

City of Taylorsville
Planning Commission Meeting
Minutes
Tuesday – January 26, 2010 – 6:00 P.M.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission

Scott Bolton - Chair
Ted Jensen
Kristie Overson
Garl Fink
Steven Faurischou
Ernest Burgess
Nathan Murray
Dan Fazzini, Jr.

Community Development Staff

Mark McGrath – Director – Community Development
Michael Meldrum – Principal Planner
Dan Udall – City Planner
Jean Gallegos – Admin Asst/Recorder

PUBLIC: None.

WELCOME: **Commissioner Bolton** opened the meeting at 6:05 p.m.

WORK SESSION

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| 1. <u>Residential Accessory Units Presentation and Discussion.</u> (Dan Udall/City Planner) 18:02:17 |
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1.1 **Mr. Udall** presented this item which consisted of a video regarding Accessory Dwelling Unit (ADU) bylaws. The main message of the video shows that these type units increase tax revenues, minimize subsidies required for affordable units and maximize the use of existing structures. Those benefiting the most from ADU's are homeowners (rental income), middle income tenants, increase in the number of available units, employee housing and affordability. Those typically using ADU's are older singles and couples. ADU's are traditionally built as apartments in single-family homes, as additions to homes, conversion of garages or barns, free-standing cottages and also are designed in with new construction. ADU's are regulated through Zoning Ordinance by-laws and would require special permits and business licensing. Summary of benefits include: Creation of new housing, reduction in energy consumption, generating community dollars, reduction in costs for the elderly and preservation of existing housing stock.

- **DISCUSSION:** **Commissioner Murray** wanted to know if there were down sides to ADU's. **Mr. McGrath** replied that as this proceeds through the process the emphasis would be shifted away from just rental units. This use also generates more parking needs. This will be a challenge for Taylorsville inasmuch as the City is already 95% built out, which would necessitate retrofitting the units into existing housing. **Commissioner Murray** cited good examples in Salt Lake City avenues district and Sugarhouse of what can be done in this regard. [18:19:03](#) **Commissioner Fazzini** commented that if a homeowner wanted to create a true mother-in-law apartment and then later the home is sold, the apartment would probably be turned into a rental unit. **Mr. McGrath** said that would then require a business license. **Commissioner Bolton** wondered if the City is thinking about an ADU ordinance for this City and **Mr. McGrath** said it is being looked into and would include a severe penalty for misuse. Having an ordinance in place would bring the problem more out in the open. **Commissioner Jensen** felt that this would be a positive thing and would allow families to better help each other out. It would, however, probably necessitate a change in the ordinance that now stipulates only three unrelated individuals may live in a home. **Commissioner Burgess** felt that the main idea for this was to create a legal system for this use – that most people don't know this is now illegal. **Commissioner Overson** said that obviously it would have to be based on individual zones – based on lot size and how much yard there is. **Commissioner Faurischou** commented that he has a rambler home with six bedrooms and had offered to allow his children to move back in temporarily. **Mr. McGrath** said that is clearly an exception and for anything temporary in nature, a license would not be required. **Commissioner Murray** said that it would be helpful to read other model ordinances from other cities. **Mr. McGrath**

agreed, saying that the City needs to find suitable ordinances which would apply to Taylorsville as well and has looked at those in Day Break and Salt Lake City, both of which contain good information on which to base a proposed ordinance for Taylorsville. He added that before Staff prepares a draft, they will check other city's ordinances. (No motion required)

2. **Recommendation to the City Council Regarding the Planning Commission By-Laws.** (Mark McGrath/Director of Community Development).

Mr. McGrath presented this item and asked if there were any corrections or comments. [18:41:21](#)

- **Commissioner Jensen** - Article 1, Section 2 talks about combining the Zoning Ordinance, Subdivision Ordinance and Highway Ordinance, how about just saying land use ordinances? **Mr. McGrath** – We plan to make that say Unified Development Code, however, did not include that because it has not yet been developed. That could certainly be changed to say generic land use ordinance. **Commissioner Jensen** - It needs to be changed now or later and now might be a good time to do it.
- **Commissioner Overson** – I have read through the document and that it made sense to me and included everything previously talked about.
- **Commissioner Bolton** – Another thing on Article 2, Section 1, it says an election “*may*” be held as needed. Is that in the event the Chair leaves and the Vice Chair does not want to be the Chair? **Mr. McGrath** - The way it has been dealt with in the past is if the Chair leaves, the Vice Chair fills the remainder of the term, but the by-laws do not address what the protocol is if both leave. If needed, there can be another election.
- **Commissioner Jensen** - I have a question regarding Page 6 on voting with not allowing the Chair to vote because I feel the Chair should be allowed to vote. That the one occasion of having three votes taken and being tied on each occasion was a once in a long time situation and I would like to allow the Chair to vote because they put the same amount of time into studying and reviewing each application and should be allowed to help make the decision. **Mr. McGrath** - The Chairperson certainly has the ability to influence the discussion and make their wishes known. The intent in taking away the vote from the Chair was simply to avoid that tie vote situation from ever happening again.
- **Commissioner Overson** - There is the a document titled policies and procedures and therein it says any item before the Commission that fails to receive a majority vote from the voting members of the Commission shall be considered denied. So if that ever happens and there is a tie vote, the document says that the item fails. If the Commission is clear on that issue and staff understands and can offer assistance when there is confusion, then it doesn't matter whether the Chair votes or not.
- **Commissioner Jensen** – Something else that needs clarification is that there can be more than one motion on an agenda item but then what happens if there is no consensus? **Commissioner Bolton** - If there is a motion to deny and it ties, it fails, if there is a motion to pass and it ties, it fails. **Commissioner Jensen** - That means the motion fails, not that the item fails and is open for another motion. [18:52:44](#) If there is no other motion, then the previous motion fails and the agenda item also fails. **Commissioner Overson** - It says it shall be considered denied. Any item before the Commission that fails to receive a majority vote, so any item, assuming it means agenda item, fails to receive a majority vote from the voting members of the Commission shall be considered denied. So on any application before the Commission, if it is tied, it is denied. **Commissioner Bolton** - If there are no other motions, it is denied.
- **Commissioner Jensen** - There is a little ambiguity there because additional motions can be made if there is still reason for discussion. But just one tie vote doesn't necessarily mean the item is defeated.
- **Commissioner Fazzini** - We don't vote on an item, we vote on a motion. The sentence may be poorly worded but the intent is there. **Commissioner Bolton** - Can we just change the language to say, “This agenda item fails upon no agreed upon motions”, something like that. If there is no motion to approve or deny based upon a majority, then the agenda item or application is denied.
- **Commissioner Murray** - It is the word “item” that is the problem. **Mr. McGrath** - I purposely used that word to address the issue that Commissioner Jensen brought up. If the motion is denied, the item is not necessarily denied. In order to get a majority vote there must be a motion, so an item could be a series of motions.

- **Commissioner Bolton** - If after a series of motions there is no agreement and a tie is still in place, when do we say enough is enough? Due to a lack of supported motion, the application fails? **Mr. McGrath** - The Chairman probably says when enough is enough when there are no more motions. **Commissioner Bolton** - Can we put that in there, "Based upon receipt of a no-majority vote for the motion, the item fails". **Commissioner Jensen** - Must be an acceptable motion. **Commissioner Fazzini** - An affirmative motion because it could be a motion to actually deny it outright. Should probably be a "passing motion".
- **Commissioner Bolton** - If the Chair doesn't vote, he just says it is denied. **Commissioner Murray** - Doesn't that go without saying though? **Commissioner Fazzini** - We have had motions to actually deny the application. **Commissioner Overson** - Right - we can do that.
- **Commissioner Jensen** - We have to get it right because if the applicant disagrees, they are going to appeal this to the City Council and beyond that they can go to court. [18:56:21](#) So we have to be clear that it says this either passes or it doesn't. **Commissioner Bolton** - What if there is a motion for approval but the motion fails? Does that motion automatically default to the application being denied? **Mr. McGrath** - Yes, unless there is an alternate motion. **Commissioner Bolton** - If no one makes another motion, the application before the Commission is denied due to lack of consensus. **Commissioner Fazzini** - Mr. McGrath, do you have a copy Roberts Rules of Order or something equivalent? This is probably addressed in there somewhere. You have an item and then motions related to the item.
- **Commissioner Murray** - Any item before the Commission that fails to receive a majority vote by motion from the voting members of the Commission shall be considered denied. **Commissioner Fazzini** - It needs to be an affirmative vote. In other words, it has to be "for passage". **Commissioner Jensen** - You can vote for a denial. **Commissioner Overson** - You are saying that if the motion is for denial, then you vote in favor of the denial. **Mr. McGrath** - Isn't a majority vote an affirmation? **Commissioner Fazzini** - I don't know if affirmative is the right word because is like YEA or NAY but it needs to have a majority vote for passage of the item in order for it to succeed. **Commissioner Murray** - For example, if we are considering an accessory building and half are not in favor and it doesn't comply with the ordinance and the other half are fine with it, for whatever reason, those not in favor want to deny it and that is the motion that they bring to the table. That would be a split in vote by the Commission and a tie vote exists.
- **Commissioner Bolton** - If that motion fails, there is further discussion and if there are no further motions, the application fails but if there is another motion for approval and through the additional means of discussion, one Commissioner changes their vote, then the motion would pass. However, if it stays split and there have been two motions and with further discussion no additional motions are received, the application fails because of a lack of supporting motion. That is clearly defined. **Commissioner Fazzini** - What I was saying is if you have those not in favor win with a majority vote, you don't want the language to be ambiguous that the motion passed, therefore the issue passes because the motion passes on the issue, even though it was for denial. The motion can pass for denial, at which point, it should be done.
- **Commissioner Bolton** - The sentence currently reads that any item before the Commission that fails to receive a majority vote from the Commission shall be denied. That item can be a motion, either way, and if it doesn't receive a majority, it is denied or fails. Then there is further discussion and then it is standard procedure that without the support of an additional motion, the application is denied. [19:01:10](#) We have motions for or against and if they stay tied there is no other way you can vote - no, "maybe"? It must be yes or no.
- **Commissioner Fazzini** - I understand what you are saying, if we vote for denial and that passes, it explicitly is denied. **Commissioner Bolton** - In a tie vote, you go with other motions and if there are none forthcoming, the application is denied. **Commissioner Fazzini** - If you get a passing vote for denial, it is done. It happened once here and I have done it myself. I have actually put forward a motion and then voted against my own motion, just to move the process along. That is totally legitimate to do but confusing to some people who are not familiar with parliamentary procedures.
- **Commissioner Jensen** - I would like to add an additional phrase to that one sentence to say, "Any item before the Commission that fails to receive a majority vote from the voting members and there are no further motions, then the Commission shall deem the item denied. **Commissioner Overson** - Then that is back to "item" meaning "application". **Commissioner Bolton** - Application and/or a motion was the intent. **Mr. McGrath** - This will also cover if no motion is made. **Commissioner Bolton** - Ultimately if there is a tie both ways that is what happens - there is no motion, so the application fails. That covers all three ways we can go: "yes", "no" or "nothing". As long as we know the intent and I assume that Mr. McGrath has or will

coordinate this with the City Attorney and he is okay with it. **Commissioner Bolton** - With the Chair not voting, there is no gray area.

MOTION: **Commissioner Overson 19:17:55** – I will make a motion for a positive recommendation including that the Chair does not vote except in the event of a tie.

SECOND: **Commissioner Murray**

Commissioner Bolton restated the motion to send a positive recommendation to the City Council regarding Planning Commission Policies and By-laws as written with the clarification that the Chair will not vote unless there is a tie. **Commissioner Bolton** asked Commissioner Jensen what his proposed changes were and **Commissioner Jensen** said it was to use “land use ordinance” rather than zoning ordinance or subdivision ordinance. **Commissioner Bolton** - Is there a problem with that with our current code or future code moving forward? **Mr. McGrath** - I am perfectly fine with changing that to say “land use and development ordinances”. **Commissioner Bolton** asked Commissioner Overson if she was okay with that amendment and she replied that she was. **Commissioner Murray**, as Second, said he was also okay with that amendment.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Bolton	AYE	Overson	AYE
Jensen	NAY	Fink	AYE	Burgess	AYE
Murray	AYE				
Motion passes 6 to 1. Commissioner Jensen said his NAY vote was for the purpose of bringing it to the attention of the City Council that he did not agree with not allowing the Chair to vote. However, that he had no problem with the remainder of the document.					

3. **Planning Commission Training.** (Mark McGrath/Director of Community Development and Michael Meldrum/Principal Planner) 19:20:15

3.1 **Mr. McGrath** opened this discussion by saying that staff has a series of training sessions planned for this evening. That Mr. Meldrum will handle the Planning Process and Creating an Ordinance and he (Mr. McGrath) will discuss the Planning Commission manuals.

3.2 **Mr. Meldrum**

- **Planning Process:** The purpose of this training is to give a brief overview and a refresher of the primary responsibilities, duties and focus of the Planning Commission. The training is broken down into seven different topics for presentation and Mr. Meldrum went into detail regarding each of the seven points and then opened the topics for discussion.
 1. Establishment of the Planning Commission.
 2. General responsibilities of the Planning Commission.
 3. Relationship of the General Plan and Zoning Ordinance.
 4. Planning Commission ethics.
 5. Open communications and meetings.
 6. Dealing with public clamor.
 7. Making a motion.

3.3 **DISCUSSION:** **Commissioner Murray** asked how the City Center Small Area Master plan relates to the General Plan and felt that perhaps the vision should be focused differently, possibly towards community scale elements such as a police building, post office, etc., things that compliment the community. He felt there is too much emphasis on economics and eliminating the balance needed to make this property work. **Mr. McGrath** agreed with the idea of reevaluating the vision. The goal would be to identify key sites on this property that are viable for retail but also adding some park space. Of necessity, the market must drive the success of this property. The City owns the entire 20 acres and would have control of the site, which hopefully would dictate who the City is. There is only one chance to get this right and for that reason the City must have patience. **Commissioner Murray** said his opinion is that that there seems to be different agendas amongst the City administration. Things should not be done behind closed doors and should be transparent. It makes the Commission look like they have no input on these important decisions and the clear vision for the future of the City does not seem to be happening at this point.

- **Creating an ordinance.** 7:52:43 **Mr. Meldrum** reviewed the basic steps for creating any ordinance and gave a short presentation regarding each step that must be taken. A short synopsis of these steps includes: (1) Direction given by the Planning Commission or City Council or brought forward by

a resident or staff; (2) Proposed language is presented to the Planning Commission during a work session; (3) Further direction is provided by the Planning Commission; (4) Legislative edit copy of proposed ordinance amendment advertised for a public hearing and presented to the Planning Commission at a regular business; (5) The Commission may ask for additional information, forward a negative recommendation to the City Council or forward a positive recommendation to the City Council; (6) The City Council advertises the proposed ordinance amendment in the local newspaper at least two weeks prior to a scheduled public hearing; (7) The City Council may ask for additional information, deny the proposed ordinance amendment or approve the amendment as proposed; (8) The ordinance takes effect upon the signing of the ordinance document by the City Council Chair, Mayor and attesting by the City Recorder.

3.4 **Mr. McGrath** discussed the Planning Commission Manuals and their content. He went through the manual page by page and answered questions from the Commissioners. The manuals contain pertinent information for the Commissioners, including rules, regulations and ordinances to help them with their decision making. Each Commissioner now has their own copy of the manual. **Commissioner Overson** commented that the City's web page has erroneous information regarding the members of the Commission and has listed members who are no longer on the Commission. **Mr. McGrath** said he would see that the web page is corrected and brought up to date.

4. Update on the Proposed Joint City Council/Planning Commission Meeting. (Mark McGrath/Director of Community Development).
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4.1 **Mr. McGrath** said that he is still working on establishing an exact date and place for this meeting to be held and will report back to the Commission when arrangements have been made.

CITY COUNCIL MEETING DISCUSSION: **Commissioner Bolton** advised that he would be unable to attend the City Council meeting he was scheduled for on February 3rd. **Commissioner Overson** volunteered to attend in his place. **Mr. McGrath** reported on the last City Council meeting and said that discussion centered mostly around the "Good Landlord Program".

OTHER BUSINESS: **Commissioner Murray** announced his intent to resign from the Planning Commission effective March 1, 2010.

ADJOURNMENT: By motion of **Commissioner Fink**, the meeting was adjourned at 8:21:24 p.m.

Respectfully submitted by:

Jean Gallegos, Admin Asst/Recorder for the
Planning Commission

Approved in meeting held on March 9, 2010.