

**TAYLORSVILLE CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: February 18, 2015

AGENDA ITEM: Discussion concerning an appeal of a Planning Commission decision regarding a conditional use permit for a home occupation daycare located at 6257 South Hathaway Street.

PRESENTER: Mark McGrath

SUMMARY: On December 9, 2014 the Taylorsville Planning Commission approved a conditional use permit for a home occupation daycare at 6257 South Hathaway Street. Prior to the public hearing staff received correspondence from several members of the adjacent community opposing the application. In addition, several members of the community attended the public hearing to voice opposition. After hearing the application and conducting the public hearing the Planning Commission approved the application (consistent with staff recommendation) in a unanimous vote. The Planning Commission determined that the application was compliant with both City and State code and that there was no legal justification for denying the permit.

Within the required ten day appeal period staff received two letters of appeal from neighborhood residents (Pat and Jan Oswald – 6270 S Hathaway Street; Robert and Dina Newton – 6280 South Hathaway Street) [attached].

According to Taylorsville City Code, appeals of Non-Administrative Conditional Use Permits are to be determined by the City Council. Initially, the Council is to decide how to advance with the appeal. Again, based on City Code, the Council has two options on how to proceed:

1. Review the decision of the Commission based on the administrative record (minutes, staff report, letters, petitions, etc.), or
2. Conduct a public hearing and evidentiary review outside the Planning Commission record to determine whether:
 - a. An procedural irregularity occurred, or
 - b. The proposed use would:
 - i. Influence patterns of growth adverse to the integrity of the General Plan,
 - ii. Have long term detrimental impact on City resources, or
 - iii. Undermine the health, safety, or welfare of the surrounding neighborhood.

Additionally, the City Council shall decide whether to have the administrative review or public hearing heard by the Council itself, an

individual council member, hearings examiner, or other agent appointed by the Council.

Also, please note that City Code prohibits all Ex Parte communication between members of the City Council and any party to this appeal. All communication regarding this item must take place in the public hearing.

Although this item is not a public hearing we have advertised the meeting by direct mail to all adjacent properties within 300 feet of the subject property [notice attached].

ATTACHMENTS:

- Ordinance 13.33.110 Non-administrative Conditional Use Appeals
- Robert and Dina Newton appeal letter
- Pat and Jan Oswald appeal letter
- Minutes of the December 9, 2014 Planning Commission meeting
- Public notice for February 18, 2015 City Council meeting

TAYLORSVILLE LAND DEVELOPMENT CODE

13.33.110: NONADMINISTRATIVE CONDITIONAL USE APPEALS:

- A. All appeals from decisions of the planning commission regarding nonadministrative conditional use permits shall be reviewed by the city council.
- B. An appeal shall be filed in writing with the city recorder within ten (10) calendar days of the date of the planning commission decision at which the permit was approved.
- C. Except as provided in subsection D of this section, review of decisions of the planning commission shall be confined to the administrative record developed by the commission.
- D. The city council may hold a public hearing or permit an evidentiary review outside the planning commission record to determine whether:
 - 1. An alleged procedural irregularity has occurred that does not appear in the record; or
 - 2. The proposed use would:
 - a. Influence patterns of growth adverse to the integrity of the general plan as implemented by this code;
 - b. Have a long term detrimental impact on city resources available for capital improvements or urban services; or
 - c. Undermine the health, safety, or welfare of the surrounding neighborhood or community.
- E. Hearings may be held by the city council itself or by any council member, hearing examiner, or agent appointed by the council.
- F. The city council shall review the record of the planning commission, together with additional evidence when received, to determine if the decision was correct.

If the city council determines that the use does not comply with the general standards or that the conditions proposed or imposed do not substantially mitigate or eliminate all anticipated detrimental impacts or effects, it shall then determine if there are additional or substitute conditions that may be proposed or imposed.

If the city council determines that the detrimental effects of the proposed conditional use cannot be substantially mitigated or eliminated by the proposed or imposed conditions in order to achieve compliance with the standards, it may deny the conditional use. The city council may also remand the appeal to the planning commission for further consideration. The city council shall be governed by the general standards set forth herein in making its determination.

G. Any decision by the city council, except a remand to the planning commission, shall be final and subject to the conditions imposed by the council. The development code shall not be construed to vest a right to any conditional use except upon complete and continued compliance with the conditions finally approved.

H. Ex parte communication between members of the city council serving in an official capacity in a proceeding regarding an appeal of a nonadministrative conditional use appeal and any party to the appeal is prohibited. (Ord. 12-15, 7-11-2012)

Mayor Larry Johnson:

As a homeowner in the Cannonwood neighbor, I wish to appeal the decision granted at the City Council meeting on Tuesday, December 9, 2014 to grant a day care license to April McKay. The individual homeowners in the Cannonwood neighborhood directly affected by the application of April McKay to operate a home daycare submitted a petition as well as multiple phone calls and emails to Dan Udall -- all of which have fallen on deaf ears.

As stated in our emails, petition and multiple phone calls, the homeowners have issues with parking , property value, care of the property, and the actual use of the property.

At the hearing on the 9th, Councilwoman Anna Barbeiri made it known to the homeowners that she, personally, felt sorry for Ms. McKay for having neighbors like us. Ms. Barbeiri was extremely offensive to the homeowners and was completely unreasonable and out of line. She should have directed the meeting in a more professional manner and not in such a personal manner.

For all intents and purposes Ms. McKay is simply a renter of the property and the 71 homeowners that petitioned the City, actually pay taxes and support the City of Taylorsville. We do not want Ms. McKay to operate a daycare center from that property for the reasons stated in our petition, emails and phone calls -- all of which the City should have on file.

Pat and Jan Oswald
6270 S Hathaway Street
Taylorsville, UT 84123

Pat Oswald
Jan Oswald

Mayor Larry Johnson - Taylorsville City Council:

We would like to appeal the City's decision to grant a daycare license to April McKay. We reside at 6280 South Hathaway Street, Taylorsville --- directly across the street from April McKay.

First, I'd like it to be known that although we are across the street from the property at issue, we did not receive notice of the December 9th meeting even though we signed the Petition and sent numerous emails to Dan Udall.

We understand from several of our neighbors that actually attended the meeting that one of the Councilwomen, Anna Barbeiri was very unprofessional and voiced her personal opinion about the neighbors in the Cannonwood subdivision. The objection against a daycare center isn't a personal issue, we believe that it is a safety issue.

We were very disappointed to learn that the City granted a daycare license to Ms. McKay against the desire of the majority of the homeowners in the Cannonwood subdivision.

As we have stated in our emails and phone calls to Mr. Udall, we believe that a day care center operated in a home so close to 6200 South is going to cause congestion and parking issues. Not to mention that neither the absent homeowner nor Ms. McKay haven't and doesn't maintain the property.

It is disappointing that the actual homeowners in this neighborhood do not have a voice and that the City will grant a license against the wishes of the owners for someone who is basically renting the property. We do not want Ms. McKay to operate a daycare center from that property for the reasons stated in our petition, emails and phone calls -- all of which the City should have on file.

Robert and Dina Newton
6280 South Hathaway Street
Taylorsville, UT 84123
December 11, 2014



City of Taylorsville
Planning Commission Meeting Minutes
December 9, 2014
Regular Session – 7:00 P.M.

Attendance:

Planning Commission
Steve Faurischou, Chair
Curt Cochran, Vice Chair
Israel Grossman
Anna Barbieri
Ted Jensen
Dale Kehl
Garl Fink
Don Quigley - Alternate

Community Development Staff
Michael Meldrum – Principal Planner
Jean Gallegos – Admin Asst - Recorder
Excused – Mark McGrath, Director

PUBLIC: Fotin L. Kelaidis, John Kelaidis, Debbie Phillips, Jerry Good, Charles Philberg, Charles Dover, Bob Elzingk, Leon Unsworth, Edith Middleton, April McKay, Ryan Kingston, Pat Oswald, Jan Oswald, Peter Savas, Kacey Wilson, David Sperry, Marikay Bruce, Ted Unsworth, David Werts, Rex Wanggard, Heather Jones, Chad Jones, Richard Pickett, Jon McGowan, Tyler Olson, Logan Oliphant, Craig Beckstrom, Breyjen Beckstrom, Derek Woodruff, Wendy Hull, Lance Hull, Kelly Adilbhaz, Gary Cannon, Steve Wagner, Kelly Wagner, Bill Heiner, Richard Nebecker, David Werts, Richard Piggott. There was also a Boy Scout Troop, along with their leader.

WORK MEETING

1. The Work Meeting consisted of a briefing session to review the Agenda, which was conducted by Mr. Meldrum.

7:00:17 PM

WELCOME: Commissioner Faurischou assumed duties as Chair and opened the meeting at 7:00 p.m.

CONSENT AGENDA

Commissioner Faurischou explained the Consent Agenda and opened the meeting for discussion or a motion regarding the Consent Agenda

2. Review/approval of Minutes for November 18, 2014.

MOTION: Commissioner Barbieri - I move for approval of the Minutes for November 18, 2014 on the Consent Agenda as presented.

SECOND: Commissioner Cochran

VOTE: Motion was approved by unanimous vote of the Commission.

Commissioner Faurischou - recognized the Boy Scout troop in attendance and Commissioner Cochran presented each Scout with a City Logo pin.

HOME OCCUPATION

3. 11H14 - April McKay – 6257 South Hathaway Street – Day Care (Dan Udall/City Planner)

7:03:51 PM

3.1

Mr. Meldrum presented this item. The applicant is proposing a family child day care home occupation for eight children. All children will be coming from outside the home. Proposed hours and days of operation are from 8:00 a.m. to 5:00 p.m., Monday through Friday. The subject property is a total of 13,068 square feet. There is a 6' high vinyl fence and a block wall that surround the perimeter of the rear yard. In Staff's opinion, the property seems to be properly maintained. The applicant moved in the home on November 29, 2014. City Staff has received many complaints (total of 71) in regards to this application, i.e. concern about the increase in traffic, devaluation of property, added noise, unkempt yard, too many children, etc. A petition was submitted to Staff with complaints, signed by neighborhood residents, along with phone calls and emails, all of which are on file. Mr. Meldrum advised that the Fire Authority has cited five items, as follows: (1) Smoke detectors are

required in all sleeping rooms and halls leading to sleeping rooms. Fire extinguishers are required on each level with a minimum size classification of 2A-10-BC; (2) Two exits are required from all areas where children are located. For basement and floors above the grade level, rescue windows that meet code are required. For children under the age of two, one of the exits must be a door that leads directly outside; (3) Post a fire escape plan; (4) Fire drills should be practiced; and (5) Address on structure should be clearly seen from the street. The Building Department submitted the following comments: (1) Provide for individuals with special needs. Comply with A.D.A. standards; (2) Comply with Section 435 of the 202 I.B.C. as amended by the State of Utah.

3.2 **Findings of Fact:** Staff finds the following findings of fact regarding File #11H14:

- 3.2.1 That the applicant is proposing a family child day care home occupation.
- 3.2.2 That a maximum of eight children are coming to the home occupation from outside the home each day the child day care is operational. Because of the 71 complaints received, the Director has determined that the family child day care is a non-administrative conditional use in the R-1-10 zone.
- 3.2.3 That the family day care meets City Ordinances.

3.3 **Staff Recommendation:**

- 3.3.1 Receive approval from and remain compliant with all applicable reviewing agencies.
- 3.3.2 That the use is reviewed upon substantiated and unresolved complaint.
- 3.3.3 That no more than eight children can attend the child day care, including any children who live in the home that are under six years of age.
- 3.3.4 A maximum of one name plate sign is allowed to be attached to the single-family home. The sign is allowed to be three square feet.
- 3.3.5 Hours and days of operation can be allowed from 6:00 a.m. to 8:00 p.m., Monday – Sunday.
- 3.3.6 That the home occupation is clearly incidental and secondary to the use of the dwelling and does not change the character of the neighborhood.
- 3.3.7 Provide adequate outdoor lighting.
- 3.3.8 That no other Class “D” home occupation is allowed while the child day care home occupation is under operation.
- 3.3.9 That adequate fencing be provided on site and maintained in good condition.
- 3.3.10 That adequate parking be provided on site to accommodate the homeowner’s vehicles and customer vehicles.
- 3.3.11 That the applicant supervises the children that attend the child day care.
- 3.3.12 That an address is provided on the single-family home. That the address letters are a minimum of 4 inches high.
- 3.3.13 That the applicant must reside in the home.

3.4 **DISCUSSION:** None at this point.

3.5 **APPLICANT ADDRESS:** April McKay and brother Ryan Kingston.

- **Mrs. McKay** advised that her driveway is about 79 feet from 6235 South. She had watched during heavy traffic periods and noted about 15 cars per minute during heavy traffic and during the low traffic periods about three cars per minute. As far as this use creating additional traffic in the neighborhood, only one car would be added to that count twice a day and would not be during heavy traffic times and only to just pick up or drop off children. Reference the contention that this use would devalue neighboring properties; she supplied photographs of the property as it exists presently and did not feel this would in any way devalue the surrounding properties. That she had researched the number of day cares existing in the neighborhood and found there to be six licensed day cares with a one mile area of her property. And within two miles and five miles there are 27 and 32 day care providers respectively. She indicated she has complied with everything the Fire Authority and Building Departments have asked for. Also that she has been licensed to do day care for 23 years now. **Mrs. McKay** advised she has been in a state of transition during her move into this new home and that is why things have appeared to be in disarray in the move from her previous residence into this one.
- **Mr. Kingston** interjected that April had been informed that someone had gone to her previous day care location taking pictures and making complaints about the upkeep of that property. He advised that they are in possession of all documentation which states her compliance with Fire and Building Department regulations. That Staff has recommended in their report that the application be approved because of being in compliance with all applicable reviewing agencies.
- **Commissioner Cochran 7:13:49 PM** wanted to know if the property was being leased, rented or owned by Mrs. McKay and was informed there was a lease in place. He wanted to make sure that she would be living on the property full time and was assured by **Mrs. McKay** that was the case.

- **Commissioner Fink** commented that it had been intimated that five of the children would be arriving in one vehicle and wondered how the other children would be coming. **Mrs. McKay** advised that she presently is only caring for those five children.
- **Commissioner Barbieri** said that it might be of interest to those in attendance this evening that this applicant is limited to eight children, otherwise a conditional use permit would need to be obtained, plus more staff hired. At this point, this applicant is limited to just eight children. She continued on to say that one of the concerns the neighbors had was additional families and cars moving in there. **Mrs. McKay** said that she does have a large family but they are not there all the time and the children are not allowed to play in the front yard.
- **Commissioner Cochran** commented that the front yard is fully fenced and wondered if her plan was to only allow outside recreation time in the back yard, to which she replied in the affirmative, adding that the children are not allowed in the front yard at all.
- **Commissioner Jensen** suggested that the audience be informed about a few things, such as home occupations are quite popular in Taylorsville for many differing types of occupations but that they must be part of the neighborhood and not be obvious. Only a certain amount of the individual homes may be used for the business, which is appropriately licensed and approved. Some of them come before the Planning Commission to make sure there are no adverse effects placed on the neighborhood by the use. That process is called "reviewable upon substantiated and unresolved complaint". If there are any problems or issues with any home occupation, neighbors have a right to bring that to the attention of the Planning Commission. However, as a Commission, if the use is reasonable and meets all requirements then the Commission is required to grant approval. 7:17:12 PM
- At this point, **Commissioner Faurschau** opened the public hearing and invited those wishing to do so to come forward and speak either in favor or in opposition.

3.6

SPEAKING:

1. **Pat Oswald** – (lives across the street). 7:19:05 PM **Mrs. Oswald** said they do not want a day care across the street from them due to the increased traffic and other safety issues. Also, that she has seen their previous property and did not want this one to end up looking as bad as that one. She gave descriptive comments about what she had observed at the other property in detail (she advised she has pictures of that site should the Commissioners want to see them). She added that she lives in a nice neighborhood and did not want businesses and excessive traffic there. She commented that the applicant took ownership of the property in July but she did not move in until November, during which time the lawn was only mowed once in July, even though there was a riding lawn mower with a full tank of gas left there. **Commissioner Kehl** wanted to know the address of the previous property to which she had made reference and **Mrs. Oswald** furnished that as being 5239 South 9th East. **Commissioner Kehl** asked who the owner of that was and she replied it was April McKay. **Commissioner Faurschau** said that as **Commissioner Jensen** had discussed previously, issues like that if they do come up can be handled through compliance and code enforcement at Taylorsville City. **Commissioner Cochran** asked for clarification from Mrs. Oswald regarding the property she was alluding to. He asked if she was talking about another property that the applicant owns and comparing the conditions of the previous property to this one. **Mrs. Oswald** said yes, she just did not want it to look like the other one. She then asked why the applicant would need a day care license for the one on 9th East as well as this one here in Taylorsville. **Commissioner Faurschau** advised that they are separate addresses and separate locations, each requiring a separate license. It has no bearing on the application being heard this evening.
2. **Steve Wagner**. 7:23:15 PM **Mr. Wagner** said that his concern is the safety of the children. This is a single family dwelling which is being used by the public. The home was built 20 years ago and needs to be brought up to commercial code in order to do that. When it is opened up to the public, all electrical outlets need to be tamper proofed, there must be handicap accessible bathrooms on both levels. He continued on to say that both levels need to be handicap accessible and there must be panic hardware installed. **Commissioner Jensen** interjected that this home is primarily a home and only a quarter of it is being used as a day care and the State of Utah regulates that day care and determines the safety requirements necessary and have to cover the area used for the day care and that the children are not permitted in any other area of the home. 7:24:02 PM **Mr. Wagner** wanted to know who would regulate that and was informed that it was the State of Utah through their annual inspections. **Mr. Wagner** felt that was insufficient oversight when children's safety is concerned. **Mr. Meldrum** added that the State does conduct unannounced spot checks as well. **Commissioner Jensen** said that the area where the children will be cared for must be fully in compliance with safety regulations. **Mr. Wagner** still expressed concern for the safety of the children. **Commissioner Barbieri** added that health and safety systems such as fire and security alarms are under a different government agency. **Commissioner Cochran** added that in the Staff Report it does say that the Fire

Authority has inspected this and made their recommendations known to the applicant. Also that the Building Department has made their inspection and it includes A.D.A. standards compliance in the area where the children will be located. **Mr. Wagner** added that there are usually five or six cars parked in the driveway and spilling over on the sidewalk. There are also two buses that come in and out of the subdivision everyday, one for a handicap girl. The bus stop has been moved into the subdivision, which further congests the area.

3. **Jerry Good.** 7:28:05 PM **Mr. Good** was concerned about property devaluation and asked what Taylorsville City gains by allowing this to become a day care. He wondered if it changed the tax status now that it is a day care center. **Mr. Meldrum** clarified that by saying that it is not a day care center but a home occupation for day care, not a commercial center. **Mr. Good** was still concerned about this use devaluing his property. **Commissioner Kehl** commented that the issue of tax collection is not under the purview of the Commission. That the City of Taylorsville has an ordinance in place which allows home occupations to exist unless it creates a serious problem and the Commission is bound by that ordinance.
4. **Charles Philberg.** 7:30:52 PM **Mr. Philberg** did not have a problem with home occupations in general but in this instance was concerned for the safety of the children and the citizens who occupy the homes surrounding this. He cited a personal experience wherein he and children he cares about had been involved in an accident sitting within that 79 feet away from the house space with two of the cars totaled. There is no guarantee that one of the children in this day care cannot get out onto the busy road. The reason the school bus stops were moved further into the subdivision was for the safety of the children. He said that he had never met the owners of the property or the applicant who is now renting it but noted that this day is the first one in four months the yard has been cleaned up. He did not feel they are trying to add much to the neighborhood. **Commissioner Cochran** asked Mr. Philberg if a family with five children moved into that house would he still have the same safety concerns, to which **Mr. Philberg** said yes, it is a very dangerous intersection. **Commissioner Cochran** commented that it seemed then that Mr. Philberg's concerns were mostly about the drivers in the area. He continued on to say that he has lived in Taylorsville for many years and that his neighbor has had a home base business for most of that time, with cars coming and going all the time and did understand Mr. Philberg's concerns. However, as long as the applicants pass all inspections and live up to the City's expectations regarding this home occupation and continue to do so, it is difficult for the Planning Commission to deny the request unless something is extremely wrong with it.
5. **Peter Savas.** (owns property directly north of this site). **Mr. Savas** said that they have lived in their home since 2001 and he is primarily concerned about the impact this use will have on his property value. He did not feel the Commission was interested in the citizens and what they want. He did not feel these applicants would take care of the property and felt this was not a tenable situation for the neighborhood and especially for him in having a common fence line in the back yards
6. **Jan Oswald.** 7:38:18 PM **Jan Oswald** wanted to make sure the Commissioners knew just how bad the traffic problem is, especially wherein people come around that blind corner at high speeds.
7. **Debbie Phillips.** (lives on the south side of this site). 7:40:09 PM They share a common fence on the east and south sides. She wanted to know how many children would be in this home besides the eight children in the day care and was informed by **Commissioner Cochran** that eight would be allowed but she intends to only have five at the present time. **Mr. Meldrum** added that any children living in the home under the age of six would be included in the count. However, the applicant's children are older than six so would not be included.
8. **David Sperry.** 7:42:16 PM He is a home owner in the area. He advised that he was offended by the comment that the application was an automatic approval, short of a dire situation. If it were an automatic approval, there would not be a process of consideration. He added that this subdivision was built in an area that was rurally zoned. There were animal properties, including horses. The properties were divided up and businesses installed which are encroaching on the neighborhoods. In the neighborhood there are several other home occupation businesses and one of them has so much traffic in the cul-de-sac that it was reported as a perceived "drug house" and they had the police come and check it out because of so many cars coming in and out of there. Up the street a ways there is a hair salon as well as two other mail order businesses. Around the block there was another horse property divided up into more homes. All of this adds to the congestion in the area and compounding the change of dynamic in that area. The City needs to understand that the change has impacted the entire area and it has had negative impact in traffic as well as the feel of the area. **Commissioner Fauschou** commented that the changes which Mr. Sperry has addressed have been City wide. **Commissioner Grossman** added in response to what has been said that he wondered who any of us thought we were to take it upon ourselves to draw the line. As a neighborhood, the people giving comments tonight have said that there are many other home businesses and **Commissioner**

Grossman did not feel a decision could be made that as of December 9th there cannot be anymore allowed. An unidentified person in the audience responded to this by saying that they are saying the neighbors are done with it and do not want anymore in the neighborhood and that they have to live there, not the Commissioners or City Officials and want their voices heard on this matter. 7:44:32 PM Commissioner Jensen added that the rules of law apply to all of Taylorsville. The Commission cannot pick and choose where the law does or does not apply. It must be uniformly applied throughout the City. Citizens have the right to do what they want with their property. Unidentified citizen commented that everyone should take a drive through all the commercial properties – Commissioner Faurchou informed the citizen that he was getting off the subject, to which the citizen took exception and was asked to sit down.

9. Commissioner Faurchou asked the applicant to come back up to address some of the issues brought up. Commissioner Cochran asked Mrs. McKay about a couple of comments being made about the condition of the property. He asked her what her agreement was with the property owner as to who is responsible for maintenance of the property. Mrs. McKay said that she is supposed to maintain the landscaping and when one of the speakers mentioned that they had only cleaned it once, she advised that was not true. Mr. Kingston advised that the property was purchased by the land owner in July 2014 and it was not leased to April until the end of October. He advised that he had heard more than one comment saying this is the first time in four months that the property has been cleaned. He intimated that was not surprising to him because the applicant has not been living in the home and responsible to clean the home or maintain the property until the end of October 2014.
 10. Lance and Wendy Hull. 7:48:06 PM They live directly behind this home. Wendy said that the applicant is currently running the day care and has been doing so for the past week. The hours of operation have been 6:30 in the morning to 6:30 at night (not 8 to 5 as had been asked for), with cars coming and going all hours of the day. Wendy said that they also work out of their home and are there 24 hours a day, seven days a week and are in a position to see what is going on there. There are also multiple cars in the driveway all the time. Commissioner Cochran asked her what type of home business she has and she replied she works for Smith Agency, a phone operation. Lance Hull asked if Mrs. McKay had been given permission or was licensed already to be in operation for this business. That she has been operational for the last week and a half as a day care. Mr. Meldrum advised that a license for this business has not yet been issued. Commissioner Cochran added that if this is approved, the hours of operation must be adhered to (8 to 5).
 11. Pat Oswald commented that she does not understand why when the Commission is aware of the petition signed by so many neighbors; they would even consider approving this home business application.
 12. John Kelaidis - 7:53:47 PM (lives in the vicinity). He indicated his concerns were financial. There are 28 up scale homes in this subdivision and 75% of the original owners are still there. The neighbors are concerned about having an active business or industry in the neighborhood and feel it would have a negative impact on everyone. 7:54:41 PM He made the comment that the only thing he did not like about his neighborhood was that it was located within the borders of Taylorsville.
 13. Peter Savas came back up to speak and advised that Mrs. McKay never contacted any of the neighbors to advise of her intention to open a day care. He felt that showed no consideration on her part for the neighbors or neighborhood. That this business will negatively impact the neighborhood and she should have canvassed her neighbors before she started a day care. He asked that the Commissioners consider both sides when making their decision tonight.
- 3.7 Commissioner Faurchou closed the public hearing and opened the meeting for discussion from the Planning Commission.
- 3.7.1 Commissioner Barbieri asked for a few moments to address the Commission and those in attendance. She apologized to Mrs. McKay for the discourteous way she perceived her neighbors had acted this evening. Commissioner Barbieri added that she lives in the vicinity in the Cannonwood Subdivision and advised she did not particularly like home occupation day cares, along with many of the other home based businesses but reiterated that they meet a public need for many working mothers and fathers. That she, herself was a customer of a home occupation day care on the other side of Hathaway for seven years and was grateful for that. It was her choice to go to a good mother in a good, safe place for her children's care rather than a commercial day care center. She also has an aversion to the amount of cars or recreational vehicles parked in front of houses in neighborhoods, garbage cans left on the road side and tarps being thrown over recreational vehicles. She also remembered the bus stop being moved directly off of Bennion Boulevard to just barely inside the neighborhood because it was too dangerous and knew that it was the good people of this neighborhood who made that happen in order to protect the children. She

felt that Mrs. McKay has taken good care of the home for the time she has lived there. When people first move into a new home it is a nightmare getting organized. 7:58:05 PM

- 3.7.2 Commissioner Jensen addressed those in attendance saying that what is being discussed are laws and division of laws and code enforcement people who visit neighborhoods regularly to assure these laws, codes and ordinances are being adhered to, whether a home occupation, garbage cans left on the street, excessive weeds, building without a permit, etc. These violations are enforced the same with everybody. The State of Utah requires the City to approve reasonable applications and to have public hearings to make sure they will not adversely affect the neighborhood. The home occupation ordinances are applicable City wide. The Commission cannot pick and choose whether or not they can be approved. He continued on to say home occupations are intended to blend in with the neighborhood and he did not see why one additional car daily would be an adverse impact. 8:02:53 PM He suggested incorporating a good neighbor policy by talking to each other, getting close to each other and getting to know each other. He cited some problems he has had to deal with in his own neighborhood and has found things to be working out in the long run. He acknowledged that he drives by this home everyday and will make it a point to keep watch over what is going on.
- 3.7.3 Commissioner Cochran commented that in this Country everyone is innocent until proven guilty. He felt that Mrs. McKay has not been given a chance to prove herself one way or the other. He supported approving this application and if there are problems that develop down the road, take care of it under the reviewable upon substantiated and unresolved issue process.
- 3.8 MOTION: Commission Cochran - 8:05:26 PM I make a motion that we approve, based on the Findings of Facts and the recommendations of Staff, File #11H14 with the 13 conditions stated by Staff.
SECOND Commissioner Fink.
DISCUSSION: Commissioner Faurschou repeated the motion to approve File #11H14 for a home occupation day care for April McKay at 6257 South Hathaway Street with Staff's recommendations.
VOTE: All Commissioners present voted in favor. Motion passes unanimously.
COMMENT: Commissioner Faurschou – Just for information, there is an appeals process in this that can be handled through Mr. Meldrum. He can outline the appeals process to be taken to the City Council for decision. As has been mentioned, what we have heard tonight and what we have discussed and the fact that this is a new home occupation in there, the previous history is not really pertinent but this is approved based on the facts and testimony heard tonight. We (the Commission) realize that everybody has pretty strong feelings about this but we have other situations similar to this, where feelings get pretty intense about certain things. I ask each of you to please take into consideration Mrs. McKay's feelings on this and don't hesitate to talk to her. I think she would be very open to discussion. I encourage everyone to get together as neighbors and support each other. We appreciate the input that has been brought to the Commission tonight.



CITY OF
TAYLORSVILLE
UTAH

Public Notice

February 11, 2015

Re: Filing # 11H14
April McKay – Home Daycare
6257 S. Hathaway Street
Taylorsville, Utah 84123

Dear Property Owner:

On December 9, 2014 the Taylorsville Planning Commission approved an application to operate a home-based childcare at 6257 S. Hathaway Street, Taylorsville, Utah (see map on back). Following the approval, two letters of appeal were filed by neighborhood residents. According to Taylorsville City Code, appeals of Planning Commission decisions are to be heard by the Taylorsville City Council.

The City Council will hold a meeting to discuss the appeal on Wednesday, February 18, 2015 at 6:30 PM in the City Council Chambers (2600 W. Taylorsville Boulevard). By Taylorsville City Code, the City Council must initially determine how to proceed with the appeal. The options available to the City Council are to: 1) Review the decision of the Planning Commission based on the administrative record (minutes, staff reports, public comments, correspondence, etc.), or 2) Schedule a future public hearing to hear the appeal. Additionally, the City Council will decide whether to hear the appeal itself or delegate the appeal to another individual such as a hearings examiner or other agent appointed by the Council. Please note this meeting will not be a public hearing. The City Council will not accept testimony regarding this appeal at this stage of the proceeding. However, if you wish to express your views concerning the process, please convey your opinions in writing or during the "Citizen Comments" portion of the City Council meeting.

Should you desire additional information, please contact me by telephone at 801-963-5400 or at mmeldrum@taylorsvilleut.gov. The application showing the proposed use is on file and is available to the public for inspection between the hours of 8:00 a.m. to 5:00 p.m. Monday-Friday.

Sincerely,
Michael J. Meldrum
City of Taylorsville
Principal Planner