, in its entirety with the following conditions: 1) Staff**  
204 **parking set forth on page 9, paragraph I, be clarified with the mayor of River Heights, 2) The**  
205 **concern of traffic flow and drop off be addressed to the city's satisfaction, and 3) The lease will be**  
206 **signed within 30 days." Commissioner Lehnig seconded the motion, which carried with Cooley,**  
207 **Lehnig, Pitcher, Schaub, and Wakefield in favor. No one opposed.**

208 Public Hearing to Discuss and Hear Comments on Proposed Changes to the River Heights City  
209 Code: Commissioner Cooley reviewed the proposed code changes. Recorder Lind asked them to take  
210 a closer look at the proposed change to 5-2-4:A.2. She suggested striking the part that states a  
211 kennel conditional use permit would be granted after the conditions of the permit were met, since  
212 the city didn't have a person designated to go out and determine if a kennel conditional use permit  
213 was being followed. Commissioner Cooley suggested striking the verbiage until a compliance officer  
214 was obtained, and then add the verbiage back into the code. He asked Councilmember Wright to  
215 express to the council that the commission was concerned that there was no one to verify if  
conditions were met. It was decided that Mr. Cooley would bring it up at the next council meeting.

217 Commissioner Schaub asked for clarification on 10-15-7:1.c. Commissioner Lehnig explained  
218 how rebar in the sidewalk worked and that it was worded that way in other cities. Councilmember  
219 Wright suggested adding "or welding wire mesh."

220 Discussion was had on changing the required 30 feet between trees. They agreed to leave it.

221 **Commissioner Wakefield moved to "pass on the code changes to the City Council for their**  
222 **discussion." Commissioner Schaub seconded the motion, which carried with Cooley, Lehnig,**  
223 **Pitcher, Schaub, and Wakefield in favor. No one opposed.**

224 The meeting adjourned at 8:00 p.m.

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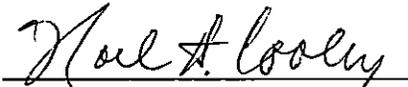
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Noel Cooley, Commission Chair

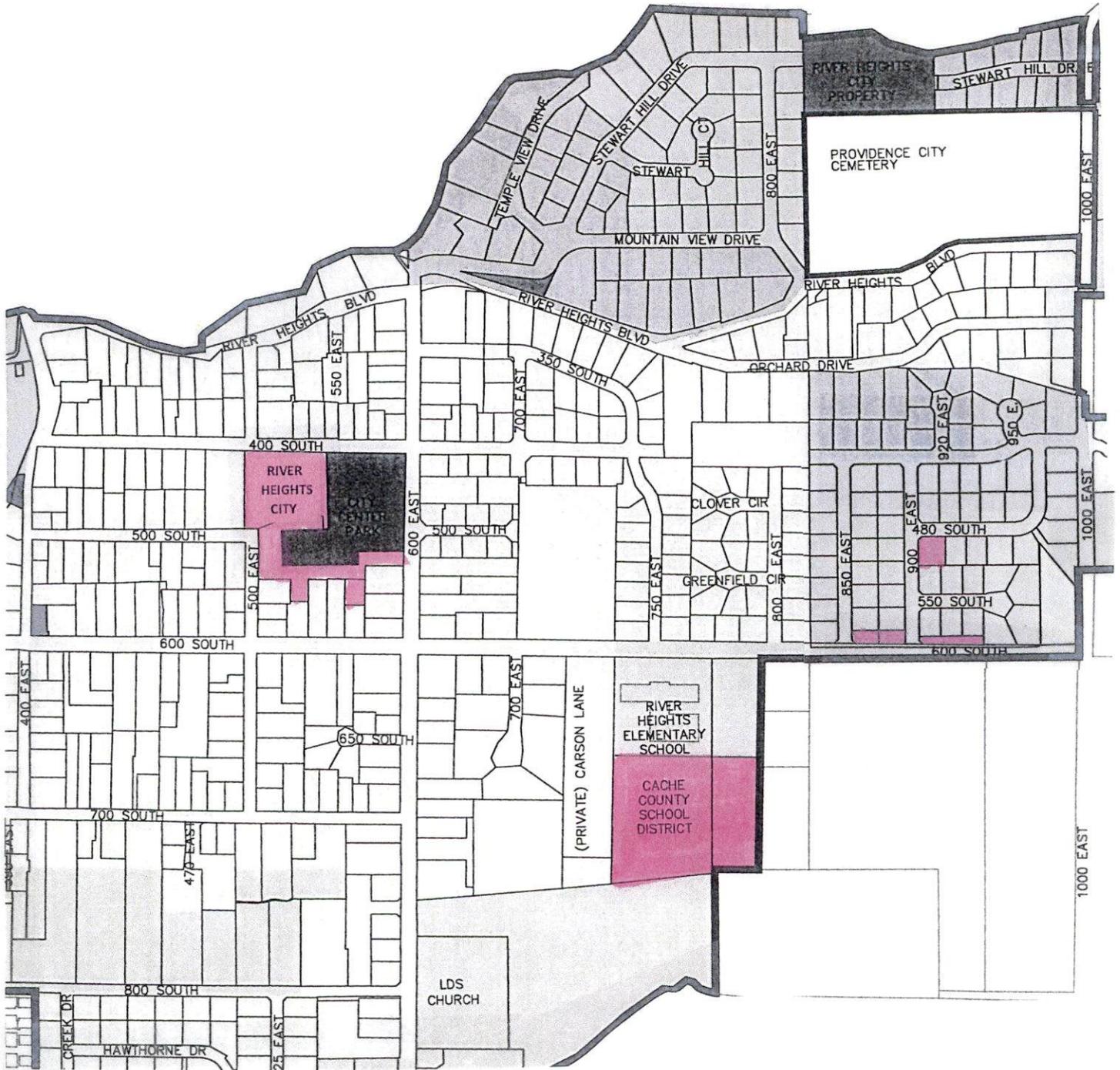
  
\_\_\_\_\_  
Sheila Lind, Recorder



River Heights City Rezone Application Information  
May 24, 2022

<u>Property Address</u>	<u>County Parcel ID Number</u>	<u>Size of Lot</u>
520 South 500 East, River Heights, UT 84321	02-022-0006	5.17 acres
420 South 500 East, River Heights, UT 84321	02-022-0007	1.77 acres
520 South 500 East, River Heights, UT 84321	02-022-0023	0.21 acres
590 South 850 East, River Heights, UT 84321	02-285-0000	0.13 acres
589 South 900 East, River Heights, UT 84321	02-285-00DT	0.13 acres
924 East 600 South, River Heights, UT 84321	02-285-00DT	0.19 acres
910 East 480 South, River Heights, UT 84321	02-285-00DT	0.29 acres

# NORTH



RIVER HEIGHTS CITY

520 South 500 East \* 435-752-2646

Application for Project Review

Type of Application

Subdivision Minor Subdivision Flag Lot X Rezone Boundary Adjustment Commercial Development Commercial Parking

CACHE COUNTY SCHOOL DISTRICT 435.792.7613 scott.rigby@ccsdkt.org
Applicant Phone Number email address

84 EAST 2400 NORTH, NORTH LOGAN, UT 84341
Mailing Address, City, State, Zip

CACHE COUNTY SCHOOL DISTRICT 435.792.7613
Property Owner of Record Phone Number

84 EAST 2400 NORTH, NORTH LOGAN, UT 84341
Mailing Address, City, State, Zip

REZONE OF PLAYFIELDS AT RIVER HEIGHTS ELEMENTARY
Project Name

780 EAST 600 SOUTH, RIVER HEIGHTS, UT 84321 PORTIONS OF: 02-029-0026 & 02-029-0027
Property Address County Parcel ID Number

8.41 ac & 4.0 ac (rezone approx. 6.2 ac.) N/A N/A
Size of Lot Size of Building Number of Dwellings/Units/Lots

REZONE OF SCHOOL PLAYFIELDS FROM AGRICULTURAL ZONE TO PARKS, RECREATION AND OPEN SPACE ZONE
Describe the proposed project

We certify we are the developer and record owner of this property and we consent to the submittal of application.

N/A
Developer Date

Steve Hunter 1/1/2022
Property Owner Date

# River Heights City Conditional Use Application

For office use	
Date Received:	<u>5/13/22</u>
Hearing Date:	<u>6/14/22 6:40</u>
Amount Paid:	<u>100-</u>
Approved _____	Denied _____

## APPLICANT

Name: Boys and Girls Club of Northern Utah, Jenny Schulze, COO  
Mailing Address: 550 S. Main, Brigham City, Utah 84302  
Phone: \_\_\_\_\_ email: \_\_\_\_\_  
Please check one of the following: \_\_\_ owner \_\_\_ buyer  renter \_\_\_ agent \_\_\_ other

## PROJECT INFORMATION

Name: Boys and Girls Club of Northern Utah  
Address/Location: 420 S 500 E  
Property Tax ID: 87-0529606 02-022-0007 Existing Zone: R-1-8  
What is the current use of the property? City use / Storage / office / CCSD - Auditory  
How many employees will be working at this location including applicant, immediate family, and non-family members? 6  
How many vehicles will be coming and going daily, weekly, or monthly? 3 van drop off afterschool 60 pick ups 5:30-6pm (not all attend)  
I agree to abide by the River Heights City Parking Ordinance (10-14). Initial of  
I agree to abide by the River Heights City Sign Ordinance (10-16). Initial of  
Description of Request: Requesting to use the old school as a "Cultural Center" to perform the public Service Functions of the Boys and Girls Club of Northern Utah. Provide out of school care to school age children. M-F. Care includes indoor + outdoor activities.

## SUBMITTAL REQUIREMENTS

- Completed and signed application form
- \$100 application fee
- \_\_\_ 8 1/2 x 11 copy of plans
- \_\_\_ Provide a Fire Protection evaluation from the fire department.

Summer  
60 drop offs 8am  
60 pick ups 5:30 - 6pm.  
(not all at once)

## LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Agreement"), is made and entered into this \_\_\_\_\_ day of May 2022, by and between River Heights City Corporation, a Utah municipal corporation (hereinafter referred to as "Landlord") and Boys & Girls Club of Northern Utah (hereinafter collectively referred to as "Tenant")

### RECITALS:

A. Landlord is the owner of that certain real property more fully described on Exhibit "A", attached hereto and by this reference incorporated herewith.

B. Tenant is a club organization for young people.

C. Tenant is in need of suitable space within which it may conduct its operations.

D. Landlord and Tenant have communicated to one another the above-described circumstances and their respective desires to lease the real property described on Exhibit "A" hereto and have heretofore negotiated the terms of this Agreement and desire to memorialize the terms thereof by this instrument.

NOW, THEREFORE, in consideration of the above premises, the covenants and promises hereinafter set forth, and sufficiency of which is hereby acknowledged, the Landlord and Tenant hereby agree as follows:

### ARTICLE I - LEASE

1.01. Lease of Property. In consideration of the rents, covenants and agreements hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the real property described on Exhibit "A" hereto, located in River Heights, Utah, together with all improvements and fixtures presently associated therewith, all of which is referred to hereinafter as the "Subject Property" or "Premises". Additionally, tenant shall have the right to use select outdoor facilities and park areas of Landlord under specific terms and conditions as further described on Exhibit "B" also the "Subject Property" or "Premises"

1.02. Term. The term of this Lease shall be for a total period of 1.5 years, commencing on July 1, 2022 and ending on December 31, 2023.

1.03. Lease Payments. Tenant agrees to pay, and Landlord agrees to accept, the following amounts as the Lease payments for the Subject Property:

A. Fixed Rents. As and for the base monthly fixed rental for the Subject Property, which is net to Landlord, Tenant agrees to pay \$7,500.00 USD per month.

B. Time and Method. The lease payments for each month during the lease period of this Agreement shall be payable in advance on the first day of each month during the term of this Agreement and shall be made payable to the Landlord at the below listed address, or such other address as may be later designated in writing, by the Landlord.

1.05. Security Deposit.

A. Amount. The Tenant will deposit with the Landlord a security deposit of \$7,500.00 upon execution of this Agreement for the Subject Property which will be held by Landlord according to this Section 1.05.

B. Non-Payment. The above deposit shall be held by the Landlord (without liability for interest) as security for the faithful performance by the Tenant, of all of the terms, conditions and covenants of this Agreement, which are to be kept and performed by the Tenant during the term hereof. If at any time during the term of this Agreement, any of the lease payments herein reserved shall be overdue and unpaid, or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid, then Landlord may, at its option (but Landlord shall not be required to), appropriate and apply any portion of said deposit to the payment of any such overdue lease payments or other sums.

C. Other Default. In the event of the failure by Tenant to keep and perform any of the terms, covenants and conditions of this Agreement to be kept and performed by Tenant, then Landlord, at its option, may appropriate and apply the entire deposit, or so much thereof as may be necessary, to compensate Landlord for loss or damage sustained or suffered by Landlord, due to such breach on the part of Tenant. Should the entire deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of overdue lease payments or other sums due and payable to Landlord, by Tenant hereunder, then Tenant shall, upon the written demand of Landlord, forthwith remit to Landlord a sufficient amount, in cash, to restore said security to the original sum deposited, and Tenant's failure to do so within twenty-one (21) days after receipt of such demand shall constitute a breach of this Agreement. Should Tenant comply with all of said terms, covenants and conditions, and properly comply with all of the lease payments herein provided for, as they fall due, and all other sums payable by Tenant to Landlord hereunder, the said deposit shall be returned in full to Tenant at the end of this Agreement, or upon the earlier termination of this Agreement.

D. Disposition Upon Sale. Landlord may deliver the funds deposited hereunder by Tenant to the purchaser of Landlord's interest in the Subject Property, in the event that such interest be sold, and thereupon Landlord shall be discharged from any further liability with respect to such deposit.

## ARTICLE II - RIGHTS AND DUTIES OF TENANT

2.01. Use of Subject Property. Tenant shall use the Subject Property for the purpose of providing a safe and constructive type environment for youth. Tenant's use shall be daytime use only (between 6 A.M. to 6:30 P.M) and shall not be used for any housing or living quarters. Tenant shall not utilize the Subject Property for any unlawful or hazardous purpose or activity. Use of the leased premises and/or use of common areas and/or Gym areas may be utilized after hours only upon request with 7 days advanced notice and subject to mutually agreeable terms between the Parties.

2.02. Improvements by Tenant. The Tenant shall not make any alterations or improvements in or to the Subject Property without the prior consent of the Landlord. All alterations and improvements made or added to the Subject Property, may be removed by Tenant so long as the Tenant repairs any damages to the Subject Property occasioned by such removal or such removal does not result in any damage to the Subject Property.

2.03. Miscellaneous Expenses. Tenant agrees, at its own expense, to clean and maintain its designated share of leased space, as more particularly defined on Exhibit "A"; to provide its own insurance on improvements and personal property installed or placed by Tenant in or on the Subject Property; to pay all costs and expenses of every nature in connection with Tenant's business activities on the Subject Property. While the City shall pay for electricity and natural gas expenses, Tenant at its own expense, shall pay all other utility and/or other charges incurred by tenant and shall pay all personal property taxes in the event any are assessed, and fire insurance related to Tenant's personal property and improvements and fixtures installed by Tenant.

2.04. Insurance. Tenant shall, at all times during the term of this Agreement, maintain in full force and effect, and pay all premiums for, public liability and general hazard insurance with a reputable insurance company or companies acceptable to Landlord covering Tenant's personal property, inventory, and all improvements and fixtures of Subject Property. The general liability limits of said policy or policies shall not be less than \$1,000,000.00 per person and per occurrence. Tenant shall, upon request, furnish to Landlord a copy of each policy, and each such policy shall provide that it may not be canceled without prior written notice to Landlord. Landlord shall be listed as a loss payee as to any covered risk applicable to Landlord.

Landlord and Tenant waive and relinquish any right or claim, including rights of subrogation, against one another that may arise out of any fire or other hazard occurring upon or to the Subject Property or any property (real or personal) of either party located in or upon the Subject Property.

2.05. Repair and Maintenance. Tenant shall at all times during the term hereof, and any extensions thereof, keep the Subject Property in sightly condition, and in good repair, and shall not permit the accumulation of any rubbish on the Subject Property. The word "repair" as used in this paragraph shall include any repairs, replacements, changes and/or additions to the Subject Property which may be required by Tenant's use and occupancy thereof. In addition to maintaining the Subject Property the Tenant shall keep it free from liens, encumbrances and security interest, not sell, misuse, conceal, or in any way dispose of it or permit it to be used unlawfully or for hire or contrary to the provisions of any insurance coverage; and not permit it to become a fixture or an accession to other goods. The provisions of this paragraph shall not apply to repairs or reconstruction in the event of damage by fire, casualty or other destruction, or in the event of eminent domain, which shall be the responsibility of Landlord.

2.06 Liens and Encumbrances. Tenant agrees that it shall not take any actions, nor make any representations in connection with the Subject Property, nor Tenant's business activities on the Subject Property, which shall have the effect of, or result in, the attachment of any lien or other encumbrance to the Subject Property or otherwise to interfere with Landlord's title to the underlying real property.

2.07 Taxes on Real Property. In addition to Fixed Rent, Tenant shall pay all real property taxes and general and special assessments (real property taxes) levied and assessed against the building, other improvements, and land of which the premises are part on the first day of each month with its payment of Fixed Rent. This section shall only apply to that portion leased by Tenant as more particularly identified by Exhibit "A"

Each year Landlord shall notify Tenant of Landlord's calculation of the real property taxes and together with such notice shall furnish Tenant with a copy of the tax bill. Tenant shall pay the real property taxes to Landlord not later than ten (10) days after receipt of the tax bill, or not later than ten (10) days before the taxing authority's delinquency date, whichever is later.

### ARTICLE III - RIGHTS AND DUTIES OF LANDLORD

3.01. Assignment and Subletting. Tenant will not assign this Agreement in whole or in part, nor sublet all or any part of the Subject Property, without the prior written consent of Landlord in each instance. The consent by Landlord to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. If this Agreement is assigned, or if the Subject Property, or any part thereof, is sublet or occupied by anybody other than Tenant, Landlord may collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the rent herein reserved; but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or acceptance of the assignee, subtenant or occupant as tenant, or a

release of Tenant from the further performance by Tenant of its covenants and agreement specified herein. Notwithstanding any assignment or sublease, Tenant shall remain fully liable on this Agreement and shall not be released from performing any of the terms, conditions and covenants of this Agreement without the express written consent of Landlord.

3.02. Entry by Landlord. Landlord or its agents shall have the right to enter and inspect the Subject Property upon notice to Tenant and at reasonable times and in such manner so as not to interfere with Tenant's business, to examine the Subject Property and to show the Subject Property to prospective purchasers or lessees of the Subject Property and to make repairs, alterations, improvements or additions as Landlord may deem necessary or desirable. In the case of emergency, if Tenant or Tenant's agent shall not be personally present to open and permit an entry into the Subject Property at any time when, Landlord or Landlord's agent may enter the same by a master key or may forcibly enter the same without in any manner affecting the obligations and covenants of this Agreement, any damage caused to property by Landlord would be repaired by the Landlord at its cost. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any obligations, responsibility or liability whatsoever for the care, maintenance or repair of the Subject Property, or any part thereof, except as otherwise herein specifically provided.

3.03. Quiet Enjoyment. Landlord warrants and represents that it shall place and maintain Tenant in the peaceful and undisturbed possession of the Subject Property throughout the entire term of this Agreement (including any extensions thereof) so long as Tenant pays the lease payments and performs all of its covenants as specified herein. This Agreement shall be subject and subordinate to the lien of any mortgage or mortgages or trust deed or deeds which may be placed upon the Subject Property or the underlying real property, by Landlord, and Tenant covenants that it will execute and deliver to Landlord or to the nominee of Landlord or to the nominee of Landlord proper subordination agreements to this effect at a time upon the request of Landlord and without payment being made therefore. Landlord agrees not to create any lien or encumbrance on the Subject Property which shall adversely impact Tenant's right or interest in this Agreement or in the Subject Property, and to defend and indemnify Tenant against all damage or expense suffered by Tenant as a result of the creation or enforcement of any such lien or encumbrance. Any mortgage or deed of trust executed by Landlord upon the Subject Property shall be upon the condition that the mortgages or Trust Deed upon foreclosure or exercise of power of sale shall be subject to this Agreement and Landlord's rights hereunder as provided by law. In the event of any failure of Landlord to abide by the provisions hereof, or in the event of any default of Landlord in performance of its obligations to the holder of an encumbrance on the Subject Property, Tenant may at its election cure any default under any such mortgage or deed of trust but shall not be obligated to do so, and Tenant may deduct the cost of curing such default from the lease payments thereafter to be paid pursuant to this Agreement, and Tenant shall thereupon be subrogated to the rights of the holder of such mortgage or deed or trust against Landlord.

3.04 Landlord's Lien. Landlord shall have and is hereby granted a landlord's lien on

all Equipment, inventory, supplies, cash, bank accounts, or accounts receivable due and owing of Tenant for costs hereunder.

3.05. Destruction of the Subject Property. In the event of a partial destruction of the Subject Property during the term of this Agreement, or any extension thereof, from any cause, Landlord shall forthwith repair the same, provided such repairs can be made within ninety (90) days under the laws and regulations of state, federal, county or municipal authorities; but such partial destruction shall, in no way, annul or void this Agreement, except that the lease payments reserved to be paid hereunder shall be equitably adjusted according to the amount and value of the undamaged space. If such repairs cannot be made within ninety (90) days, this Agreement may be terminated at the option of either party.

3.06. Landlord's Duty to Maintain and Repair. Prior to commencement of the lease, Tenant will examine the premises and accept them in their current condition. Landlord is responsible to create acceptable conditions upon the commencement of the lease. Thereafter, Landlord shall keep in good order, condition and repair the exterior foundations, exterior walls (except in the interior faces thereof), down spouts, gutters, and roof of the premises, and the exterior plumbing lines, sewage system outside of the building of which the premises are a part (but excluding the exterior and interior of all windows and doors), and repairs required by any casualty or act of God except as otherwise covered herein, except for reasonable use and wear and any damage to any thereof, caused by any act or negligence of Tenant and its employees, agents, invitees, licensees or contractors; provided, however, that there shall be no obligation to do so, prior to the expiration of ten (10) days written notice from Tenant to Landlord of the need thereof.

#### ARTICLE IV - EVENTS OF DEFAULT; REMEDIES

5.01. Default by Tenant. Upon the occurrence of any of the following events Landlord shall have the remedies set forth in Section 5.02.

A. Tenant fails to pay any rental or any other sum due hereunder within twenty-one (21) days after the same shall be due.

B. Tenant fails to perform any other term, condition, or covenant to be performed by it pursuant to this Agreement within thirty (30) days after the written notice of such default shall have been given to Tenant by Landlord.

C. Tenant or its agents shall falsify any report required be furnished to Landlord.

D. Tenant of this Agreement shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a

petition in bankruptcy or insolvency, reorganization, or appointment of a receiver or trustee; and such proceeding shall not be dismissed, discontinued or vacated within thirty (30) days from the filing or appointment, or Tenant petitions for or enters into an arrangement; or suffers this Lease to be taken under writ of restitution.

E. The doing, or permitting to be done, by Tenant of any act which creates a mechanic's lien or claim against the land or building of which the Subject Property are a part if not released or otherwise provided for by indemnification satisfactory to Landlord within thirty (30) days thereafter.

5.02. Remedies. Upon the occurrence of the events set forth in Section 5.01, Landlord shall have the option to take any or all of the following actions, without further notice or demand of any kind to Tenant or any other person:

A. Immediately re-enter and remove all persons and property from the Subject Property, storing said property in a public place, warehouse, or elsewhere at the cost of, and for the account of, Tenant, all without service of notice or resort to legal process and without being deemed guilty of or liable in trespass. No such re-entry or taking possession of the Subject Property by Landlord shall be construed as an election on its part to terminate this Agreement unless a written notice of such intention is given by Landlord to Tenant. No such action by Landlord shall be considered or construed be a forcible entry.

B. Collect by suit or otherwise each installment or rent or other sum as it becomes due hereunder, or enforce, by suit or otherwise, any other term or provision on the part of Tenant required to be kept or performed.

C. Terminate this Agreement by twenty-one (21) days written notice to Tenant. In the event of such termination, Tenant agrees to immediately surrender possession of the Subject Property. Should Landlord terminate this Lease, it may recover from the Tenant all damages it may incur by reason of Tenant's breach, including, but not limited to the cost of recovering the Subject Property, reasonable attorney's fees, the amount of rent and charges for the remainder of the contract term, all of which amounts shall be immediately due and payable from Tenant to Landlord.

D. Should Landlord re-enter, as provided above, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, and whether or not it terminated this Agreement, it may make such alterations and repairs as may be necessary in order to relet the Subject Property, and relet the same or any part for such term or terms (which may be for a term extending beyond the term of this Agreement) and at such rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. Upon each such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs

and expenses of such reletting, including brokerage fees and attorney's fees and costs of any alterations and repairs; third, to the payment of rent due and unpaid, and the residue, if any, shall be held be Landlord and applied in payment of future rents as the same may become due and payable. If such rentals received from such reletting during any month be less than that to be paid during such month by Tenant, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry and reletting of the Subject Property by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant pursuant to subsection C., above. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Agreement for such previous breach. The remedies given to Landlord in this Section 5.02 shall be in addition and supplemental to all other rights or remedies which Landlord may have under laws then in force.

## ARTICLE V – MISCELLANEOUS

6.01. Waiver. The waiver by Landlord of any breach of any term, covenants or condition herein contained shall not be deemed to be a waiver of such term, condition or covenant, or any condition herein contained. The subsequent acceptance of lease payments hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Agreement, other than the failure of Tenant to pay the particular lease payment so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such lease payment. No covenant, term or condition unless such waiver be in writing by Landlord.

6.02. Liability. Landlord is not liable for any loss of property, injury to persons under care or supervision of Tenant, damage or expense of any kind suffered by any person on or about the Premises, except that which is caused by Landlord or Landlord's agents' employees' gross negligence or willful misconduct. Tenant hereby agrees to defend, indemnify, and hold Landlord harmless from any and all claims, liabilities and suits relating to Tenant's use or occupancy of the Premises.

6.03. General Rules and Regulations. The Tenant covenants that the following rules, regulations and stipulation shall be faithfully observed and performed by the Tenant and the Tenant's clerks, employees and agents, and invitees, to-wit:

- A. The sidewalk, entry, corridors, passages, shall not be obstructed, or used for any other purpose than for ingress and egress to and from the building, nor shall the Tenant place or allow to remain in any public corridor, stairway, landing or other public area of the Building, any boxes, cartons, stocks of materials or other things.
- B. The windows, and any lights or skylights that reflect or admit light into the halls or other places of said Building shall not be covered or obstructed. And no Tenant shall mark,

paint, drill, or drive nails into or in any way deface or damage the walls, ceilings, partitions, floors, wood, stone or iron work, unless otherwise specifically permitted in writing by Landlord.

- C. No sign, advertisements or notice shall be inscribed, painted or affixed on any part of the outside or inside of the building, except with written permission of Landlord. Existing signage related to Tenant shall be maintained. Permitted signage shall comply with River Heights City Code.
- D. No Tenant shall do or permit anything to be done in said Premises, or bring or keep anything therein, which shall obstruct or interfere with the rights of other Tenants, or unreasonably injure or annoy them; or in any way increase the rate of fire insurance on said building, or on the property kept therein, or conflict with the regulations of the Fire Department, or the fire laws or with any insurance policy upon said Building or any part thereof, or with any rules and ordinances established by the Board of Health.
- E. Tenant shall not cause unnecessary labor by reason of carelessness and indifference to the preservation of good order and cleanliness. It is further agreed that the Landlord shall not be responsible to Tenant for any loss of property in or from said leased premises, or for any damage done in the demised premises to furniture or effects, however occurring. The Landlord shall not be liable to furnish Janitor service inside the tenant's premises unless such arrangement is further agreed in writing.
- F. Nothing shall be thrown by the Tenants, employees out of the windows or doors or down the passages of the building, and Tenants shall not make, or permit their employees to make any unreasonable or improper noises, in the rooms controlled or used by them, or interfere in any way with other Tenants, or those having business with them. Notwithstanding, Tenant shall be allowed to play music in the restaurant provided that it does not disturb existing Tenants in the building. No bicycles or other vehicles and no dogs or other animals, other than service dogs, shall be allowed in the offices, halls, corridors, elevators, or any other part of said Building.
- G. Without express written permission, no additional locks shall be placed upon any doors of the premises, and Tenants will not permit any duplicate keys to be made (all necessary keys will be furnished by the Landlord), but if more than two keys for any door-lock are desired, the additional number must be paid for by the Tenants. Upon the termination of this Lease the Tenant shall surrender all keys of the premises and of the building and give to the Landlord the explanation of the combination of all locks on vault doors in the premises.
- H. If the Tenants desires to install additional internet, tv, computer or telephonic connections, the Landlord will direct the electricians to where and how the wires are to be introduced, and without such directions no boring or cutting for wires will be permitted.
- I. Tenant shall not have overnight parking except that it may keep a maximum of five (5) vans parked in the parking lot. For all parking purposes, Tenant shall only use the southeast parking lot adjacent to the old church house.

6.04 Responsibility. The Tenant shall comply with all municipal, state and federal laws and regulations respecting said Premises. The Landlord shall not be liable for any loss of property by theft or burglary from said Premises or Building; nor for any accidental damage to person or property in or about said Premises from Tenant's use of the Premises or Building; and, the Tenant hereby covenants and agrees to make no claim for any such loss or damage at any time, except a claim for damage which has been caused by the gross negligence or willful misconduct of the Landlord or the Landlord's agents or employees.

6.05. Entire Agreement. This Agreement contains the entire Agreement between the parties, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force and effect.

6.06. Force Majeure. In the event that either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder, by reason of strikes, lockouts, labor trouble, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, war, natural disaster, or other reason of a like nature not the required under the term of this Agreement, then performance of such for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this paragraph shall not operate to excuse Lessee from payment of any lease payment, additional lease payment or other payments required by the terms of this Agreement.

6.07. Delivery of Subject Property. Tenant agrees to deliver up the Subject Property to Landlord at the expiration of this Agreement in as good a condition as when the same was entered into by Tenant, reasonable wear and tear excepted.

6.08. Default. If either party defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party in enforcing its rights arising under this Agreement.

6.09. Notices. Any notices sent to the parties may be sent to them at the following addresses by certified or registered mail:

Landlord: River Heights City Corporation  
Attn: Sheila Lind  
520 S 500 E  
River Heights, UT 84321

Tenant: Boys and Girls Club of Northern Utah  
Att: Jenny Schulze  
550 South Main Street



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first hereinabove written.

**LANDLORD:**  
River Heights City

\_\_\_\_\_  
By Jason Thompson  
Mayor

Attest:

\_\_\_\_\_  
City Recorder

**TENANT:**

\_\_\_\_\_  
By:  
Its:

Exhibit A

[Highlight areas of school to be rented]

Location:

500 S 500 E River Heights, Utah

Map:

Measurements rounded to nearest FOOT

TOTAL square feet = 8,461 (Rentable)

Green = Available use for the Boys and Girls Club

Green = Limited Available Use For the Boys and Girls Club

Red = River Heights City Use

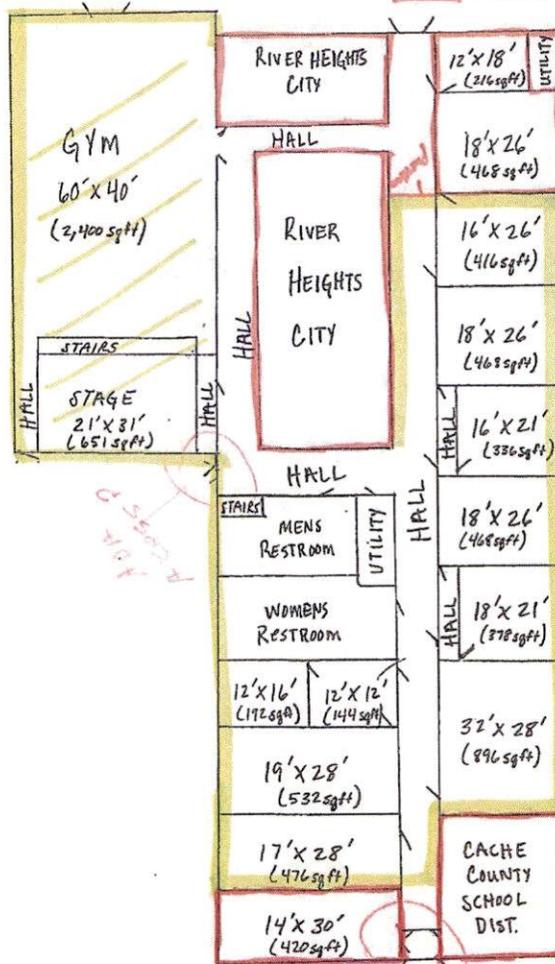


Exhibit "B"  
[Playground Schedule, Terms and Conditions]

THE BELOW TERMS MAY BE ALTERED EVERY 90 DAYS UPON ELECTION OF THE LANDLORD.

- a. Use of Ryan's Place Park shall be limited from 10am-12pm on Mondays and 1pm-3pm on Wednesdays.
  
- b. The Boys and Girls Club may use the outdoor green space immediately surrounding the old school (excluding the softball field, Ryan's Place Park and the smaller park to the South of the old school building). This outdoor green space use will be limited to Tuesdays from 1pm-3pm, and Thursdays from 10am-12pm.
  
- c. With 1 week's advance notice, the Boys and Girls Club of Northern Utah agrees to alter their time at the park to accommodate city use. For example, if the Young Ambassadors need to use the park on a Monday, and 1 week's advance notice is provided, the Club will alter their schedule to accommodate city use.
  
- d. The maximum number of youth allowed to participate in Clubs' programs shall be limited to 120 individuals.

River Heights City  
Suggested Code Changes  
June 2022

5-2-4:A.

- ~~1.2.~~ Any person wishing to maintain a "kennel," as defined in section 5-2-1 of this chapter and section 10-2-1 of this code, must first obtain a kennel conditional use permit from the city. ~~The kennel conditional use permit shall be issued upon proof of compliance with the kennel conditional use permit, as defined in the zoning ordinance.~~

7-1-4: REMOVAL OF SNOW

- A. Failure to Remove Unlawful: It shall be unlawful for the owner, occupant, lesser, or agent of any property, abutting on a paved sidewalk, to fail to remove, or have removed from such paved sidewalk, all hail, snow, or sleet hereon within ~~a reasonable time~~ forty-eight (48) hours after such snow, hail, or sleet has fallen.

7-2-3: SIDEWALKS AT EXISTING CONSTRUCTION

- A. Damage: When any citizen, contractor or person damages the sidewalks, curbs, or gutters of the City, that individual or person shall repair and/or replace the same within ~~a reasonable time~~ thirty (30) days, or as negotiated with the city, at their own cost pursuant to specification set forth by the city. Any expenses incurred by the City in providing specifications or inspecting the same shall also be paid by said citizen, contractor, or person. If the City damages any sidewalks, curbs, or gutters, the same shall be repaired and/or replaced by the City within a reasonable amount of time at no cost to the property owners.

10-4-1: ZONES ESTABLISHED

RPUD            Residential Planned Unit Development

10-12-1:A

Institutional and Special Service Uses

42. River Heights City Facilities Use – "C" (conditional) in Parks and Recreation. Left blank (not allowed) in the other zones.

10-13-22: RECREATIONAL VEHICLES AND MOBILE HOMES PROHIBITED; EXCEPTIONS

- C. All sewage from any recreational vehicle shall be disposed of in an approved septic or sanitary sewer system or legally disposed of outside city limits.

10-13-23: RECREATIONAL VEHICLE AND TRAILER STORAGE

It shall be unlawful . . . within a thirty (30) day period. All sewage from any recreational vehicle shall be disposed of in an approved septic or sanitary sewer system or legally disposed of outside city limits.

10-14-4

- A. Onsite parking in commercial and residential planned unit developments shall be . . .
- B. Within the commercial and residential planned unit development zones, the city . . .
- D. All parking for commercial and residential planned unit developments must be . . .

10-15-5:

- A. For Commercial and Residential Planned Unit Developments:

10-15-6: LANDSCAPING RIGHTS-OF-WAY

- A. Street trees shall be planted by the adjacent property owner within the parkstrip along both sides of all streets every thirty (30) feet on center. If no parkstrip exists, trees shall be planted adjacent to the roadway edge, where a parkstrip would exist, if possible. Tree size and species shall be approved by the city. (1-2015, 6-23-15)

10-15-7: STREET TREES

- F. Parking Strip Tree Remediation or Removal for Public Safety or Interference of Storm Water Drainage:

~~1. Remediation efforts that preserve street trees will always be considered before removal. As an addendum to the Application to Remediate or Remove a Parking Strip Tree, the City or the property owner may submit, at their expense, a design or plan of action for remediation to be considered by the City Engineer. Remediation efforts may include but are not limited by the following:~~

- 1. Damages to pavement, curb, and gutter, or sidewalk, or interference with storm water drains or sanitary sewer mains by park strip trees will result in remediation or, if remediation is insufficient, removal of said tree. The city and/or property owner will first submit a remediation design proposal to the city tree board and city engineer.

Remediation may include but is not limited to the following:

- a. The ~~cutting away~~ removal of damaging tree roots and the placement of a root barrier adjacent to the replaced or repaired sidewalk, curb, or road structure.
- b. The raising of the adjacent sidewalk grade over the damaging tree roots.
- c. ~~The reinforcement~~ Reinforcing of the sidewalk new concrete with rebar, <sup>or welded wire mesh</sup> so roots <sup>leave in</sup> must lift several concrete slabs at once to not cause damage to the adjacent to the damaging tree roots
- d. Shave or grind the concrete to correlate with a contiguous slab.
- e. The pruning or removal of hazardous tree branches.

2. Remediation efforts must always ~~take into account~~ consider tree health and maturity. Remediation efforts that will potentially weaken a tree such that the health of the tree will be compromised, or the tree becomes a risk for falling will not be considered.
3. To obtain assistance from the City, property owners must submit an ~~application~~ request to the City Office to remediate or remove a parking strip tree ~~at the City Office~~. On a case-by-case basis, the City will consider the following factors in reviewing and prioritizing applications:
  - a. Effects on public safety
  - b. Effects on storm water drainage
  - ~~c. Order of request~~
  - d. City budget ability
4. If remediation efforts have been exhausted or failed, The City reserves the right to remediate or remove trees from city parking strips at any time to preserve public safety or proper storm water drainage. (302008, 9-23-08)

10-20-1:

G. River Heights City Facilities Use: When a person, entity, or organization rents, leases, or uses a River Heights City-owned public facility continuously for 30 days or more within a year's time, a conditional use permit is required. The planning commission will assure that the permitted use does not adversely affect or damage the facility, does not interfere with the use by the general public and is harmonious with the surrounding area.

Add New Chapter 22 to Title 10

TITLE 10  
Chapter 22  
TREE CITY USA

SECTION:

- 10-22-1: Purpose
- 10-22-2: Definitions
- 10-22-3: Tree Advisory Board
- 10-22-4: Authority
- 10-22-5: Tree Planting and Care Standards
- 10-22-6: Prohibition Against Harming Public Trees
- 10-22-7: Adjacent Owner Responsibility
- 10-22-8: Certain Trees Declared a Nuisance
- 10-22-9: Appeals

10-22-1: PURPOSE

Establish practices governing the proper planting and care of trees on public property. To enhance the quality of life and future health, safety, and welfare of all citizens; to enhance property values. Make provision for the emergency removal of trees on private property under certain conditions. Accept the authority and responsibility given to the Tree Advisory Board as created by the City Council.

#### 10-22-2: DEFINITIONS

As used in this ~~Article~~ Chapter, the following words and phrases shall have the meanings indicated:

**DAMAGE:** Any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**NUISANCE:** Any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

**PARK STRIP:** The area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

**PUBLIC PROPERTY:** All grounds and rights-of-way (ROWs) owned or maintained by the City.

**PUBLIC TREE:** Any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

**TOP or TOPPING:** The non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree to remove the normal canopy and disfigure the tree.

#### 10-22-3: TREE ADVISORY BOARD

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

A. Duties: The Board shall act in an advisory capacity:

1. Coordinate and promote Arbor Day activities;
2. Review and update a five-year plan to plant and maintain trees on city property;
3. Support public awareness and education programs relating to trees;
4. Review city department concerns relating to tree care;
5. Submit an annual report of its activities to the city council;
6. Assist with the annual application to renew the Tree City USA designation;
7. Develop of a list of recommended trees for planting on city property, and a list of prohibited species; and
8. Other duties that may be assigned by City Council.

- B. **Membership:** The Board shall consist of three (3) members approved by City Council. Members of the Board will serve without compensation. One member of the Board shall be a City Council member, one member of the Board shall be a Public Works Director, and one member a person with verifiable experience in ~~the area of~~ care and maintenance of trees.
- C. **Term of office:** Board members shall be appointed for three-year staggered terms. If a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.
- D. **Officers:** The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
- E. **Meetings:** The Board shall meet annually. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

#### 10-22-4: AUTHORITY

- A. **The Tree Advisory Board, hereinafter referred to as the "Board",** shall have the responsibility to advise on planting, pruning, maintaining, and removing trees and woody plants growing in or upon all municipal streets, rights-of ways, city parks, and other public property. This shall include the removal or pruning of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- B. **Coordination among city departments:** All city departments will coordinate as necessary with the Board and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.
- C. **Interference:** No person shall hinder, prevent, delay, or interfere with the City while engaged in carrying out the execution or enforcement of this Ordinance.

#### 10-22-5: TREE PLANTING AND CARE STANDARDS

- A. **Standards:** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- B. **Requirements of franchise utility companies:** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- C. **Preferred species list:** The Board shall maintain and update as needed, a list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in heights at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission, other species may be planted with written approval from the Board.

- D. Planting distances: The Board shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection (see 10-13-15) of or within fifteen (15) feet of a fire hydrant.
- E. Planting trees under electric utility lines Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

NOTE: The River Heights Tree Selection and Planting Guide brochure can be found in the code appendix and contains a list of trees within each class that are (1) acceptable and appropriate for the climate, and (2) a list of trees that are prohibited for planting along streets or within park strips. ~~This brochure is at the city office.~~

#### 10-22-6: PROHIBITION AGAINST HARMING PUBLIC TREES

- A. It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Board.
- B. It shall be unlawful for any person, firm, or corporation to attach any cable, wire, signs, hammock, slackline, or any other object to any street, park, or public tree.
- C. It shall be unlawful for any person, firm, or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Board.
- D. Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Board and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for “Managing Trees During Construction” published by the International Society of Arboriculture.
- E. Each violation of this section as determined and notified by the Board shall constitute a separate violation, punishable by fines and penalties under Section 9, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

#### 10-22-7: ADJACENT OWNER RESPONSIBILITY

- A. All streets either public or private shall provide a planted landscaped strip to city specifications and be perpetually maintained by the adjacent property owner. (see 10-15-6)
- B. No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent park strip to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the City shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

#### 10-22-8: CERTAIN TREES DECLARED A NUISANCE

- A. Any tree, or limb thereof, on private property determined by Board to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.
- B. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The city may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the City within 90 calendar days of notification (see 10-15-7:F). Potential hazardous situations may be addressed as needed.
- C. The City may elect to assist property owners mitigate the unforeseen immediate cost of tree removal by implementing a repayment plan. Such mitigation would be a reimbursement to the City for expenses expended on behalf of the property owner. (see 10-15-7)

#### 10-22-9: APPEALS

Appeals to decisions by the Board shall be heard by City Council.