City of Taylorsville
Planning Commission Meeting
Minutes
April 13, 2010
Pre-meeting – 6:00 p.m. - Regular Session – 7:00 p.m.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission
Ted Jensen, Chair
Kristie Overson
Garl Fink
Ernest Burgess
Steven Faurschou
Anna Barbieri
Dale Kehl
Dan Fazzini, Jr. (Alternate)

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

PUBLIC: Billie L. Toone, Judy Thatcher, Natalie Watts, Mary Krestateidi, John Krestateidi, Randy DeLaMare, Karen DeLaMare, Walt Cunningham, Debbie Curtis, Noradine Sorensen, Murray Moffat, Cindy Middleton, Leisa Benson, Barbara Heisle, Marilyn Woolstahume, Pat Marino, Tricia Nate, E. Baca, Bryon Poulter, Danielle Poulter, Mike Wright, Diane Wright, John Anderson, Dana Anderson, John King, Debbie King, Wally Dennis, Allen Martin, Dama Barbour, Lori Marino, David DeLaMare, Ernie Bochett

19:09:16
WELCOME: **Commissioner Jensen** assumed duties as Chair and welcomed those present, explained the process to be followed this evening and opened the meeting at 7:00 p.m. He outlined the items on the Consent Agenda and asked if there were anyone in the audience wishing to speak to any of them. There being none, Commissioner Jensen asked for a motion regarding the Consent Agenda. None came forward

CONSENT AGENDA

Agenda/File #	Application	Applicants	Action
1. Review/approval of Minutes for February 23 and March 9, 2010			Approved as presented.
2. 2S10	Two-Lot Subdivision	City of Taylorsville 3281 West 6200 South	Approved with staff recommendations.
7. 12C10	Conditional Use Permit for a Church	Patrick Marino 5536 S 1900 W, Suite A	Approved with staff recommendations.

MOTION: Commissioner Overson - I will make a motion to move Item #7 to the Consent Agenda. (No one came forward in opposition to moving Item #7 to the Consent Agenda).
SECOND: Commissioner Fink

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Overson	AYE	Fazzini	AYE
Barbieri	AYE	Fink	AYE	Burgess	AYE
Kehl	Observed Only				
Motion passes unanimously.					

MOTION: Commissioner Overson - Then I will make a motion to approve the Consent Agenda consisting of Item #1, the Minutes for February 23rd and March 9th, 2010, Item #2, File #2S10, a Two Lot Subdivision and Item #7, File #12C10, Conditional Use Permit for a Church.
SECOND: Commissioner Fink
Commissioner Jensen restated the motion to approve the Minutes for February 23rd and March 9th, 2010 as presented and Item #2 – File #2S10, two lot subdivision and Item #7, File #12C10, conditional use permit for a church.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Overson	AYE	Fazzini	AYE
Barbieri	AYE	Fink	AYE	Burgess	AYE
Kehl	Observed Only				
Motion passes 6 to 0.					

ZONE CHANGE

3. 8Z09 **Desiree Tatum – 2000 West 5400 South** – Recommendation to the City Council for a zoning map change from R-1-8 to MD-1. (Dan Udall/City Planner) 19:13:33

3.1 **Mr. Udall** presented this item. The applicant is proposing a zone change from R-1-8 to MD-1 on property located at

2000 West 5400 South. There is an existing single-family home located on the property. The applicant also currently has an insurance office home occupation business that was approved by the Planning Commission in 2009. The applicant eventually desires to have a commercial insurance office business with only one additional employee on the property. The applicant desires to eventually have a monument sign on the property, which measures .19 acre. The applicant must meet all requirements for the site as referenced in City Code for the MD-1 Zone. Driveway on east side will be parking for the home owner.

Findings of Fact:

1. The proposed MD-1 zone is compatible with the general plan designation of "professional office."
2. The subject property is located in the professional office corridor along the north side of 5400 South from 2200 West to 1900 West.
3. The proposed zone change from R-1-8 to MD-1 is compatible to the character of the site and the surrounding neighborhood.
4. The site plan submitted to the City does not meet all MD-1 zoning regulations.

Staff Recommendation: Staff suggests sending a positive recommendation to the City Council on File #8Z09 to rezone the property from R-1-8 to MD-1 if the applicant meets all MD-1 zoning regulations in regards to parking and landscaping and because of the following reasons:

1. That the proposed MD-1 zone is compatible with the general plan designation which is "professional office".
2. The proposed MD-1 zone is compatible to the character of the site and the surrounding neighborhood.
3. The MD-1 zone will not be an adverse impact to the site and the surrounding properties.

3.2 **APPLICANT ADDRESS**: **Desiree Tatum** was present. 19:17:20 **Commissioner Overson** asked Ms. Tatum if she had received a copy of the staff report. **Ms. Tatum** answered that she had and had no concerns or questions regarding the content. **Commissioner Barbieri** said that there have been questions raised with regard to the amount of illegal signage on the property. **Ms. Tatum** said that she had removed the banner sign and with the change in zoning would be requesting a monument sign. **Commissioner Overson** asked her if it was her intent to live in the home and have a small portion of it as an office, which **Ms. Tatum** replied was correct.

3.3 **DISCUSSION**: **Commissioner Fazzini** asked staff if the sign on the roof was allowed and **Mr. Meldrum** replied that it was not in compliance with City Code, which says a 3' square sign affixed to the house is allowed. It is illegal to place the sign on the roof. A 3 square foot sign, which means a 1' by 3' sign is presently allowed. **Commissioner Barbieri** wanted to know if the applicant was aware that her sign on the roof is illegal. **Ms. Tatum** replied that the sign is the appropriate size but she was not aware that it could not be placed on the roof. **Commissioner Overson** asked if the zone change is approved, would the signs have to be removed. **Mr. Meldrum** said that under the MD-1 zoning, only a monument sign is allowed. **Ms. Tatum** said that she had received a telephone call from someone in the City about her sign but they did not return her call so she did not know what that was about. **Commissioner Overson** commented that either way, the present signage must be taken down. **Ms. Tatum** asked exactly what she was allowed to have and **Mr. Meldrum** advised her to meet with staff either after the meeting this evening or in the office in the morning and her options would be fully explained.

3.4 **SPEAKING**: None

3.5 **MOTION:** 19:24:29 **Commissioner Overson - Based on the Findings of Fact and testimony heard from the applicant this evening, I move that a positive recommendation be forwarded to the City Council to change the zone from R-1-8 to MD-1 on property located at 2000 West 5400 South. I believe it is compatible with the General Plan and the surrounding neighborhood.** 19:25:06
SECOND: **Commissioner Fazzini**
Commissioner Jensen restated the motion to send a positive recommendation to the City Council for File #8Z09 for the zoning map change from R-1-8 to MD-1 on the site at 2000 West 5400 South.

VOTE					
Commissioner	**Vote**	**Commissioner**	**Vote**	**Commissioner**	**Vote**
Faurschou	**AYE**	**Overson**	**AYE**	**Fazzini**	**AYE**
Barbieri	**AYE**	**Fink**	**AYE**	**Burgess**	**AYE**
Kehl	**Observed Only**				
Motion passes 6 to 0.					

CONDITIONAL USES

4. 7C10 **David and Natalie Watts – 3927 West Ridgecrest Drive** – Animal Hobby Permit. (Dan Udall/City Planner) 19:26:06

4.1 **Mr. Udall** presented this item. The applicant has requested a conditional use permit for an animal hobby permit to allow three dogs on property located at 3927 West Ridgecrest Drive. The applicant is requesting approval for two Border Collies and one Pug. All the dogs spend the majority of their time outdoors. The Pug dog belongs to the applicant's daughter, who will be living on the property for an unknown period of time temporarily. This request is as a result of West Valley Animal Services driving in the neighborhood and observing too many dogs on the property. (While the Commissioners were in the pre-meeting, the applicants sent word to them that they would like to change the type of permit from animal hobby to a fancier's permit so the Pug would not have to be neutered and **Mr. Udall** advised the Commissioners that they should discuss that option with the applicants when they speak).

Findings of Fact:

1. The applicant is proposing an animal hobby permit for three dogs.
2. The animal hobby permit is a conditional use.
3. That West Valley Animal Services observed too many dogs on the property.
4. That a complaint was issued to the applicant specifying dog barking coming from the property.

Staff Recommendation: Staff recommends approval of File #7C10 with the following conditions:

1. That the use is compliant with all requirements of applicable reviewing agencies.
2. Conditional Use Permit is subject to review upon substantiated and unresolved complaints. Complaints which cannot be resolved by Staff or West Valley Animal Services personnel may be grounds for permit revocation.
3. Property violations (if any) must be resolved prior to issuance of an animal hobby permit.
4. The applicant needs to comply with all requirements that are applicable under Chapter 8 (animal permit regulations). All dogs need to be licensed and sterilized.
5. That the perimeter fence is maintained and secured.
6. **[Added by Motion] That the applicants have to turn over some information to Staff on the certification of the Pug.**

4.2 **APPLICANT ADDRESS**: **David and Natalie Watts** were present and **Commissioner Jensen** asked if they had received a copy of the staff report, to which **Mrs. Watts** replied that they had, via E-Mail. **Mr. Watts** said that they had talked with the lady who drives the truck for West Valley Animal Services and she said there had been no complaints from the neighbors about the dogs barking. She looked around the property to see if the dogs were being taken care of and said that there was absolutely no problem. **Commissioner Jensen** asked them if it was their desire to change the type of permit. **Mr. Watts** said that Animal Services had suggested that because the dog's owner is planning to breed the Pug some day, therefore, for Mr. Watts to apply for the Fancier Permit instead of the Animal Hobby. **Commissioner Jensen** asked if they understand what the difference is between the two types of permit and **Mr. Watts** replied that they did. **Commissioner Fink** asked if it were correct that the dog in question would only be at this address for a little while. **Mrs. Watts** said that was correct but they could not say for exactly how long. **Commissioner Fink** informed the applicants that the permit follows the dog and when the dog leaves, the permit goes away. **Mr. Watts** said that was fine, that they have no intention of having three dogs after this one leaves. **Commissioner Overson** needed clarification. The dog in question is the Pug which is a male and the applicants want a Fancier's Permit so that they can breed the dog. **Mrs. Watts** said that they were told that with the Animal Hobby Permit, the animal must be sterilized and with the Fancier's Permit that does not happen. The daughter doesn't really want to have the dog sterilized at this point because it is only one year old. **Commissioner Overson** said that it is a matter of sterilizing or not sterilizing the dog and there would be no puppies on this property if it is bred. **Commissioner Faurschou** asked if the Fancier's Permit is only for AKC registered animals. **Mr. Meldrum** said that is not necessarily so but the animal must be registered with a nationally recognized kennel association and must have papers demonstrating the proper lineage. **Mrs. Watts** advised that they are in possession of the proper paperwork for that dog and the Animal Control person said that all that was needed was to bring those papers to them. **Commissioner Fazzini** asked Staff if the dog in question would be the only one requiring the papers or did all three of the dogs need proper papers. **Mr. Meldrum** said in this particular case, two dogs would be allowed by right, so that the dog in question would be the only one requiring the papers. He added that there is a monetary difference in licensing the dog, whether it is sterilized or not - $15.00 if sterilized and $25.00 if they are not. When the applicant comes in to license the dog with the City, that will be one of the questions they are asked. **Commissioner Overson** said that she is a little confused about changing this to an Animal Fancier's Permit tonight and wanted to know if it is appropriate to do that without re-noticing the neighbors. **Mr. Meldrum** said that the Commission technically can make that change tonight. It was not noticed for a Fancier's Permit but the only difference is the sterilization of the dog versus non-sterilization. It is still the same number of dogs regardless of whichever way the Commission chooses to go, Animal Hobby Permit or Fancier's Permit. That is within the Commission's purview to decide. His opinion was that most people would probably be concerned with the number rather than if the dog has been sterilized or not.

4.3 **SPEAKING**: None

4.4 **MOTION**: **Commissioner Fink - I will make a motion that we approve application #7C10 based on the Findings of Fact and with the facts outlined in the staff report and adding one additional condition, Number 6, that the applicants have to turn over some information to Staff on the certification of the Pug.**
SECOND: Commissioner Barbieri
Commissioner Jensen restated the motion to approve Agenda Item #7C10 with staff conditions including that paperwork about the registration is included with the permit as required. Mr. Meldrum - Point of clarification please. Was that motion for a Fancier's Permit or the Animal Hobby Permit? Commissioner Fink - Thank you, I didn't say but it is for a Fancier's Permit. Commissioner Jensen - Okay, we have a motion for a Fancier's Permit for Agenda Item #7C10 with the additional requirement that appropriate paperwork will be submitted by the applicant certifying proper registration for the animal. Commissioner Overson - Mr. Chair. Does that mean that the paperwork needs to be in order before the permit is issued? Commissioner Jensen - That is correct.

VOTE					
Commissioner	**Vote**	**Commissioner**	**Vote**	**Commissioner**	**Vote**
Faurschou	**AYE**	**Overson**	**AYE**	**Fazzini**	**AYE**
Barbieri	**AYE**	**Fink**	**AYE**	**Burgess**	**AYE**
Kehl	**Observed Only**				
Motion passes 6 to 0.					

5. 10C10 – **Judy Thatcher – 3221 West Tysonbrook Court** – Conditional use permit for an Animal Fancier Permit. (Dan Udall/City Planner)

5.1 **Mr. Udall** presented this item. The applicant is requesting approval to have three dogs on property at 3221 West Tysonbrook Court. The dogs are indoors approximately 80% of the time. All the dogs on the property are Shih Tzu's and are currently registered with the American Kennel Club (AKC). In January 2010, a West Valley Animal Service officer was driving in the neighborhood and observed that there were too many dogs on the property. The applicant was informed by them to obtain an animal permit through the City of Taylorsville. The applicant is breeding the Shih Tzu dogs and all puppies will be removed from the property as indicated by the animal ordinance, which says that one litter may be kept intact until the animals reach five (5) months of age. One animal from the litter may be retained until it reaches twelve (12) months of age. At no time may the holder of a permit retain more animals than is indicated on the permit. West Valley Animal Services will conduct an on-site inspection prior to approving an Animal Fancier's Permit and will conduct an annual on-site inspection following permit issuance. There are City Code violations on the property that can be seen from the public right-of-way, including junk, an unlicensed vehicle parked on the front landscaping and no landscaping. These violations will need to be removed from the property before the applicant can license the third dog. Enforcement of the violations has been turned over to the Taylorsville Code Enforcement Office.

Findings of Fact for File #10C10:

1. That the animal fancier permit is a conditional use.
2. That the applicant is proposing an animal fancier permit for three dogs on the property.
3. That West Valley Animal Services observed that there were too many dogs on the property.
4. There are land use violations on the subject property.

Staff recommends approval of File 10C10 with the following conditions:

1. That the use is compliant with all requirements of applicable reviewing agencies.
2. Condition Use Permit is subject to review upon substantiated and unresolved complaints. Complaints which cannot be resolved by Staff or West Valley Animal Services personnel may be grounds for permit revocation.
3. **[Changed by Motion]** Property violations must be resolved **within 60 days** prior to issuance of an animal fancier permit.
4. The applicant needs to apply to all requirements that are applicable under Chapter 8 (animal permit regulations). All dogs need to be licensed.
5. That the perimeter fence is maintained and secured.

5.2 **APPLICANT ADDRESS**: **Judy Thatcher** was present. **Commissioner Overson** asked if she had received a copy of the Staff Report and she said that Mr. Udall told her he sent it to her via E-Mail, however, she did not receive it. That he had verbally told her what it said. She advised that the dogs stay in the house most of the time and she will see to it that the property violations (junk on site) will be taken care of within three weeks. That she planned on putting a gravel parking area in.

5.3 **SPEAKING**: None.

5.4 **DISCUSSION**: **Commissioner Fazzini** asked staff if a gravel base were allowed for parking and **Mr. Udall** advised that Mr. McGrath, Director of Community Development, had previously approved that type of use.

5.5 **MOTION: Commissioner Overson - Based on the Findings of Fact, Staff Recommendations and testimony heard this evening I move for approval of File #10C10 an animal fancier's permit, including Staff's conditions 1 through 5, amending #3 to say that property violations must be taken care of within 60 days prior to issuance of an animal fancier's permit.**
SECOND: Commissioner Fink
Commissioner Jensen restated the motion to approve File #10C10 with a second by Commissioner Fink, with a modification to Staff Recommendation #3 that the time allowed for property violations to be resolved is within a period of 60 days.

VOTE					
Commissioner	**Vote**	**Commissioner**	**Vote**	**Commissioner**	**Vote**
Faurschou	**AYE**	**Overson**	**AYE**	**Fazzini**	**AYE**
Barbieri	**AYE**	**Fink**	**AYE**	**Burgess**	**AYE**
Kehl	**Observed Only**				
Motion passes 6 to 0.					

6. 11C10 **Billie Toone – 4660 Hemlock Drive** – Animal Hobby Permit (Michael Meldrum/Principal Planner)

6.1 **Mr. Meldrum** presented this item. The applicant is requesting approval for an Animal Hobby Permit for a third dog on property at 4660 Hemlock Drive. Two of the three dogs are AKC registered Schnauzers and the third dog is a Schnauzer mix. There has been one instance of one of the three dogs "running at large" in the neighborhood earlier this year, for which she received a citation from Animal Services and has since taken care of that violation.

6 2 **Findings of Fact regarding File #11C10:**

1. The use is a conditional use in the R-10-8 zoning district.

2. The yard is fenced with a six-foot high masonry wall on three sides, with a wooden gate on the fourth side.
3. There was one instance of one of the dogs "running at large" recently. The applicant has paid the fine.
4. There are no complaints on file with West Valley Animal Services.
5. The Animal Hobby Permit is subject to review upon substantiated and unresolved complaint.

6.3 **Staff Recommendation**: Staff recommends approval of File #11C10 with the following conditions:

1. Comply with the requirements of all reviewing agencies.
2. The third dog must be licensed within one month of receiving approval of this application.
3. Maintain current vaccinations for the three dogs.
4. This permit is valid only for the dogs included in this application.
5. The Animal Hobby Permit is subject to review upon substantiated and unresolved complaint.
6. **[Added by Motion]** **That the fence is maintained in good condition.**

6.4 **APPLICANT ADDRESS**: **Billie Toone** was present. **Ms. Toone** advised that her yard is fenced and the dogs normally do not get out to roam the neighborhood. However, did get out that one night and that she and her son had spent all night trying to find them. The reason they got out that time was because she had put a new door on the front of the hours, which didn't have a storm door. She had gone out to retrieve something from her car and apparently didn't pull the door closed tight enough and they got out. **Commissioner Overson** asked her if she had received a copy of the staff report and was aware of the conditions contained therein. **Ms. Toone** said that she did not receive a copy of the report, however, that Mr. Meldrum had called and informed her of its' content.

6.5 **SPEAKING**: None.

6.6 **DISCUSSION**: None.

6.7 **MOTION**: **Commissioner Fazzini** - Seeing there is no more discussion, I would like to make a motion. I move that we approve File #11C10, having heard the testimony of the applicant, along with the Findings of Fact and Staff Recommendations 1 through 5.
SECOND: **Commissioner Faurschou**
Commissioner Jensen restated the motion to approve File #11C10, with the suggestion to add Recommendation #6 that the fence is maintained in good condition. **Commissioner Fazzini** accepted that addition, as did the second.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Overson	AYE	Fazzini	AYE
Barbieri	AYE	Fink	AYE	Burgess	AYE
Kehl	Observed Only				
Motion passes unanimously.					

7. 12C10 **Patrick Marino – 5536 South 1900 West, Suite A – Church**. (Michael Meldrum/Principal Planner)

NOTE: By motion of the Commission, this item was moved to and approved on the Consent Agenda.

8. 13C10 **Murray Moffat – 3849 West 5400 South** – Conditional Use Permit Amendment for a Canopy Structure. (Michael Meldrum/Principal Planner)

8.1 **Mr. Meldrum** presented this item. The applicant is requesting approval for an Amended Conditional Use Permit to erect a patio cover on the south side of the building to allow customers who wish to smoke an area where they can do so. In accordance with the Utah Indoor Clean Air Act, smoking is not permitted in buildings. The applicant currently has erected a temporary patio cover for which he did not obtain a permit. The patio area is currently fenced with chain link and is covered with a tarp supported by posts. Mr. Meldrum showed photographic images of the site and current patio area.

- There have been complaints from the single-family residential neighborhood to the south of the subject property regarding the noise coming from the patio area. The applicant has indicated that he is voluntarily coming forward to address this complaint. The issue of erecting a patio cover requires an amended conditional use permit.

- Staff has contacted the Salt Lake County Health Department for consultation and recommendations regarding the noise and smoking issues. In speaking with that Department, Staff has found that there are two central issues about which they have concern. The first issue is the sound about which the neighbors have complained. Health Department regulations have a 10:00 p.m. curfew for noise. The second issue is regarding the patio smoking area. According to Health Department regulations, a designated smoking area must be located a minimum of 25 feet from the building. The International Building Code requires that an accessory structure be located a minimum of six feet from the primary building. The applicant can meet the minimum building separation requirements but the Health Department is concerned with the ability to have the designated smoking area at least 25 feet from the building. The enclosed area is 25' in width by 35' in depth. Based on those numbers, it would leave a 10' area that could possibly be used for smoking according to the Utah Indoor Clean Air Act for smoking allowances.

- During the consultation with the Health Department, they offered to perform a noise study for the City. This has not yet been done and is currently unscheduled and would provide all parties with objective data from the patio area. The representative from the Health Department, James Bennett, indicated that completing a noise study prior to the scheduled Planning Commission hearing date (April 13, 2010) would not be possible. Staff would like

to see this study done so that there can be accurate readings. The Health Department's proposal would be that they would leave the noise meter out for a period of two to three days in order to get readings throughout the day to tell what the ambient noise level would be in the area with 5400 South and Bangerter Highway being the proximity of the subject property. Then also at night when those roads are less busy in order to hear if there is any noise associated with the business, so that it can be determined what that difference is. That has not yet been done. Staff does recommend that be done in order to create a non-subjective way of measuring the actual noise associated with the use.

- Staff does support the idea of creating a more neighbor-friendly approach to a covered patio area. It does need to be cognizant of the residential neighbors to the south. It is just not clear at this time if the applicant's proposal adequately addresses those issues.

8. 2 **Findings of Fact regarding File #13C10:**

1. The use is a conditional use in the C-2 zoning district.
2. A patio cover has been erected for which a building permit was not obtained.
3. The patio cover must be located at least six feet from the main building.
4. A designated smoking area must be located at least 25 feet from the building.
5. The applicant is responding to complaints of noise from the covered patio area.
6. The applicant has submitted plans for an A-frame style metal building with a solid back that will be insulated with foam board to reduce sound.

8.3 **Recommendation**: Staff recommends continuing this item based on the following findings:

1. A noise test has not been conducted on the property.
2. It is not clear if the proposed smoking area complies with the Utah Indoor Clean Air Act (25 feet from the building).
3. The Salt Lake County Health Department has requested additional time to evaluate the site.

8.4 **DISCUSSION**: **Commissioner Overson** asked Mr. Meldrum if he was aware of any police action or reports regarding this business. **Mr. Meldrum** advised that he was not aware of any specific police reports but has received three E-Mails from citizens, each of which the Planning Commissioners and the applicant have seen. Those E-Mails will be covered under the public hearing portion section regarding speakers. **Commissioner Overson** commented that there are a lot of citizens in attendance tonight who obviously have interest in this agenda item. She wondered who they should call relative to noise complaints and **Mr. Meldrum** advised that is covered under the City's nuisance ordinance and the police department would be the point of contact.

8.5 **APPLICANT ADDRESS**: **Murray Moffat** was present. He advised that until he met with Mayor Wall three weeks ago he was not aware of any complaints from the neighbors. That he had received no contact from the Taylorsville Police Department or Code Enforcement in this regard. He noted that occasionally large trucks park in the rear but that is the only parking back there that he is aware of. He wants to be a good neighbor and will do what he must to make this work.

8.6 **SPEAKING**: 20:17:31

- **Leif Nelson – 5611 Brandy Wine.** **Mr. Nelson** submitted written comments which basically said that this club has been in operation for many years, having been approved under Salt Lake County. That the location directly affects the homes adjacent to the commercial property and the noise levels are excessive. Adding a patio where music can be played until 2:00 a.m. within a few feet of the homes should not be approved. The negative nature of this business is a concern for other businesses contemplating relocating to this commercial site. He opposes allowing Club D.J. to expand their business and supports any efforts to reduce noise and the negative impact this business brings to the area.

- **Dave DeLaMare (5572 South Treebeard Road – (Lives directly over the wall from Club D.J.'s).** **Mr. DeLaMare** submitted written comments in opposition to approving this request. His concerns were the noise and he was very opposed to allowing a permanent patio to be installed in the rear of this building. He asked that parking in the rear be disallowed. **Mr. DeLaMare** also spoke during the meeting and said adding the proposed structure would not be fair to the neighborhood. He asked that the smoking area be relocated to a better location with less impact on the neighbors. That he has lived in his home for 20 years and this business has presented a problem for the entire time. He did not feel a sound wall would alleviate any of the problem because it has been proven that sound merely goes up and over the sound walls. He asked the Commission to seriously look at all aspects before giving any type of approval.

- **John and Dana Andersen** – **Mr. Andersen** submitted written comments in opposition to approving this request. His concerns were continuous occurrences of excessive patron noise, yelling, fights, honking of cars, screeching of tires, general carousing and the doors being left open allowing music to enter the neighborhood. This continues late into the night until closing. 20:10:59 **Mr. Andersen** also spoke during the meeting and said that he was speaking for his neighbors who could not attend the meeting this evening. He advised that a lot of noise carries over that wall from Club D.J. and asked that the proposal be disapproved.

- **James Bennett (Environmental Health Compliance Officer).** **Mr. Bennett** submitted written comments as follows: "One item that Mr. Moffett needs to submit to the City is a good site plan showing a dimensional layout of the site, the specifics of the structure, its size, layout, and in which orientation it will be built. We need some specifics. As for the noise test, we can perform that function to determine the ambient in the area but if there are not amplified sources, this will be tough to enforce."

- **Ernie Bochett**. He said that he and his neighbors have put up with the noise for years and there is no way to control what people do in the parking lot. However, he did not feel it was right to make the neighborhood absorb the problem and would like the smoking/clean air problem dealt with appropriately. 20:21:24

8.7. **DISCUSSION**:

- **Commissioner Fink** wanted to make sure that if this is approved, that proper insulation is included in the make-up of the structure. 20:42:42

- **Commissioner Burgess** suggested that the large trucks that park in the back should be made to turn off their engines. **Mr. Murray** said that dependent upon the weather, that could be done. However, that refrigeration trucks must be left running constantly. **Commissioner Burgess** continued on to say that slats in chain link fencing would do little to screen the noise level.

- **Commissioner Fazzini** asked if there were a security system installed. **Mr. Murray** said there was. **Commissioner Fazzini** then wondered if the customers are aware of that existence. **Mr. Murray** said that he did not know because it is not something that is advertised or general knowledge.

- **Commissioner Overson** wanted to know why this was a conditional use ***amendment*** and **Mr. Meldrum** advised it was an amendment because the original conditional use was approved through Salt Lake County. **Commissioner Overson** asked if the structure in place now had been approved. She felt there was a definite need for an appropriate place to control noise and smoke but was not confident that the Commission has sufficient information to make a decision yet. 20:46:42 **Mr. Meldrum** advised that the applicant did receive a building permit previously, however, that permit was subsequently withdrawn by the applicant in September 2008 and since then nothing has been completed and no permissions granted. Essentially it has been voided. **Commissioner Overson** asked for clarification on what that permit involved. **Mr. Meldrum** said that it is a building permit for a structure similar to what they are proposing now. 20:49:10 One problem is that the proposed structure cannot be right next to the building and must meet the standards of the Utah Clean Air Act.

- **Commissioner Barbieri** asked for clarification regarding the structure. The structure that they are proposing is the drawing in the staff report? **Mr. Meldrum** advised that was correct. **Commissioner Barbieri** commented then that is what the Commission would be approving. **Mr. Meldrum** said that it is similar to that in that they will have a rear wall on it. The one in the packet shows either a roof structure or a completely enclosed area with a door, similar to a garage. The proposal by the applicant is to have a wall on the back and then sound barriers on either side, with the front of it being to the north, adjacent to main building. It would have to be at least 6' away from the building. The fencing is right next to the building but the structure cannot be.

- **Commissioner Faurschou** asked Staff in doing a building like this, which is pretty much an enclosed building, how is that affected by the Utah Clean Air Act? **Mr. Meldrum** advised that is another issue for the Health Department.

- **Commissioner Jensen** added that it looks like the Commission needs more information regarding the smoking area and noise level problem. **Mr. Meldrum** said that Staff is willing to coordinate a meeting with the Health Department to discuss this issue for a report to be given to the Commission in the next staff report they receive regarding this matter. 20:51:43

- **Commissioner Fazzini** was concerned about the time line for that and said if it takes too long, this application will be delayed well into the summer. He wanted to make it scheduled to a time certain. **Mr. Meldrum** said that he did not have a specific time projection at this point. Based on what he heard this evening, it appeared that the Commission wants a longer period for the test rather than a shorter version. If the Commission desires that this be tabled to a date uncertain, then a new public notice would be sent out. **Commissioner Fazzini** reiterated that if the projection date is too far out, it would be in June, which means that the structure is not going to be built until at least July or August. **Mr. Meldrum** said that project did not seem to require a long period of time for completion. **Commissioner Fazzini** said that it still goes well into summer. Any figures at this point would only measure the current level of noise and not project what it would be after the structure is built. If it is scheduled for the May 11th meeting for hearing, it could always be postponed if necessary. He would rather have a time certain date now so that the project can move along. If a time certain date is proposed today, then it will not require another notification to the neighbors. **Mr. Meldrum** said that is correct according to the law, all though it may be a good idea to send out another notice just out of courtesy for the applicant and the neighbors. He felt that Mr. Bennett from the Health Department would accommodate a meeting as soon as possible.

- **Commissioner Jensen** commented that this is a difficult situation and felt that a noise level check might be beneficial.

- **Commissioner Overson** also felt this was a difficult situation for the applicant and an uncomfortable one for the neighbors. There are two different issues: (1) The Conditional Use Permit for the patio structure and (2) the neighborhood complaints about excessive noise and smoke. She did not feel the proposed structure would help either situation and did not feel there was sufficient information available this evening for a proper decision. 20:32:43

- **Commissioner Fink** also felt that there was not enough information on which to base a decision this evening and felt that the noise level test needed to be made during warmer weather and over a three month period of time. 20:33:58

- **Commissioner Fazzini** suggested taking that test now and bringing it back before the Commission in six months. That there unintended consequences enacted when the no smoking law took effect. It is a fact of life that drinking and smoking go hand in hand. The Commission can either leave it the way it is or allow the applicant to build the new structure. 20:35:37

- **Commissioner Burgess** suggested installing a double door between the existing structure and the proposed patio to better control the noise level. **Mr. Murray** advised that they already have a double door and **Mr. Meldrum** clarified Commissioner Burgess's comment as meaning a vestibule connecting the two structures. **Commissioner Burgess** asked about the parking issue and **Mr. Murray** said that most of his clients park in the front and did not feel that was a problem **Commissioner Burgess** then wanted to know where the complaints cited by the citizens about drinking, fighting, noise were occurring. **Mr. Murray** said that he was unaware of any complaints except for the noise level.

8.7 **Commissioner Jensen** reopened the public hearing portion of this meeting to hear further comments from the neighbors.

8.8 **DISCUSSION:**

- **David DeLaMare** suggested moving the date for the next hearing from May 11, 2010 to the meeting in June, so that the noise levels from the summer months could be included.

- **Randy DeLaMare** said that he lives four blocks away and can still hear the words to the music. Basically the structure now in place is illegal and should be removed.

- **John Andersen** added that the door from the main building is propped open for the client's convenience and the whole situation has just gotten worse.

- **Commissioner Burgess** asked Mr. Murray if the music could be turned down and **Mr. Murray** said that could happen but his clients seem to like it pretty loud.

8.9 **Commissioner Jensen** commented that he sees difficulties on all sides of this issue. Some of the customers are smokers and need a place to smoke but State law restricts smoking inside the buildings and that they must be at least 25' from a structure entrance. The options are to just have them wander around the parking lot or to provide a place for them to smoke. If smoking were still allowed inside the building, there would not be this problem, however, that is no longer the case. It is a tough situation and there does need to be a noise study done to determine how the level of noise goes up and down and is it carrying over, does it distract, is it more that the ambient noise around there, is it worse than the cars traveling up and down 5400 South. It would probably be beneficial for the Commission

8.10 **MOTION: Commissioner Fazzini - I move to continue File #13C10 to May 11, 2010 to continue the discussion and receive information from the Health Department. Commissioner Fink - I would be more comfortable continuing this until June 8, 2010. Motion dies for lack of a second.**

8.11 **MOTION: Commissioner Fink – I move to continue File #13C10 to June 8, 2010 to continue the discussion and receive information from the Health Department.**
SECOND: Commissioner Barbieri
Commissioner Jensen restated the motion to continue File #13C10 to June 8, 2010

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Overson	AYE	Fazzini	NAY
Barbieri	AYE	Fink	AYE	Burgess	AYE
Kehl	Observed Only				
Motion passes 5 to 1.					

Mr. Meldrum advised that Staff will send out a public notice reflecting the next hearing will be June 8, 2010.

9. 1S10 City of Taylorsville – 2286 W Heatherglen Drive – Two Lot Subdivision (Michael Meldrum/Principal Planner)

9.1 **Mr. Meldrum** presented this item. The applicant is seeking to obtain approval for an amended subdivision plat. The Heatherglen area has a unique set of circumstances and conditions with how the property was platted. The City of Taylorsville initiated a rezone from an A-1 zoning district to an R-2-8 zoning district approximately 18 months ago. The reason for the zone change was that current owners and potential buyers were not able to get loans because the development was recorded as a condominium project. This is the first of several new subdivision lots from this development that Staff anticipates coming to the Planning Commission and as such, Staff wanted to use this item to provide information so that as others come forward, the Planning Commission will be familiar with the process. Future plats in this development will be included on the Planning Commission's Consent Agenda.

- When the plat for this area was originally recorded in 1978, it was done as a standard subdivision. In 1979, a condominium plat was recorded that superseded the original subdivision plat. As a result of this latest condominium plat with only one or two exceptions the properties in this area are considered condominiums.

- The unique part of this equation is that as a condominium, there are specific requirements provided in the Utah Condominium Act that require property to be identified as private, limited common and common area. The other unique

status of this development is that each lot is recorded as a phase of the condominium project. Each lot contains two units and carries its own home owner's association a practice that is not common.

- Unfortunately, the vast majority of the owners in this development are not aware of these circumstances and it is not until they try to refinance or sell the property that they find out there are significant issues, not the least of which is getting financing. The current disposition of banks, mortgage companies and other financial institutions is that they will not provide financing for condominiums. Such is the case with the application before the Planning Commission.

- The City of Taylorsville facilitated a zone change from A-1 to R-2-8 to allow owners to record a subdivision plat eliminating and superseding the condominium plat recorded on their property. In order to do this, the property must be surveyed and new legal descriptions prepared for each lot.

- The condominium plat identifies the area outside of the dwelling units as common area and technically allows the owner on the other side of the fire wall to use their neighbor's property. The new plat requires that each owner on a lot sign a quit-claim deed stating that they no longer have a claim to use the property in the common area where the other unit currently on the same lot is located. The quit-claim deed effectively eliminates the HOA. With that document in place, the new subdivision plat can proceed where each owner now also privately owns the property under and around their specific dwelling unit. They no longer would have a claim to use the property on the neighboring unit currently on the same lot. When the new plat is recorded, the lots will use the existing lot numbering system, adding A and B to the respective lots. For example, in the issue before the Planning Commission tonight, the original lot is Lot #34. The new lots will be shown as Lots 34A and 34B, each under private ownership with exclusive rights to the property around their dwelling unit.

9.2 **Findings of Fact regarding File #1S10:**

1. The application will take an existing condominium lot and divide it into two standard subdivision lots.
2. The proposed subdivision creating two lots is compatible and compliant with the requirements of Title 12 of the Subdivision Ordinance.
3. No adverse impact is anticipated on any adjacent properties.
4. Quit-claim deeds disclaiming ownership and use of the property of the attached unit on the same parcel have been signed.
5. The applicant amends existing Heatherglen Lot 34 as Lots 34A and 34B.
6. The recordation of this plat will provide an opportunity for property owners to refinance or obtain a home mortgage.
7. The new lots meet all bulk standards for size and building setbacks.

9.3 **Recommendation**: Staff recommends approval of File #1S10 to grant a plat amendment for Heatherglen Lot 34 based on the above stated findings of fact and the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. The quit-claim documents for the adjacent dwelling unit on the same property must be recorded.
3. The new plat must be recorded within one year of approval or it becomes null and void.

9.4 **DISCUSSION**:

- **Commissioner Fink** wanted to know if normally this type of application could be placed on the Consent Agenda. **Mr. Meldrum** advised that Staff wanted to do this for the education of the public so that those that wish to do this in the future are aware of the process. **Commissioner Fink** said that he noticed that there is a public utilities easement on the east and north sides of these properties but nothing on the west. **Mr. Meldrum** indicated that would not be a concern because the utilities are already there, so having the utility easement where presently located does not present any problem There are no new utilities being proposed for this location and the utility companies are required to sign off on the plats. He said that he has spoken with all utility companies involved and has received no negative feedback regarding the proposal.

- **Commissioner Faurschou** asked Mr. Meldrum if there were some way this process could be expedited so that each of these property owners don't have to come before the Commission individually. **Mr. Meldrum** replied that unfortunately that is not possible under Utah law because each property is under separate ownership and the City cannot represent private parties in doing that.

- **Commissioner Fazzini** said that if the individual unit owners by themselves combined with a surveyor to do a survey all at once they would save money. **Mr. Meldrum** agreed that would allow a substantial savings in money. **Commissioner Fazzini** then wanted to know if they could come as a group or still had to go through individual applicants. **Mr. Meldrum** said that each application must stand on its own merit and have its own set of drawings and legal descriptions, etc. Another point is that would allow those applications to be placed on the Consent Agenda – a much faster process. **Commissioner Fazzini** asked if the City had contacted other property owners in that project to let them know what is going on. **Mr. Meldrum** said that the City has not contacted individual land owners but have been contacted by several land owners expressing interest in being able to divide their property and sell it as an attached single family home.

- **Commissioner Barbieri** asked if a survey is done on one, can they use any part of that survey for another existing property. **Mr. Meldrum** advised that the boundary would be the same for the adjacent lot and the lot behind would also have a common boundary, so that part of it could be used but only that one segment. They would still have to survey the other three property lines that would not be in common. **Commissioner Fazzini** reminded Mr. Meldrum that there would be five property lines counting the one down the middle.

9.5 **APPLICANT ADDRESS**: **Bryon Poulter.** He thanked Mr. Meldrum and Mr. McGrath for being so helpful in this endeavor. He felt it might be advantageous to have a letter itemizing what steps must be taken sent out to the individual home owners. Also to add the name of the adjacent property owner because many of those units are presently rentals.

9.6 **SPEAKING**:

- **Allen S. Martin, 2336 Heatherglen Drive**. He said that the decision tonight is not affecting one family but will probably affect about 15 or 20 families with this double home dwelling. It really needs to be looked at in depth. He said that he is not interested in refinancing his home but this will affect a lot of people.

- **Walter Cunningham, 2276 West Heatherglen Drive. Mr. Cunningham** advised he is the surveyor for the Poulters. First of all he felt grateful that there is an ordinance that allows this process to take place and the other point is that it is going to help many people in financing, selling and buying homes. The applicant assisted Mr. Cunningham in going up into both attics and taking pictures. **Mr. Cunningham** expressed that he is in favor of what is going on.

- **Noradine Sorensen, 4448 South Edgeware Lane** (Which is along I-215 in one of the twin homes). She was in attendance at one of these meetings about a year ago regarding parking on Heatherglen and the issues of the traffic and she expressed that a lot of those, because the twin homes could not be sold, have become rental units. If they could be sold, then they would not become rental units to five or six people, which creates the parking problem. She would like to receive a letter detailing what needs to be done to allow her to do this on her property. She wants to be able to sell this property someday.

- **Barbara Heisel, 4553 South Edgeware Lane**. **Ms. Heisel** is involved because she is a realtor, has a client and more potential clients who have encountered this problem of late. She has been trying to figure out a procedure that could be shared with the neighbors to allow them to sell their properties. She has been working with Mr. McGrath in Community Development and a title company. She has contacted a surveyor who is willing to give a special price if people in the neighborhood wanted to have a survey at the same time. The special price is $1,200 for the first one, $1,000 for the second and then $800 would be the cheapest that he would do them for. **Ms. Heisel** said she is attending tonight so she can get educated in proper procedures so that she can help her neighbors. She was not sure whether or not a survey needed to be accomplished.

- **Walter Cunningham**. Said that he is the project surveyor and has had the privilege of working on this project. That according to the ordinance, a survey does need to take place.

- **Marilyn Woolstahume, 4475 South Edgeware Lane.** She advised that she is 78 years old and over a year ago tried to get a reverse mortgage on her home and was not able to do so. She tried to sell it last fall and could not do that either but because it is a condo. Her neighbor has expressed no interest in subdividing the property.

- **Leisa Benson, 2238 Heatherglen Drive**. **Ms. Benson** said that the reason people are having difficulty financing or selling is that the parcels are actually non-compliant because they were originally recorded as condos but the HOA's were never established and the CC&R's were never filed. She was advised by a loan officer that the reason that trouble has been occurring the last three or four years is that the legislation was changed three or four years ago so that the bank could not loan on non-compliant parcels. That is why it has become an issue more recently. 21:28:54

- **Wallace Stanis, 4458 South Edgeware Lane**. **Mr. Stanis** has been struggling with the condominium clause for about 20 years. When he first became involved with it, it was still under the County jurisdiction and the County Planning representative told him that is the most poorly planned subdivision in the valley. It certainly needs to be straightened out by any means possible and efforts to do so would be greatly appreciated by the home owners there. 21:29:55

9.4 **DISCUSSION**:

- **Commissioner Fink** asked Mr. Meldrum if there was a formula for doing this and can these residents get this information from Staff. **Mr. Meldrum** said that it is available but not in written form to hand out yet. He said that Staff will assemble that and make it available to those who are interested.

- **Commissioner Fazzini** it sounds like Staff may need to explain what is going on as well. **Mr. Meldrum** agreed that there seems to be some misconception about the difference between twin homes and condominiums. He said that as Ms. Benson commented the HOA's were never activated and CC&R's were never recorded. He agreed that this is a very poorly planned subdivision. Staff is just trying to straighten out the problems and help these residents move forward with their individual plans.

- **Commissioner Fazzini** asked Staff if a zoning change would help and was informed by **Mr. Meldrum** that the City has already made a zone change from A-1 to R-2-8 to facilitate the subdivision process. Now there needs to be a written document outlining the process with a boiler plate template. **Commissioner Fazzini** commented that as it now stands, if two owners disagree on what to do, the one who wants to move cannot do so. **Mr. Meldrum** said that cannot be controlled by the City. Each property is individually owned. He felt the biggest incentive for repairing this problem is to give information out relative to the process. He said that he would be happy to talk personally with any individuals who live in the development to move this along.

9.5 **MOTION: Commissioner Overson – I move to approve File #1S10 based on the Findings of Fact and conditions listed in the staff report and testimony of the audience this evening.**

9.6 **SECOND: Commissioner Burgess** 21:35:53
Commissioner Jensen restated the motion to approve File #1S10.

VOTE					
Commissioner	**Vote**	**Commissioner**	**Vote**	**Commissioner**	**Vote**
Faurschou	**AYE**	**Overson**	**AYE**	**Fazzini**	**AYE**
Barbieri	**AYE**	**Fink**	**AYE**	**Burgess**	**AYE**
Kehl	**Observed Only**				
Motion passes 6 to 0					

CITY COUNCIL MEETING DISCUSSION: Discussion of the previous City Council meeting was presented by **Commissioner Fazzini** in saying that there were no planning related items on that agenda.

OTHER BUSINESS: None

ADJOURNMENT: By motion of **Commissioner Fink** the meeting was adjourned at 9:38 p.m. 21:38:15

Respectfully submitted by:

_____
Jean Gallegos, Admin Assistant/Recorder for the
Planning Commission

Approved in meeting held on May 11, 2010.