

**City of Taylorsville  
 Planning Commission Meeting  
 Minutes  
 July 27, 2010  
 Pre-meeting – 5:45 p.m. - Regular Session – 6:00 p.m.  
 2600 West Taylorsville Blvd – Council Chambers**

**Attendance:**

**Planning Commission**

Ted Jensen, Chair  
 Kristie Overson  
 Dale Kehl  
 Ernest Burgess  
 Steven Faurshou  
 Dan Fazzini, Jr. (Alternate)  
**EXCUSED:** Anna Barbieri  
 Garl Fink

**Community Development Staff**

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

**PUBLIC:** Dan Floyd, Mark Bond, Randall Henderson

**WELCOME:** **Commissioner Jensen** assumed duties as Chair and welcomed those present, explained the process to be followed this evening and opened the meeting at 6:00 p.m. [18:17:09](#)

1. **BUSINESS ITEM:** Election of Officers for the Planning Commission, 2010-2011. (Elections were held in the pre-meeting, with the following results: Chairman – Ted Jensen – Vice Chairman – Garl Fink)

**Commissioner Jensen** asked if there were anyone wishing to speak for or against any item on the Consent agenda. No one came forward and **Commissioner Jensen** then opened the meeting for any amendments and/or a motion for approval of the Consent Agenda.

**CONSENT AGENDA**

Agenda/File #	Application	Action
2.	Review/approval of Minutes for July 13, 2010	Approved as presented.
3. 3S10	Randall Henderson – Simple Subdivision 4482 S Heatherglan Court	Approved as presented with staff recommendations.
4. 1F10	Randall Henderson - Division of a Two-Family Dwelling 4482 S Heatherglan Court	Approved as presented with staff recommendations.

**MOTION:** [18:19:15](#) **Commissioner Fazzini** – I move that we approve the consent agenda as presented.

**SECOND:** **Commissioner Burgess**

**Commissioner Jensen** restated the motion to approve the Consent Agenda and asked for a vote.

<b><u>VOTE</u></b>					
<b><u>Commissioner</u></b>	<b><u>Vote</u></b>	<b><u>Commissioner</u></b>	<b><u>Vote</u></b>	<b><u>Commissioner</u></b>	<b><u>Vote</u></b>
<b><u>Faurshou</u></b>	<b><u>AYE</u></b>	<b><u>Burgess</u></b>	<b><u>AYE</u></b>	<b><u>Barbieri</u></b>	<b><u>Excused</u></b>
<b><u>Overson</u></b>	<b><u>AYE</u></b>	<b><u>Fazzini</u></b>	<b><u>AYE</u></b>	<b><u>Fink</u></b>	<b><u>Excused</u></b>
<b><u>Kehl</u></b>	<b><u>AYE</u></b>	<b><u>Jensen</u></b>	<b><u>Chair</u></b>		
<b><u>Motion passes 5 to 0.</u></b>					

**SPECIAL PLANNING COMMISSION MEETING**

5. 31C10	<b><u>Metro Redwood Properties, LLC – 6235 South Redwood Road and 1648 West 6235 South</u></b> – (Michael Meldrum/Principal Planner) <a href="#">18:20:14</a>
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5.1 **Mr. Meldrum** presented this item. This item was originally scheduled for the July 13<sup>th</sup> meeting. The applicant requested that it be postponed until the July 27<sup>th</sup>, 2010 Planning Commission meeting. The Planning Commission took that action at their July 13, 2010 meeting. The Planning Commission forwarded a positive recommendation to the City Council to approve zone change and land use amendments on May 25, 2010. The City Council granted approval for those requests on June 2, 2010. The applicant is now returning to the Planning Commission to request approval for an amended conditional use. The reason for the amendment is that the applicant is seeking to include the two easternmost properties in their operations, specifically for access.

- The submitted site plan retains the current use on the westernmost property (abutting Redwood Road). It also shows the former Two-Ton plumbing site as proposed storage. According to the applicant, the additional storage would be for things such as trucks and bins. During the public hearing portion for this item on May 11, 2010 Planning Commission meeting, a member of the public expressed concern with the potential noise of Redwood Recycling moving these bins to and from this area. This is an item that the

Planning Commission should discuss in detail so that adequate mitigation can be achieved to ameliorate the issue of noise and any others associated with the storage use.

- The property along 6235 South is shown with a xeriscape type of landscape. Staff has discussed with the applicant what would be an acceptable treatment of this area. The discussion included the use of drought tolerant and low water usage plants, and rock or mulch. The intent of a xeriscape landscape plan is to limit the amount of water and maintenance required. This type of landscaping recognizes and is sensitive to the arid climate in Utah. The applicant had submitted a landscape plan and a list of the trees, shrubs and other materials that are proposed for the landscape area. The list does not specify what type or size of deciduous or evergreen trees will be used on the site. The shrubs, perennials and grasses also do not include the type and size. Staff contacted the applicant and got a specific size list that shows that the deciduous trees will be 2" caliper, evergreens will be 6' in height, shrubs will be 5 gallons and decorative grasses will be one gallon.
- The fencing around three sides (east, west, and north) will be the 8' precast concrete wall that was both shown and discussed during the public hearings for the General Land Use Plan Amendment and the Zone Change. The panels have been shown at previous meeting. The existing slatted chain link fence on the south property line will remain.
- As of now, a building is not proposed on the easternmost properties. If the applicant desires at a future date to erect a building, a subsequent Amended Conditional Use Permit would be required to be filed with and reviewed by the Planning Commission.
- A drive approach is shown on the easternmost property line to access the newly acquired properties. This will also serve as a means of traffic circulation to 6235 South. This will allow the larger vehicles to enter on Redwood Road and exit onto 6235 South. The topic was discussed during the General Land Use Amendment and Zone Change requests. At that time, Staff identified this as a topic more appropriately addressed during the Amended Conditional Use Permit review. According to the site plan drawings and a letter from UDOT submitted by the applicant the eastern access is placed appropriately for the road design of 6235 South. The only concern that staff would like to raise with this access is the hours of operation. It is staff's opinion that an appropriate mitigation measure would be to limit the hours of use to avoid an undue noise burden on the adjacent neighbors.
- Also raised during the previous meetings was a concern with the storm water treatment and metals getting into the ground water. The applicant has plans previously approved by the State Division of Water Quality for how the storm water is handled on their site. The applicant has stated on the public record that they have periodic and unannounced inspections and tests on their storm water to ensure proper treatment is occurring.
- The applicant has submitted a written document that expresses the future plans for the newly acquired property (east side). In that document, the applicant states: 'I believe that we may utilize the new property in the future for additional parking for employees and customers, for parking of trucks and equipment and also some additional storage of bins and metal if needed.'" There are no site plan drawings for the eastern part of the property with the notable exception of the drive approach. It is the opinion of staff that a subsequent Amended Conditional Use Permit would be required at the time that the applicant is prepared to use the property as outlined in the above statement. [18:24:28](#)

#### **Findings of Fact for File #32C10**

1. The subject property is impacted by the new continuous flow intersection at Redwood Road and 6200 South.
2. The subject property is located at a gateway to the City of Taylorsville.
3. There are residential properties to the east of the subject property.
4. An 8' high precast concrete wall will be erected on the east, west and north sides of the property.
5. The south side of the property will retain the 6' high slatted chain link fence.
6. Storm water treatment plans have previously been approved by the State of Utah.
7. The existing use is a legal "non-conforming" use.

#### **Staff recommendation:** Staff recommends approval of File #31C10 with the following conditions:

1. The hours of use for the eastern driveway are limited to between the hours of 8:00 AM and 6:00 PM to avoid creating an undue noise burden for the adjacent neighbors.
  2. An 8' high precast concrete wall will be erected on the east, west, and north sides of the property. This wall must be treated with an anti-graffiti sealant.
  3. The south side of the property will retain the 6' high slatted chain link fence.
  4. **[Changed by Staff and Motion]** ~~A cross access agreement to connect to the property to the south must be provided in a form acceptable or agreeable to the City Engineer. This document must be recorded with the Salt Lake County Recorder's Office. The applicant and staff will continue to work towards progress on a cross access agreement with the property owners to the south.~~
  5. The use is compliant and must remain compliant with all requirements of applicable reviewing agencies.
  6. The amended Conditional Use Permit is subject to review upon substantiated and unresolved complaints.
  7. **[Changed by Staff and Motion]** The westernmost access onto 6235 South **will not be used only in the case of emergencies.** [18:27:05](#)
- 5.2 **APPLICANT ADDRESS:** [18:27:45](#) Applicants, **Mark Bond** and **Dan Floyd** were present to answer questions. **Mr. Floyd** said that they were in agreement with everything except staff condition #4, the cross access

agreement. He felt that should be a discussion item between the applicants and the property owners to the south. He was unsure how that issue is involved with the application tonight. The way that will impact them as applicants is that currently they can secure their facility with closing two gates. If they have that access now through their property onto the property to the south they would have to construct another continuation of the 8' high wall and create a new gate and widen the driveway to accommodate the amount of traffic that would go through to those buildings to the south. He was not sure who would be obligated to carry that cost.

- **Mr. Meldrum** said that staff agrees with the applicant that it should not necessarily be the financial burden of this applicant whereas the benefit is for the property owners that lie to the south. **Mr. Meldrum** said that all that is being asked for at this time is an agreement – when that is actually put in should be negotiated between the applicant and the adjacent property owner. **Mr. Floyd** asked what would happen if they were not able to come to an agreement with the property owners to the south for them to front the cost for that and they don't want to do it. He did not want that to be a condition for the applicant to be able to move forward. **Mr. Bond** added that his concern is the way it is worded. It states that a cross access agreement to connect the property **must** be provided. The way that sounds is that it is a condition of the approval tonight. He suggested rewording it to say, in the case that a cross access is provided then the agreement must be provided and approved. That they have no problem as far as having approval to have the agreement done, their concern is that in order to have the conditional use approved that that would have to be a condition.
- **Mr. Meldrum** said that condition was written as a requirement when it was prepared and staff has since had a conversation about some of the impacts which need to be discussed by the Commission. **Mr. Floyd** said that the other part of that is that the other party that would need to be involved in that agreement is not present and has no idea this is being discussed. [18:30:35](#)
- **Commissioner Kehl** commented that the applicant is going to be a grantor of the land and would grant the right to the neighbor to the south to use that. If this is a condition of the approval, here, then the applicant needs to get it done. But restrictions can be written and covenants entered into that ordinance that precludes the applicants from bearing the burden of the cost. That the other user is responsible because they are going to enjoy the use of it for the exit. The applicant can put on conditions but would need to have someone prepare it that is familiar with how that should be worded and how that will work.
- **Mr. Bond** said that they have done a similar agreement on another piece of property that they had. It is just then a question of negotiation to make sure that other party is part of it and is willing to bear some of the cost. He was sure there would be some conditions imposed upon that such as the road being up to certain specifications as approved by the City Engineer. He advised that they just want to make sure they are not burdened with financial obligations that can't be recovered through that agreement.
- **Commissioner Kehl** asked if that was one of the conditions of the rezone that they had to provide a right-of-way. **Mr. Bond** and **Mr. Floyd** both said – not on the rezone. **Commissioner Kehl** asked why then did the applicants say that it is mandatory that it is done now? **Mr. Floyd** advised that they are ready to go ahead with putting up the precast wall and moving forward. The intersection is almost complete and they have a temporary fence up now that is very low security. If this is now a condition of approval, they have to start negotiating with the property owner to the south, which might slow this down by months. **Commissioner Kehl** wondered if in their agreement with the State or City, if anyone knew whether it was made mandatory for the people contiguous to this site to use that to relieve the traffic off of the changed intersection. **Mr. Bond** said that this is the first they have heard about that. **Mr. Floyd** said it was put in there as a possibility down the road after they moved in and were settled – then to have the negotiations begin with the property owners to the south to see if it would be advantageous for both parties and at that time come to an agreement.
- **Commissioner Overson** said it seemed to her that in the past the Commission has done this with other properties and she did not know if that necessarily has been a condition and if it has to be up and running. **Commissioner Fazzini** said he thought that the General Plan says that these agreements should be decided before the application goes forward. That what everyone was saying is that this does not need to be actually physically put in place today, that when the recordation is made with the County then the covenants with legal advice are added and then is the time to obtain final negotiation with all those concerned in order to pay for tearing up the driveway, adding grading, etc., to handle the traffic. He asked staff how wide the driveway was and **Mr. Meldrum** informed him it was about 20' wide. **Commissioner Fazzini** said that means there will be a loss of land as well because it is going to have to be at least 25' wide for two-way traffic. What is being said is that the conditional use asks that they have the cross access agreement, not the requirement to record it. It doesn't specify what is going to be in it, as long as it is reasonable.
- **Mr. McGrath** added that basically what this condition will stipulate is that there will be cross access between the two properties. In terms of the actual construction, that is something that must be worked out between the applicants and the property owners to the south. Like Commissioner Kehl said, it is not the intent of anybody here for the applicants to bear the cost of that, because they are not really getting the benefit of it. The office buildings to the south will be getting the benefit of this through increased accessibility to Redwood Road. Therefore, they should bear the cost of that. However, given the fact that is a private agreement between the applicants and them, it is not something to be worked out by the Commission tonight. That is something the applicant will work out later. Essentially what this does, and it is a fairly common condition placed on properties especially in this area along Redwood Road, is that those office buildings to the south of this site have a similar condition granting that at some point in the future, there will be cross access between the two adjacent properties. Essentially what this is saying is at some point in the future, the applicant will grant this

access but in terms of details as to how it will be done is something to be worked out by the applicant with adjacent property owners. [18:35:53](#)

5.3 **SPEAKING:** None.

5.4 **DISCUSSION:**

- **Commissioner Jensen** asked the applicants if they had had a chance to talk to the property owner to the south about the project. [18:39:10](#) **Mr. Floyd** said that they had met with those neighbors and they seemed to be excited but that there had been no details worked out for implementation.
- **Commissioner Jensen** asked the applicants if they were okay with the stated hours of 8:00 a.m. to 6:00 p.m. and both applicants said they were. [18:40:30](#)
- **Commissioner Kehl** wanted to make sure that the change to Staff Condition #7 meant that the westernmost access onto 6235 South will not be used, except in case of emergency. Both applicants said they were aware of that stipulation and were agreeable.
- **Commissioner Kehl** wondered if it would be an issue having their new access in such close proximity to the neighbor's access to the south. **Mr. Floyd** advised there would be no conflict. [18:42:19](#)
- **Commissioner Kehl** asked if the property that is contiguous to the south has cross access agreements in place and **Mr. McGrath** said that it did, with the office building directly south of them. That four properties in a row there have cross access agreements in place. [18:44:30](#)

5.5 **MOTION #1:** **Commissioner Fazzini** [18:57:28](#) I move that we grant approval for File 31C10, amended conditional use permit for Metro Redwood Properties, LLC, located at 6235 South Redwood Road with staff conditions 1 through 7 with two changes as follows: #4 reword to say a cross access agreement to be recorded with the Salt Lake County Recorder's Office and #7 change to say the westernmost access on to 6235 South will not be used except for emergencies.

**Commissioner Jensen restated the motion for approval.**

**DISCUSSION:**

- **Commissioner Kehl** – Could he repeat #4 again. **Commissioner Fazzini** - #4, a cross access agreement to be recorded with the Salt Lake County Recorder's Office. **Commissioner Kehl** - Did you say "could" or "should" **Commissioner Fazzini** - All are "shalls" if listed. **Mr. Meldrum** - He was just asking you what you had said because he could not hear you. **Commissioner Fazzini** - I didn't say either one. I just said I am changing #4 to say a cross access agreement to be recorded with the Salt Lake County Recorder's Office.
- **Commissioner Overson** – I just have a suggestion. I think it should include the wording, "to connect the property to the south." **Commissioner Fazzini** - Let me reword that to say, "as one of the conditions, a cross access agreement to connect the property to the south to be recorded with the Salt Lake County Recorder's Office."
- **Mr. McGrath** - Do you want to add a second sentence something along the lines that "provisions for ...." **Commissioner Fazzini** - The City Engineer thing is basically already in City Code. If they are going to put something in like this, they must obtain approval from the Engineering Department. **Commissioner Fazzini** - Yes. Then it is already covered by City Code. The requirement today might be 24' and ten years from now it may be 26'. **Mr. McGrath** - The thinking with getting the City Engineer involved is that it would be done in a form that was approved by him rather than saying simply that they can cross the property. Obviously that would not hold up in court but he would be reviewing it to make sure it is done in a form that is legal and implementable. **Commissioner Fazzini** - But putting it in the motion would require them to do it now before we issue the permit and that is not necessarily what is going to happen. The other property owner may not want to spend the \$30,000 or \$40,000 required to put the road in now but may want to ten years from now.
- **Commissioner Jensen** - Why not put something in front that says, "when agreed upon". **Commissioner Fazzini** - Then it precludes them having to record anything now at all. **Commissioner Jensen** - Just say, "when agreed upon, the cross access agreement will be recorded in the Salt Lake County Recorder's Office with the City Engineer's approval." **Commissioner Fazzini** - What if we add a condition #8 – I am worried about putting the City Engineer's requirement in the same position as recording of the easement. I think they are two separate actions. **Commissioner Kehl** - On your motion, you said he is going to record an agreement. There is no agreement. If you want to record an access, then you can record an access but you can't record an agreement that does not exist. Unless you talking about an agreement between the applicants and the City Engineer. **Commissioner Fazzini** – The intent is that they record an easement and as far as what their agreement is . . . .
- **Commissioner Kehl** – An easement cannot be recorded if it is not defined. [19:02:10](#) **Mr. Meldrum** - That is correct. The document must indicate the width and what the easement is for.
- **Commissioner Overson** - What about putting a time limit on this particular condition and say it must be fulfilled within six months or a year but in the meantime allowing them to proceed with

their business. (Applicants responded orally from the audience but their comments were inaudible but to the effect that they were concerned about what if they could not reach an agreement with the people to the south)

- Commissioner Fazzini - If there is no agreement, then what happens if for instance I am the property owner to the south and maybe in bad faith try to not negotiate an agreement and hold a gun to their head so to speak, have engineering complete their study and say that I am going to take the issue to court and make the applicants pay for the road. Is that what the applicants are worried about? Mr. Bond - Yes. That is why the time limit is not a good idea because it takes away any control away from us.
- Mr. McGrath - The intent of this condition is not for access – the intent is so the cross access is not denied at a future time, not necessarily to have it in place prior to getting the permit approval so that there is access between those two properties. Staff is just saying that at some future time there is going to be traffic crossing those two property lines. [19:07:55](#)
- Commissioner Fazzini - I suggest doing away with the issue of recording the document and put in there that they shall in good faith negotiate a cross access agreement.
- Commissioner Jensen - When agreed upon by the property owner and the adjacent property owner to the south, a cross access agreement will be recorded with the Salt Lake County Recorder's Office, with City Engineer's approval. Mr. McGrath – What does “when agreed upon” mean? Commissioner Jensen - That just leaves it open and says that as soon as everyone agrees on a cross access agreement, it can be approved by the City Engineer and then recorded. Mr. McGrath - Agreed upon between the two property owners? Commissioner Jensen - Yes. Mr. McGrath - Then what happens if Redwood Recycling decides they don't want to allow cross access. They don't agree to it, therefore, the condition goes away? Commissioner Jensen - If agreed upon rather than when? Commissioner Fazzini - Yes, but it is an “if” and basically refers to what I previously said. Maybe add language that you see in a lot of contracts that their agreement should not be unreasonably withheld. Commissioner Jensen - The Commission just wants to get it right, so that it works for everybody.
- Commissioner Kehl - You have two choices, either you record a cross access agreement subject them to being able to negotiate with the people to the south, so it keeps them in control, or you write an agreement that says they don't really record it but will record it upon negotiation with the people to the south to the benefit of both parties. Commissioner Jensen - That is what I hoped I had said.
- Commissioner Kehl - But you can't record an agreement that doesn't already exist, so you either record the right-of-way or the cross access agreement or you don't. It can be an easement – could it just be an easement and not a cross access agreement? Provide the easement for the use of the cross access agreement. Mr. McGrath - That works as well, it is essentially the same thing. Commissioner Fazzini - Once the easement is in place though, whose responsibility is it to construct any changes once they want to implement it? Mr. McGrath - That is between the two property owners. All we are going to require out of them is that the cross access is in place, we are not requiring them to do any construction to provide any linkages between the parking lot to the south – no improvements are connected to this. Mr. Meldrum - This is the language that provides the means to do it. Mr. McGrath - Then at some future time when somebody feels motivated, whether it is the office building to the south, whether it is the City of Taylorsville acting as the mediator when the City starts doing the improvements along Redwood Road to improve access, we will have this cross access agreement in place that will allow this new access management road to be constructed and nobody will have the ability to say it isn't going to happen. That is simply what Staff is looking for.
- Commissioner Fazzini – I now understand the issue regarding the City Engineer because I was thought there needed to be an engineering study done now. Basically I am going to reword this so there will be an easement but the easement needs to be approved by the City Engineer so it is the right width and all the right language is contained therein. Basically I would say, “A cross access easement to be recorded with the Salt Lake County Recorder's Office, as approved by the City Engineer. Mr. McGrath - You may want to get a little more specific and say it provides access from the property to the south. Commissioner Fazzini – A cross access easement to the property to the south to be recorded with the Salt Lake County Recorder's Office as approved by the City Engineer. The applicant needs to do an easement. There needs to be an agreement before they can get their occupancy permit but if they just do an easement, get with the City Engineer and find out what the right width should be and record the easement, then the easement is in place and down the road the two property owners can work this out. [19:09:37](#)
- Mr. Bond – My concern is that if we grant an easement, that at that point whoever we grant the easement to has access to that property and we no longer have control over that property. So, I don't want to do that until I have an agreement between us and that person. I am concerned that some of the requirements being talked about tonight will require me to grant that easement without being able to negotiate it. [19:11:14](#)

- Mr. McGrath - So would you be more comfortable with the verbiage “cross access agreement” rather than “easement”? Mr. Bond - I think that is the same thing basically. Legally, if I grant an agreement to utilize the property or an easement, from a legal standpoint I am giving away the use of that property. I don’t know if it fills your requirements but I favor what Commissioner Jensen said previously that if an agreement is made it has to be recorded and it has to be approved by the City Engineer. We will go along with whatever those requirements are. We can negotiate in good faith with them but I just don’t want to have something imposed upon us – it is a personal property issue to me.
- Commissioner Jensen 19:12:16 -“When agreed upon by the property owner and the property owner to the south, any cross access agreement will be approved by the City Engineer and recorded with the Salt Lake County Recorder”. Mr. Bond - I can live with that.
- Commissioner Kehl - I am fine with that. Nothing is being recorded at this point – they are agreeing to an agreement. Commissioner Jensen - By putting it with the Recorder they are just making it official. Commissioner Kehl - But it won’t be done until the agreement is in place. Basically what he is doing is agreeing to negotiate a cross access agreement. 19:13:27 Commissioner Jensen – It just says that in the event the two property owners come to an agreement , that agreement will be approved by the City Engineer and filed with the Salt Lake County Recorder to make it official. Mr. Bond – Then it will be done the right way, with approvals.
- Commissioner Burgess - Does this mean that they can’t use the property as access until there is an agreement in place? Mr. Meldrum - The applicants can, but the owners to the south cannot. 19:13:59 Commissioner Burgess - That would keep the applicants in control but it doesn’t seem fair for the applicants to have to pay for the whole thing if that is the case.
- Commissioner Fazzini - This is a conditional use and so if the property to the south a year or two down the road feels that they were acting in bad faith in negotiating for whatever reason, can they come back to the Planning Commission and challenge the conditional use? 19:14:43 Mr. McGrath – Just saying that Redwood Recycling will not negotiate with them is not grounds for revoking a conditional use permit. Commissioner Fazzini - So what is their recourse? Mr. McGrath - With the way this motion is worded, it basically gives the ability of the owners of Redwood Recycling to hold the other property owners hostage, possibly by saying they are not going to come to an agreement until the other property owners pay them so much money, etc. Commissioner Fazzini - That is my point. If they are making unreasonable demands what rights would the property owners to the south have? Mr. McGrath - Based on the current wording of the motion, they would not have any. Commissioner Jensen - I’ll read my suggestion again. “When agreed upon by the property owner and the property owner to the south, any cross access agreement will be approved by the City Engineer and recorded with the Salt Lake County Recorder. 19:16:17 Mr. McGrath - So what would be the motivation for Redwood Recycling to come to an agreement? Commissioner Fazzini - Nothing against Redwood Recycling but the property may be sold within five years. I guess the property owners to the south could file a lawsuit in Circuit Court to resolve the issue.
- Commissioner Fazzini - What would happen if we removed Item #4 completely? Is there anything in the General Plan that requires us to provide for these as they come up? Mr. McGrath – The General Plan is very “general” where it encourages access management principles that will improve traffic circulation on our public streets. The most common form of access management is limiting and consolidating driveways and parking lots so that circulation is taking place back in the parking lots where it is safer as opposed to out on the public street. Whereas, if you have driveway after driveway on the public street, you constantly have cars slowing down and that is where accidents happen. That is just a common form of access management on public streets. The harm of not having the condition is that it would eliminate the cross access agreement and would force others to access directly on Redwood Road. 19:18:40
- Commissioner Faurschou - The problem with this particular piece of property is that it is the key to the whole cross access for all the other properties, yet, for Redwood Recycling, it is not as if they are just giving up part of their parking lot, they are giving up a substantial amount of property, with no real control coming back to them and that is a concern.
- Commissioner Fazzini - Given the nature of their business, maybe it is not even appropriate for their business to have the cross access. Maybe ten or twelve years down the road if this property is sold and turned into office buildings, it would be a different scenario. Mr. Meldrum - If the cross access agreement weren’t there, this road would still be there and is the access road for Redwood Recycling. Therefore, I don’t see it as giving up property because it is still going to be used for the same purpose that it is being used for today. Mr. Floyd – It would probably be widened and some additional requirements imposed. Mr. Meldrum - But it doesn’t change the actual use of what happens on that part of the property – it is still an access point. Commissioner Jensen - Are you confident that the property owner to the south will give you an agreement? Mr. Floyd - I have not had any communications with him recently. In the past, our staff has talked with him.

- Commissioner Kehl – For those property owners to the south, because they do have some commitment, if you did add at the beginning that they entered into an agreement to provide this cross access upon . . . If they enter into an agreement in good faith and not to unreasonably be denied, then they have to have it back there but they are not committed to pay for it without negotiation. Mr. Floyd - What started this discussion about cross access was during a meeting about six months ago where the property owners to the south were concerned about the improvements that Taylorsville City was going to be making on Redwood Road by putting in the planters, trees, etc., which would eliminate their clients from making a left hand turn into their parking lot from Redwood Road. So those people would only be able to make a right hand turn to exit the property and that was their concern and why they were concerned about people being able to get in the back way. Commissioner Kehl - Do you know if there is an island in there that is going to prevent that – the traffic flow would automatically prevent that most of the time anyway. Mr. Floyd - There is an island planned as a separate project. Commissioner Jensen - He is talking about the Redwood Road Beautification Project. Mr. McGrath - There is a very high likelihood of installing an island, whether part of the Redwood Road Beautification Project or an access management measure by UDOT.
- Commissioner Overson - Maybe we could say something like, “The property owner agrees to negotiations with property owners to the south as needed in the future.”
- Mr. McGrath – How about saying that a cross access agreement will be provided on the south property line with the owners of the property to the south provided an agreement is negotiated between the two individual property owners regarding the cost of improvements/construction. That way, if the property owner to the south said they will pay for everything because it is they who are impacting Redwood Recycling, then the cross access is guaranteed.
- Commissioner Fazzini – That brings up the question of the Redwood Beautification Project, within the next couple of years. When the City did all that work along Redwood Road where Wal-Mart is located, were there any additional cross access driveways that needed to be built and if so, did the City pay for that? Mr. McGrath - Yes. Commissioner Fazzini - So there is a possibility that the City may chip in to help pay for some of this in the future. Mr. McGrath - That could be considered as a possibility.

5.6 MOTION WITHDRAWN: Commissioner Fazzini - Just to be clear, I will withdraw my motion. [19:25:46](#)

5.7 FURTHER DISCUSSION:

- Commissioner Overson - What if we say something like, “If the property owner to the south sees that there is a need for an easement to help with their traffic flow, that Metro Redwood would be amenable to negotiations.”
- Mr. Bond - Our position is simply that we are the ones taking the risk in buying this property and improving it. We don’t want to have something imposed on us that is going to impair our ability to utilize it. Mr. Floyd - You could put in something that says, “If requested by the property owner to the south or the City of Taylorsville, we would negotiate resolution.” Mr. Bond - I prefer just trying to let parties come to agreements through market conditions and if we can work it out and they can work it out, then a deal can be put together and everybody is happy. That includes the City as a third party. Commissioner Jensen - The City is concerned about it because if you find a better place and move out, then all this stays with the next property owner. They may not want access from the south. Mr. Bond - The way the conditional use works is that it has to be approved for any change. So if we move or sell our property, they have to go through the same process again. You could then impose that condition upon them. Commissioner Fazzini - But if they buy your business and continue running it as is, they would not have to come back to us.
- Commissioner Kehl - Is it possible for us to just list the two or three things we want accomplished as part of this condition to be authored by our City Attorney as approved by these people, rather than us trying to write a legal document here? Mr. McGrath - Saying something along the lines of, “A cross access agreement will be formalized between affected property owners in the City ....” Commissioner Kehl - I would state it more specific that, “A provision should be made in the future for a cross access agreement upon a negotiation between the two parties, to include that there should be no re-dress against them for the cost or at least part of the cost.” [19:32:30](#)
- Mr. McGrath - “A cross access agreement will be provided and recorded with the Salt Lake County Recorder’s Office in a form agreeable to the City Engineer that will provide access for properties to the south of the subject property to 6235 South upon an agreement concerning costs associated with all necessary improvements between all affected properties.” Essentially what this is saying is that a cross access agreement will be provided and recorded. It will be done in a form that the City Engineer will approve. It provides access between 6235 South and all properties to the south and an agreement has to be put in place between all affected properties regarding costs of all improvements. That way, Redwood Recycling isn’t responsible for the whole cost. Mr. Floyd - Then it doesn’t get recorded until an agreement is made. Commissioner Overson - Exactly - “when” this is happening is the question. [19:34:05](#) Mr. Floyd - You said “upon agreement”. Mr. McGrath – The City would record something at the County that said, “Upon an agreement between

all the affected property owners, there will be cross access between all these properties to 6235 South.” Commissioner Kehl - Again, that is what exists now. Mr. McGrath - But what doesn’t exist now is . . . Commissioner Kehl – Their commitment to do it and that doesn’t make them commit to do it. Commissioner Fazzini - Are you suggesting encumbering the property with some sort of recording at the County to give notice that the property owner needs to cooperate with people to the south to do an agreement?

- Mr. McGrath - I guess there are potential unintended consequences. If the property owners to the south agree to pay for everything and then Redwood Recycling says that it is still not good enough and wants them to pay for everything, plus money for the land use. Mr. Bond - Which I don’t think is unfair. Commissioner Fazzini - As mentioned earlier, if we didn’t have this in place and they approached Redwood Recycling and suggested buying the easement from them – that is what would happen normally – and they would give you something, whatever was agreed to as fair value. That gets back to the fairness of unreasonably withholding it. It is completely within the rights of Redwood Recycling to ask for something in order for them to record an easement on this property. If the easement is not done now, include that they will in good faith negotiate the easement. An appraiser could probably come up with the value of that easement.
- Mr. McGrath – I guess I have a little bit different recollection of some of the conversations that led up to this point. This was a controversial issue from the start in expanding a manufacturing zone in a largely residential office district. I have very clear recollections of some of our initial conversations regarding this easement to those office buildings where we felt like if this was a win-win situation for the community we would go to bat for Redwood Recycling in getting the manufacturing zoning. I was under the impression that this was not an issue with them. Mr. Bond - I don’t think it is an issue. We are very willing to grant an easement and agreement. I just don’t want it mandated as to how it is going to happen. I think that the way our conversations were is that we are open to allowing access there. I don’t like anybody telling me that we have to do it because I believe it is a personal property issue without compensation. I think it needs to be a free market agreement negotiation in doing that. We just did this two months ago with another piece of property and it was easy. We called them and we agreed and made a deal.
- Commissioner Kehl – (To the applicants). Is what Mark (McGrath) said true or not. Has your compensation already been received by giving you use of the property that you have. If I understand Mark right, he is saying that part of the discussions all along to be able to grant you the use in here in a zone where your business does not fit, was that you were going to provide an easement through there. Mr. Bond - It was never made explicit. There were conversations to be able to do that, with which we were not in disagreement. Commissioner Kehl - If you grant an easement, with no conditions on it, it doesn’t require you to do anything. You don’t have to put in anything. You might put in a restriction that they have to leave it open and free and flowing for you. If that is basically the agreement, I would just define the easement and record it and put in that easement that they can’t restrict your use for your ingress/egress. Mr. Floyd - I believe that if we do grant an easement, we are going to have to do additional things to secure our property to make sure that we are good neighbors. Commissioner Kehl - Okay, then in the agreement say that they have to fence it off. Mr. Bond - I am totally willing to enter into a good faith agreement with them. I am just concerned that if it is imposed upon us and that we could be required to do things over and above. 19:40:06
- Commissioner Kehl - We can’t have both. We can’t say you have to work with them and have the access through there and still have you not having to do it. It boils down to if you negotiate with the other parties and put an easement in there or not. You can go do that right now. But there isn’t anything in there that says that you have to do it to provide better traffic because of the island that is going to be put on Redwood Road or whatever deal there is. I don’t know what your obligations are. If in fact you agreed to give the easement, which apparently legally you did not, then I don’t think you are being hurt to record the easement. You don’t have to put in a road for the other guy or put up a fence or anything else. You could add into the easement that you grant that they have to provide it. Whoever is going to use the cross access has to protect you with a gate or fence along your property line. Mr. Bond - My understanding is that an easement just provides access and you have got to guarantee that access. Commissioner Kehl - Your easement would state, for ingress/egress across your property. We ought to listen to Commissioner Overson’s suggestion to see if we can do everything except this and let another party decide.
- Commissioner Fazzini - When I mentioned “just compensation”, that is in accordance with the Fifth Amendment to the U.S. Constitution and what I would be worried about here is if we are imposing a government regulation on the applicants to provide access. Just like a “taking” of a property. Essentially it is restricting the use. They may at some point decide to move the driveway but this would restrict their ability to do so. If we put it in here as a requirement, I’m not sure how that applies. Are they then covered under “just compensation” clauses just like a right-of-way is with a “taking”. Mr. McGrath - The City government is not taking property nor taking use either because it conforms. This is an agreement between all those adjacent property owners to get out to Redwood Road and 6235 South. The City would not own any of the property, would not be taking any of this property. We dictate land use every time a conditional use permit is issued. That is not taking property. Parking and circulation is a form of land use that is associated with every single application we ever approve. When we approve a shopping center or an office building and we are

approving a parking area that has circulation through it, we are not taking that property although we are guaranteeing that those parking stalls will have access.

- Commissioner Kehl - We could talk about this all day and I could state my position ten different times but I don't think we are going to come to an agreement. If I were doing it and was going to grant the easement, I would simply grant the easement and record the actual size and make the statement in there that any improvements that ever will be put on there will be by the party that is going to use it – the one contiguous to the south and then they can work it out with the one beyond them. But that easement would allow anybody to come through their property and then through Metro Redwood's property. We can't tell Redwood Recycling that they have to do it and still require them to negotiate something in order to do it. If it was a condition of the zone change, then you should just grant the easement. You can get your conditional use but it seems to me like you should grant the easement. Make sure it is written so that you are protected. If you weren't being compensated by getting the zoning, then you could make them pay for the right-of- way.
- Mr. McGrath - Just thinking out loud, what do you think about making the condition state that a cross access agreement will be negotiated between the City and all affected property owners by say Dec 31, 2010. 19:44:07
- Commissioner Jensen - (To the applicant) - What we are all hinting at is, could you go to the property owner to the south and suggest talking in order to come up with a cross access agreement right now. Even if it is just agreeing to agree. Mr. Floyd - If it was just between us and the property owner absolutely but that is not what is going to happen with the City Attorney getting involved and which would create a turn around time of six months at least and we still would not have the facility ready for operation. Commissioner Jensen - I don't want to make it something that will prevent you from operating your business. I just want to see if you could just go to that property owner and find out if an agreement can be put together that says you will all talk about it when the time comes. Mr. Bond - We are in agreement with that in principle. However, I don't like having a time frame placed upon that just in case they don't want to do it. They are not here tonight. It almost seems like we are trying to decide something for someone who is not here and we are trying to impose their will which to me is difficult. All I can say is that in good faith we are willing to negotiate. Commissioner Fazzini - How about saying, "When the time comes, they will negotiate with the property owners to the south for a cross access agreement."
- Commissioner Overson - Would it be possible to approve this application without Staff Condition #4 and say that staff and the applicant are going to work out the proper wording regarding the easement? Commissioner Jensen - I agree. Just have them work together towards achieving a cross access agreement.
- Commissioner Burgess - Mr. Chair. I think that is the only fair way because right now we are continuing to bounce it around and not making any progress where if they sit down together then they would be able to get it written to the satisfaction of both parties. Then we could work on something. Mr. Bond - We would also want to get the City Engineer's input on that. I would like you to consider Commissioner Overson's suggestion to approve it and allow us to work out the cross access agreement details without having to come back to the Commission.
- Commissioner Overson - Is there something that is prohibiting you from doing tomorrow what you are doing today? Mr. Floyd - There is a temporary fence in place and everything is now being provided by UDOT during construction of that intersection. They are going to be finished before too long and will want to remove their temporary fencing, then we will be left without any fence. Mr. Bond - In our agreement with UDOT, compensation for our property is contingent upon being able to achieve access, which is part of this whole situation. Mr. Meldrum - Who is going to put up the concrete fence, UDOT or Redwood Recycling? Mr. Bond - We are doing that. It is contingent upon approval that we get here. 19:50:35 All of that is contingent upon that we are able to utilize the property and then we are going to put in the fence and then we will have an agreement. Mr. Meldrum - Then Metro Redwood Properties is responsible for the 8' high wall? Mr. Bond - Yes, and landscaping, etc. Commissioner Fazzini - And the construction easement and contract document for the taking of 10 or 15' of your land had some of that language in there. Mr. Bond - We have not signed any final agreement with UDOT because it is contingent upon all of the things we are doing tonight. We gave them the ability to go through to be able to go ahead with the construction. We granted them the access but we do not have a final agreement. We have a letter of intent but it all must be approved and then we can proceed. Commissioner Fazzini - I thought they took some of your land. Mr. Bond - They did, with considerable pressure from this community, and we agreed to do that because we were holding off and said okay, we will go ahead and allow them to continue because we had assurances that these entities were going to be supportive of our point of view. Which has been the case thus far and is appreciated? Mr. Floyd - The dollar amount though was suggested by UDOT and was to simply replace what we currently had. Now, what the City is wanting us to do is much more than what we had previous, so that is the reason why the negotiations are continuing. Mr. Bond - We needed to know what the City's requirements were for example for landscaping.
- Commissioner Jensen - Okay, does anybody have any proposed wording for a motion? Commissioner Fazzini - Can we just change #4 to read it is to be determined by staff?

Commissioner Jensen - Yes. That is what I was going to do but I wanted to hear from Mr. McGrath on the issue first.

- Mr. McGrath - 19:53:20 How about saying that a cross access agreement will be provided and recorded at the Salt Lake County Recorder's Office in a form agreeable to the City Engineer that will provide access for properties south of the subject property at 6235 South. Any future costs associated with improvements required by the City shall be determined by a private agreement by all affected property owners. Mr. Floyd - The one problem with that in saying it is required by the City is that the City is not going to require us to put additional walls to secure our property. That would not be a requirement that you would have but a requirement that we would have.

- 5.8 MOTION #2: Commissioner Kehl - Mr. Chairman, I will try a motion. I move that File #31C10 be approved with the following conditions - that Item #7 be changed to read that the westernmost access to 6235 South will be used only for emergencies and change #4 to read that Redwood Recycling (the grantor), shall provide and record a 24' easement to the property contiguous to the south along its east property line. The easement shall state that any and all costs will be the responsibility of any grantee and approved by the grantor, not unreasonably withheld. 19:55:56

DISCUSSION: Commissioner Jensen asked the applicant if he had any problems with that. Mr. Bond said that he would like legal review of that because his understanding as far as an easement goes, the way that is written, is if they go along with that verbiage, they would be required by the City to grant that easement, of which they were giving up the right thereto. He felt it was like Commissioner Fazzini said that it is sort of a property issue. He said that he understood what Commissioner Kehl is trying to do, but he was just concerned with the way it was worded. Commissioner Jensen asked Commissioner Kehl if he would like to continue with his motion, to which Commissioner Kehl said that his motion stands.

- 5.9 Commissioner Jensen - I would like to make a motion to approve File #31C10 with Findings of Fact heard this evening. Commissioner Kehl - Chairman, there was no second made on my motion. Commissioner Fazzini agreed that it was a point of order that needs declaration of it failing due to a lack of second if such is the case. Commissioner Jensen advised that he was under the impression that Commissioner Kehl had wished to withdraw his motion and Commissioner Kehl said that was not the case, that his motion stands as originally stated. Commissioner Jensen then asked for a second.

MOTION #2 FAILS: Commissioner Kehl's Motion died for lack of a second.

- 5.10 MOTION #3: Commissioner Jensen - With that in mind and since that motion did not have a second and, therefore fails, I would like to make a motion for approval of File #31C10 with the Findings of Facts and with the seven staff recommendations, with changes to #4 to read that the applicant and staff will continue to work towards progress on the cross access agreement with the property owners to the south and #7 that the westernmost access to 6235 South will be used only in the case of emergencies. 19:55:36

SECOND: Commissioner Overson

DISCUSSION:

- Commissioner Kehl - (To Staff) - Is right-of-way a condition of the zoning amendment or not? Mr. McGrath - It was not a condition. It was not something that qualifies under a zoning change. Commissioner Kehl - Then why are we discussing this? Why is this an item? Commissioner Fazzini - It is a change of use for the two new properties. Commissioner Kehl - It is not a condition of the zone change. Commissioner Overson - It has just been a practice that we do with properties - that we try to provide an easement to relieve traffic and all the things Mark McGrath said a half hour ago.
- Commissioner Kehl - Second part of the question is, being a conditional use, can we mandate that they have to provide an easement? Mr. McGrath - Yes, you can. It is a public safety issue. Commissioner Jensen - (To the applicant) - Do you understand what I was trying to do with the motion? Mr. Floyd - Yes. Commissioner Jensen - The motion leaves it open so the applicant and staff can continue to work on it since the property owners to the south are not present this evening and they want to get it right. So this just leaves it open and allows them to continue to work on it until they can come up with an agreement on access to the south.
- Commissioner Fazzini - And it does not provide any time limits so that if at some point staff feels that things are not going well, they are free to bring it back to the Commission for review. Commissioner Jensen - That is correct, but based on the discussion heard this evening, the applicant has expressed an interest in having an access agreement to the south being beneficial to them. However, the owners to the south are not here tonight. We will just say to the applicant to go work on it and when done, present it to the people on the south and hopefully they will sign it and it will be taken care of at that point. It is not a requirement, just saying that they will continue to work on it. That way they can continue on with their project. When they have time to meet with Mark (McGrath), set up an appointment to discuss the access agreement.
- Mr. McGrath - Could you repeat the motion? Commissioner Jensen - Relative to #4, that the applicant continues to work with the staff towards obtaining an access agreement with the

property owners to the south. Something really general that says they are going to keep working on it. We don't want to hold up anybody or do something that we are not legally entitled to do. Just keep working on it and get it done so the rest of the project can be completed. [20:02:24](#)

- **Commissioner Burgess** – Right now then, the motion will allow them to continue on, so they are not going to be in trouble with the temporary fence when UDOT takes it down. Then they can meet with Mark McGrath and work out the details with the party to the south in the future and the big project can move forward. **Commissioner Jensen** - That's right, based upon the fact that they have expressed an interest to have that access agreement but the other property owners are not here, so we can't do it, you can't do it, the City can't do it. At least this gives encouragement to keep going. **Commissioner Burgess** - That has been one of the issues tonight, in trying to make a decision for someone whom the Commission can't make a decision for because they are not in attendance.

- **Commissioner Jensen called for a vote on the motion.**

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Burgess	AYE	Barbieri	Excused
Overson	AYE	Fazzini	AYE	Fink	Excused
Kehl	NAY	Jensen	Chair		
Motion passes 4 to 1.					

**WORK SESSION**

**Commissioner Jensen** closed the special planning commission meeting and opened the meeting for the work session.

6. Presentation on Economic Development Strategy and the Planning Commission's Role by Keith Snarr, City of Taylorsville Economic Development Director.

6.1 **Mr. McGrath** introduced Mr. Keith Snarr and turned the time over to him. [20:04:18](#) **Mr. Snarr** introduced Scott Harrington (Chief Financial Officer for the City of Taylorsville), who gave a presentation on the revenues coming into the City and identified their sources. After that, **Mr. Snarr** gave his presentation, which included a hand-out showing large employers in Taylorsville, along with another handout showing new businesses proposing to locate in Taylorsville in the near future. Examples given were RBS Securities Inc. (part of the Royal Bank of Scotland), which will be locating in Building VII in Sorenson Research Park and have 75 employees this year and eventually will grow to 260 employees in the future. Delta Health Systems will be locating in the Centre Pointe Plaza, 6575 South Redwood Road with 55-60 employees by August 2, 2010. Bout Time Pub & Grub to be housed in the building recently vacated by Great Harvest Bakery in the Family Center. He also discussed in depth the types of business being targeted to come to Taylorsville. His last item for discussion was potential uses for the UDOT property at 6200 South and 3200 West as a mixed use high technology business research park. [20:26:56](#)

**CITY COUNCIL MEETING DISCUSSION:** Discussion of the previous City Council meeting (July 21, 2010) was presented by **Commissioner Fazzini**. [21:15:34](#)

**OTHER BUSINESS:** **Commissioner Jensen** advised he would be unable to attend the August 10, 2010 meeting.

**ADJOURNMENT:** By motion of **Commissioner Kehl** the meeting was adjourned at 9:20 p.m.

Respectfully submitted by:

\_\_\_\_\_  
Jean Gallegos, Admin Assistant/Recorder for the Planning Commission

Approved in meeting held on August 24, 2010.