

**TAYLORSVILLE CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: April 1, 2015

AGENDA ITEM: Public Hearing to consider an appeal of a Planning Commission decision concerning a Home Occupation Daycare at 6257 South Hathaway Street.

PRESENTER: Mark McGrath

SUMMARY: On December 9, 2014, the Taylorsville Planning Commission voted to approve a Conditional Use Permit (CUP) for a home based daycare located 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 to the application (see summary of neighborhood opposition below). 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 laws and that there was no legal justification for denying the permit. Following the approval, two letters of appeal (attached) were submitted to the City by neighborhood residents within the required 10 day appeal period. On February 18, 2015 the Taylorsville City Council voted to conduct a public hearing to hear the appeal.

Conditional Use Permits: No other area of land use regulation has been more controversial or had more scrutiny than the conditional use permit process. Although CUPs are generally considered a very useful tool to local governments because they can consider potentially impactful land uses on a case by case basis, some communities have abused the process by exacting unfair/inordinate public improvements or issuing unmerited denials. As a result, a considerable amount of case law has been developed that guides the appropriate use of the conditional use process. In addition, the State of Utah recently tightened up conditional use standards in the State's enabling legislation (aka the Land Use Development Management Act [LUDMA]). By current law, *conditional uses* are considered *permitted uses* unless there is some type of evidence presented in the decision making process that demonstrates a violation of an *adopted* community standard. Consequently, any conditional use application that meets all adopted regulations by the community must be approved. Additionally, any condition placed on a CUP approval must be directly related and proportional to the true impact of the proposed use. Courts have also consistently determined that public clamor, alone, is not justification for the denial of a conditional use permit.

Summary of Neighborhood Opposition: As noted above, several members of the surrounding community have stated opposition to the application

(see attached correspondence, petition, and 12-9-14 Planning Commission minutes). Below is a summary of the stated concerns:

- Additional traffic in the neighborhood
- Devaluation of property
- Noise
- Don't want businesses in the neighborhood
- Condition of the subject property
- Too many children coming the proposed daycare
- Applicant isn't the property owner
- Parking problems on the street
- Concerns with adjacent bus stop

FINDINGS OF FACT: Staff finds the following findings of fact regarding file 11H14:

1. On October 16, 2014 April McKay made application to the City of Taylorsville for a home-based child daycare at her residence at 6257 South Hathaway Street, Taylorsville, Utah. The application has been issued file #11H14 by the Taylorsville Community Development Department.
2. The proposed hours of operation for the said daycare are Monday-Friday from 8:00 to 5:00.
3. A maximum of eight children per day will attend the daycare including any children already living in the home.
4. Taylorsville City code identifies home-based child daycare as an "Administrative Conditional Use" which requires notification of the proposed use by direct mail to all property owners within 300 feet of the subject property.
5. The public notice was sent on November 7, 2014.
6. Based on the public notice, staff received numerous complaints and concerns regarding the proposed use. As a result, Taylorsville Community Development Director Mark McGrath made the administrative decision to send the application to the Taylorsville Planning Commission at their scheduled meeting on December 9, 2014, where a public hearing could be conducted.
7. Public notices were sent to all property owners within 300 feet of the subject property on November 26, 2014 advertising the December 9th public hearing
8. The application appeared on the December 9th Planning Commission meeting agenda. After conducting a public hearing and deliberating on the matter, the Planning Commission voted unanimously to approve the proposed daycare with staff recommendations.
9. Two letters of appeal were received by the City within the required 10-day appeal period by neighborhood residents.

10. On February 18, 2015 the Taylorsville City Council voted to hear the appeal at a public hearing on April 1, 2015. Taylorsville Code 13.33.100 states:

- *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.*
- *The city council shall review the record of the planning commission, together with additional evidence when received, to determine if the decision was correct.*

Below is a staff analysis of the items to be considered by the City Council referenced above:

City Council Consideration	Staff Finding
Has an alleged procedural irregularity occurred that does not appear in the record?	No procedural irregularity has been alleged. All meetings have been properly noticed and conducted according to law.
Does the proposed use influence patterns of growth adverse to the integrity of the general plan as implemented by this code?	No
Does the proposed use have a long term detrimental impact on city resources available for capital improvements or urban services?	No
Does the proposed use undermine the health, safety, or welfare of the surrounding neighborhood or community?	Taylorsville City has adopted standards, regulations, and restrictions applicable to <i>all</i> home based businesses as well as regulations applicable specifically to home based daycare businesses. See Findings #11 and 12 below for a detailed review of each standard relative to file # 11H14.

11. Taylorsville City Code identifies numerous standards and regulations for the operation of home-based daycares within the City (see the table in finding #12 below).

12. It is the determination of Staff that the proposed home-based daycare at 6257 South Hathaway Street is compliant with every standard articulated in City Code (see table below) as proposed with the conditions identified in the Staff Recommendation.

General Requirements from City Code for all Home Occupation permits:	Staff Finding
Obtain a home occupation administrative conditional use permit and business license from the city.	Pending approval by the City Council
Remain compliant with all applicable statutes, rules and regulations.	Condition of Approval
The home occupation shall be clearly incidental to the dwelling or residential use.	Compliant
Storage of stock in trade, inventory or commodities shall not occupy more than five hundred (500) cubic feet of the area being used for the home occupation and shall not be visible outside the dwelling unit.	Compliant
Signage shall be limited to one non-illuminated nameplate sign that does not exceed three (3) square feet in area, and vehicles or equipment may not be used for the primary purpose of advertising the home occupation at the site of the home occupation.	Compliant Condition of Approval
Employees shall be limited to bona fide resident(s) of the dwelling unit, except that an employee living outside the residence may work in the residence in a home occupation class D - family childcare/home preschool when required by state law.	Compliant Condition of Approval
Activities associated with the home occupation shall not produce traffic, light, glare, noise, fumes, odor or vibration that will diminish the residential character of the neighborhood.	Compliant
Owners of the property or property manager where the home occupation is to be located must give written consent to the home occupation.	Compliant
Home occupations are subject to review upon complaint. If a complaint is received by the city, the home occupation will be reviewed for compliance with applicable ordinances and conditions of approval.	Compliant Condition of Approval
Dwelling units and landscape areas shall be well maintained.	Compliant
Alterations shall not be made to the dwelling or the yard area that will change its residential character.	Compliant
Property address numbers need to be identified and maintained on the home. Address letters should be a minimum of four inches (4") in height and a contrasting color from the main building.	Compliant
One vehicle only may be associated with the home occupation. Said vehicle must be parked on site in a garage or driveway and may not exceed a ten thousand (10,000) pound gross vehicle weight rating or have no more than two (2) axles.	Compliant
No more than two (2) home occupation businesses shall be allowed per dwelling unit.	Compliant

Additional Code Requirements Specific to Home Daycare Permits:	Staff Finding
Applicants for a class D home occupation shall obtain and remain compliant with all applicable licenses/approvals from all pertinent city, county, state, and federal agencies and comply and remain compliant with all statutes, rules and regulations including obtaining, if applicable, a certificate as a residential childcare provider from the Utah State Department of Health.	Compliant Condition of Approval
Secure outdoor play areas are required for all class D home occupations. The outdoor play area shall consist of a minimum of eighty (80) square feet in area per child.	Compliant Condition of Approval
The play area shall be located in the rear and/or side yard of the dwelling.	Compliant Condition of Approval
The outdoor play area shall be secured by an appropriate, well maintained fence not less than six feet (6') in height. The director may require a fence that exceeds six feet (6') in height as it determines necessary.	Compliant Condition of Approval
The hours of operation for the outdoor play area shall not exceed eight o'clock (8:00) A.M. to eight o'clock (8:00) P.M.	Compliant Condition of Approval
The dwelling unit should provide an indoor play area at a minimum of thirty five (35) square feet in area per child.	Compliant Condition of Approval
A minimum of two (2) parking spaces comprising at least three hundred sixty (360) square feet of paved hard surface area shall be provided for clients, customers or patrons of the class D home occupation business in addition to required residential parking. Required parking for the home occupation shall be located in the dwelling's front and/or side yard.	Compliant Condition of Approval
The designated number of children includes the caregiver's own children under the age of six (6) who are not yet in full day school.	Compliant
Required parking for the home occupation shall not detract from the residential character of the property. An appropriate amount of landscaping shall be preserved and maintained.	Compliant Condition of Approval
Only one class D home occupation shall be allowed per dwelling.	Compliant Condition of Approval
Hours of operation for class D home occupations will be determined through the conditional use permit process. Hours exceeding six o'clock (6:00) A.M. to eight o'clock (8:00) P.M. will be considered with documented need or justification.	Compliant Condition of Approval
<p>The holder of a class D home occupation may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:</p> <ol style="list-style-type: none"> 1. Provide childcare at the class D home occupation; 2. Provide volunteer services; 3. Reside at the premises whereat the class D home occupation; or 4. Function as an owner, director, or member of the governing body of a class D home occupation. 	Compliant

STAFF RECOMMENDATION: Based on the Findings of Fact stated above, Staff recommends that the City Council uphold the Planning Commission decision, including the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. That the use is reviewed upon substantiated and unresolved complaint.
3. That no more than 8 children can attend the child daycare including any children who live in the home that are under 6 years old.
4. A maximum of one nameplate sign is allowed to be attached to the single-family home. The sign is allowed to be 3 square feet.
5. Permitted hours of operation shall be 6 a.m. to 8 p.m.
6. That the home occupation is clearly incidental and secondary to the use of the dwelling and does not change the character of the dwelling or neighborhood.
7. Provide outdoor lighting at all drop-off and parking areas.
8. That no other class "D" home occupation is allowed while the child daycare home occupation is under operation.
9. That fencing is provided on site that is consistent with the provisions of Taylorsville City Code.
10. That parking is provided on site that is consistent with the provisions of Taylorsville City Code.
11. That a secure outdoor play area(s) is provided that is consistent with the provisions of Taylorsville City Code.
12. That an indoor play area is provided that is consistent with the provisions of Taylorsville City Code.
13. That the home daycare has no employees other than bona fide resident(s) of the dwelling unit.

RECOMMENDED MOTION: *I move to uphold the Planning Commission decision of December 9, 2014 concerning file #11H14 based on the findings of facts and conditions stated in the staff report.*

- ATTACHMENTS:**
- Vicinity map/aerial photo
 - Robert and Dina Newton appeal letter
 - Pat and Jan Oswald appeal letter
 - Neighborhood petition
 - Miscellaneous correspondence
 - Minutes of the December 9, 2014 Planning Commission Meeting
 - Planning Commission staff report



S Elderberry Ln

6235 S

SUBJECT PROPERTY

Hathaway St



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



Petition to

We, the undersigned, are concerned citizens who urge our leaders to act now to **NOT APPROVE THE DAY CARE**

Printed Name	Signature	Address	Comment	Date
Pat O'Connell	[Signature]	6270 Hathaway	TO MUCH TRAFFIC	11-13-14
JAN SWALA	[Signature]	11220 Hathaway	DANGEROUS	11-13-14
Rex Wangsness	[Signature]	6295 Hathaway	Too much traffic	11-13-14
LANCE HILL	[Signature]	6269 HATHAWAY ST.	TO MUCH TRAFFIC ACTIVITY	11-13-14
Fotine Kelaidis	[Signature]	6250 Hathaway St.	Traffic-NOISE PROPERTIES	11/13/14
SEBASTIAN KELAIDIS	[Signature]	6250 Hathaway St	" " " " "	11/13/14
SEITH PLAKER	[Signature]	1546 W 6235 St	" " " " "	11/13/14
[Name]	[Signature]	1546 W 6235 St	" " " " "	11/13/14
[Name]	[Signature]	15050 6235 S	TO MUCH TRAFFIC STRE	11/13/14
[Name]	[Signature]	1503 W 6235 S	TO MUCH TRAFFIC	11-13-14
[Name]	[Signature]	6245 S Hathaway St	TO MUCH TRAFFIC	11-13-14
[Name]	[Signature]	6265 S Hathaway -	Traffic - Yard Care - Mrs.	11-13-14
[Name]	[Signature]	6265 S HATHAWAY	TRAFFIC - PROPERTY VALUE - YARD CARE	11-13-14
[Name]	[Signature]	6245 Hathaway St	Traffic / Property Value	11/13/14
[Name]	[Signature]	6281 Hathaway St	Traffic / Property Value	11-13-14
[Name]	[Signature]	6280 S Hathaway	Traffic flow / yard care	11-13-14
[Name]	[Signature]	1509 CAYN BAY	TOO CONGESTED	11-13-14
[Name]	[Signature]	1499 Cayn Bay	TRAFFIC RETIREMENT HOME	11-13-14
[Name]	[Signature]	1498 Cayn Bay	TRAFFIC - KIDS	11-13-14
[Name]	[Signature]	1484 Cayn Bay	Traffic - kids	11-13-14
[Name]	[Signature]	6347 Hathaway	TRAFFIC	11-13-14
[Name]	[Signature]	6301 S. HATHAWAY ST	TRAFFIC	11-13-14
[Name]	[Signature]	1502 CANNONWOOD PL	TRAFFIC	11-13-14
[Name]	[Signature]	1502 Cannonwood Place	Traffic, noise	11-13-14
[Name]	[Signature]	1475 Cannonwood Pl	" " "	11-13-14
[Name]	[Signature]	1541 Cannonwood Pl.	Traffic, noise	11-14-14
[Name]	[Signature]	1577 Cannonwood Pl.	TRAFFIC	11-14-14

PAUL N. CLARK	Sal Mikh	1481 W. Camino Verde Pk	NOT A BUSINESS / COMMERCIAL AREA	11-14-11
Claudia Dall	Claudia Dell	1517 Commercial Place	Traffic & NOT a business	
BVN CRE	Bill Cury	6302 Hawthorns	Traffic	

Concern - House has been neglected - for 4 months - how will it be
 as a nursery? - what has great hrs? She is not the owner of the
 property - from what we understand. There is no outlets other than
 6200 South - and will create more traffic at the busy time of
 morning and night - via -
 they are -

Dan Udall

From: Jerry Good <lsallyg@msn.com>
Sent: 13-Nov-14 3:23 PM
To: Dan Udall
Subject: April McKay Home Daycare

RE: Filing # 11H14
April McKay Home Day

I do not want to have a daycare or any other business approved for this area.
We are zones as single family and I want to keep it that way.

Jerry Good
1489 West Cajun Bay
Taylorsville, UT 84123

ph. 801-269-1148

Dan Udall

From: Debbie Phillips <debbiep.slc@transgroup.com>
Sent: 13-Nov-14 10:12 AM
To: Dan Udall
Subject: FILING # 11H14

RE: FILING #11H14
APRIL MCKAY
HOME DAYCARE
6257 SOUTH HATHAWAY ST.
TAYLORSVILLE UTAH 84123

City Planner: Dan Udall
Phone: 801-963-5400
dudall@taylorsvilleut.gov

Dear Dan

I would like to take the time to let you know, that as a resident of Cannonwood since being built in 1996, I most strongly object to having a nursery/daycare business in a single family residential area. This home is next door to ours and access to our home is at the end of a flag lot that has a private driveway to access our home (6263 Hathaway) and our immediate neighbor (6259 Hathaway). Our driveway access is immediately next to 6257 Hathaway. This is not the place to have several vehicles coming and going and to have that many children playing and running around. This is not a business area for a daycare center and in light of how these new owners have neglected the upkeep of this home since purchase in July-2014, I really feel that this person should run a daycare for this many children in a business area and not a residential, single family home. I feel this application should be denied.

I will look forward to the City Councils final response and if you would like to speak to me further, I welcome your email or phone call.

Thank you for your time and your serious consideration to this matter.

Sincerely,

Debbie Phillips

6263 Hathaway St.

Taylorsville, Ut 84123

Ph: 801-520-2654

Debbiep.slc@transgroup.com

Dan Udall

From: Don Johnson <dajohnson26@comcast.net>
Sent: 13-Nov-14 10:07 AM
To: Dan Udall
Subject: Daycare home occupation

Dear sir. The Property located at 6257 South Hathaway Street is not, in our opinion, a good place for a daycare home. First off, it is located really close to Bennion Blvd, a very busy street. It could cause congestion at the corner of Hathaway and Bennion Blvd and is not safe for kids. Secondly, In your letter it states that there could be as many as eight kids there as well as any additional children that the owner has. I would not want to be the next door neighbor and have the noise factor everyday, especially in the summer months. This is not a good idea. Still another reason is that this is a residential area, not a business area. We would like it to remain that way. Thanks, for allowing us to express our opinion.

Sincerely,
Don & Annette Johnson
1484 Cajun Bay
Taylorsville, UT 84123

Dan Udall

From: Dina Newton <dnewton@btjd.com>
Sent: 13-Nov-14 10:35 AM
To: Dan Udall
Subject: 6257 S Hathaway Street - Application for Daycare - April McKay
Attachments: 6257 Hathaway Deed.PDF

Mr. Udall,

I'm sending this email in response to your letter advising homeowners of an application for a resident to operate a home day care at the property located at 6257 South Hathaway Street.

As owners of an adjoining property, my husband and I oppose the running of a day care in this neighborhood for the following reasons:

1. Ms. McKay is not the owner of the property. I've attached the current deed to the property and it is owned by Rachel Young, who, since the day the property was purchased in July, has never lived in the home nor cared for the property. Throughout the summer and fall, my husband and other neighbors have jointly maintained the outside of this property by mowing the yard and pulling weeds in order for the property to not look like it was vacant. And, we believe a daycare in this home will further blight the property.
2. Secondly, we previously resided in neighborhoods where daycares were operated – whether by city approval or not – and the traffic created by parents dropping off and picking up children during peak commute times, makes entering and leaving the neighborhood a constant source of irritation. We live here, pay taxes and want to be able to come and go without having to dodge parents dropping off kids. It's been our experience that traditionally parents partially pull off the side of the road with their cars running, leaving doors open, while they remove or buckle up their children and it impedes traffic flow -- especially at the entrance to a neighborhood. This street is already narrow and winding and as this home is located just as you turn off of 6200 South onto Hathaway Street, parking on both sides of the street will restrict owners from entering and leaving the neighborhood.
3. Third, the extra traffic makes it difficult for the school bus and children walking or riding bikes or scooters to safely navigate this area of the street where parents will drop off and pick up their children.
4. Finally, I simply don't want another home based business next to me. We already have a home two houses away that runs a nutritional supplement business from their home and the many residents and employees coming and going at all hours of the day **and night** is, quite frankly, annoying.

We purchased this home last year thinking it was a nice quiet residential neighborhood, but what we're finding out is that it feels like we're living in the middle of a strip mall.

I sincerely hope that you don't grant the home based permit.

Sincerely,
Dina Newton
6280 South Hathaway Street
Taylorsville, UT 84123



Dina Newton
Paralegal
Bennett Tueller Johnson & Deere, LLC
3165 East Millrock Drive, Suite 500
Salt Lake City, Utah 84121-5207
Telephone: (801) 438-2000
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Facsimile: (801) 438-2050

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Dan Udall

From: Rex <rex.wangsgaard@hotmail.com>
Sent: 17-Nov-14 6:42 PM
To: Dan Udall
Subject: Public Comment - Filing 11H14

April McKay
Home Daycare
6257 S Hathaway St

We are very opposed to the approval of this conditional use permit.

We already have a Herbalife distributor with several cars coming and going (very fast) at all hours of the day at 6262 S Hathaway St.

We also have renters with 3-4 cars coming/going or parked "on" the sidewalk or in the street at 6301 S Hathaway St.

When we moved in here 19 years ago, this subdivision was single family "residential" homes.

Now it appears to becoming multi-use, which is not what we "signed up" for.

Thank you for your consideration,

Rex and Heidi Wangsgaard
6295 S Hathaway St
Taylorsville, UT 84123
801 647-2057

From: Mr. & Mrs. John Kelaidis

March 22, 20

Re: Filing # 11H14

Dear Mr. Meldrum,

We are residents in Cannonwood Subdivision and live directly across the street from the property in this case. All our front windows face that home and it is hard not to notice all that goes on in that direction.

Our neighbors, my husband and I have voiced our opinions and concerns about a daycare being in our area. There are many reasons why we have objected to it and since the first meeting more complaints have been made by the residents here.

To begin with Ms. McKay stated at the Planning Committee meeting that she would only be caring for five children of one mother in her daycare. Legally she could have eight according to the first letter we received giving details of the case. Although she does not have a license yet there has been constant activity at her home as seen in a regular daycare. People are constantly coming and going every day either dropping off or picking up children. I have seen as many as seven children in three different vehicles dropped off within about half an hour. If she is not operating a daycare she must be a very good Samaritan to take care of so many people's children every day. (If she is issued a license can she still take care of all these other children too?)

Her hours that she was allowed to run a daycare when she receives her license was to be from 8:00 AM to 5:00 PM. Neighbors have seen children dropped off as early as 6:00 AM and I have seen children dropped off as late as 6:30 PM. During the day there are almost always two vans and two cars parked in the driveway. Are the people who own these helping take care of the children? I have also seen as many as five young women leave the home a little after 5:00 PM. Are they all just visiting all day or are they teaching?

She also said her children are all grown and are no longer living at home. At the last meeting she came with five young children.

When asked at the first meeting who would be living in the home she told them just she would. I have never seen, to my knowledge, only one vehicle there at night. I am up a lot at night and there is always at least two and up to as many as seven cars and vans parked there all night. Other neighbors have also commented on this.

We have a lot of traffic in this subdivision and many cars come in and turn around to return to 6200 South. Some turn into the first driveway but most usually turn into Ms. McKays driveway if there aren't too many vehicles already in there. Having all these extra cars and vans in and out now that she has so much activity going on is another reason our people were so apposed to having a day care here....the congestion it would create.

My biggest concern is the safety of the children she is taking care of. As I said it is a busy street and cars tend to come around the corner off 6200 South and into our street very fast. (Ask Mayor Johnson) It is an accident waiting to happen if a child is in the street.

Three times in the last few days I have seen tiny toddlers run out to the street while their parents were involved with their other children. I don't know why they head to the street whether it is the slope of the driveway or what but that is where they head. I also don't know why the parents don't put the youngest little one in the car first and then attend to the others. When I saw this it was hard not to run across the street to stop the children.

I especially get panicky when I see this because my baby sister was run over by a car when I was eight years old. I tried to catch her but the car was almost on us and I froze and stopped. I've never gotten over seeing that and worse I never could forgive myself for not saving her. Little ones like her and the ones across the street are too young to have the knowledge to stop or run back when a car is coming.

I am not a nosey old lady. With all my windows facing right in that direction it is hard not to notice all the activity going on. It would help if I could give you an actual account of how many children go in and out each day but I don't have the time and definitely don't have the desire to see more than I already see as I go back and forth in my house.

I am sorry to bother you with this long message but I feel someone should be aware of these things. This has always been a peaceful happy neighborhood but the atmosphere has certainly changed since this all came up. Whenever neighbors meet now the daycare is all they talk about. Everyone is upset and discouraged. No one even want to go to the meetings anymore because they feel betrayed and were treated so badly at that first meeting. We all couldn't believe that the Planning Committee members had received seventy-two emails, letters and phone calls from the home owners here and yet they agreed to give the one renter the license that she wanted. Is it any wonder that we have all lost our faith in our Taylorsville representatives.

If there is anything you can do to help us with this problem it would be so greatly appreciated.

Respectfully

Mr. & Mrs. John Kelaidis

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

Attendance:

Planning Commission

Steve Fauschou, 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 Adilbhas, 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 Fauschou assumed duties as Chair and opened the meeting at 7:00 p.m.

CONSENT AGENDA

Commissioner Fauschou 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 Fauschou - 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)

7:03:31 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 Faurischou 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 Faurischou 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 Faurischou 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 Kehj 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 Faurshou 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 Faurischou informed the citizen that he was getting off the subject, to which the citizen took exception and was asked to sit down.

9. Commissioner Faurischou 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 Faurischou 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. 7:53:05 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: Commissioner 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 Faursschou 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 Faursschou - 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.



Administrative Conditional Use Staff Report

Report Date:	November 26, 2014
Agenda Item:	Child Daycare
Subject Property Address:	6257 South Hathaway Street
Applicant:	April McKay
Applicant Agent:	
Author:	Dan Udall
Zoning designation:	R-1-10
Parcel #:	21-03-233-013
Applicable Ordinances:	Chapter 11
Public Notice:	Yes

Attachments:

- Exhibit A – Vicinity Map**
- Exhibit B – Application**

Summary: The applicant is proposing a family child daycare home occupation located at 6257 South Hathaway Street. The applicant is proposing 8 children coming from outside of the home to the child daycare each weekday. The applicant is not caring for any of her own children that are under the age of 6. Therefore, all children coming to the daycare are from outside of the home. Proposed hours and days of operation are from 8 a.m. to 5 p.m. Monday through Friday.

Every weekday only one vehicle will be coming to the single-family home to drop off children and one vehicle will be picking up children. There is a 5 car driveway on the site.

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. The subject property seems to be properly maintained.

The property is zoned R-1-10. Property surrounding the site is zoned R-1-10.

Analysis: The proposed home occupation should be suitable to the neighborhood. The applicant moved in the home on November 29, 2014. The applicant realizes that it is important to maintain the yard.

According to the development code the outdoor play area shall consist of eighty (80) square feet (minimum) in area per child. The 8 children would need a minimum of 640 square feet of play area. The existing play area or rear yard consists of approximately 3,436 square feet.

City staff has received many complaints in regards to this application. A petition was submitted to staff with complaints. Citizens throughout the neighborhood have signed the petition. Citizens have also phone called or emailed city staff the complaints. The following are the type and the numbers of complaints in regards to this application:

Additional traffic – 35

Business will devalue the property – 8

Additional noise – 8

Do not want a business in neighborhood – 6

Property owner does not take care of yard – 4

Too many children coming to the single-family home – 4

Applicant may not live in single-family home or be the property owner – 3

Parking problems on the street - 1

Dangerous – 1

Do not want to live in a dump – 1

Because of the number of complaints the director has determined that the Planning Commission reviews the application.

General Plan Analysis: The Land Use Element of the General Plan designates this area as "Low Density Residential." This home occupation is an appropriate use for this general plan designation.

2

11H14

April McKay

Other Agencies/Departments:

The Fire Authority has stated the following:

- 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 2, one of the exits must be a door that leads directly outside.
- 3) Post a fire escape plan.
- 4) Fire drills should be practiced.
- 5) Address on structure should be clearly seen from the street.

The Building Department has stated the following:

- 1) Provide for individuals with special needs. Comply with A.D.A. standards.
- 2) Comply with section 435 of the 2012 I.B.C. as amended by the State of Utah.

Adjacent Land Uses:

- North:** single-family home
- South:** single-family home
- East:** single-family home
- West:** single-family home

Findings of Fact: Staff finds the following findings of fact regarding file 11H14:

- 1. That the applicant is proposing a family child daycare home occupation.
- 2. That a maximum of 8 children are coming to the home occupation from outside the home each day the child daycare is operated. Because of the 71 complaints received, the Director has determined that the family child daycare is a nonadministrative conditional use in the R-1-10 zone.
- 3. That the family child daycare meets city ordinances.

<i>Additional Findings:</i>	

Recommended Motion:

*Based on the above stated findings of fact, staff recommends **approval** of application 11H14 with the following conditions:*

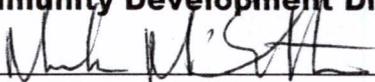
- 1. Receive approval from and remain compliant with all applicable reviewing agencies.
- 2. That the use is reviewed upon substantiated and unresolved complaint.

3
 11H14
 April McKay

3. That no more than 8 children can attend the child daycare including any children who live in the home that are under 6 years old.
4. A maximum of one nameplate sign is allowed to be attached to the single-family home. The sign is allowed to be 3 square feet.
5. Hours and days of operation can be allowed from 6 a.m. to 8 p.m. Monday – Sunday.
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.
7. Provide adequate outdoor lighting.
8. That no other class "D" home occupation is allowed while the child daycare home occupation is under operation.
9. That adequate fencing be provided on site and maintained in good condition.
10. That adequate parking be provided on site to accommodate the homeowner's vehicles and customer vehicles.
11. That the applicant supervises the children that attend the child daycare.
12. That an address is provided on the single-family home. That the address letters are a minimum of 4 inches high.
13. That the applicant must reside in the home.

Additional Conditions:	

Community Development Director



Mark McGrath

_____ Date

- Approved
- Approved with Conditions
- Denied
- Forward to Planning Commission

Based on PUBLIC CONCERN. PUBLIC HEARING REQ.