

**City of Taylorsville
 Planning Commission Meeting
 Minutes
 Tuesday – August 11, 2009 – 7:00 P.M.
 2600 West Taylorsville Blvd – Council Chambers**

Attendance:

Planning Commission

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

Community Development Staff

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

PUBLIC: Carole Dehnel, Janet Haws, Terrance Degal, Jolene Berrett, Tina Berrett, Abby Smith, Rory Norseth, John Selck, Janet Selck, Steve McFarland, Joe Tortorica, Richard Mills, Erica Nelson, Kristi Deweer, Robert Demler, Rachael Stoddard, Day Walker, Brooke Ollis, Ron Ollis, Todd Andersen, Debbie Andersen, Paulette Hansen, Gary Hansen, Robert Brinkerhoff, Jed Draper, Carole Burmester, Joel Burmester, Gay Lynn Osness, Marie Koehler, Shelli Summers, Scott Nesbitt, J. Chavez, John Robinson, Denise Lyday, Gene Lyday, Corby Guymon, Mark Guymon, Laura Armon, Terry Ellis, Troy Ricks, Morris K. Pratt, Karla Barrett, Kevin Barrett, Thomas Hyatt, Marlo Krogue, R. Turner, M. Turner, Zolton Cheh

[19:00:54](#)

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

CONSENT AGENDA

Agenda/File #	Application	Applicants	Action
1. Review/approval of Minutes for July 14, 2009			Approved as presented.
2. 16H09	Home Occupation – Real Estate Broker	Daniel D. Walker 4596 Ebony Ave	Approved with staff's recommendations.
3. 18H09	Home Occupation – Child Day Care	Erica Nelson 5599 W Whitewood Drive	Approved with staff's recommendations.
4. 19H09	Home Occupation – Taxidermist	Robert Demler 6109 S Don Quixote Drive	Approved with staff's recommendations.
5. 26C07	CUP – 1 Year Extension for Co-located Cell Antenna Array	Jerry Hanson (Clearwire US) 6008 S Redwood Road	Approved with staff's recommendations.
6. 27C07	CUP – 1 Year Extension for Co-located Cell Antenna Array	Jerry Hanson (Clearwire US) 3718 W 5400 S	Approved with staff's recommendations.
7. 27C09	CUP – Alteration to a Historic Building	Alrasool Islamic Center 1247 W 4800 S	Approved with staff's recommendations.
8. 31C09	CUP – Animal Hobby Permit	Shelli Summers 1373 W Diane Drive	Approved with staff's recommendations.

No one came forward to speak in opposition to any of the items on the Consent Agenda.

MOTION: **Commissioner Overson** - I move for approval of the Consent Agenda consisting of Item 1 through 8.

SECOND: **Commissioner Fazzini**

Commissioner Bolton restated the motion to approve the Consent Agenda as presented.

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

CONDITIONAL USES

9. 32C09 Addition to Arctic Circle Restaurant – 2650 W 4700 S. (Dan Udall/City Planner) [19:05:28](#)

9.1 **Mr. Udall** presented this item. The applicant is requesting a 753 square foot addition to an existing restaurant (Arctic Circle) on property located at 2650 W 4700 S. The addition is proposed to be located on the south side of the restaurant. The proposed use is a play ground and customer floor area within the restaurant and will be architecturally compatible to the building. The applicant is proposing to remove ten parking stalls south of the restaurant and replace them with seven parallel parking stalls. One additional parking stall is proposed to be removed and one parking stall will remain. The applicant is proposing two additional trees in the park strip along 4700 South. The property is .28 acre, however, the building as proposed will straddle the property line, therefore, the land is larger than .28 acres. The property is actually on a 6.8 acre property. Currently there is enough parking stalls on the site for the entire shopping center so that staff is actually proposing that a 5' wide landscaped area be located just south of the addition and a driveway south of the landscaped area rather than having the parallel parking stalls as proposed by the applicant. Because the building will straddle the property line, staff is proposing a lot line adjustment that continues on to 4700 South. That the line just south of the building be removed so the building will not straddle the property line. [19:08:27](#) Currently the landscaping on the site does not conform with the City Ordinance as far as the shopping center is concerned. It has 13.3% landscaping instead of the 15% as required. The applicant has said they are willing to provide a 5' landscape buffer between the proposed addition and the driveway approach and also are willing to add additional landscaping in the rear if necessary to increase the amount of landscaping on the site. Staff is recommending approval. **Commissioner Overson** asked Mr. Udall if the 13.3% landscaping was applied to the entire shopping center and **Mr. Udall** said it was. So it is not really up to this particular applicant to make up that difference, to which **Mr. Udall** agreed. She continued on to discuss the lot line adjustment suggested by Mr. Udall and asked if that were something which should be in the form of a recommendation or is that something that would just happen? **Mr. Udall** said that staff is recommending that to happen. That he inadvertently left it off as one of the conditions but that it does need to be one.

Findings of Fact for File #32C09:

1. That the applicant is requesting a restaurant addition.
2. That the restaurant addition is a conditional use in the C-2 Zone.
3. That the use should not adversely affect the surrounding area.

Staff Recommendation: Staff recommends approval with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. That City Staff approves the final conditional review.
3. That the proposed trees are moved to the landscape area north of the public sidewalk.
4. That lighting, additions, colors, building materials, etc., match or complement the overall design of the project.
5. That the project receives storm drain approval from the City Engineering Division and pays all applicable storm drain fees.
6. That the building elevations are approved as submitted to the Planning Commission.
7. That the applicant receives a building permit for any new wall signs and the addition.
8. That the proposed parallel parking stalls are removed and a 5' wide landscape area is provided between the proposed addition and a 24' wide driveway aisle.
9. **[Added by Motion]** That the lot line be extended to the 4700 South right-of-way.
10. **[Added by Motion]** That awnings be provided on the windows of the addition to the building.
11. **[Added by Motion] (Recommendation Only)** Also recommending that the applicant looks at the deteriorating curbing and discusses the matter with the property owner.

9.2 **APPLICANT ADDRESS:** **Mr. Joe Tortorica (Contractor) was present to represent the applicant.** [19:11:14](#) **Mr. Tortorica** said they will put in the 5' of landscaping if the Commission determines that is necessary. That they would rather not do that but will if it is mandated by the Commission. **Commissioner Overson** asked if Mr. Tortorica was aware that the curbing for existing parking is starting to deteriorate and **Mr. Tortorica** said that is an issue for the shopping center and not Arctic Circle, who is just leasing the site. However, commented that if it is done, he would probably be the one who does it. **Commissioner Murray** conveyed his appreciation to Mr. Tortorica on the way they have been working with the neighbors and the willingness shown to accommodate concerns raised by the Planning Commission. **Commissioner Murray** went on to suggest some architectural changes to the proposed structure, dealing with continuation of the awnings on the addition. **Mr. Tortorica** said that he felt the windows being proposed for the addition will look nice without the awnings but would add the awnings if that is the wish of the Commission. He continued on to say the building has 8' high windows and he was not sure how much help the awnings would be but he would be willing to put them on the two sides where there is no landscaping planned. **Commissioner Murray** then wanted to know if the 5' of landscape could be wrapped around the building

and **Mr. Tortorica** said that the location of the sidewalk would not allow that to happen. **Commissioner Murray** advised that the plan presently before the Commission does not show that and he recommended incorporating the 5' of landscaping area to the south and extend the curb to capture the landscape median and meets the west sidewalk, to which, **Mr. Tortorica** agreed. [19:20:25](#)

9.3 **SPEAKING:** None

9.4 **DISCUSSION:** **Commissioner Murray** [19:21:25](#) elaborated on his suggestion to possibly add awnings to the addition's windows by saying he felt that would be a nice aspect to add the awnings over the tall windows on three sides, so that as it reaches out to the street and down to the pedestrians. **Commissioner Bolton** added that he noticed that the drive aisles don't line up and felt that the City Engineer should look at the traffic patterns. **Commissioner Overson** said that she agreed but if the drive aisles do not line up it may mean that traffic flow there is slower. [19:23:06](#)

9.5 **MOTION:** **Commissioner Overson** [19:23:27](#): **Based on the discussion tonight with the applicant and information derived from the staff report, I move for preliminary conditional use approval of File #32C09 with conditions contained within the staff report and adding #9 that the lot line be extended to the 4700 South right-of-way. Adding #10 that awnings be provided on the windows of the addition to the building. Also recommending that the applicant looks at the deteriorating curbing and discusses the matter with the property owner.** [19:24:55](#)

SECOND: **Commissioner Murray**

Commissioner Bolton restated the motion to approve the preliminary conditional use permit for File #32C09 including conditions 1 through 8 with additional condition #9 that the lot line is extended to the 4700 South right-of-way and #10 that awnings be incorporated into the addition. **Commissioner Jensen** asked if the motion should include having the landscaping in #8 wrap around the corners. **Commissioner Overson** said that based on the discussion heard tonight, staff understands what the Commission is working for and that the applicant should work with staff on any issues. [19:26:06](#)

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

10. 28C09 Troy Ricks – 2030 W 5400 S – Office Building (Michael Meldrum/Principal Planner) [19:26:54](#)

10.1 **Mr. Meldrum** presented this item. The application was previously presented to the Planning Commission on July 14, 2009. At that time, the Planning Commission tabled this item so that the applicant could provide additional information. The applicant is seeking to obtain approval for a preliminary conditional use permit for an insurance office building proposed at 2030 W 5400 S. As originally presented, the building contained one floor and measured 4,000 square feet. The building has since been reduced in size by 300 square feet and now contains 3,700 square feet. The exterior building materials are proposed to be brick, stone and hardi-plank siding. The applicant proposes to retain the garage that is currently located on the northwest corner of the property.

Findings of Fact:

1. The applicant has requested approval for a Conditional Use Permit.
2. The property is zoned MD-1.
3. The proposed building meets all setback requirements.
4. The landscaping on the east property line is compliant with Ordinance requirements.
5. Parking is compliant with Ordinance requirements.

Staff Recommendation: Based on the above findings of fact, staff recommends approval with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. The Conditional Use Permit may be reviewed based upon substantiated and unresolved complaint.
3. Provide documentation of approval from UDOT for the access onto 5400 South.
4. Complete the technical review and final conditional use permit review.
5. Staff is authorized to conduct the final conditional use permit review.

10.2 **DISCUSSION:** **Commissioner Overson** asked if a landscape plan was available and **Mr. Meldrum** said staff was not in possession of a specific planting plan yet but that it was a requirement for the final review. [19:29:13](#)

10.3 **APPLICANT ADDRESS:** Troy Hicks was present.

10.4 **SPEAKING:** None.

10.5 **DISCUSSION:** None.

10.6 **MOTION:** Commissioner Overson 19:30:05 - Based on the Findings of Fact in the staff report, adding that I appreciate the modifications made by the applicant, I move for approval of File #28C09 with Conditions 1 through 5.

SECOND: Commissioner Fink

Commissioner Bolton restated the motion to approve File #28C09 for an office building. 19:30:37

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

11. 29C09 **Rachael Stoddard – 5688 S 3513 W** – Animal Fancier Permit (Michael Meldrum/Principal Planner) 19:31:09

11.1. **Mr. Meldrum** presented this item. The applicant is requesting approval for an Animal Fancier permit for a third dog for the purposes of breeding the dogs. The applicant filed a previous application for an Animal Fancier permit at this address, which was denied by the Planning Commission during their November 25, 2008 meeting. The applicant was not in attendance at that meeting. Neighbors in attendance complained about the dogs barking. A complaint was subsequently filed about one of the barking dogs. The complaint has been resolved by the applicant purchasing a bark (shock) collar for that dog. West Valley Animal Control has verified that a warning was issued and the case closed upon the purchase of that bark collar. Since the November 25, 2008 meeting, in April 2009 the applicant had an additional complaint for a dog running at large. In speaking with West Valley Animal Services, the applicant pleaded guilty to the charge and the case is now closed. There are no other open or pending cases with West Valley Animal Services at this address. The applicant desires to be in compliance with ordinance requirements and has provided all requested documentation.

Findings of Fact for File #29C09:

1. The Animal Hobby/Fancier's Permit is allowed as a conditional use in the R-1-6 zone.
2. Two complaints were filed with West Valley Animal Services, both of which have been resolved and closed.
3. The applicant will be breeding the dogs.

Staff is not making a formal recommendation on this item due to the complaints that have been filed regarding the dogs at this property. Staff recommends that the Planning Commission consider these complaints and the testimony of both the applicant and any residents who may be in attendance at the Planning Commission public hearing. Should the Planning Commission determine that approval is warranted, Staff recommends the following conditions:

1. The applicant must license any unlicensed dogs within one month of obtaining approval of the Animal Fancier's Permit.
2. The Animal Fancier's Permit is subject to review upon substantiated and unresolved complaint.
3. Maintain current vaccinations for all of the dogs.
4. The applicant must comply with Section 8.12.090 regarding how long puppies may be retained on site from any given litter.
5. The applicant must provide documentation that the dogs are registered with a national registry.

11.2 **APPLICANT ADDRESS:** Rachael Stoddard, 19:34:03 **Ms. Stoddard** admitted there had been a problem with the dogs jumping over the fence and getting out in the past, however, that in May she had installed a 6' high fence, which they cannot get over. **Commissioner Overson** commented that this is the same application that had been previously denied by the Commission due to negative comments from the neighbors. She asked the applicant if she still had those same three dogs referenced on the previous application and if she was currently breeding them. **Ms. Stoddard** said they were the same dogs and that she was breeding them. That her neighbors on either side have expressed no problems with the dogs. **Commissioner Bolton** thanked the applicant for her comments and opened the meeting for public comment.

11.3 **SPEAKING:**

1. **Zoltan Cheh** [19:36:00](#). **Mr. Cheh** said that dogs, by their very nature, do bark when outside, especially if there is something going on. Her dogs still get out, apparently through the neighbor's fence. He felt this owner should not have dogs because she had demonstrated irresponsibility in dealing with their well being as well as that of the neighbors. When asked if he had ever spoken to Ms. Stoddard about the problem, he replied that he had not.
2. **Xavier Chavez** [19:40:34](#). **Mr. Chavez** lives seven houses west of this property but hears all of the neighbors complaints. The dogs have not been out the last month. His concern was that they have many animals and that the neighborhood children are afraid of these dogs and pretty much stay within their own yards because of that.
3. **Tama Hale (Written Response)**. **Ms. Hale** was unable to attend this meeting but sent an E-Mail to the Planning Department as follows: "I would like to register my disapproval of the requested "animal fancier permit" by Rachael Stoddard at 5688 South 3525 West. As her neighbor across the street to the East, I've found that these dogs make a great deal of noise and are found roaming the neighborhood without being on a leash."

11.4 **DISCUSSION:**

- **Commissioner Fazzini** asked staff why, if the applicant filed this application on July 7th, was there such a delay and it was not being heard until this meeting (August 11, 2009). **Mr. Meldrum** advised this was the first meeting available. **Commissioner Fazzini** said that in reviewing the documentation regarding the complaint filed with West Valley City, he found that they ordered her to have a proof of animal license by July 31, 2009, so this is the quickest reasonable time frame for applying. [19:45:19](#)
- **Commissioner Jensen** commented to staff that in the application, it says that she is requesting a Fancier Permit but then in the Findings of Fact and Recommendation it refers to Animal Hobby Permit. **Mr. Meldrum** said that was a typographical error and all should say Fancier Permit and not Animal Hobby Permit. **Commissioner Jensen** asked if the third dog in question then was the Scottish Terrier? **Mr. Meldrum** said he as not sure which order the dogs were purchased in, so that would be up to the Commission or applicant to determine which dog is third dog if this is not approved and would have to be removed from the home. **Commissioner Jensen** asked if the reference to six dogs refers to the puppies. **Mr. Meldrum** said that was correct. [19:46:35](#)
- **Commissioner Murray** asked the applicant a question which revolves around this particular request having been reviewed in November 2008 and it was requested that a Fancier's Permit be obtained. **Ms. Stoddard** said that was correct. **Commissioner Murray** said his question is was Ms. Stoddard aware that the application was denied at that time. **Ms. Stoddard** said she was not and was not aware that her presence was required at that meeting. She said she never received any notification so stating. **Commissioner Murray** said it is customary that staff sends out a notice of the results of a hearing. **Ms. Stoddard** said that she did not receive that. **Commissioner Murray** said he was just curious how long she has been breeding pets at her residence. **Ms. Stoddard** replied that they have lived there 2 ½ years. The Scottish Terrier is 3 years old and the other two were obtained about 1 ½ years after moving in. [19:48:14](#)
- **Commissioner Murray** commented that there has been a history of challenges with these dogs, past and present. Given that this request is for an Animal Fancier's Permit puts the Commission in a difficult position in respect to having to take care of issues with neighbors. The Commission is not in the business of enforcing laws but simply to make decisions based on ordinance and law. Therefore, he recommended that the Commission denies this application.
- **Commissioner Fazzini** added that in reviewing the documentation on the court hearing, the fine was suspended and if they are not in compliance they could be forced to go back to court.
- **Commissioner Bolton** suggested that the Commissioners focus only on the application for the Animal Fancier's Permit before them.
- **Commissioner Jensen** said that he would not have a problem voting in favor if this were an Animal Hobby Permit but would have a difficult time approving an Animal Fancier's Permit because of all the problems which have ensued.

- 11.5 **MOTION:** Commissioner Murray 19:52:17 I will make a motion to deny this request.
SECOND: Commissioner Overson
Commissioner Bolton restated the motion for denial.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
<u>Murray</u>	AYE	<u>Bolton</u>	AYE	<u>Fink</u>	AYE
<u>Overson</u>	AYE	<u>Jensen</u>	AYE	<u>Fazzini</u>	AYE
<u>Commissioner Jensen</u> recommended to the applicant that she applies for a hobby permit instead and <u>Commissioner Bolton</u> suggested she works with staff on that issue. VOTE by the Commission was unanimous.					

12. 5S09 and 1D09 – Corby and Mark Guymon – Subdivision and Deep Lot Applications.
 (Michael Meldrum/Principal Planner) 19:53:34

12.1 Mr. Meldrum presented Items 5S09 and 1D09 simultaneously. The applicants are seeking to obtain approval for a simple two-lot subdivision on property located at 4946 S 1250 W. The existing lot contains 1.26 acres. The proposed lots would be approximately 0.905 acre and 0.413 acres respectively. Access to the properties is from 1250 West. 19:54:58

- The property is located in an A-1 zoning district. The minimum lot size in this zoning district is 10,000 square feet. The proposed lots exceed this required minimum standard.
- There is a discrepancy in the acreage listed for the existing parcel. The Salt Lake County Recorder's Office shows acreage of 1.26 acres while the submitted plat shows a total of 1.318 acres. It is unclear why there is a discrepancy of 0.058 acres. It would be speculation on the part of staff to try to explain why there is a discrepancy. Staff recommends that the Planning Commission direct questions regarding the parcel to the property owners or their representatives.
- There is an existing home on the subject property that will remain on what will become Lot #2.
- The applicant has filed a request for a Simple Subdivision and also a Deep Lot Subdivision. The Deep Lot Subdivision application is required since one of the proposed lots does not meet the requirements for lot frontage on a public street.
- There is an existing driveway located on the north side of the property that will serve as the access for both lots. The driveway is 20 feet in width and complies with UFA requirements for width and turn-around. A shed is currently located on the proposed property line. A demolition permit will be required to remove this shed. The applicant may obtain the demolition permit through the Building Department and complying with all Building Code requirements for removal of a structure.
- The City Engineer has identified several items that must be addressed during the technical and final subdivision plat reviews. These issues include showing the location of the nearest fire hydrant and street light, the location of the sewer and water lines (must meet minimum separation requirements), and providing explanation for what the bubbled areas on the construction drawings are identifying. None of these items would prohibit the applicant from obtaining preliminary subdivision plat approval for the simple subdivision. The "red line" items from both Planning and Engineering have been provided to the applicant's engineer. Staff has spoken with the engineer and found that he is already working to correct or address those items.
- There is an open ditch that runs along the south property line. The applicant is not proposing to do anything with this ditch and will leave it as is so as not to impact down stream users. The ditch is in active use and any changes would need to be reviewed and approved by the ditch master and the canal company.
- The applicant is also applying for a deep lot subdivision. This type of application requires that a plat plan and architectural building elevations be submitted for review. The applicant has complied with these requirements. The house is proposed to be a rambler style home (one level above grade and a basement). Staff has reviewed the submitted architectural building elevations and finds that they comply with all ordinance requirements.

Findings of Fact for File #5S09 and 1D09:

1. The applicant has requested a 2-lot residential subdivision.
2. The lots comply with all ordinance requirements.
3. The applicant is requesting a deep-lot subdivision.

Staff Recommendation: Staff recommends approval of File #5S09 with the following conditions:

1. That the proposed subdivision creating two lots is compatible with the requirements of Title 12 of the Subdivision Ordinance.
2. No adverse impact is anticipated on any adjacent properties.
3. Receive approval from and remain complaint with all applicable reviewing agencies.
4. Staff is authorized to conduct the Final Subdivision Plat review.

Staff Recommendation: Staff recommends approval of File 1D09 with the following conditions:

1. A building permit must be obtained prior to any construction.
2. A technical review of the proposed utility connections must be completed by the City Engineer.
3. Any change in home style must be reviewed by the Planning Commission.
4. Receive approval from and remain complaint with all applicable reviewing agencies.

12.2 **DISCUSSION: Commissioner Overson** asked if the discrepancy on acreage mentioned by Mr. Udall would affect the Planning Commission's decision. **Mr. Meldrum** said that they were two separate issues and the Commission only has to deal with the simple subdivision and deep lot requests tonight. **Commissioner Murray** wanted to know if the existing shed would remain and **Mr. Meldrum** said it would not.

12.3. **APPLICANT ADDRESS: The Applicant was present but did not wish to speak.**

12.4 **SPEAKING: Morris Pratt 19:59:05** expressed his appreciation for the work the Planning Commission does. He added that land-wise Taylorsville has nothing left but difficult properties to develop. Rather than selling property and moving away, life time residents desire to stay here and still make use of their property. That not only does this proposal meet the ordinances but is a good thing and the City wants these neighbors to remain in Taylorsville.

12.5 **MOTION: Commissioner Overson - Based on the Findings of Fact in the staff report and being as this is a straight-forward application, I move for approval of File #5S09 – two lot simple subdivision with conditions in the staff report. 20:03:59**

SECOND: Commissioner Murray

Commissioner Bolton restated the motion to approve File #5S09 with staff conditions 1 through 4.

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

MOTION: Commissioner Overson - Based on the Findings of Fact in the staff report and being as this is a straight-forward application, I move for approval of File #1D09 – one deep lot with conditions in the staff report. 20:03:59

SECOND: Commissioner Murray

Commissioner Bolton restated the motion to approve the File #1D09 with staff conditions 1 through 4.

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

SPECIAL ITEMS

14.	1S109	<u>CTA Community Supports – 2313 Tierra Rose Drive</u> – (Michael Meldrum/Principal Planner) 20:05:40
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14.1 **Mr. Meldrum** presented this item. The use is already in operation on this site and has been for approximately one year. The property is home to four Autistic young men. City ordinances currently allow a maximum of three unrelated individuals in a home. The applicant is requesting to allow four unrelated individuals through a reasonable accommodation provision in City Ordinances. A reasonable accommodation may be granted by the Planning Commission. The owner of the home is CAT Community Supports. They are a non-profit corporation with a contract with the State of Utah, Division of Services for People with Disabilities (DSPD).

- This group home falls under the auspices of the Americans with Disabilities Act and the Federal Fair Housing Act. They are seeking a reasonable accommodation as outlined in Section 13.64.060 of the Taylorsville Zoning Ordinance. This section of the Ordinance contains three criteria which must be met prior to obtaining the reasonable accommodation. The criteria are as follows:
 1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
 2. That but for the accommodation, one or more persons with a disability will be denied an equal opportunity to enjoy housing of their choice.
 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.
- The applicant is specifically requesting a reasonable accommodation to the family definition to allow a fourth individual to reside in the home. Section 13.04.210 regarding definitions provides a definition for family that states:
 - A. Any number of people living together in a dwelling unit and related by blood, marriage or adoption, and including up to three (3) unrelated people; or
 - B. One to three (3) unrelated people living together in a dwelling. Each unrelated person owning or operating a motor vehicle shall have a lawfully located off street parking space.
- It is staff's understanding that CTA Community Supports provides training and assistance in the areas of daily living skills and job support. Staff has spoken with the Operations Director, Rory Norseth, regarding day-to-day operations since this information was not included in the letter supplied to the City. Staff was informed that there are care providers in the home 24-hours a day. The autistic individuals are always supervised by staff of CTA Community Supports. The general shift hours are from 8:00 a.m. to 4:00 p.m., 4:00 p.m. to 10:00 p.m. and 10:00 p.m. to 8:00 a.m.
- Staff also inquired as to how the individuals are chosen to live in a particular home. **Mr. Norseth** explained that it is done by a referral basis from the Utah State Division of Services for People with Disabilities (DSPD). CTA Community Supports specializes in autistic individuals that are first evaluated by a DSPD case worker. If they feel that the individual they are evaluating is a candidate to live in a CTA Community Supports home, then they send an RFP to them and that individual is then evaluated by CTA Community Supports. If there is space in one of their homes, then CTA Community Supports would offer the space to that individual. Most of the participants in the CTA Community Supports program are fairly high functioning autistic individuals; however, they do have some program participants that are relatively low functioning. These individuals receive a greater degree of support and assistance.

Findings of Fact for File #1SI09:

1. The applicant has requested a reasonable accommodation under Section 13.64.060.
2. The request is for four Autistic young men.
3. Care providers are on site 24 hours a day but do not live in the residence.

Staff Recommendation: Staff recommends approval of File #1SI09 with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. The maximum number of program participants that may reside in the home located at 2313 Tierra Rose Drive is four (4).
3. The applicant must notify the City of Taylorsville and apply for any permits or permissions prior to expanding the facility.
4. Consult with the City of Taylorsville prior to any construction or remodeling and obtain the appropriate permits as required by the City's Building Official.

14.2. **APPLICANT ADDRESS:** **Rory Norseth** (Operations Director for CAT) and **Sally Swensen** (Program Director) **20:10:10 Commissioner Jensen** asked how many staff members were on site and **Ms. Swensen** said that the supervision during the week days is one to one but during the night there is only one person on duty.

Commissioner Jensen wanted to know if parking was provided for staff. **Ms Swensen** answered there was parking available for staff and none of the residents drive cars. **Commissioner Fazzini** wanted to know if there was a staff vehicle and was informed there was one. **Mr. Norseth** advised that they have 21 of these programs scattered throughout Salt Lake County. That they do rigorous background checks on all individuals. [20:13:15](#) He realizes that the term "group home" puts fear in people. They have been in operation at this site for over a year and have four people living in the home and there have been no problems with any of them. **Commissioner Overson** asked Mr. Norseth if they have a business license for this location and **Mr. Norseth** explained that is the next step after receiving approval from the Planning Commission.

14.3 **SPEAKING:**

1. **Gene Lyday** [20:15:32](#) **Mr. Lyday** expressed concerns with the amount of parking there. The road narrows and there are families with children all the time. The image of the home shows four cars and he expressed disbelief that the staff parks their vehicles in tandem all the time. The overflow parking clutters up the neighborhood and poses a danger to the children. His opinion was that no matter how you cut it, a group home is a group home and that devaluates the property. **Commissioner Overson** asked him if he was aware there was a group home in operation there and **Mr. Lyday** said he was not, however, did wonder about the significant number of cars.
2. **Robert Brinkerhoff** [20:18:02](#) (lives around the corner to the east). **Mr. Brinkerhoff** said he was not aware that this was a group home but did have a concern with putting a business in the middle of a residential neighborhood. It is a business that opened up in Taylorsville without a permit, which is a violation of City Ordinance. He was also concerned with the number of additions and improvements made to the property. During the winter, he walked out and saw a telephone pole had been installed. They had dug in the line and damaged his sprinkling system during the process, which impacts him directly. He said that he has nothing against autistic individuals but this is a residential neighborhood. This will affect property values and for those reasons he recommends denial of the application.
3. **Monte Garrett** - [20:21:37](#) **Mr. Garrett** addressed Mr. Meldrum saying that he too had noticed construction occurring on the site. He was told that there was going to be three people living there and so they did not need to apply before the Planning Commission. He felt that they must have known all the time there would be four people. The City was informed of these facts and did nothing. He had nothing against autistic people but was concerned about devaluation of his home and that there is smoking by the occupants/or staff. [20:24:39](#)
4. **Mr. McGrath** asked permission to clarify one of the issues. He said that this residential facility is mandated by Federal Law as something the City must permit. These group homes are required to be allowed in any zone that a residential home can be in. The issue tonight is only the fourth person, otherwise, the City has no authority to deny this use.
5. **Richard Mills** [20:25:48](#) **Mr. Mills'** biggest concern is what the possibilities are of something happening as a result of this use. He is not against the autistic people who live there but it is now a business. **Commissioner Bolton** advised that three non-related individuals can live in the house, it is adding the fourth one that changes the situation. **Mr. McGrath** reiterated that this use is supported by the Federal Fair Housing Act but adding the fourth person creates the problem. However, they have the right to apply for a reasonable accommodation which is basically a variance from the normal definition of family, which is what they have done in this instance. They will be required to have a business license. **Mr. Mills** commented that apparently their business is the service they provide. [20:29:08](#)
6. **Terry Allison** [20:29:24](#) asked if it is not a business, what is it then, because they employ people 24 hours a day? **Commissioner Bolton** said that they provide a service, paid for by Medicaid. **Mr. Allison** added that the vehicle situation is bad and wondered why they can't rely on buses for transportation. The neighbors don't have a problem with the people who live there but are concerned with the amount of construction in the home. Also, if it is not a business, why then do they have their name on it as a group home? **Mr. McGrath** [20:31:13](#) added that this is where four autistic people live, it is a residence for special needs people. The business provides service to these people. The Federal and State Governments have dictated that these facilities be considered the same as residences.

7. **Scott Anderson** [20:33:41](#) wanted to know who pays for the house – CTA Community Supports or the Federal/State Government? He continued on to say that this house is not staffed properly and the van does not obey the speed limit. The UTA buses in and out of this area do not obey the speed limit. He was greatly concerned with the safety of the children who play in the area. If CTA has other businesses, they should know the rules and the permit should be denied because they are not following those rules.
8. **Jed Draper** - [20:36:31](#) **Mr. Draper** asked the question that if it is permitted, what changes will be made to the neighborhood and what were his options? Would their lives change and how? Currently there are four people living there and there should only be three. If this is approved, he wanted to know how that impacted him. **Commissioner Bolton** told him there probably would be no noticeable adverse impact on the neighbors.
9. **Marlo Kroque** - [20:39:17](#) **Mr. Kroque** said that it sounds like a difficult situation in dealing with a group home that is mandated by the government to be there. It is a needed service but the neighbors deserve to maintain the same characteristics that have been in place there for over 30 years. The neighborhood can probably deal with the three people living there but not four and one of the residents should be moved elsewhere.
10. **David Sampson (6552 Glenview Circle – to the south of this site)**. [20:41:45](#) **Mr. Sampson** asked if the Planning Commission were to deny the variance for the fourth individual, would that decision be automatically accepted by the City Council. [20:42:33](#) **Commissioner Bolton** said that unless there is an appeal to the Commission's decision, it will not go further. **Commissioner Overson** said that is correct – approved or denied, this is where it is filed and a decision made. **Commissioner Jensen** said that the Commission cannot deny them the right to establish a group home. **Mr. Sampson** asked that outside of the decision tonight, what would be the process from there? **Mr. Meldrum** advised that a decision can be appealed. **Mr. McGrath** advised that any person adversely affected by the decision may appeal it to the Board of Adjustment. [20:45:04](#)
11. **Thomas Hyatt** - [20:45:31](#) **Mr. Hyatt** said that this is the first time that he heard anything from Taylorsville City on what is going on in that home. [20:45:53](#) He added that he found it very deceptive that these people were bought in and no one let the neighborhood know what was being proposed. [20:46:31](#) The construction that went on affected his family with the dust and noise and there was no permit apparently. The cable previously discussed also went through his yard. He expressed concern as to whether the staff can handle the situations that arise in this home. Doors are left open and staff is unresponsive to someone knocking on the door. He felt the major reason the neighbors are upset is finding out what is going on through a public meeting, with absolutely no common courtesy rendered by the people running the operation before it happened.
12. **Karla Barnett** - **Mrs. Barnett** concurred with previous speakers who said there is not enough parking space there. She said that she has previously worked with disabled and handicapped people and fully understands that they need a place to live but these occupants are not being given proper care. She said that having recently moved into the neighborhood, they probably would not have done so if they knew there was a group home there. She asked the Commission to keep the number at three.
13. **Gene Lyday** - [20:53:01](#) **Mr. Lyday** said that after listening to Commissioners ask if the neighbors knew there was a group home there, he said that three people in the home is okay but objects to adding the fourth. Also, the City needs to make sure they have a proper business license.
14. **Comment from the audience** - If the Planning Commission allows four, who will oversee that to be sure it stays at four? [20:54:17](#)
15. **Julie Barrett** [20:54:36](#). **Ms. Barrett** said that she has noticed that when these individuals walk, the staff maintains a significant space between them which she feels it too much to be able to control anything. She has also noted that staff conducts apparent fire drills. Small children are frightened of people they don't know and actions they don't understand but have the right to walk around their neighborhood without fear. **Commissioner Bolton** added that apparently the quality of care given these individuals is an issue of the neighbors.
16. **Richard Turner** - [20:56:19](#) **Mr. Turner** said that he wanted to make it clear that three individuals is okay but adding the fourth one is not.

14.4 **Applicant READDRESS: Commissioner Bolton** suggested that the biggest question seems to be the increase in traffic. **Mr. Norseth** said at this particular home many of the people actually carpool. **Ms. Swensen** added that the cars are moved in and out of the driveway to keep the cars on site. **Commissioner Bolton** said that another issue that came up during the public hearing was the issue of quality of care. **Ms. Swensen** said that is regulated by the State of Utah and that their personnel are well qualified. **Commissioner Bolton** added that the concern right now of the neighbors is the increase in individuals living in the home. The neighbors were not aware this group home was operational and feel deceived because they were not informed this was going to come about. **Commissioner Bolton** suggested to the applicant that CTA tries to interact with the neighbors a little better and also to talk with the staff about the parking issues. **Mr. Norseth** addressed the neighbor's concerns about devaluing their property and did not know how they could diminish that perception. With regard to the installation of the sprinkling system as alluded to by the neighbors, all they did was put in a sprinkling system and were not responsible for any activities the cable/utility companies may have been involved in. They added a patio to the back yard, for which they were not aware they needed a permit from the City. He said that they would educate their staff regarding proper parking procedures and proper smoking etiquette. No one knew there were four gentlemen in the home, so essentially that doesn't seem to be an issue. The individuals have the right to walk where and when they want to, which proves they are able to interact. The fire drills eluded to by one neighbor are required for the occupant's safety. As far as doing business, they felt they were just a residence, not selling anything just providing a service to people with disabilities. That they have never met this much opposition for any of their previous group homes and will do their best to rectify the problems discussed this evening. He added that the door is left open occasionally to circulate the air because the home is cooled with a swamp cooler. [21:04:03](#)

14.5 **DISCUSSION:**

- **Commissioner Murray** [21:04:54](#) said that everyone understands that autistic people must have a place to live, however, the applicant might have avoided some problems aired tonight if they would have been more proactive in informing the neighbors beforehand what was being planned for their neighborhood. If there are any subsequent modifications required, that too should be part of the neighborhood notification. **Mr. Norseth** agreed.
- **Commissioner Overson** [21:07:29](#) said the Commission has heard from a lot of people tonight with differing opinions and interesting points of view and concerns. She wondered if someone lived in a neighborhood with four teenagers in a home with the resultant amount of cars and traffic concerns, would the neighborhood reaction have been different or the same. She felt there were a lot of valid and legitimate concerns. She said that she visits a group home every week and walks with them. She believed that the neighborhood is upset mostly because they were not informed prior to the home being established and there is a lot of emotion being displayed this evening. Her opinion was that three people in that home is appropriate and four is not. If the applicant should desire in the future when the neighborhood feels more assured that this is okay, the applicant could try this again.
- **Commissioner Jensen** did not see any reason to disrupt the lives of those people and felt the neighborhood should embrace the four people who presently live together. He was aware that the definition of family says that three unrelated people may live in a home but is in favor of allowing four with the condition provided that the approval is reviewable upon complaint. He felt that the Commissioners and the neighbors should be the better people. He has a halfway house in his neighborhood and has noted very little impact. He was in favor of allowing all four to remain in the home. [21:14:29](#)
- **Commissioner Fazzini** [21:14:37](#) commented that certainly operating these programs in a residential setting is challenging. He also has been involved with these sort of programs and had run smaller group homes of 1 to 3 several years ago. CTA is challenged with many different regulations from State and Federal levels that govern their behavior. He understood the concerns of the residents of wanting to be informed, however, these organizations don't usually do the "door knock" and one reason is it could violate the rights of the people living in the home. They would have to give their permission to go door to door and notify the neighbors of their disability. It is protected information just like medical records are. In regards to the van on site, his suggestion would be since there is one van taking up the space of essentially six spots (4 driveway slots and two in the garage), is to actually park the van on the street. Regarding the four person versus three issue, he agreed with Commissioner's analysis of that under normal circumstances, however, the CTA actually owns the home, so he was not sure if he completely agreed with that analogy. He was still inclined, since there have been no problems with this home and CTA Community Supports has attempted to comply once they became aware of the requirement, that the Commission should evaluate it on those merits. [21:16:39](#)

- 14.6 **MOTION #1: Commissioner Overson 21:17:15 - Based on testimony of the citizens and applicant, I move that we deny File #1SI09 an application for four individuals at this home and keep it at the Federal Government's mandate of three people.**

SECOND: Commissioner Murray

Commissioner Bolton restated the motion to deny File 1SI09 for four people.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Murray	AYE	Bolton	AYE	Fink	NAY
Overson	AYE	Jensen	NAY	Fazzini	NAY
The vote is tied 3 in favor and 3 in opposition. With a tie vote, the motion fails.					

MOTION #2: Commissioner Jensen 21:19:46 - I would like to make a motion to approve File #1SI09 with the four listed staff recommendations, adding additional recommendations - #5 that CTA make use of the driveway whenever possible and keep the garage door closed; #6 that this is reviewable upon complaint; #7 that CTA works with the neighborhood to let them know what is going on in relation to the group home within their neighborhood.

SECOND: Commissioner Fazzini 21:20:40

Commissioner Bolton restated the motion to approve File #1SI09 based upon the four conditions in the staff report, with the three additional conditions as stated by Commissioner Jensen.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Murray	NAY	Bolton	NAY	Fink	AYE
Overson	NAY	Jensen	AYE	Fazzini	AYE
The vote is tied 3 in favor and 3 in opposition. With a tie vote, the motion fails.					

DISCUSSION:

- **Commissioner Bolton** – Obviously there is an impasse and I would ask staff for guidance. **Mr. McGrath 21:22:42** – I reviewed the Planning Commission By-Laws adopted by both the Planning Commission and the City Council wherein under Section 4: Voting, it says that an affirmative vote of the majority of voting Commissioners present at the meeting shall decide all matters under consideration unless otherwise provided for in these policies and procedures. So in order for this application to be approved, there needs to be a majority vote. **Commissioner Fazzini** – Then neither motion has muster then. **Mr. McGrath** - Right.
- **Commissioner Jensen** - I would suggest making a motion to table this until we have a full, odd number of Commissioners on the Commission. So, table it until the next meeting.
- **Commissioner Overson** - We don't know if we will have another Commissioner by the next meeting. **Commissioner Bolton** - Mr. McGrath - if we are at an impasse do we have a right to table it due to the fact that the Commission has two unfilled vacancies right now?
- **Mr. McGrath** - It is certainly your right to vote for a continuance, for whatever reason. I should also reaffirm that the applicant does have appeal rights through the Board of Adjustment if it is denied through not receiving a majority vote.
- **Commissioner Overson** – So we had a motion to approve with subsequent tie vote and a motion to deny with subsequent tie vote. If we do nothing, what happens? Do we table it? If we do nothing it doesn't just go away.
- **Commissioner Murray** - Mr. Chair, I think the statement that Mr. McGrath read is the answer. The fact is that we are at an impasse is immaterial. The Commission failed to come up with a majority vote to pass the requested accommodation, therefore, it fails.
- **Commissioner Bolton** - The Commission cannot pass a motion on an application without a majority rule. But just because there is a tie and the Commission is at an impasse, there has to be a solution. We can discuss this amongst ourselves and figure what the issues are, where we stand and try to convince one another, etc.
- **Commissioner Jensen** - It is apparently clear that we need more time to talk about this. Would you be open to a motion? **Commissioner Bolton** - I hesitate to go that way, I think that might

be the direction, but we have a large gathering of public audience who have spent the last three and a half hours sitting here with us and I think they would like some kind of solution.

- **Commissioner Overson** - We want to do it the right way.
- **Commissioner Jensen** - Mr. Chair – Point of Order - Everything on the Planning Commission has to be done in order. We must come up with a decision, either approve it, deny it or table it. Those are all our choices. It is perfectly within our right to ask to have time to make a decision and if that includes waiting for another Commissioner to come on the Commission, that is within our rights to do that. We have to make the right decision according to the By-laws and City Ordinances, which say we must have a majority vote. **Commissioner Bolton** - You are correct and I do agree with that. I just want to make sure we have exhausted all of other options before we do that. That is my only concern. I do agree with what you are saying.
- **Commissioner Overson** - Mr. Chair, can we ask Mr. McGrath for guidance on this? **Mr. McGrath** - The situation as I see it, it has been a 3 to 3 tie on both sides of the issue. You could have an alternative motion to table it for further review, for whatever reason and depending on how that vote comes out, if it is an affirmative vote then the item is continued. If it is another 3 to 3 vote or a vote that does not approve the motion, it is my opinion that the application is denied since there has not been an affirmative vote for approval or denial. [21:28:32](#)
- **Commissioner Overson** - My concern about tabling this until we have another Commissioner or two is that we are not sure when that is going to happen. So, if we table it, are we tabling it based on that or based on someone on the Commission changing their mind on this issue? So, we would table it not time specific?
- **Commissioner Jensen** - Mr. Chair - it would be to our advantage to table it time specific and do it until the Planning Commission meeting where we have an intended odd number of appointed Commissioners available.
- **Commissioner Murray** - I think it is such an important issue and we are hinging on passing or not passing of something on a technicality. The statement Mr. McGrath made is clear that if we don't have a majority vote in the affirmative for this measure which has been placed before us to pass, then it does not pass. I think the decision has been rendered. The majority has not presented itself. I think that is our answer. **Commissioner Bolton** - Mr. McGrath – is that the way you interpret it? **Mr. McGrath** - That the lack of an affirmative vote is a denial? **Commissioner Bolton** - Yes. **Mr. McGrath** - Then the answer is yes.
- **Commissioner Bolton** - I would lean that way also. The reason I say if we table it until a time when we have an odd numbered Commission, if it is a newly appointed Commissioner, they are not going to have the knowledge that we have of the concerned citizens. It would put them in a very awkward, unfair position. If we wait until one of us is gone, i.e., sick, emergency, etc., I don't think we would be giving the application its' due justice. [21:31:02](#)
- **Commissioner Jensen** - I respect your opinion but I still think that tabling it is more appropriate because it gives us the chance to calm our feelings down and find out more information and gives us a chance to think about it again. A month is not really much time and I am confident that we can come back with a reasonable decision at that point in time.
- **Mr. McGrath** - Mr. Chair – let me remind you that you still have the ability to make another motion for continuance, approval or denial.
- **Commissioner Fazzini** - Just to make it clear that we are not going to do anything behind closed doors. If it is discussed further, it will be at another public meeting such as this. What we are talking about is discussing this at another meeting, not amongst ourselves tomorrow. It will be at a future public meeting.
- **Commissioner Overson** – It seems to me that we have had two votes and they have been tie votes, so unless there is another motion in the next few minutes, then we have had our answer that this has failed.

MOTION #3: Commissioner Jensen 21:33:17 - Mr. Chairman – Based on what I understand about being on the Planning Commission, which for me has been several years now, I want to make sure

everything is done properly and that we do have a legitimate vote, so I propose that we table this application to a future Planning Commission meeting when we can all get together in a public meeting and decide yes or no.

SECOND: Commissioner Overson

Commissioner Bolton restated the motion to table File #SI109 to some future date.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Murray	NAY	Bolton	NAY	Fink	AYE
Overson	NAY	Jensen	AYE	Fazzini	AYE
The vote is tied 3 in favor and 3 in opposition. With a tie vote, the motion fails.					

Commissioner Bolton - Based on the three failed motions and by direction of Mr. McGrath through interpretation of the Planning Commission By-laws, the application is denied.

15.	2SI09 CTA Community Supports – 5026 S Valois Court – (Michael Meldrum/Principal Planner) 21:35:53
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15.1 **Mr. Meldrum** presented this item. The use is already in operation on this site and has been for approximately one year. The property is home to four Autistic young men. City ordinances currently allow a maximum of three unrelated individuals. The applicant is requested to allow four unrelated individuals through a reasonable accommodation provision in City Ordinances. A reasonable accommodation may be granted by the Planning Commission. The owner of the home is CAT Community Supports. They are a non-profit corporation with a contract with the State of Utah, Division of Services for People with Disabilities (DSPD).

Findings of Fact for File #2SI09:

1. The applicant has requested a reasonable accommodation under Section 13.64.060.
2. The request is four Autistic young men.
3. Care providers on site 24 hours a day but do not lie in the residence.

Staff Recommendation: Staff recommends approval of File #1SI09 with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. The maximum number of program participants that may reside in the home located at 5026 S Valois Court is four (4).
3. The applicant must notify the City of Taylorsville and apply for any permits or permissions prior to expanding the facility.
4. Consult with the City of Taylorsville prior to any construction or remodeling and obtain the appropriate permits as required by the City's Building Official.

15.2. **APPLICANT ADDRESS: Rory Norseth**, [21:37:37](#) advised that they have actually been in business in this home for about ten years, and went through this process at that time with the City of Taylorsville. **Commissioner Bolton** asked if they had been operating this business with four individuals, as approved by Taylorsville City and was informed that was correct. **Mr. Norseth** said that he was not at that meeting because he had a different job then. His information was received from the Executive Director who was in place at the time. At that point in time they were approved to operate there and the City of Taylorsville did not require a business license. He continued on to say that in reviewing this application with Mr. Meldrum, the codes changed in 2006, so he was confused and are here to resolve it. That is the truth as he remembered it 10 or 11 years ago when he was still working in maintenance for this company. **Ms. Swensen** said that having to move some of the people with autism would be very traumatic and challenging. [21:39:27](#) **Mr. Norseth** said that the comments Commissioner Fazzini made during the hearing for File 1SI09 were correct with regard to running a group home being a challenge. **Commissioner Jensen** - I would just like to remind the applicant that they have the option of appealing any decision or lack of decision and based upon how the decision is done and how it came about tonight, it would be to their best benefit to make sure everything is appropriate and do an appeal. The Commissioners are not perfect and are trying to do their best but must make sure the laws and ordinances are followed. **Commissioner Jensen** said that he understands both sides of this situation, the neighbors and the group home occupants. **Commissioner Bolton** – for clarification, the applicant has 15 days to submit an appeal. **Mr. Norseth** said he would be willing to offer himself as a focal point for organizing a neighborhood meeting. Anything he can do to help dissuade the fears of the neighbors he is willing to do.

- **Mr. McGrath** asked Mr. Meldrum if he were aware of the meeting the applicant said took place ten years ago. **Mr. Meldrum** said that he did not find anything on it through research past records. **Mr. McGrath** said that it predates everybody in the room other than probably then the Commission's recorder and he did not know which body may have heard the application. This ordinance for reasonable accommodation was passed four or five years ago, so this process did not exist back then. The City has made a practice of

licensing these facilities since its' inception as a City. There were several facilities that were licensed under the County and which were brought in under the City. So the practice has always been to license these facilities. Then just to clarify the comment regarding the number of individuals in terms of whether it is a Federal mandate, what the Federal law states is that these facilities will be treated exactly the same way as a single family residence in the municipality. In Taylorsville's particular situation, there is a definition that says, "up to three unrelated individuals". That is where staff came up with the number three. It is not that that is the number that the Federal Government has identified or the State Government has identified but rather how Taylorsville defines a family. There are other cities that define a family with more unrelated individuals than that. Taylorsville does have a relatively strict definition of family compared to other cities. [21:44:10](#)

- **Commissioner Jensen** said that he needed to point out that refers to, "plus the family that is already there". **Mr. McGrath** advised that it is any number of related people, plus up to three unrelated people.
- **Commissioner Fazzini** [21:44:46](#) had a question for Staff. The question was raised as to whether or not CTA had come to the City prior, if it were granted through the Commission or City Council to have the group home, wouldn't they be grandfathered in if that were the case? **Mr. McGrath** said that no one is denying their right to be there. It is simply the number of residents. The City's definition for a single family has never changed through the City's existence. His opinion was that there isn't a legal non-conforming use issue. **Commissioner Fazzini** then asked why the Commission is hearing this then? **Mr. McGrath** said they are a legal conforming use if they have three or fewer residents. If they have more than three, they did not have legal non-conforming status because of the City's definition having always been three unrelated people. In this instance there is no family because the home is owned by CTA. **Commissioner Jensen** said that the Code states that the person living in the home is included, plus three unrelated people. **Commissioner Murray** added that the spirit of that law would be that somebody is responsible for the home, able to take care of the home and supervise. None of those four individuals would fall within that category because the reason they are in the group home is because they need supervision. **Commissioner Bolton** opened the meeting for the public to speak, saying that the only issue being discussed presently is the application for 5026 South Valois Court.

15.3 **SPEAKING:**

- **Gary Hansen (5013 Valois Drive)** [21:47:25](#). **Mr. Hansen** said that he understands that autistic individuals have every legal right to reside in these homes. He wondered if there were any ordinance or law that limits the number of group homes allowed with an area. **Mr. McGrath** said that State Law allows individual cities to establish such an ordinance, however, Taylorsville has not done so yet. **Mr. Hansen** said that there are six group homes in his immediate locale. He added that he thinks it is wonderful that people have a place where they can be taken care of but questioned the number of group homes allowed within a certain area – which without an ordinance in place is a moot point. He added that he was in attendance at the meeting Mr. Norseth made reference to. Now if the ordinance has changed and licensing is required if there above three individuals in there, then they need to adhere to that and be approved. However, he felt that there were plenty of group homes in their area and would oppose allowing more than three people in this home.
- **Mr. Meldrum** advised that he had received a letter from Mr. William B. Evans in opposition to this proposal, which is included in the file.

15.4 **DISCUSSION:**

- **Commissioner Bolton** said that he is concerned that some previous hearing may have been held regarding this group home of which the Commission is not aware and didn't want to do something that contradicts a decision made years ago. **Mr. McGrath** gave a little history by saying that the original City Code identified these uses as a conditional use permit, which is illegal by State and Federal Law, so when the City established the new ordinance four or five years, the City essentially abolished these uses as conditional use permits, given the fact that single family homes are not conditional use permits in single family zoning. They very well may have gone through some process, probably a conditional use process but the City didn't establish the ordinance that outlines the family definition until four or five years ago.
- **Commissioner Bolton** - If it was a conditional use permit and there were conditions allowed for four individuals, would that not supersede the family ordinance? If they had a conditional use approving four residents in that home ... he did not feel the City could change and then make them illegal and they would still be conforming. **Mr. McGrath** said if the City handled that meeting appropriately, they should

not have been able to allow more than three residents. Without going back and researching Minutes and trying to find out what happened then, who knows if it was handled appropriately by the City at the time or they should not have been able to grant an exception to the Family Definition unless the Board of Adjustment did it. They are the only ones who have the authority to vary zoning ordinances.

- **Commissioner Jensen** said that this is why he felt that tabling the application would have been a good thing because a statement could have been sought from the City Attorney and spent time looking back through the Minutes, etc. **Commissioner Bolton** advised that this application is different from the one previously heard this evening in that this one was allegedly discussed previously over ten years ago. The previous application just discussed is not relevant to this discussion. **Commissioner Jensen** advised that it is still the same group home and still has to do with numbers. He gave the example that if he found himself suddenly single in his home he could have three autistic gentlemen come and live with him and have a caretaker live there, and it would be perfectly legal.
- **Mr. McGrath** read from the official definition for family from the City Code: "Family means: (a) Any number of people living together in a dwelling unit and related by blood, marriage or adoption and including up to three unrelated people or (b) One to three unrelated people living together in a dwelling." Part (b) is very clear where it says that family means one to three unrelated people living together in a dwelling. **Commissioner Jensen** added that that definition contains an "or", (a) or (b).
- **Commissioner Overson** commented that she is going to put all of that out of her mind because what she has heard tonight is the applicant saying that they have already done this, and had been approved. So the question is her mind becomes maybe that is true and this was approved through a conditional use process and likely the Commission did not approve four individuals but what if that did happen, then what? Put everything else aside. Is it possible to go back and research and find that meeting, whether Planning Commission, City Council or Board of Adjustment meeting and see if there has been something previously done on this. If not, this should be treated as a new application and either approve, deny or continue it. But if there is a possibility that it has already been approved for four individuals then the Commission does not need this process because it has already been approved. She didn't want to say no, if in fact they were given approval ten years ago.
- **Commissioner Murray** agreed with Commissioner Overson and felt that the Commission needs to allow enough time in this particular case to thoroughly research the records for an answer.
- **Commissioner Fazzini** said that he would also agree with that and since the neighbor also indicated that he remembered a meeting but did not remember necessarily what happened, to ask staff to research their records to determine exactly what happened and when.
- **Commissioner Bolton** asked staff to research this.

15.5 **MOTION:** **Commissioner Fazzini** - I move to table this item to the next meeting, which is August 25, 2009.

SECOND: **Commissioner Murray**

Commissioner Bolton restated the motion to table this item until August 25, 2009.

Commissioner Jensen - I still feel the Commission needs to make sure that it got the previous application right as well. People will look at this file and at what happened to the previous application and feel that the treatment was different. He expressed concern for that reason. That there were so many unknowns, in that it is possible to move forward with this one but with the previous one the Commission could not make up their minds. Same subject.

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

Motion passes unanimously.

DISCUSSION: **Commissioner Overson** commented that it may be appropriate to ask the applicant if the business is now under the same name it was ten years ago or approximately when they felt the hearing had been. **Mr. Meldrum** said that staff would coordinate that with the applicant. Also, because the Commission continued this to August 25th, it will be a special item and heard first.

CITY COUNCIL MEETING DISCUSSION:

OTHER BUSINESS: Commissioners discussed amongst themselves the relevance between Item #14 and #15.

ADJOURNMENT: By motion of **Commissioner Fink** the meeting was adjourned at [22:08:21](#) 10:08 p.m.

Respectfully submitted by:

Jean Gallegos, Admin Asst/Recorder for the
Planning Commission

Minutes were approved in meeting held on September 8, 2009.