

2 The Lindon City Planning Commission held a regularly scheduled meeting on
3 **Wednesday, May 13, 2009** beginning at 7:00 p.m. in the Lindon City Center, City
4 Council Chambers, 100 North State Street, Lindon, Utah.

5 Conducting: Gary Godfrey, Chairperson

6 Invocation: Jim Peters

7 Pledge of Allegiance: Gary Godfrey

8 **PRESENT**

ABSENT

9 Gary Godfrey, Chairperson

10 Ron Anderson, Commissioner

11 Sharon Call, Commissioner

12 Mark Johnson, Commissioner

13 Jim Peters, Commissioner

14 Woodworth Mataele, Assistant Planner

15 Adam Cowie, Planning Director

Debra Cullimore, City Recorder

Matt Bean, Commissioner

Chris Burton, Commissioner

16 The meeting was called to order at 7:00 p.m.

17 **APPROVAL OF MINUTES** – The minutes of the meeting of April 22, 2009 were
18 reviewed.

19 COMMISSIONER ANDERSON MOVED TO CONTINUE APPROVAL OF
20 THE MINUTES OF MEETING OF APRIL 22, 2009 TO THE END OF THE AGENDA
21 FOLLOWING CURRENT BUSINESS ITEMS. COMMISSIONER JOHNSON
22 SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION
23 CARRIED.

24 **PUBLIC COMMENT** –

25 Chairperson Godfrey called for comments from any resident present who wished
26 to address an issue not listed as an agenda item. There was no public comment.

27 **CURRENT BUSINESS** –

- 28
- 29 1. **Public Hearing** – *Minor Subdivision – Schwartz Estates, Plat A – 345 & 347*
30 *East 200 North.* This is a request by Michael Schwartz for approval of a minor
31 subdivision. The applicant intends to create a one lot subdivision, which would
32 include a duplex condominium. Mr. Schwartz is a creating a 20,000 square foot
33 lot from and existing three acre lot, which has a home situated on it, with the
34 remainder left for future development. Mr. Schwartz’s plan meets the necessary
35 street frontage and width-to-depth ratio. Recommendations from the Planning
36 Commission will be forwarded to the City Council for final action.

2 COMMISSIONER PETERS MOVED TO OPEN THE PUBLIC HEARING.
COMMISSIONER CALL SECONDED THE MOTION. ALL PRESENT VOTED IN
FAVOR. THE MOTION CARRIED.

4
6 Mr. Cowie explained that this is a request for a one lot minor subdivision located
just off of 200 North. The existing home is currently located on one large parcel. The
applicant is proposing subdividing a 20,000 lot from the larger parcel, with possible
8 future lots on the remnant parcel.

10 Mr. Cowie noted that a Master Planned roadway previously bisected the remnant
property. A recent request was approved by the City Council to remove the through
street and create a cul-de-sac street just north of 200 North. The new lot will be accessed
12 from 200 North and will not impact the Master Planned roadways.

14 The applicant is proposing a one lot subdivision with a two unit R2-Overlay
condominium project. A homeowners association will be formed to maintain the
common area. The R2-Overlay does allow construction of multi-family units in
16 residential zones provided specific criteria, such as lot size and separation distance, are
complied with. New curb gutter and sidewalk improvements will be completed as part of
18 this project.

20 Mr. Cowie noted that the site plan shows second kitchens in each of the units. He
explained that second kitchens are permitted in the dwellings, but that accessory
apartments are not permitted in R2-Overlay projects.

22 Chairperson Godfrey invited Mr. Schwartz to present any additional information
to the Commission. Mr. Schwartz commented that the architect had drawn in a kitchen.
24 He explained that the basements will be unfinished at this time, and that when the
basements are completed in the future, wet bars will be installed but not full kitchens.
26 Mr. Schwartz stated that he will occupy one side of the twin home, and his wife's parents
will occupy the other unit. He stated that the units are an investment, and will not be
28 rented.

30 Commissioner Peters asked if a map of the cul-de-sac street is available for
review. Mr. Cowie stated that a current map is not available. He outlined the
approximate location of the future cul-de-sac street. Commissioner Peters observed that
32 theoretically this lot may have double frontage when the cul-de-sac street is completed.
Mr. Cowie stated that there is no existing road or roadway dedication which constitutes
34 double frontage at this time.

36 Commissioner Peters inquired as to the location of curb and gutter improvements
in order to manage storm runoff in relation to the lot located to the east. Mr. Cowie
stated that curb and gutter improvements and storm drainage will be reviewed and
38 approved by the City Engineer prior to final plat approval.

40 Chairperson Godfrey called for public comment. Wayne Gardner inquired
whether there is any minimum time period which this duplex must be occupied by Mr.
Schwartz. Chairperson Godfrey stated that there is no minimum time period, and that the
42 owner can sell the home at his discretion. He noted that the duplex could become a rental
at any time in the future. He clarified that R2-Overlay projects can have a maximum of
44 three units. Chairperson Godfrey explained that the intent of the R2-Overlay is to spread
multi-family units throughout residential zones and integrate them into the community
46 rather than designating a separate zone for high density, moderate income housing. Mr.

2 Schwartz stated that it is his intention to stay in the home long term, as well as the
intention of his in-laws in the other unit.

4 Another resident expressed concern regarding the timeliness notice which was
provided to neighboring property owners. Mr. Cowie explained that notice requirements
6 have been updated with recently approved ordinance amendments, and that a
neighborhood meeting is no longer required. The resident felt that this project would not
8 represent a substantial benefit to the community given that the project will benefit Mr.
Schwartz and his in-laws. Chairperson Godfrey explained that State law requires the City
10 to provide a certain percentage of low and moderate income housing. He noted that
providing affordable housing represents a compelling public interest. He observed that
12 creating a separate zone for low income, high density housing can create significant
problems for the City as transient residents feel no connection to the City or sense of
community. He observed that specific residents may not see a benefit to an individual R2
14 project, the Overlay does provide a benefit to the community as a whole.

16 The resident requested clarification regarding the alignment of the cul-de-sac
street. Chairperson Godfrey outlined the location of the Master Planned cul-de-sac in
relation to this proposed lot, and possible future lots.

18 Another resident in the audience commented on the need for affordable housing in
the community. He noted that young families trying to get a start, as well as elderly
20 residents on a fixed income, need affordable housing options. Chairperson Godfrey
commented on the retirement community currently under development in the Creekside
22 Meadows subdivision which addresses the need for affordable, high quality housing. Mr.
Schwartz noted that the proposed duplex will not be low income housing. He clarified
24 that the structure will be custom built, and will have a value of approximately \$250,000
to \$300,000 per unit. He noted that the structure will be compatible with other structures
26 in the neighborhood. Commissioner Anderson noted that the R2-Overlay disburses
multi-unit housing throughout the community, and that the effect will protect surrounding
28 property values more than if a separate high density, multi-family zone were to be created
near existing residential neighborhoods.

30 Commissioner Call inquired as to the square footage of each unit in the duplex.
Mr. Schwartz stated that the exact square footage is not known at this time, but that each
32 unit will be approximately 4,800 square feet.

34 Mr. Cowie clarified that LCC 17.46.040 has been amended from the requirement
for the developer to hold a neighborhood meeting to discuss proposed R2 projects to
36 requiring the City to provide notice by mail to neighboring property owners within 300
feet of the proposed project no less than 3 calendar days prior to the Planning
Commission meeting where the application will be considered. Mr. Cowie stated that
38 noticing was completed as required, with notices being mailed Friday, May 8, 2009. Mr.
Cowie noted that the current ordinance has not yet been updated on the City website, but
40 is found in a separate website section of ordinances which are not yet codified.

42 Mr. Cowie reviewed the R2-Overlay district structure. He showed a map of
districts which indicates which districts are full. He noted that the required 750 foot
separation distance from this project to other R2 projects will fill this particular district,
44 but that there is adequate room for this project. He clarified that accessory apartments in
owner occupied single family dwelling are not included in the separation distance
46 requirements.

2 Chairperson Godfrey called for further comments or discussion regarding the
subdivision application. Commissioner Peters clarified that this item before the
4 Commission at this time is the subdivision application, and that the R2-Overlay project
will be considered separately. Hearing no additional public comment or discussion from
the Commission, Chairperson Godfrey called for a motion.

6
8 COMMISSIONER ANDERSON MOVED TO APPROVE THE SCHWARTZ
ESTATES SUBDIVISION PLAT A PRELIMINARY PLAT AND RECOMMEND
APPROVAL TO THE CITY COUNCIL WITH THE FOLLOWING CONDITION:

- 10 1. THAT A NOTE BE INCLUDED ON THE SUBDIVISION PLAT SPECIFYING
12 THAT ACCESSORY APARTMENTS ARE NOT PERMITTED IN EITHER
UNIT.

14 COMMISSIONER PETERS SECONDED THE MOTION. ALL PRESENT VOTED IN
FAVOR. THE MOTION CARRIED.

16 COMMISSIONER PETERS MOVED TO CLOSE THE PUBLIC HEARING.
18 COMMISSIONER JOHNSON SECONDED THE MOTION. ALL PRESENT VOTED
IN FAVOR. THE MOTION CARRIED.

- 20 2. **Conditional Use Permit** – *Schwartz/Stevens R2-Overlay Project – 345 & 347*
22 *East 200 North.* This is a request by Michael Schwartz for approval of a
24 conditional use permit for an R2-Overlay project in the R1-20 zone. The
applicant intends to construct a duplex on a 20,000 square foot lot. The R2-
26 Overlay code section requires a minimum separation from other multi-family
units, a maximum amount of units in each district/and acreage, setbacks,
landscaped area and fencing. Mr. Schwartz’s plan meets all ordinance
requirements.

28
30 Mr. Cowie presented elevation drawings of the proposed R2-Overlay duplex. He
noted that ordinance requires that the duplex structure be compatible with other structures
32 in the surrounding neighborhood. Mr. Cowie noted that LCC requires installation of
fencing around the R2 site. The applicant has requested that fencing requirements be
34 waived on the west side of the site along the property line which is currently owned by
the applicants father. Six foot site obscuring fence is proposed along the east and north
property line. LCC 14.46.090 allows some discretion for the Planning Commission to
36 waive fencing requirements if; removing or modifying the fence will still provide for an
adequate buffer for the adjoining residential use, the appearance or removing of the fence
38 will not detract from the residential uses of neighboring property, removing or modifying
the proposed fence will still provide some method of shielding for the neighboring
40 residential use from noise, storage, traffic, or any other possible characteristics of an R2
Overlay project.

42 Mr. Schwartz stated that fencing will be installed at some time in the future, but
44 that at this time they are requesting that fencing requirements be waived due to the fact
that the neighboring property is owned by his father. He stated that 6 foot vinyl fencing
46 will be installed between the R2 project and the existing neighboring home, as well as
along the rear property line.

2 Commissioner Peters felt that fencing should be required on this project due to the
fact that ownership of either property may change in the future. Chairperson Godfrey
4 agreed that not requiring fencing may become problematic if unforeseen circumstances
cause a change in ownership of either property. The Commission discussed possible
impacts which may result if fencing is not required on the west property line.

6 Commissioner Anderson suggested that fencing could be installed in the future if the
neighboring Schwartz property is subdivided and sold in the future.

8 Chairperson Godfrey called for comments from audience members regarding this
application. Wayne Gardner requested clarification regarding fencing requirements for
10 this project. Chairperson Godfrey explained that six foot site obscuring fence is required
for R2 projects. He noted that there is not a fencing requirement for single family
12 residential development other than height limits. Commissioner Anderson noted that
specific fencing requirements are imposed on commercial projects but not on single
14 family residential development.

16 The Commission went on to discuss each of the three criteria which must be met
in order to allow waiver of fencing requirements. The Commission discussed the
requirement of maintaining an adequate buffer from neighboring uses if fencing
18 requirements are waived. Chairperson Godfrey noted that the neighboring property is
currently a vacant field.

20 Chairperson Godfrey noted that the applicants argument is that the waiving the
fence will improve the appearance of the area by maintaining a larger open area than if
22 fencing were to be installed. Mr. Schwartz stated that he anticipates installing fencing on
west property line at some time in the future, but feels that it is not necessary at this time.

24 Chairperson Godfrey inquired as to the opinion of the Commission as to whether
waiver requirements are met based on the ownership of the neighboring property and the
26 fact that the property is currently a vacant field. Commissioner Call felt requirements
may technically be met, but that fencing should be installed to keep fencing requirements
28 consistent on all R2 projects.

30 Commissioner Johnson expressed some concern that the open space provided by
the vacant field may not be an adequate buffer. Commissioner Anderson noted that this
proposed duplex will create significantly less impact to neighboring properties than other
32 larger R2 projects, such as two triplexes on a one acre lot.

34 Commissioner Peters stated that he had no significant concerns with waiving the
fencing requirement on the west property line. He expressed concern regarding the
separate basement entrance shown on the site plan given that no accessory apartment is
36 proposed or permitted. He noted that exterior basement entrances can be problematic and
may increase basement flooding potential. Mr. Schwartz stated that there is no history of
38 flooding in this area, and that the proposed exterior basement entrances will create
convenient access to the basement area rather than accessing the basement from the main
40 floor. Commissioner Anderson noted that the combination of the exterior basement
entrance and the second kitchen shown on the current plan is cause for concern as it
42 appears that a separate accessory apartment may have been anticipated. Mr. Schwartz
stated that they are aware that accessory apartments are not permitted in this R2 project.
44 He reiterated that a small wet bar may be included, but full kitchens will not be
completed.

2 Chairperson Godfrey felt that waiving the fencing requirement on the west
property would create a more open feel in the area. He noted that Commissioner
Anderson pointed out that any future owners would have fore knowledge that there is not
4 fencing along that line. He felt that it would be reasonable to waive the fencing
requirement for six foot sight obscuring fence on the west property line.

6 Chairperson Godfrey called for further comments or discussion. Hearing none, he
called for a motion.

8
10 COMMISSIONER CALL MOVED TO APPROVE THE CONDITIONAL USE
PERMIT FOR THE SCHWARTZ/STEVENS R2-OVERLAY PROJECT WITH THE
FOLLOWING CONDITIONS:

- 12 1. THAT NO ACCESSORY APARTMENTS ARE PERMITTED IN EITHER
UNIT.
14 2. THAT FENCING REQUIREMENTS ON THE WEST SIDE BE WAIVED PER
LCC 17.46.090(6) FINDING THAT THE WAIVER REQUIREMENTS HAVE
16 BEEN MET.

18 COMMISSIONER ANDERSON SECONDED THE MOTION. ALL PRESENT
VOTED IN FAVOR. THE MOTION CARRIED.

- 20 3. **Conditional Use Permit** – *Funshare (Intermountain Development) – 17 North*
State Street. This is a request by Daniel Arbon with Intermountain Development
22 for approval of a conditional use permit for a motorcycle, personal ATV, person
water craft and snowmobile sales and service in the CG (General Commercial)
24 zone. The applicant is currently renting and leasing out RV's, boats, ATV's and
luxury vehicles. Mr. Arbon is proposing to sell his used rental motorcycles,
26 personal ATV's, personal water crafts and snowmobiles as he sees fit to make
room for new inventory.

28
30 Daniel Arbon was present as the representative for this application. Mr. Mataele
stated that this is a request for approval of a Conditional Use Permit for sales and service
of motorcycles, personal ATV, personal watercraft and snowmobiles in the CG zone.
32 The business is currently located on leased property at 17 North State Street. The
business currently rents the items listed above to the public, which is a permitted use in
34 this zone. However, a Conditional Use Permit is required for sale of those items.

36 Mr. Mataele stated that several requirements were attached to this site when the
site plan was approved in 2003 which have not been completed. Required trees along the
State Street frontage have been removed or were not installed. The City is requesting that
38 required trees be installed along the State Street frontage. In addition, complaints have
been received from neighboring property owners regarding music played on the site over
40 speakers being left on during overnight hours, and being played at excessive volumes.
Staff requests that the Planning Commission address these two issues as part of any
42 motion to approve this Conditional Use Permit.

44 Commissioner Peters noted that this site was previously a used auto dealership.
He requested clarification as to why used auto sales are no longer permitted on this site.
Mr. Cowie explained that this site was approved for sale of used autos only an expansion
46 of the former Utah Auto Sales lot located on the east side of State Street. He stated that

2 the existing non-conforming status of the lot for used auto sales has expired, and the use
is no longer valid on this site. Mr. Cowie noted that Mr. Arbon recently met with the
4 City Council to discuss the possibility of allow used vehicle sales on the site. The
Council expressed an opinion at that time that approval of used vehicle sales on the site
6 would not be likely to be approved at this time. Mr. Cowie noted that the use has a
current business license issued for rental of the vehicles previously listed.

8 The Commission discussed landscaping and tree requirements. Commissioner
Peters inquired as to whether there is any flexibility in the exact placement of trees. Mr.
Cowie explained that there is a 40 foot clear vision area allowed on either side of a
10 monument sign. Other trees must be planted every 20 feet on center. Trees which would
be located in the clear vision area may be relocated to another area of the landscaping
12 with no net loss of trees.

14 Commissioner Anderson noted that the information submitted by the applicant
indicates that the business will include an auto repair component. He noted that auto
repairs are a not permitted use in the CG zone. Mr. Cowie explained that the auto service
16 and repair component is accessory to the primary use. Mr. Arbon explained that the
facility include six existing auto repair bays that are being used to repair and service the
18 rental vehicles. Commissioner Anderson inquired as to whether auto repair or service is
planned on vehicles not associated with the business. Mr. Arbon stated that currently,
20 only vehicles associated with the existing business are being repaired and serviced on the
site. Chairperson Godfrey explained that the reason the Commission is concerned about
22 the auto repair component of the facility is that other sites with similar facilities have
been denied auto repair and service use. He observed that it would be unfair to former
24 applicants to deny that use request and permit it in this circumstance.

26 Chairperson Godfrey invited public comment. Lyla Perry stated that she is
representing her father, Clifford Johnson, who lives north of the subject property. She
expressed concern regarding negative impacts her parents experienced in the years Utah
28 Auto Sales was in business. She noted that the service bay is located directly adjacent to
the Johnson home and that light and noise from the site has negatively affected their
30 quality of life. Ms. Perry asserted that music played through the sound system on the
Utah Auto Sales lot was audible inside the Johnson home.

32 Ms. Perry also expressed concern that her parents were not aware of the meeting
when the Utah Auto Sales use was approved, but have since obtained the minutes of the
34 approval and reviewed concerns which were discussed during that meeting.

36 Ms. Perry went on to discuss additional problems her parents have reported in
relation to Utah Auto Sales, including customers walking on the private Johnson
property, and employees of the company picking fruit from trees owned by the Johnsons.

38 Ms. Perry stated that the family was relieved when Utah Auto Sales closed
thinking that noise and light impacts would be eliminated. She stated that the issues
40 continued even though the auto dealership was out of business. Ms. Perry stated that
Councilmember Bayless and the City Code Enforcement Officer have both visited the
42 Johnson home to investigate the reported issues, and have indicated that the problems
would be addressed. According to Ms. Perry, one light on the site continues to direct
44 light on to the Johnson property rather than containing the light on the commercial site.
On one occasion, the family called the police department regarding the music. Ms. Perry
46 stated that the police responded to the site and immediately addressed the issue.

Ms. Perry expressed additional concern regarding privacy issues related to windows on the commercial site which overlook the residential property. She stated that her parents are requesting that a solid fence be installed along their property to enhance privacy and safety on their private property. The Johnsons are also extremely concerned about noise impacts from music, particularly at night. The residents are also requesting that all light be contained to the commercial site and not reflect into their residential lot. Ms. Perry stated that her parents are extremely concerned about potential noise impacts resulting from the sale or rental of ATV's and motorcycles. The Johnsons are also requesting that music and other noise from the service bays be contained to the site. She reiterated concerns regarding loss of privacy on the Johnson property.

Robert Daley stated that his property is located directly west of the subject property. Mr. Daley acknowledged that the concerns being expressed by residents at this meeting are not specifically directed at Mr. Arbon or his business, but are concerns which have come about based on past experience with the former business. Mr. Daley expressed agreement with the concerns discussed by Ms. Perry relative to noise and light impacts to neighboring properties. He explained that the service bays were often in use late into the evening, and that music was played at a volume that could be heard from neighboring properties. He expressed concern that those impacts may be repeated with this use. He requested that in general, service bays be closed down at a reasonable time. Mr. Daley noted that trees at the rear of the site could substantially reduce noise impacts.

Mr. Arbon asked Mr. Daley what his experience has been with the Funshare business in the past five months since they opened. Mr. Daley stated that there is a dramatic difference between the impacts of this use and the previous use. He stated that they have not heard music from the site since Funshare has opened, and that there have been only occasional light impacts. He stated that Funshare has been a good neighbor and that there have been no significant negative impacts in that time.

Chairperson Godfrey inquired as to the experience the Johnsons have had since Funshare opened on the site. Ms. Perry stated that her father is somewhat hard of hearing and has not reported any concerns regarding the noise. She stated that one light still shines into her parent's yard. Mr. Arbon's business partner, Robbie Kauo, stated that he was unaware of the problem with the light, but that he is willing to address the issue immediately.

Wayne Gardner stated that he was able to hear music from the site in the nighttime hours when the site was occupied by Utah Auto Sales, but that there has not been a problem since Funshare opened for business. He observed that successful business is a critical component of a community, and that if music played on the site is played at a reasonable volume and during reasonable hours he doesn't have a concern. He agreed that installation of an appropriate fence along the Johnson property line would be appropriate to address some of their privacy concerns.

The Commission went on to discuss fencing requirements. Mr. Cowie explained that the existing fencing was installed in compliance with ordinance requirements at the time the site plan was approved. Commissioner Anderson noted that the property line in question is not part of the Johnson's residential use lot, and that it is a lot which is zoned for commercial use. He explained that six foot sight obscuring fencing would not be a requirement in this instance.

2 Chairperson Godfrey expressed appreciation to residents for attending the
meeting voice concerns. He explained that Conditional Use Permits are issued with
4 reasonable conditions which make the use more compatible with surrounding uses. He
invited Mr. Arbon to provide any additional comments or information he would like the
Commission to consider.

6 Commissioner Peters observed that noise and light issues seem to be fairly easy to
address. He inquired as to how Mr. Arbon will mitigate noise impacts which may result
8 from the ATV's and other rental equipment associated with the business. Mr. Arbon
stated that vehicles may be started on the site to see how a particular piece of equipment
10 is running, but that vehicles will not be typically be driven on the site. He observed that
service and repair bays will produce some noise, but he will make an effort to minimize
12 any impact to neighboring properties.

Chairperson Godfrey inquired as to proposed business hours. Mr. Arbon stated
14 that he anticipates being open from 9:00 a.m. to 6:00 p.m. Monday through Saturday. He
stated that there may be occasions when the business will open earlier for specific
16 situations. He stated that he anticipates busy times to be in the later afternoon to early
evening hours. Chairperson Godfrey asked if there would be circumstances when the
18 hours may be later than anticipated. Mr. Arbon stated that he would not anticipate being
open later than 7:00 p.m. He explained that rental returns are done between 9:00 a.m.
20 and 11:00 a.m., and rental pick ups are between 3:00 p.m. and 5:00 p.m. He noted that
there may be a few occasions when a repair may need to be completed in the evening
22 hours, but those situations should be the exception. He stated that early and late drop off
and pick up would be discouraged.

24 Mr. Arbon stated that the bay doors could be closed if after hours repairs were
necessary on occasion. He explained a large commercial facility was recently
26 constructed in the rear of his home, and that he is sensitive to the concerns neighbors
have expressed. He stated that he will make every effort to be considerate of neighbors.
28 He stated that he is willing to install trees along the front and rear of the site. He inquired
as to what types of trees would be acceptable. Mr. Cowie will forward the recommended
30 tree list to Mr. Arbon. Mr. Arbon stated that he is not being permitted to sell RV's and
boats, but that it is his intention to sell the smaller items in order to generate additional
32 revenue.

Chairperson Godfrey discussed existing fencing around the site and the effect on
34 the Johnson property. He also discussed tree locations which were required during initial
site plan approval. Commissioner Call inquired as to whether any fencing is required
36 between commercial lots. Mr. Cowie reported that fencing is not required between
commercial lots.

38 Chairperson Godfrey observed that the applicants appear to be willing to work
with the Johnsons to resolve light issues, and that music and sound impacts have not been
40 reported by neighbors since Funshare opened. He reiterated that fencing can not be
required between the business and the vacant commercial lot owned by the Johnsons
42 based on current ordinance requirements. An audience member observed that the
Johnsons would have the option to install fencing along the property line at their expense.

44 Ms. Daley inquired as to whether anything could be done about the second story
windows which look down into the Johnson property. Chairperson Godfrey stated that
46 the Commission does not have the authority to require them to make structural changes to

2 the building. Mr. Arbon stated that his business is only occupying two of the offices in
the building. Mr. Kauo stated that they would be willing to install some type of window
4 covering in vacant offices. He stated that if offices are used in the future by this business
or another business the window coverings would have to be removed.

6 Chairperson Godfrey suggested that the Commission discuss the terms of the
Conditional Use Permit to allow sale of rental equipment. Commissioner Anderson
stated that he is not concerned with selling vehicles associated with the rental business.
8 Mr. Arbon stated that the business currently has two motorcycles and four ATVs which
are rented, as well as luxury vehicles and RVs. Mr. Cowie explained that Mr. Arbon
10 submitted a Concept Review application which was reviewed by the City Council to
determine whether there was any inclination on the part of the Council to allow sales of
12 RVs on the site. He reiterated that it was the general feeling of the Council that sale of
RVs would not be permitted. Mr. Kauo stated that some type of sales is necessary in
14 order to make the business financially viable. Mr. Arbon stated that the state licensing
process to allow sale of RVs would be easily completed if that use is permitted in the
16 future. He explained that a sales component is a natural extension of the rental business.

18 Mr. Cowie explained that the Conditional Use is revocable if there are unresolved
issues with the business. Mr. Kauo stated that they are willing to address any concerns as
they arise.

20 The Commission went on to review potential concerns with the repair and service
component of the business. Chairperson Godfrey asked Mr. Arbon if the repair
22 component or sales component is more critical to the success of the business. Mr. Arbon
stated that sales would generate more revenue than repairs, but that both would be an
24 important aspect of the business, particularly in the current economy. Commissioner
Anderson observed that the repair component is accessory to this use, and that the bays
26 are not a stand alone repair shop.

28 Chairperson Godfrey inquired as to whether there is any concern regarding sales
of the small equipment which permitted by Conditional Use. Commissioner Anderson
observed that if appropriate conditions are placed on the use, the Conditional Use can be
30 revoked if there are significant problems. Chairperson Godfrey observed that he feels
compelled to protect the rights of the neighboring property owners. Mr. Cowie suggested
32 that a review be scheduled to review any potential issues with residents.

34 Commissioner Johnson observed that it seems that business has been a good
neighbor in many aspects already. He also observed that adding a sales component to the
business should not change any impacts to residents as far as noise or light concerns
36 which have been discussed extensively.

38 The Commission discussed conditions which should be included in any approval
of the Conditional Use Permit application, including light and noise impacts, installation
of required landscaping, test driving of equipment on the site, and a six month review to
40 address any concerns of neighboring property owners or the City.

42 **COMMISSIONER PETERS MOVED TO APPROVE THE CONDITIONAL
USE PERMIT FOR "FUNSHARE" WITH THE FOLLOWING CONDITIONS:**

- 44 1. THAT BUSINESS HOURS BE 9:00 A.M. TO 6:00 P.M. MONDAY THROUGH
SATURDAY AND THAT ANY NECESSARY WORK IN THE SERVICE BAY

- 2 AREA BEFORE OR AFTER HOURS SHOULD BE COMPLETED INSIDE
3 THE BAYS WITH THE BAY DOORS CLOSED.
- 4 2. THAT ALL LIGHTING BE CONTAINED ON THE PROPERTY,
5 PARTICULARLY THE LIGHT AFFECTING THE NEIGHBORS TO THE
6 NORTH.
 - 7 3. THAT MUSIC VOLUME BE KEPT LOW AND THAT THE SOUND BE
8 CONTAINED ON THE PROPERTY.
 - 9 4. THAT THERE BE NO REPAIRS OF VEHICLES OR EQUIPMENT THAT
10 ARE NOT PART OF THE RENTAL OR SALES INVENTORY OF THE
11 BUSINESS.
 - 12 5. THAT REQUIRED LANDSCAPING BE INSTALLED ON THE STATE
13 STREET FRONTAGE AND THE WEST PROPERTY LINE.
 - 14 6. THAT THE CONDITIONAL USE PERMIT IS REVIEWED IN SIX MONTHS
15 (NOVEMBER 2009).
 - 16 7. THAT ANY DRIVING OF VEHICLES ON SITE FOR DEMONSTRATION OR
17 TEST PURPOSES BE LIMITED TO FIVE TO TEN MINUTES.
 - 18 8. THAT THE APPLICANTS BE CONSCIOUS OF NOISE IMPACTS TO
19 NEIGHBORS.

20 COMMISSIONER ANDERSON SECONDED THE MOTION. ALL PRESENT
21 VOTED IN FAVOR. THE MOTION CARRIED.

22 **NEW BUSINESS** – Reports by Commissioners

24 Commissioner Peters suggested that Mr. Cowie approach the City Council to
25 reconsider their position on sales associated with this particular business. Mr. Cowie
26 reviewed the discussion during the City Council Concept Review and reasoning for not
27 permitting sales of vehicles or recreational vehicles on this site. Commissioner Peters
28 asked Mr. Cowie relay the request to the Council that members of the Planning
29 Commission would like them to reconsider their position on this matter and consider a
30 possible ordinance change to allow RV sales in the CG zone.

31 Mr. Cowie asked the Commission to return to approval the April 22, 2009
32 minutes. He noted that the final page of the minutes is not available at this time. He
33 suggested that approval of the minutes be continued until the June 10, 2009 meeting.
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35 COMMISSIONER PETERS MOVED TO CONTINUE APPROVAL OF THE
36 APRIL 22, 2009 MINUTES TO THE MEETING OF JUNE 10, 2009. CHAIRPERSON
37 GODFREY SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE
38 MOTION CARRIED.

39 Chairperson Godfrey observed that there appear to have been unresolved issues
40 with the Utah Auto Sales Conditional Use Permit relative to complaints made by
41 neighboring property owners. Mr. Cowie stated that the business owner made multiple
42 attempts to resolve the issues and address the complaints, and that that the Code
43 Enforcement Officer visited the residential property on several occasions to assess the
44 situation. City staff felt that the business had taken reasonable action to resolve the
45 complaints, but that the residential neighbors were still unsatisfied. He explained that
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2 complaints related to Conditional Use Permits are typically resolved at a staff level unless
3 significant issues persist, at which time the Permit would be reviewed and possibly
4 revoked by the Planning Commission. He noted that Utah Auto Sales went out of
5 business before the complaints reached that level.

6 Chairperson Godfrey reported on a situation at the corner of 200 East and 400
7 North where a semi truck is frequently parked. He stated that landscaping materials have
8 been brought into the area, and that it appears that an illegal business is being run from
9 that location. He observed that the lot appears to have double frontage, which is not
10 permitted. Mr. Cowie stated that City Code prohibits creating double frontage lots in
11 subdivision plats, but that some existing metes and bounds parcels have double frontage.
12 The Planning Department will investigate the report and determine whether any action
13 should be taken.

14 **PLANNING DIRECTOR'S REPORT** –

16 Mr. Cowie reported on the following items:

- 17 1. The City Council approved the LDS Church subdivision with the conditions
18 set forth by the Planning Commission.
- 19 2. Due to a technical error, the Board of Adjustments reviewed the Golden Years
20 Elderly Group Home site plan application a second time. Following the
21 review, the Board upheld the decision of the City Council to deny the
22 application.
- 23 3. The new ordinance regulating door to door solicitors was recently adopted by
24 the City Council. The ordinance is in effect, but related fees are not yet
25 approved as part of the fee schedule. Chairperson Godfrey inquired as to what
26 documentation will be carried with the solicitor to identify them to residents.
27 The Commission discussed details of the ordinance. Mr. Cowie will clarify
28 several elements of the ordinance with the City Attorney, such as state
29 licensing and listed exemptions. Chief Cullimore has expressed that the Police
30 Department is very willing to respond to any calls regarding illegal door to
31 door solicitation. Mr. Cowie encouraged the Commission to inform their
32 neighbors that the ordinance is in place.
- 33 4. Mr. Cowie expressed appreciation to Commissioners who participated in the
34 sod laying event at the aquatics center.
- 35 5. Commissioners were invited to attend Memorial Day events, including the
36 flag ceremony at the cemetery and the Open House at the aquatics center.
- 37 6. A land use seminar will be held June 4th in Salem. Topics discussed will be
38 land use powers and process.

40 **ADJOURN** –

42 COMMISSIONER ANDERSON MOVED TO ADJOURN THE MEETING AT
43 9:52 P.M. COMMISSIONER PETERS SECONDED THE MOTION. ALL PRESENT
44 VOTED IN FAVOR. THE MOTION CARRIED.

46 Approved – June 10, 2009

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Gary Godfrey, Chairperson

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12 Adam Cowie, Planning Director