

**City of Taylorsville
 Planning Commission Meeting
 Minutes
 Tuesday – June 23, 2009 – 6:00 P.M.
 2600 West Taylorsville Blvd – Council Chambers**

Attendance:

Planning Commission

Kristie Overson - Chair
 Scott Bolton
 Nathan Murray
 Garl Fink
 Dan Fazzini, Jr. (Alternate)
 Stacey Staley
 Ted Jensen

Community Development Staff

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

PUBLIC: Brian Russell, (Owners of Espresso Connection, who did not sign in nor speak), Donna Thomas (Utah State Department of Health)

18:12:04

WELCOME: **Commissioner Overson** welcomed those present, explained the process to be followed this evening and opened the meeting at 6:00 p.m. She explained the item on the Consent Agenda as being the Minutes for June 9, 2009 and asked if there were anyone in the audience wishing to speak in opposition to approving them as presented. There being none, she asked for a motion regarding the Consent Agenda.

CONSENT AGENDA

Agenda/File #	Application	Action
1.	Review/approval of Minutes for June 9, 2009.	Approved as presented.

MOTION: **Commissioner Bolton** I move for approval of the Consent Agenda consisting of the Minutes for June 9, 2009 as presented.

SECOND: **Commissioner Fink**

Commissioner Overson restated the motion to approve the Consent Agenda consisting of the Minutes for June 9, 2009.

VOTE				Motion to approve passes unanimously.
Commissioner	Vote	Commissioner	Vote	
Murray	AYE	Bolton	AYE	
Fink	AYE	Fazzini	AYE	
Jensen	AYE	Overson	AYE	
Staley	AYE			

CONDITIONAL USE

2.	15C09 <u>Espresso Connection – 4465 S Redwood Road</u> – Conditional Use Permit Amendment. (Michael Meldrum/Principal Planner)
----	---

16:15:10

2.1 **Mr. Meldrum** presented this item. The applicant appeared before the Planning Commission on April 14, 2009 requesting an amendment to File #29C04. The Planning Commission determined that there was additional information needed in order to make a decision. The proposed amendment would eliminate a colonnade and a landscape island that sits on the west side of the building in the drive-through area. The applicant further proposes to place three additional parking stalls in this area.

- The applicant has submitted an updated proposed site plan that shows the elimination of the existing colonnade and landscape island in the drive-through area. The site plan includes the provision of three new parking stalls along the north side of the drive-through. A concern raised by the Planning Commission in the Apr 14, 2009 public hearing was that the submitted site plan drawings showed many items labeled as “new”, but which in reality had already been installed. The updated site plan has removed these inconsistencies.
- The applicant has endeavored to comply with the direction given by the Planning Commission and the updated site plan drawing now shows an area for proposed trees, however, no tree species or quantity are specified.

- The previous motion by Commissioner Murray gave clear direction regarding what the expectation of the Planning Commission was for this item. During the discussion of the motion he indicated his intent with language that indicates that it may not necessarily be engaged to the building but he would like to see some kind of architectural element to replace the colonnades. Additionally he specified that the change not be landscaping. As mentioned previously the applicant has shown an area for landscaping but makes no proposal for any architectural changes to the west-facing building façade. Staff recommends that the Planning Commission evaluate the current proposal based on the information submitted by the applicant.

Findings of Fact:

1. The applicant previously obtained a Conditional Use Permit (File #29C04)
2. Storm drain calculations and an evaluation of the water flows on the site have been submitted.
3. The applicant has submitted an updated site plan showing additional landscaping on the west side of the property (along Redwood Road)
4. No other changes are proposed with this application.

Staff Recommendation: Staff recommends that the Planning Commission review the current submittal and determine if it is in substantial compliance with the direction given at the April 14, 2009 Planning Commission meeting. [18:15:29](#)

2.2 **APPLICANT ADDRESS:** **Brian Russell (Architect for this project)** [18:16:38](#) **Mr. Russell** felt that the image projected by the colonnades was too harsh for this structure and blocked visibility from the road. He would like to soften the site with more landscaping and trees. **Commissioner Overson** wanted to know if the colonnades were removed, would the landscaping be placed on that exact site and **Mr. Russell** replied that it would be placed closer to the street instead. **Commissioner Overson** was concerned that the colonnades would just be replaced with asphalt and **Mr. Meldrum** advised that was the applicant's plan.

2.3 **SPEAKING:** None

2.4 **DISCUSSION:**

- **Commissioner Staley** – [18:19:21](#) asked to see the front view photo again, at which time Mr. Russell provided the Commission with better photographs.
- **Commissioner Fazzini** [18:20:25](#) addressed his concerns as being for egress in and out of the parking stalls, stating that at a minimum they need to remove the bulb, but he was not sure if it would be necessary for the sole purpose of getting in and out of the stalls to remove landscaping south of the bulb. That once they remove the circle part out, they are going to create an additional ten or fifteen feet in there from the diameter of the bulb and even if they take the colonnades out, it would still provide some absorption and less asphalt in there. **Mr. Meldrum** addressed that issue saying that in the bulb or radius part of the turn around of the drive through lane, there is a storm water drain located at the north end of that. So if they were to retain the landscaping, that drain would have to be moved in order to accommodate that and that would need to go south. So there would be additional work that would need to happen if the landscaping were retained. He agreed that if this bulb were taken out, it would certainly make those stalls more accessible.
- **Commissioner Fazzini** wondered why the drain would need to be moved and **Mr. Meldrum** said because it would not drain – the water would be retained in that landscape area rather than draining out. **Mr. McGrath** asked if it wouldn't have to be moved anyway? **Mr. Meldrum** said that it was his understanding was that the drain would stay within the new paving. It is at the proper height to handle that and would be left as a drain. **Commissioner Fazzini** commented that everything would slope towards it. **Mr. Meldrum** advised that was correct.
- **Commissioner Staley** added that then the drain would just be in the asphalt and the whole area is going to be asphalt. **Mr. Meldrum** said that is the proposal. **Commissioner Staley** said that it will create a problem having the landscape in the south piece because it would congregate too much water. **Mr. Meldrum** advised that landscaping tends to retain water and so there may be standing water generated. That it would not be there all the time but there may be standing water with the curb wall around it where there is no place for the water to drain out. **Commissioner Staley** asserted that apparently they will have to install an additional drain.

- **Commissioner Bolton** asked if the curb would come out and **Mr. Meldrum** said that they are proposing to remove the entire curb, landscaping and the colonnades, then pave over all of it.
- **Commissioner Staley** visualized the project by saying that she didn't necessarily think it will look bad but was concerned about the amount of asphalt. She was not against removal of the colonnades as she saw no purpose being served by them and did not feel they added anything to the look of the building.
- **Commissioner Fazzini** wondered if with this proposed change there needed to be recalculations submitted on the percentage of asphalt and draining off site. **Mr. Meldrum** advised that the applicants submitted those figures with their last application and it still exceed the minimum 15% requirement – in fact would be about 22%.
- **Commissioner Fink** asked if the drive up window would stay and **Mr. Meldrum** said that it would. **Commissioner Fink** then wanted to know what there would be to show direction with nothing to drive around anymore. **Mr. Meldrum** said that was a valid question which he did not remember the applicant addressing on the site plan. [18:24:56](#) **Mr. Russell** interjected that directional arrows were shown on the site plan. **Mr. Meldrum** reviewed the site plan more closely and said that was correct and he just hadn't seen it because it was done in very small detail. **Mr. Russell** continued on to say that it was the intent to have them painted on the asphalt and as far as the drainage is concerned, those calculations were submitted with the application showing that the site could handle the volume of water through that area.
- **Commissioner Staley** said that Commissioner Fink brought up a good point and she had concern about the sufficiency in painting arrows and was concerned about the safety issues saying that many times people don't pay attention to a painted-on arrow but if there is something in the center, some kind of island, it provides clear definition. **Commissioner Fazzini** suggested using a couple of parking bumpers to separate the traffic. **Commissioner Staley** felt that may not look so nice and could be an insurance issue.
- **Commissioner Overson** [18:26:39](#) shared her thoughts saying that she felt it would be important that there is some signage with regard to posting the parking spaces at the north. That in the last meeting with the applicant they discussed employee parking, which should be posted for employees only. She also suggested that landscaping of some kind be installed next to the building on the drive-up side to create relief from the building. **Mr. Meldrum** advised that there is a landscape island on the end and landscaping in the notch on the south side, in front of the building and also on the north side.

2.5 There being no further discussion or comment, **Commissioner Overson** asked for a motion.

2.6 **MOTION: Commissioner Fazzini - I move for approval of File #15C09 as submitted, with the following additional conditions: (1) That the re-stripping and arrows be provided indicating movement for people using the drive up area; (2) That signage installed to indicate employee or staff only parking; (3) And that the bike parking be relocated to a safe place as determined by staff.** [18:29:37](#)

Commissioner Murray [18:30:04](#) - Before anyone seconds that (he apologized for being late and not attending the pre-meeting due to traffic), I wanted to make sure that both items were being addressed in the proposal today, not only the correction of the site plan but also addressing the removal of an important architectural element and what they are proposing to put in its place. **Commissioner Overson** - Commissioner Murray, if you have more to say about that, let's get a second on the motion and then have discussion. We have a motion on the table and we need a second.

SECOND: Commissioner Bolton

Commissioner Overson restated the motion by Commissioner Fazzini to approve File #15C09, an amended conditional use permit, based on the Findings of Fact in the staff report and testimony by the architect. **Commissioner Fazzini** is proposing some additional conditions: (1) Striping and arrows or way finding for the drive up window; (2) That there be signage posted for the employee parking, which would be the three parking stalls on the north end of the site; (3) That the bike parking be relocated to a more safe location. She then opened the item for discussion.

DISCUSSION: Commissioner Fink – I thought we wanted to give staff the option to define what types of trees to be planted in the parking area. To have the applicant work with staff to define the proper types of trees. **Commissioner Overson** - Thank you. That is a good point. We talked about landscaping in the pre-meeting. **Commissioner Fazzini** agreed, saying that he had forgotten to

write that down when making the motion. [18:32:21](#) Commissioner Bolton – If I may make a suggestion, I would add an additional condition to the motion that a landscaping plan be provided and approved by staff, meeting the minimum requirements of trees equaling 2” caliper or 6’ or taller for evergreens. Commissioner Fazzini - I will accept that. Commissioner Murray - [18:33:00](#) The primary concern with this one and the reason why the Commission tabled it was that the site plan being proposed wasn’t clear. Also, it was made very clear that the initial approval of this project was based on the architectural elements that were proposed at the time and what I put forth, which I believed was unanimously accepted by the rest of the Commission, was that we would like to see how they are proposing to replace a significant architectural element on the site when the colonnades are removed. That seems to be, to me at least half the reason why we tabled this. Commissioner Overson - I recall that. Commissioner Murray - So I guess I would be interested to know how it is being addressed. Commissioner Overson - It is not being addressed. The applicant is moving forward with the plan we have before us, which is being to remove the colonnade and the bulb and replace with asphalt. [18:34:07](#) They also have some landscaping they are proposing in the berm next to Redwood Road. Commissioner Bolton - If I can clarify my “Nay” vote on the last meeting, it was in reference to the motion due to the fact that personally I believe the colonnades don’t add anything to the building. They were part of the original proposal before my time. I felt removing the colonnades could be beneficial. I do think a better landscaped area would be better served than the blue poles with lights on them. That is just to clarify my “Nay” vote previously. Commissioner Overson - We have a motion by Commission Fazzini to approve File #15C09 with the recommendations which he has outlined as 1 through 3 and added #4 that a landscaping plan be provided to staff which includes 2” minimum caliper trees and 6’ tall evergreen type trees.

VOTE			
Commissioner	Vote	Commissioner	Vote
Murray	NAY	Bolton	AYE
Fink	AYE	Fazzini	AYE
Jensen	AYE	Overson	NAY
Staley	AYE		

Motion to approve passes 5 to 2.

WORK SESSION

3. Presentation by Representatives from the Health Department Regarding Day Care Home Occupations. [18:36:43](#)

3-1 Donna Thomas from the Utah State Health Department was present and advised she would answer Commissioners questions. [18:37:10](#) She said a good source of information can be found on their web page at Health.utah.gov/licensing. She added that if anyone is providing care for more than four unrelated children for more than four a day, they must have a certificate from the Utah State Health Department. The Utah State Health Department rules cover all the basic health and safety rules for the children, including equipment. Also an FBI background screening with fingerprints is done.

- Commissioner Fazzini asked about the background screening requirements and Ms. Thomas said they conduct FBI screening with fingerprints. The initial screening for in-state applicants takes a few weeks. The FBI check itself (if they have not lived in Utah for the past five years) takes about 120 days to complete and is done every year to assure compliance. [18:40:55](#)
- Commissioner Fink wanted to know what the exact number of children is under the care of one adult supervisor. Ms. Thomas said the maximum number of children allowed with one care provider is eight providing they have the appropriate indoor square footage, which is 35 square feet per child and 45 square feet per child outside. The caveat there is that no more than two of those children can be under the age of two. They have the option of caring for three children under the age of two but then they can only have three children over the age of two with one adult. When the City goes through the process, ask the ages of the children that are there. There must be a file kept for each child which contains their birth dates. The provider's own children under the age of four also count in that capacity. Mr. Meldrum said that Taylorsville's Code differs there and the language therein says up to age six. Ms. Thomas said that the State's requirement is once their own children turn four, they no longer count in that capacity. Commissioner Fazzini commented that if they are under four they count towards qualifying for licensing with the State. Ms. Thomas said that the provider can care for as many related children as they want to. As soon as they are caring for more than four unrelated

children is when they need a license/certificate from the State. **Commissioner Fazzini** added that if they have children ages 1, 2 and 3 and one unrelated child, they are not required to get a license. **Ms. Thomas** said that was correct.

- **Commissioner Fazzini** asked Ms. Thomas if they received copies of the Planning Commission Minutes and she replied they do not. That Salt Lake County Health Department oversees procedures followed by the City in issuing day care licenses. **Commissioner Fazzini** asked about the issue of reporting alleged child abuse allegations and **Ms. Thomas** said that the only way the State becomes involved if they issued a certificate to the applicant – then violations would be referred to Protective Services.
- **Commissioner Overson** said that in a recent application before the Commission, the neighbors recounted that supervision is lacking and the children have been observed out on a busy street and out late at night inadequately dressed. She wondered what the role of the Commission should have been in that instance. **Ms. Thomas** said that if the applicant has a license from the State, they would investigate. **Commissioner Overson** said that she was talking about when they first apply before the City and the Commission's hands are tied in not allowing the application to go forward because of that.
- **Commissioner Fazzini** said that inasmuch as the Commission is not an investigative authority, the complaint would have to be forwarded to CPS but the question is if that burden is on the Commission or the person who witnessed the event. **Mr. Meldrum** said that it would have to be the person who witnessed it – it is not the responsibility or charge of the Planning Commission. To cover cases like that, staff adds into the conditions for approval of all conditional uses, including home occupations, that the permit may be reviewed upon substantiated and unresolved complaint and if deemed appropriate, the Commission may revoke same. [18:47:56](#)
- **Commissioner Fazzini** wanted staff to check with the City Attorney to see if it would be appropriate for the Commission to give hand-outs at these meetings to the audience with regard to State Law in reporting abuse and neglect. **Ms. Thomas** said that it may help to tell the concerned neighbors that if they have substantiated allegations they should go through the Department of Human Services. **Commissioner Fazzini** advised his question was with regard to the possibility that the Commission would be providing legal advice in doing so because they are not attorneys. That perhaps the City Attorney should prepare the hand-out for that reason.
- **Commissioner Overson** expressed concern in discouraging neighbors from coming because they don't want to say something because now suddenly they are reporting on their neighbor but if they don't say anything they are going to be in trouble because that is a misdemeanor. They don't want to say anything because the meeting is a public record. **Commissioner Fazzini** said that unless it is egregious, his understanding is that those complaints are not followed up on. Essentially it would have to be pretty bad for the State to do anything about it.
- **Commissioner Overson** added that she would not want to scare citizens away thinking that they don't want to come and comment because their comments may be misconstrued somehow or because of what they say or don't say creates a problem. **Commissioner Fazzini** said that the other side of that is that they are making an allegation that is going on public record and should be prepared to testify if need be. He said that he sees her point and did not want to discourage the public from coming forward either but there is a trade off.
- **Commissioner Overson** then asked what the City can do to help the State. **Mr. Meldrum** said that the City does not currently provide the State with information but rather works with the County Health Department. **Ms. Thomas** said that all the State requires from the City is the business license. **Mr. Meldrum** added that basically implies to the State that the City has done their review and the applicant has satisfied all City requirements for the application. [18:50:44](#)
- **Mr. McGrath** said probably what the City ought to do at a bare minimum is it is known that it is extremely rare to ever hear these types of complaints but at the same time, at this level the Commission and staff have the benefit of having a public hearing and may hear things periodically that may be something that doesn't affect the decision directly but very well may affect the State's decision. At the very least there should be an internal policy that if anything is heard at a public hearing that the State of Utah may be interested in hearing, that it is passed on to the appropriate State agency. **Ms. Thomas** agreed with that assumption and said that the biggest thing they would be interested in would be regarding people providing care for five or more unrelated children and not being regulated by the

State. The State does investigate those instances when informed of the circumstances. Cities often provide the State with that information and that is very useful.

- **Commissioner Overson** asked if they do background checks and if that included substitute caregivers as well. **Ms. Thomas** said the checks are done on anyone 12 years of age or older in the home and if they are going to have a second caregiver on those individuals as well. As far as substitutes are concerned, if they are going to have someone on a regular basis, then the State would check them. If it is an emergency, the State must obtain an attestation statement saying to the best of their knowledge this person has not been convicted of any felonies. Anyone they use on a regular basis, must pass a background screening.
- **Commissioner Overson** asked Staff if someone comes in to apply for a day care, if it would be helpful to them to give them a copy of what Ms. Thomas brought tonight or did they receive a copy separately? **Ms. Thomas** said that her agency sends out that hand-out and much more, including all rules, sample forms, contact information, etc. **Mr. Meldrum** said it may be helpful to list their web site on the home occupation day care form. That being approved for a home occupation does not assure State certification or even that a business license will be approved. **Ms. Thomas** said the State does not issue the certification until the results of the background check are back.
- **Commissioner Staley** asked if it is a problem then if applicants go ahead and start the day care without the certification and **Ms. Thomas** said that if the applicant did not know they must obtain certification, they are given 60 days to submit their application. They can keep doing day care if they are in the application process but if someone has already been licensed, then stopped and then starts doing day care again, that would require a license and if the State finds out about it, they issue a cease and desist order and stay there until the children go home. Then a follow-up process is initiated and there are numerous penalties involved.
- **Commissioner Fazzini** asked if they do an FBI fingerprint check – until the background comes back, they would have to work under the supervision of other staff. If there is a single provider waiting for their background check, would that be allowed? **Ms. Thomas** said that the State will not give them their initial license until that background check comes back but in the case of them doing unlicensed care and don't know, they may continue to do the day care during that period. That is not ideal but works in the best interest of the parents and children. Applicants can care for four children without a license and many times will start at that point while waiting for the background checks to process. They can have eight children with one adult and up to 16 with two adults. **Mr. Meldrum** interjected that Taylorsville only allows 12 with two providers. [19:00:28](#)
- **Mr. McGrath** responded to Commissioner Overson's inquiry about preparing hand-outs for applicants by saying that Staff is presently working on such a form for day care providers and the information obtained tonight will be integrated therein. [19:02:13](#)
- **Ms. Thomas** said that there is also start-up money available to help people get started in this profession and suggested including that they contact the State if they are interested in obtaining that assistance.

4. Discussion Regarding Urban Fowl. (Mark McGrath/Director of Community Development [19:04:05](#))

4.1 **Mr. McGrath** gave a presentation on the draft ordinance change to the Zoning Ordinance. He advised that he would return a proposed draft copy for review at a subsequent work session, which for now only addresses chickens. The subsequent rewrite of the Zoning Ordinance will provide more in-depth information regarding family food production. He provided Commissioners with the current ordinance and with guidelines furnished by the Salt Lake Valley Health Department regarding the keeping of backyard poultry flocks in residential communities.

CITY COUNCIL MEETING DISCUSSION: **Commissioner Murray** briefed the Commissioners during the pre-meeting on events that transpired during the recent City Council he attended.

OTHER BUSINESS: **Commissioner Staley** gave a statement saying goodbye to the Commission as her resignation from the Commission was effective with this meeting. [19:32:52](#)

ADJOURNMENT: By motion of **Commissioner Fink**, the meeting was adjourned at 7:33 hours. [19:33:26](#)

Respectfully submitted by:

Signed on July 15, 2009
Jean Gallegos, Admin Asst/Recorder for the
Planning Commission

Approved in meeting held on July 14, 2009