

Mapleton City Planning Commission Staff Report

Meeting Date: December 11, 2008

Item #: 3

Applicant: Alan Stubbs

Zone: A-2

Parcel #: 26:068:0061

Prepared by: Matt Brady

REQUEST:

Alan Stubbs requests nonconforming status for an illegal lot located generally at 676 North 1600 East (Utah County Parcel # 26:068:0061). The subject parcel is located in the A-2 (Agricultural-Residential) Zone.

SUMMARY OF KEY ISSUES:

1. According to Utah County records, the subject parcel is approximately 0.5 acres in size, with approximately 140 feet of frontage on 1600 West. The A-2 zone currently requires 2 acres and 200 feet of frontage.
2. The subject parcel was identified as illegal by Mat Evans, a previous Mapleton City Planning Director. It was split from the property which is part of the proposed Sommer Estates Subdivision, Plat "A". The Radley family was responsible for the illegal split. The home at 676 North 1600 East was built on the condition that the proposed lot come up to acreage requirements (the lot had already received a variance for less frontage).
3. When the Sommer Estates Subdivision, Plat "A" was under review in 2007-2008, this item was discussed extensively between Staff and the Applicant, City Attorney, Planning Commission, and City Council. The discussion centered on whether the Stubbs' parcel should be included in the rezone and subdivision proposals, and whether it should be required to come up to City standards. Upon the City Attorney's review of this matter, it is his opinion that parcel #26:068:0061 should not be included in the rezone or subdivision proposals, because ownership of both parcel 26:068:0061 and ownership of the proposed subdivision has changed since the split of the parcels, and that requiring them to rezone and subdivide together would constitute inverse condemnation.
4. The Planning Commission recommended approval of the Edmunds' rezone from A-2 to A-2 (TDR-R) on June 12, 2008, and the City Council approved the rezone on July 16, 2008. The Planning Commission approved the Preliminary and Final Plat of Sommer Estates Subdivision, Plat "A", with conditions, on August 28, 2008. Neither the rezone nor the subdivision approvals included any requirements that involved the Stubbs' parcel becoming part of the rezone or subdivision. The Sommer Estate Subdivision, Plat "A" is currently pending recording.
5. Mapleton City Code 18.20.060(E): Illegal Lots states: *"Any lot that does not meet the strict definition of a "zoning lot" as described in section 18.08.475 of this title, and has been created illegally, shall not be issued a building permit. Any home located on a lot that was created illegally, shall not be issued a building permit to expand, enlarge, or rebuild the home, or a building permit to construct an accessory building or structure. Any home or structure located on a lot that was illegally created prior to July 1992, may be granted the status of "nonconforming" by the planning commission with the following criteria and conditions of approval:*
 1. *Ownership: The home must not be owned by the person(s) who created the illegal lot nor by anyone related to said person(s) either by blood or adoption to the fourth degree of consanguinity.*
 2. *Setbacks: The creation of the illegal lot did not cause nonconformance to the setbacks of any structure located on the lot or adjacent lots.*
 3. *Conditions: The planning commission may require that the property owner*

enter into a signed and recorded agreement stating that if the property that was split away from the parcel containing the existing home is developed, that the lot with the home must become a part of the development either by means of a subdivision lot or as allowed in title 17 of this code. If the lot is adjacent to property that has been improved to meet Mapleton City standards, including the installation of curb, gutter and sidewalk, the planning commission may also require the installation of those improvements, which may have been required when the property was divided or altered. Other conditions may include additional landscaping and/or any other items necessary to bring the property to current standards as directed by this code.”

The Applicant has informed Staff that he is not related to the Radley family. From examination of aerial photo overlays in Mapleton City’s Geographic Information System (GIS), it appears that the subject parcel does not have any setback violations. Regarding the possibility of requiring “*the installation of curb, gutter and sidewalk,*” it is the opinion of Staff that this should not be required, because this is only allowed “*If the lot is adjacent to property that has been improved to meet Mapleton City standards.*” There are no such improvements to the north. Curb, gutter and sidewalk on 1600 West are part of the approved plan for Sommer Estates Subdivision, Plat “A”, but those improvements have not yet been bonded for, and the subdivision plat has not been recorded. The Edmunds have informed Staff that they will probably wait for 2-3 years before completing the bonding and other requirements to record the subdivision plat.

STAFF RECOMMENDATION:

Staff recommends approval of the proposal for nonconforming status.

OVERALL IMPACT TO ADJACENT PROPERTY AND CITY GOALS:

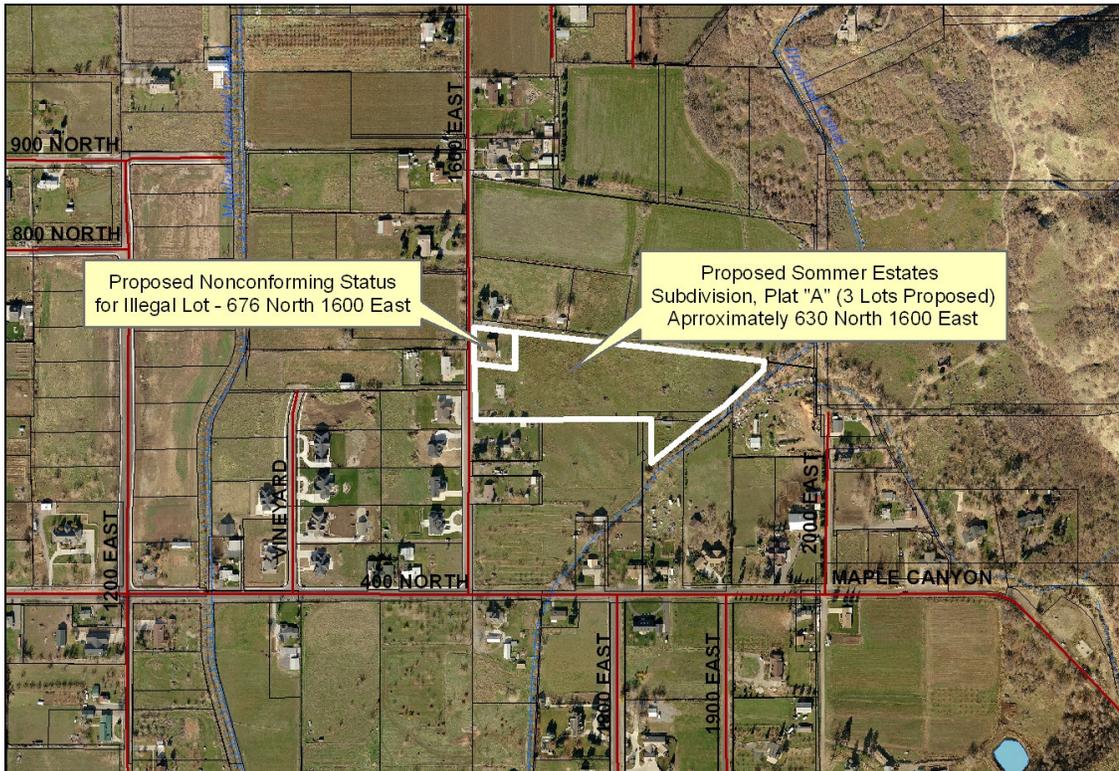
This proposal would leave a 0.5-acre parcel with 140 feet of frontage in the middle of the A-2 Zone. However, there are other parcels nearby which have also obtained nonconforming status from the Planning Commission.

PLANNING COMMISSION DISCUSSION ITEMS:

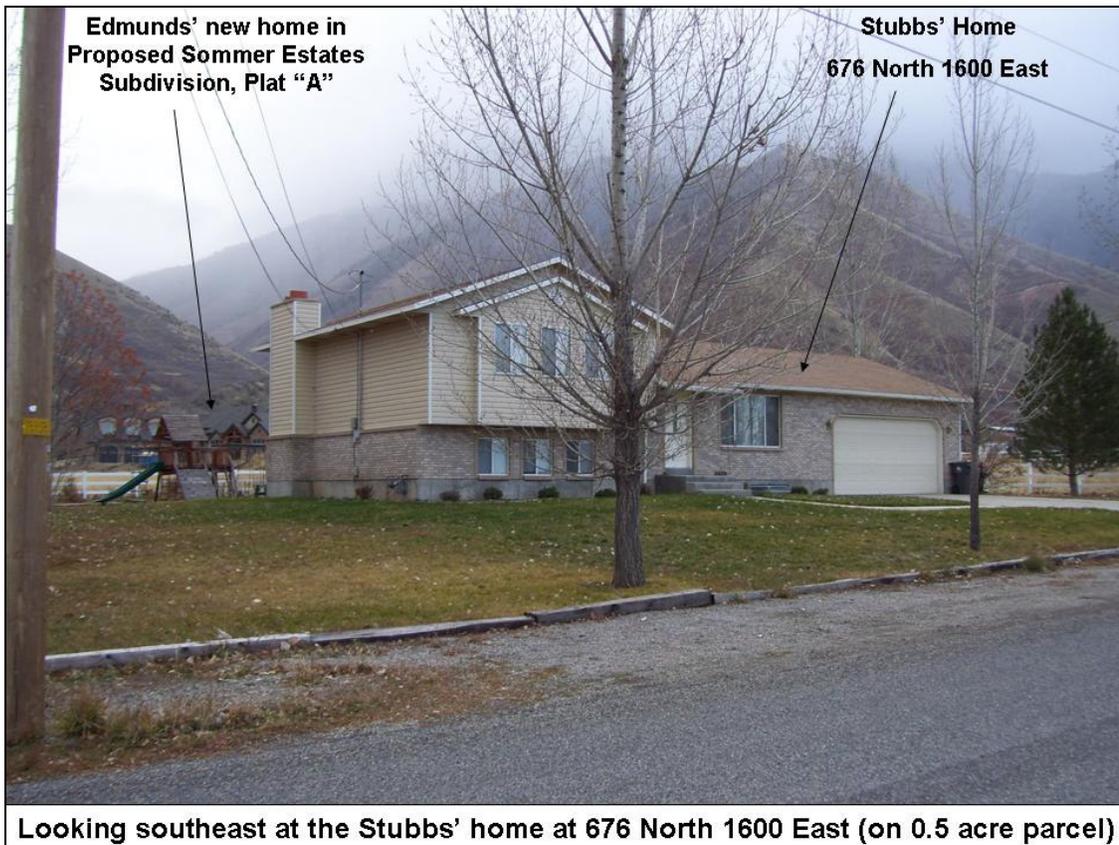
It is the opinion of Staff that the following issues should be discussed by the Planning Commission:

1. Does this proposal conform with Mapleton City Code 18.20.060(E): Illegal Lots?

VICINITY MAP:



SITE PHOTOS:





**Stubbs' Home
676 North 1600 East**

**Proposed Sommer Estates
Subdivision, Plat "A"**

Looking southeast at the home at 676 North 1600 East and proposed Sommer Estates Subdivision, Plat "A"



**Temporary Driveway / Future Road
Location of 650 North Cul-de-Sac**

Looking east at the Edmunds' new home in Proposed Sommer Estates Subdivision, Plat "A"