

**City of Taylorsville
 Planning Commission Meeting
 Minutes
 June 8, 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
 Dale Kehl
 Garl Fink
 Steven Faurischou
 Ernest Burgess
 Anna Barbieri
 Dan Fazzini, Jr. (Alternate)
EXCUSED: Commissioner Overson

Community Development Staff

Michael Meldrum – Principal Planner
 Dan Udall – City Planner
 Jean Gallegos – Admin Asst/Recorder
EXCUSED: Mark McGrath - Director

PUBLIC: Linda Blake, Richard Sharp, Noah Grodzin, Jonas Garcia, Maria Garcia, JoAnn Heiner, Raul Morales, David Carter, Vickie Stevenson, Cindy Middleton, Kim Reilly, Murray Moffat Adam Erickson, Mitel Vilos, Kim Bradley

[19:05:58](#)

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 or any changes deemed appropriate by the Planning Commission

CONSENT AGENDA

Agenda/File #	Application	Applicants	Action
1. Review/approval of Minutes for May 25, 2010			Approved as presented.
2. 18C10	(CUP) Cellular Antenna	Clearwire (Dave Carter) 2450 W 4700 S	Approved with staff recommendations.
3. 21C10	(CUP) Church	Jonas Garcia 4973 S Redwood Road, #A	Removed from Consent Agenda by motion.

MOTION: **Commissioner Steve** - I will make a motion to move Item #3 to the regular agenda for further discussion.

SECOND: **Commissioner Ernest**

Commissioner Jensen restated the motion to remove Item #3 from the Consent Agenda and hear it on the regular agenda.

<u>VOTE</u>					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurischou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes 6 to 0.					

MOTION: **Commissioner Fazzini** - I move for approval of the Consent Agenda consisting of Items 1 and 2.

SECOND: **Commissioner Fink**

Commissioner Jensen restated the motion to approve the Consent Agenda consisting of Item #1, Minutes for May 25, 2010 and Item #2, File 18C10, Cellular Antenna at 2450 W 4700 S.

<u>VOTE</u>					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurischou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes 6 to 0.					

CONDITIONAL USES

3. 21C10 - <u>Jonas Garcia – 4973 S Redwood Road, #A. - Church</u> (Michael Meldrum/Principal Planner) 19:10:24
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3.1 **Mr. Meldrum** presented this item. The applicant is requesting approval for a Conditional Use Permit to convert a commercial business to a church. The applicants have met with staff from both the Planning and Building Divisions to ensure that compliance with ordinance and building code requirements is met. The applicant located the church at this site without knowing that a Conditional Use Permit was required. After being so informed, the applicant has diligently sought to meet and comply with all City requirements. The church will have several classroom spaces, a library, offices and a sanctuary. The sanctuary contains 1,840 square feet and does not include the 400 square foot platform area. There is also a basement in the church that will only be used as storage space. Section 13.44.040 of the Zoning Ordinance requires that one parking space for each 6 ½ feet of linear pew area be

provided. The applicant has indicated that there are 13 standard parking spaces plus two handicap accessible parking spaces located on the site. The number of parking stalls is compliant with the pew space provided (98 linear feet) in the sanctuary. Additional parking will be required if more pew space is provided in the future. The applicant has indicated that they have various meetings during the week but that most people attend the Sunday service. The number of people attending the Sunday service ranges from 40 to 60. Staff has also noted that there is a need for more landscaping as part of the approval and would add that requirement as Condition #5.

3.2 Findings of Fact: (File #21C10)

1. The use is classified as a Conditional Use.
2. The applicant has provided sufficient parking based on ordinance requirements (13.44.040) and linear pew space.
3. A building permit must be obtained for all interior remodel work.
4. The building was previously used as a commercial retail space.

3.3 Staff Recommendation: Staff recommends approval of File #21C10 with the following conditions:

1. Comply with the requirements of all reviewing agencies.
2. The Conditional Use Permit is subject to review upon substantiated and unresolved complaint.
3. Any expansion of the church will require an Amended Conditional Use Permit application.
4. Any signage must comply with Zoning Ordinance and Building Code requirements.
5. **[Added by Staff] More landscaping will be required.**

3.4 DISCUSSION: **Commissioner Kehl** asked who would be reviewing the landscape plan and **Mr. Meldrum** replied it would be done by Staff.

3.5 APPLICANT ADDRESS: Applicants were present. **Mr. Meldrum** explained he speaks Spanish and had explained the staff report contents to the applicants. [19:15:06](#)

3.6 SPEAKING: None.

3.7 MOTION: **Commissioner Fink** - Based on the Findings and Fact in the staff report, I move for approval of File #21C09 with Staff Conditions, 1 through 4, and adding #5 for additional landscaping (based on Staff overseeing the amount and installation of same).

SECOND: **Commissioner Fairschou**

Commissioner Jensen restated the motion to approve File #21C09 with staff recommendations 1 through 4; adding #4 that adequate landscaping be installed. [19:16:22](#)

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Fairschou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes 6 to 0.					

4. 22C10 – Clearwire (Noah Grodzin) – 6055 S 2700 W – Cellular Monopole. (Dan Udall/City Planner) [19:17:04](#)

4.1 Mr. Udall presented this application. The applicant is proposing an 80' high gray colored monopole on the northeast side of the property being used by Bennion Junior High School. Access to the monopole is from 2700 West and from the parking lot located on the east side of Bennion Junior High. The applicant is proposing to lease a 7' x 9' compound where the monopole's equipment will be located. The compound will be screened by a brick wall that is architecturally compatible with the school and it will be attached to an existing accessory building.

- Bennion Junior High is 40' high, so the proposed monopole will be partially obscured from 2700 West. According to Section 13.40.280 C. Monopole, it states: "The Planning Commission shall determine the distance between a monopole and residential zones. The suggested distance is one hundred fifty feet (150')." In staff's opinion, the monopole seems to be far enough away from any residential area so it will not be obtrusive.
- The proposed antenna array is 9' in height x 4'6" in width. The antenna on top of the pole seems to be non-obtrusive. Monopoles are a conditional use in the R-1-8 zone. State law requires that all monopoles or cellular equipment on state property are reviewed by the local jurisdiction.

Findings of Fact:

1. That the applicant is proposing a monopole at 80' high.
2. The applicant is proposing a 9' x 7' cabinet area to serve the proposed monopole.

Staff Recommendation: Staff recommends approval with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. That the monopole and the site the pole occupies is to be properly maintained. That the monopole is removed within 60 days after all communications use is discontinued.
3. That the applicant receives a building permit to install the monopole and the antenna array.
4. That the monopole and antenna array are installed as shown on the elevation plan.
5. That the monopole will be constructed so as to allow a collocation of a second user.
6. That the monopole and antenna array are the same color.

7. That the use is reviewed upon by substantiated and unresolved complaint.
8. **[Added by Motion] Staff will work with the applicant and decide how the enclosure that surrounds the monopole equipment will be designed.**

4.2 **APPLICANT ADDRESS:** [19:21:32](#) **Noah Grodzin** spoke briefly explaining why the proposed monopole is not out of character of the neighborhood and will blend in. He advised that the equipment will be enclosed by a chain link fence. **Commissioner Burgess** asked if the equipment cabinet would be secured so that the children cannot get into it and **Mr. Grodzin** affirmed that it would be very secure and only accessed by Clearwire maintenance personnel. **Commissioner Kehl** asked if the applicant would be adverse to making the wall a more solid type fence. **Mr. Grodzin** replied that they are willing to work with the City on this issue. **Commissioner Kehl** asked what the composition of the cabinet would be and **Mr. Grodzin** said it is made of steel. [19:24:18](#)

4.3 **SPEAKING**

- **Adam Erickson (lives just to the west of the monopole.** **Mr. Erickson** said that the neighbors are concerned about how this will fit into their neighborhood. He felt it was Interested in hearing if it can be put on top of the building or poles along 2700 West. In the neighborhood there is no other structure as high as the school building and 80' seems to be unreasonable in the center of a residential area and will mar the look of the neighborhood. He would like the applicant to come back with more options which are more compatible with the neighborhood. [19:25:10](#)
- **JoAnn Heiner** (lives to the east of this proposed pole). [19:27:53](#) **Mrs. Heiner** expressed concern about the height of the pole and did not understand why it has to be that tall. She would like to see if there are other alternatives possible and asked the Commission to make no decision tonight on what is being proposed. She suggested mounting them on the existing light poles along 2700 West. She wondered if the City of Taylorsville would get some compensation for allowing this pole. That she realized that economics is a big player and wanted to know who would get the money. **Mr. Meldrum** said that the City of Taylorsville will receive no monetary benefit from this at all. The money will go directly into the school district's general fund. **Mrs. Heiner** wanted to know the amount of compensation the school district would gain and **Mr. Grodzin** could not answer that question. **Mrs. Heiner** felt that the neighbors have a right to know that figure and also to have their wishes and feelings considered in this matter. [19:30:07](#)
- **David Carter** [19:30:29](#) (Clearwire Representative). **Mr. Carter** said that the primary users of the high speed internet system are residential home owners. The reason for locating in the school, is because that is the way the ordinance is written. That the school is quasi-public property and there is an agreement in place between the school district and Clearwire in order to provide high speed internet service to customers. That the market is very competitive and Clearwire is trying to keep prices down. [19:32:08](#) He explained that Clearwire sites are relatively small and the area for equipment will measure 7' x 9'. **Commissioner Fink** asked if the pole had to be that tall and **Mr. Carter** said that it did, however, would blend in with the existing power poles. He explained that a shorter pole would then require many more sites to cover the same amount of area as would the 80' high pole. **Commissioner Kehl** said that he knows the exact figure for compensation to the school district cannot be divulged but that it is probably "considerable", to which **Mr. Carter** agreed and stated that how the school district distributes the money is solely at their discretion.

4.4 **APPLICANT READDRESS:** **Noah Grodzin (Clearwire)** [19:42:14](#) **Mr. Grodzin** advised that alternatives such as a roof mounted antenna were discussed with the District, however, they expressed no interest in doing that and are being compensated for allowing this pole to be located on their property. With regard to the 80' height, it is required in order to have a co-located antenna on that pole. **Commissioner Fairschou** asked what the coverage range would be and **Mr. Grodzin** said that it is ½ mile to 2 miles. **Commissioner Fairschou** asked if they planned to install anymore poles in the area and **Mr. Grodzin** said no. He added that the City's Zoning Ordinance is very strict as to where these poles can be located and this site meets all requirements therein. The fact that that there were alternatives such as a roof mount was discussed and the school district was not interested in that. **Commissioner Fink** asked what the minimum height would be for Clearwire to use to be the only antenna on the pole and **Mr. Grodzin** said it would still have to be 80' high. [19:43:34](#) **Commissioner Barbieri** asked about the possibility of locating the antenna on a nearby power pole as suggested by the neighbor. **Mr. Grodzin** advised that the antenna cannot be mounted on the existing light pole because it would possibly interfere with the power lines. **Mr. Meldrum** interjected that the City recommends multiple users on a pole rather than have multiple poles. **Commissioner Jensen** added that co-locating on single poles is widely used throughout the city wherein both the school district and City benefit. [19:53:16](#)

- 4.5 **MOTION:** **Commissioner Burgess** - Based on Staff Recommendations 1 through 7, the Findings of Fact and testimony heard this evening, I move for approval of File #22C10.
SECOND: **Commissioner Fazzini**
Commissioner Jensen restated the motion to approve File #22C10 with seven Staff Recommendations.
DISCUSSION: **Commissioner Kehl** - I would like to add to the motion that staff reviews with the applicant what is going to be done with the equipment, whether the cabinet is exposed or is enclosed. Staff will decide with the applicant what the enclosure would be as Staff Recommendation #8. **Commissioner Burgess** was agreeable with that change to his motion, as was Commissioner Fazzini as Second. [19:55:03](#)

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Fairschou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes 6 to 0					

5. 19C10 – **Linda Blake – 1494 W Lovely Road** – Animal Hobby Permit. (Dan Udall/City Planner) [19:55:45](#)

5.1 **Mr. Udall** presented this item. The applicant has requested a conditional use permit for an animal hobby permit to allow three dogs on her property. The applicant is requesting to have a Yorkie, Pug and a Mix (German Sheppard and Irish Setter). There are also two cats on the property but they are not part of the animal hobby permit because two cats are allowed on a property without an animal hobby permit. The applicant states that the dogs are inside the single family home approximately 90% of the time. In March of 2010, Animal Services received a complaint in regards to three dogs being on the property or having too many dogs on the property. The applicant was informed by Animal Services to obtain an animal hobby permit through the City of Taylorsville. The applicant lives on a 1,812 square foot lot. There are varying heights (4' and a 6') of vinyl, chain link and wood perimeter fences surrounding the entire rear yard of the property.

Findings of Fact:

1. That the applicant is proposing an animal hobby permit for three dogs.
2. That the animal hobby permit is a conditional use.
3. That a complaint was issued to Animal Services in regards to having too many dogs on the property.

Staff Recommendation: Staff recommends approval 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. That the trailer is removed from the landscape area.

5.2 **APPLICANT ADDRESS:** **Linda Blake** was present. [19:58:37](#) **Mrs. Blake** said that she has taken care of the property code enforcement issue by moving the trailer off of her property. Her animals are kept in at night and are let out for occasional breaks. She added that the elementary school kids tease the dogs, so she keeps them in when she knows the kids are around. That her back yard is securely fenced.

5.3 **SPEAKING:** [20:04:20](#) **Michael Lundberg** advised that he has lived at the Blake residence since moving to Salt Lake City and two of the dogs are his. He advised that none of the dogs are vicious and are kept in at night. He said that their dogs and yard are well maintained. **Commissioner Fink** advised Mr. Lundberg that if this permit is approved, it follows the dog and another dog cannot be substituted. **Mr. Lundberg** advised that he was aware of that.

5.4 **DISCUSSION:** **Commissioner Burgess** [20:07:42](#) asked if these dogs that are being reviewed this evening are different than the ones who received the previous complaints. **Commissioner Fink** informed him that one of the dogs is different. **Commissioner Burgess** then suggested that when the kids chase along the fence line and it does not solicit vicious type barking from the dogs, the situation is more like they are just playing by running along the fence to tease the dogs. **Mrs. Blake** said that if any of the children climbed the fence the big dog (Bailey) would run because he has previously been beaten by children. The other dogs would probably lick the children affectionately. She said that they have had children come in the yard so that they can get acquainted with the dogs. Bailey will not approach any child because of his previous beatings. He won't even drink out an automatic water system because it scares him. These dogs have all been neutered. **Commissioner Barbieri** commented that she has no problem with this application and the only worry is that it is near a school and kids tend to get scared and walk out into the street or walk to the other side of the street when confronted by a dog. That there are some children that would be as scared of that big dog as it is of them. **Mr. Lundberg** added that the children are not scared of these dogs and in fact chase up and down the fence to make them run. [20:11:15](#)

5.5 **MOTION:** **Commissioner Kehl** - [20:11:22](#) I move for approval of File #19C10 with staff recommendations 1 through 6.
SECOND: **Commissioner Barbieri**
Commissioner Jensen restated the motion to approve 19C10 with staff recommendations.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes 6 to 0.					

6. 20C10 – **Cindy Peña/Raul Morales** – 3891 W 5400 S – Taco Cart. (Michael Meldrum/Principal Planner) [20:13:20](#)

6.1 **Mr. Meldrum** presented this item. The applicant is requesting approval for a Conditional Use Permit to locate a taco cart on property located at 3891 West 5400 South in front of Mr. Ortega's Hair Design Salon.

- The applicant has provided a proposed site plan for the location of the taco stand. The site plan drawings show the taco stand on the northeast corner of the Mr. Ortega's Hair Design property. Staff is in receipt of a hand written agreement between the applicant and the property owner, which includes the use of the restrooms and three parking stalls. The applicant has submitted an application for a business license with

the City. The license will only be issued if this request is approved by the Planning Commission. A food handler's permit must be obtained from the Salt Lake Valley Health Department prior to commencing operation of the food cart.

- Temporary food vendors are regulated by Section 5.14.170 of City Ordinances. The initial license expires after a period of 60 days, after which time the applicant may reapply for an additional operational period of 60 days. The maximum length of time that a temporary food vendor may be located on a site is six months (180 days). The ordinance also requires that there be at least 1,000 feet between another food vendor or a restaurant, or business which offers similar food. A provision is given in the code that if the applicant secures written permission from the business owner or manager, they can locate within the 1,000 feet limit. Such a letter has not been provided and is a condition of approval.
- There are currently 19 parking stalls on the site. A minimum of seven parking stalls are required by Section 13.44.040 of the Zoning Ordinance. The amount of parking spaces on the site will be compliant with ordinance requirements if the Planning Commission grants approval of this application. There is ample room for safe traffic circulation on the site. The proposed location of the taco stand is in an area of the parking lot that is underutilized and should not create conflicts. There is one drive access to the property that will allow for adequate circulation of vehicles and should not create a conflict with the proposed taco stand clientele.

6.2 **DISCUSSION:** **Commissioner Fink** asked if there had been any contact from McDonalds about this use. (McDonald's is across 5400 South to the north of this site). **Mr. Meldrum** said that he had received no communication from McDonalds regarding this matter. [20:17:50](#)

Findings of Fact:

1. The use is classified as a Temporary Use.
2. The applicant has provided an agreement for the use of restrooms.
3. There is one restaurant that sells similar food within 1,000 feet of this location.
4. A food handler's permit must be obtained from the Salt Lake Valley Health Department.
5. A City Business License must be obtained prior to operation.

Staff Recommendation: Staff recommends approval with the following conditions:

1. Comply with the requirements of all reviewing agencies.
2. Obtain a City Business License prior to commencing operations.
3. The Conditional Use Permit is subject to review upon substantiated and unresolved complaint.
4. Obtain a food handler's permit from the Salt Lake Valley Health Department.
5. Comply with all requirements for a temporary food vendor as contained in Section 5.14.170 of City Ordinances.
6. Provide written authorization from the business owner or manager of Rancheritos Restaurant.

6.3 **APPLICANT ADDRESS:** **Mr. Morales** was present and said that he had reviewed the staff report. He questioned the length of time allowed for temporary use and would like a longer period of time. **Mr. Meldrum** said that the only way that can be done is through a text amendment to the City Code and he would address that with the City Manager to see what Mr. Morales' option would be. [20:21:53](#) **Commissioner Fazzini** asked why Mr. Morales decided to move his business to Taylorsville, adding that he realized that Mr. Morales had to leave West Valley because the bus rapid transit is taking over the place where he is presently located. **Mr. Morales** said that Taylorsville did not have very many taco stands, that he thought it was only one presently. **Mr. Meldrum** said that there are none in Taylorsville presently. **Mr. Morales** said that he could not relocate within West Valley because they already have 15 taco carts licensed there. **Commissioner Barbieri** asked him how many taco carts he owns and **Mr. Morales** said that it is just one. **Commissioner Jensen** added that intent of the ordinance is that if a temporary business is established and it does well, the City wants to encourage them to establish a permanent location and develop into a restaurant. **Mr. Morales** said that he doesn't have enough money right now to do that. That in the future he would like to do that because it is very hot in the summer and very cold in the winter. [20:22:20](#)

6.4 **SPEAKING:** **Kim Bradley (Arctic Circle)** [20:25:48](#) **Ms. Bradley** works for the Arctic Circle just east of this site and said their biggest concern is the parking. That Arctic Circle owns everything east of the entryway and they felt that customers for the taco cart would spill over into their parking, which is already very tight, especially during lunch and dinner. She did not feel the parking on the proposed site was sufficient. She also was concerned about customers to the taco cart using the rest rooms in the Arctic Circle. **Mr. Meldrum** said that Mr. Morales has an agreement with Mr. Ortega's to utilize their restroom facilities. The main reason for the rest room agreement is for the employees and not the clients to the taco cart. **Ms. Bradley** then wanted to know what was going to happen after Mr. Ortega's closes for the evening and the taco cart is still open. Would they then come into the Arctic Circle to use the restroom facilities? **Mr. Morales** said that will not be a problem because most of their customers come one at the time and there will be no competition between the taco cart and the Arctic Circle Restaurant. **Ms. Bradley** advised that their biggest concern is the parking. The Arctic Circle owns everything east of the entryway and felt that the customers for the taco cart will utilize their parking. She said that during the lunch and dinner times, the parking is always full. She did not feel Mr. Ortega had enough parking available to support this business. **Commissioner Fairschou** asked about the hours of operation and **Mr. Morales** said the plan was to be open from 10:00 a.m. to 10:00 p.m. **Commissioner Fairschou** then wanted to know if the taco cart is removed every night and **Mr. Morales** said that was the case. **Commissioner Kehl** asked Mr. Morales if he felt the lack of parking would create a problem for him and he said no, that he would work with everyone involved to make this work. [20:32:23](#)

6.4 **MOTION:** **Commissioner Fink - Based on the Findings of Fact and Staff Recommendations 1 through 6 in the Staff Report, I move for approval of File #20C10.**
SECOND: **Commissioner Fairschou**

Commissioner Jensen restated the motion to approve File #20C10 with six staff recommendations. [20:33:15](#)

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Overson	EXC			Fazzini	AYE
Motion passes unanimously.					

13C10 – **Murray Moffat (Club D.J.'s)**– 3849 W 5400 S – Conditional Use Permit Amendment for a Canopy Structure. (Michael Meldrum/Principal Planner) [20:34:12](#)

7.1 **Mr. Meldrum** presented the application. The application was first heard on April 13, 2010 by the Planning Commission. At that time, the Planning Commission determined that additional information was required and the item was continued until June 8, 2010. The additional information requested by the Planning Commission was a sound test for the property. Staff has contacted the Salt Lake Valley Health Department regarding the conduct of this test. Specifically staff has been working with Mr. James Bennett. The applicant is requesting approval for an Amended Conditional Use Permit to erect a patio cover on the south side of the building. The intent of this cover is to provide a covered area for customers that desire to smoke. There will be no alcohol served and no music played in this outdoor area, however, alcohol can be brought out into this area. Staff did send out a new public meeting notice for this continued date hearing.

- 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 blue semi-truck tarp supported by posts and attached by bungee cords, orange strapping, and duct tape. Pictures were shown of this temporary structure during this meeting. During the last public hearing (April 13, 2010) there were numerous complaints from residents that live just south of Club D.J.'s. The complaints were related to the loudness of music and people talking with the assumption being that it was emanating from Club D.J.'s. 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 recommendation regarding the noise issue. In speaking with the Health Department, staff has found that there are two central issues for 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 requirement but the Health Department is concerned with the ability to have the designated smoking area at least 25 feet from the building.
- During the consultation with the Health Department, an offer to have a noise test done was tendered. This noise test would be unscheduled and would provide all parties with objective data from the patio area. In order to get an accurate reading, the sound test is conducted for a period of one to two days but weather is a factor in getting accurate readings. Due to weather issues, a noise test was not conducted by the Health Department since the April 13, 2010 Planning Commission meeting. Staff has requested that a police officer visit the site on either June 4 or June 5, 2010 between the hours of 10:00 p.m. and midnight to assess potential noise issues. Staff subsequently received a report from two different police officers regarding these checks and both indicated there was no loud or excessive noise noted. [20:39:57](#)

Findings of Fact:

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 any door, open window, or other air intake.
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.
7. The current configuration does not comply with the Utah Indoor Clean Air Act as determined by the Salt Lake Valley Health Department.

Staff Recommendation: Staff recommends that the Planning Commission deny the request based on non-compliance with the Utah Indoor Clean Air Act with the following findings:

1. The current configuration does not meet the requirements of the Utah Indoor Clean Air Act for allowing smoking.
2. The proximity of the propane tank to the enclosed area is too close to allow smoking in this area.
3. The proposed three-sided building and the slatted chain link fencing constitute a violation of the Utah Indoor Clean Air Act as determined by the Salt Lake Valley Health Department.

7.2 **DISCUSSION:** **Commissioner Jensen** asked about the appropriateness of the placement of the propane tank for the outside heaters. **Mr. Meldrum** said that according to the Fire Marshall, the propane tank must be located a minimum of 20' from an ignition source. A smoking area under his definition is considered an ignition source, therefore, must be relocated 20' to be in compliance with that Code. **Commissioner Jensen** asked if that meant the tank must be relocated. **Mr. Meldrum** said that either the smoking area or the propane tank must be moved to be in compliance. There must be at least 20' between the two. **Commissioner Fazzini** asked if the propane tank was inside the fence or outside of it and **Mr. Meldrum** advised that it was outside. **Commissioner Fazzini** added that if even though there is a physical barrier between

the two, it would still need to be 25' away. **Mr. Meldrum** said that it is actually 20' and the answer is yes, according to the Uniform Fire Code. **Commissioner Fazzini** then asked if this were a brick wall, would it still have to be 20' away. **Mr. Meldrum** said that was his understanding from the Fire Marshall's comments. **Commissioner Jensen** - Right now it is adjacent to the fence of the temporary structure. Then apparently the tank was there before the temporary structure was erected. **Mr. Meldrum** deferred the answer of that question to the applicant during his address. **Commissioner Barbieri** wanted to know what the propane was used for and was informed by **Mr. Meldrum** that it is the fuel source for the large patio heaters inside the temporary structure. [20:42:35](#)

7.3 **APPLICANT ADDRESS:** **Mr. Murray Moffat** - [20:43:36](#) **Mr. Moffat** advised that he had placed the heaters outside in the temporary structure, which were fueled by the propane tank. That Wasatch Propane Company had installed the propane tank where it is located as they felt it would be less dangerous than having to run the hose a significant length to the heaters. **Mr. Moffat** passed around pictures taken at other bars in the area which shows how they deal with issues which have been brought up and which have been approved by the Health Department. **Commissioner Fink** commented that the Commission's hands are tied because they are held to the standards required by the Health Department and Taylorsville Code. **Mr. Meldrum** said the biggest problem with the propane tank is the volume exceeds the allowable amount. **Mr. Moffat** said that he would like to put up a structure with heaters in the ceiling, on a natural gas line. He plans to insulate the new structure with foam, which would also buffer the noise level. **Commissioner Fazzini** said that it sounded as if Mr. Moffat had different communications with the Health Department but the Commission is only tasked to approve or not approve the building. **Mr. Meldrum** said that the Health Department has jurisdiction with regard to the Utah Indoor Clean Air Act. **Commissioner Fazzini** asked if the wall for the structure being proposed would include the wall as the fence or will there be separate walls. **Mr. Moffat** said that he had talked to Mr. Meldrum about having the structure with a back wall, which would be insulated with foam and sound boards. He suggested allowing them to insulate along the fence because the roof is going to go just outside the fence line, so the snow will fall to the outside of the patio. So if it is insulated from so far back he felt that would really cut the noise down. **Commissioner Fazzini** read from the State law regarding this issue, which said that an enclosure space includes all sides and a ceiling. He commented that the canopy erected by Convergys on 4700 South for their employees to smoke in has a ceiling and three sides with an open front. **Mr. Moffat** added that other bars have had differing types of structures, one of which had a 10' wide opening in the front. **Commissioner Fazzini** said that if it were a separate structure by itself, separate from the fence, then they technically qualify. If the fence is included, which goes all the way to the building and only part of it is uncovered, then they may consider that one structure because it now has four sides. But again, the Commission is only here tonight to approve the structure. **Mr. Moffat** said the reason he would do it like that is allow for the ventilation between the fence and the roof line. [20:55:31](#) He also advised that he has purchased his own noise meter and whenever he measured the noise level it has never above normal.

7.4 **SPEAKING:**

1. **Debbie King** (Lives on Dimrall Drive right behind the structure). **Mrs. King** said that they have had to call the police on many occasions regarding this business. That since the last hearing, she had documented each time they had spoken with the police regarding the noise issue. There is no sound wall or buffer to stop the noise emanating from the temporary patio. She asked that the back parking lot be totally taken out. She said that between the hours of 11:00 p.m. and 1:00 a.m. the noise is a problem and is not acceptable to the neighborhood. Any type of anything being back there would not be an option. [21:00:04](#)
2. **Mitch Vilos** (Attorney for Mr. Moffat). [21:00:27](#) **Mr. Vilos** said that if these bar owners are not able to control or be aware of what is going on within their establishment, i.e., drinking and drugs, it leaves a serious liability issue, which Mr. Moffat is trying to avoid from happening. **Mr. Vilos** said that he has read all the materials and found it to be very unclear exactly what is required. That he attended the first hearing and the issue seemed to be noise, however, the police department found no violations. He felt that should be taken into account. There were no issues that evening about smoking and now smoking is the problem. As far as the smoking issue is concerned, he was unclear if it was too enclosed or if the concern was about the public outside the establishment being exposed as well. He wondered if the concern was about smoke escaping outside or being too concentrated inside. **Mr. Meldrum** advised that is a Health Department issue and the main concern was the distance away from the building. [21:04:04](#) **Commissioner Jensen** added that he recognized that there does seem to be a certain level of confusion **Mr. Vilos** asked if the item could be continued. **Commissioner Jensen** advised that the Commissioners would like to see what was approved by the Health Department for other establishments. That the Commissioners would like to have someone present for this issue from the Health Department so that the Commission can balance all requirements. **Mr. Meldrum** said that he did invite them, however, no one showed. [21:07:01](#) **Mr. Vilos** said that he doesn't have enough information to be able to advise his client at this point.
3. **Commissioner Kehl** asked how the applicant planned to accomplish the fact that the smoking area by law must be 25' away from the structure. [21:07:43](#) **Mr. Moffat** replied that originally the patio was built 35' long and that was after a conversation with Diane Tate from the Health Department. **Commissioner Kehl** advised Mr. Moffat that if he builds a structure that meets the clean air standards, with approval from the Health Department, then the Commission can make their decision. **Commissioner Fink** added that with a building measuring 35', 25' of that cannot be used for smoking. Therefore, only 10' would accommodate the purpose. **Commissioner Kehl** advised that the Commission needs to see a professionally designed plan before a decision can be made.
4. **Cindy Middleton** said that she has worked for Club D.J. for 28 years and understands how the neighbors feel but that Mr. Moffat is really trying to make this work. That she was not aware of there being any reports made to the police department. They want to work with the neighbors in the best interest of all concerned.

5. **Commissioner Jensen** suggested that it may help to give the neighbors a phone number that they could call if any problems are noted. **Commissioner Fink** said that there is some type of serious miscommunication going on between the police department and Club D.J. personnel, there should be documentation available referencing the calls that the neighbors have made. **Mr. Meldrum** was of the opinion that when the police respond to an issue in the parking lot, they deal with that separate from Club D.J., and that may be why no one in Club D.J.'s knows about the nuisance calls. **Commissioner Fink** said that still leaves the problem of noise.
6. **Commissioner Fazzini** wanted to know if it were possible to obtain a list of the telephone calls made to the Police Department relative to this location. **Mr. Meldrum** advised he would check.
7. **Commissioner Kehl** commented that the problem is not just noise and the Commission needs to concentrate on the temporary structure itself and how it impacts the neighbors.
8. **Commissioner Burgess** asked if when Mr. Moffat uses his machine to monitor the noise level if he was where people could see him. **Mr. Moffat** said that he didn't think the patrons were paying attention to what he was doing. He expressed disappointment that the Health Department had not responded to the request for them to do a comprehensive sound level test. [21:24:32](#)
9. **Commissioner Fink** wanted to know if the structure was presently being used and **Mr. Moffat** said that it was. **Commissioner Fink** asked if the patrons were going in and out the emergency door and if there were an alarm there. **Ms. Middleton** advised that they did not use the emergency door and that there was no alarm system.
10. **Commissioner Barbieri** suggested restricting the traffic from the rear of the establishment by means of something that could be easily moved by the emergency response vehicles. **Mr. Meldrum** advised that the fire department sometimes uses crash gates that can be easily opened by card or code. **Commissioner Kehl** was concerned that other people use the access in the rear and not just Club D.J.'s. **Mr. Meldrum** said that cross easement agreements are in place there. **Commissioner Fink** suggested installing a sign that says no parking between certain hours. [21:35:21](#) **Commissioner Fazzini** suggested installing a gate that would be locked at 10 o'clock. People wanting access through there after that would have to walk around. That would limit the amount of traffic driving through the back.
11. **Commissioner Jensen** asked staff what the Commission's options were and **Mr. Meldrum** replied that the Commission can either approve the application with mitigating conditions; continue it for additional information; or deny it. **Commissioner Jensen's** concerns were that there is a plan which was approved preliminarily by the Health Department some time ago. **Mr. Meldrum** said that he had not seen that plan with Health Department approval but would be happy to take a look at it. **Commissioner Jensen** continued on to say that is an unknown. He would like to start at a point as if the structure did not exist and go back and ask the Planning Department what could be put there and ask the Health Department if they approve. Get the three parties together and design the project. **Mr. Meldrum** said that there would be five representatives coming to the table because the public should be included, property owner, Commission, Health Department and Planning Staff. [21:42:23](#)

7.4 **MOTION: Commissioner Kehl - 21:48:01** I move to table File #13C10 with a date set for a meeting between the County, City and Applicant. At this juncture, I don't want to set a time for the actual hearing. **Commissioner Jensen 21:49:07** agreed with setting a time for a meeting between the County, City and Applicant and encourage the groups to meet and find a workable solution.
SECOND: Commissioner Fink
Commissioner Jensen restated the motion to table File #13C10 until a point in time when the applicant, Health Department and City officials can meet, after which it will be scheduled for the following Planning Commission meeting.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Fink	AYE	Burgess	AYE
Kehl	AYE	Barbieri	AYE	Jensen	Chair
Qverson	EXC			Fazzini	AYE
Motion passes 6-0.					

CITY COUNCIL MEETING DISCUSSION: Discussion of the previous City Council meeting was presented by **Commissioner Kehl.** [21:51:02](#)

OTHER BUSINESS: None.

ADJOURNMENT: By motion of **Commissioner Fink** the meeting was adjourned at 10:02 p.m. [22:02:36](#)

Respectfully submitted by:

 Jean Gallegos, Admin Assistant/Recorder for the
 Planning Commission

Approved in meeting held on