

# Mapleton City Planning Commission Staff Report

Meeting Date: September 25, 2014

**Item:** 3

**Applicant:** Mark's Iron Art

**Prepared by:** Brian Tucker, Planner

**Public Hearing Item:** Yes

**Location:** 10 South 800 West (Parcel # 47:089:0002)

**Zone:** RA-1

## **REQUEST**

Consideration of a request for a Home Occupation to operate an iron art manufacturing business in the Residential-Agricultural zone (RA-1).

## **BACKGROUND AND PROJECT DESCRIPTION**

The property located at 10 South 800 West is in a moderately low density residential area. The applicant is requesting a Home Occupation that would allow him operate an iron art manufacturing business in his back yard and in an outbuilding. The iron art projects will tend toward being small yard art but may involve the occasional larger piece. The property consists of .76 acres in the RA-1 Zone and the nearest homes are in excess of 100 feet from the home on the lot. The property is not well irrigated and in the late summer tends toward the dry, which could be a safety issue if heat and/or open flame are part of the process.

## **EVALUATION**

### **Law:**

Home Occupations are governed by section 18.84.380 of the Mapleton Municipal Code. Home occupations are allowed so long as they constitute no more than a modest level of business within dwellings, conducted under conditions and levels of operation that do not adversely affect, undermine, or significantly depreciate the residential character of the area. Detached structures where a home occupation is being conducted must be located within fifteen feet (15') of the residential dwelling. Conditions may be imposed in order to mitigate specific, legitimate impacts to the neighborhood or to neighboring property. Section 18.84.380 does not label specific uses as being allowed as a home occupation, rather it suggests criterion that must be met in order to issue a home occupation permit. The following conditions and criteria apply to the proposed use:

1. Home occupations must be listed as a permitted or conditional use in the zone,
2. The business must be conducted entirely within a completely enclosed structure on the property,
3. No more than 25% of the structure or 500 sf, whichever is less, may be used for the home occupation,
4. No more than one person who does not reside on the property may be engaged in the home occupation,
5. Any sale of goods no produced as part of the home occupation shall "constitute a clearly incidental part of the home occupation". No display of merchandise shall be visible from outside the structure,
6. No commercial vehicles may be stored at the home except for one small delivery truck.
7. No more than 6 cars may be parked at the residence at any one time,
8. The home occupation must be secondary and incidental to the use of the dwelling as a residence,
9. Signs shall be limited to 4 square feet, attached to the building and not electrified,
10. The home occupation must be licensed by the city and comply with city regulations,
11. The entrance to the home occupation must use the same entrance as the residents unless specifically required by an agency with regulatory powers over the business,
12. The business shall not use hazardous materials or chemicals that increase the hazard of fire, explosion, or jeopardize the safety of the neighborhood,
13. The operation of the home occupation shall not produce any noise, smoke, glare, light, fumes, dust,

- electronic interference or similar condition which is readily discernible outside the dwelling,
14. The physical appearance, traffic, and other activities in connection with the home occupation will not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding property values or the quality of the area for residential purposes,
  15. The home occupation must be conducted by a person who occupies the dwelling. Background checks will be conducted on all inhabitants of the dwelling and employees, and
  16. The home occupation shall operate in compliance with any applicable city or state requirements.

**Compliance:**

The home occupation will be required to carry a Mapleton City Business License. The business does not include the use of more than 500 sf, will include no more than one employee, and the home occupation will not include any exterior changes to the home that will change the residential character of the building.

The primary issue with this business request is the requirement in Section 18.84.380.D. that “the home occupation shall be conducted entirely within a completely enclosed structure on the property.” Furthermore Section 18.84.380.D. requires that “detached structures where a home occupation is being conducted must be located within fifteen (15’) feet of the residential dwelling.” There may be a fire safety concern with any outdoor use of flame or heat on a property that tends toward being dry and uncut.

If the home occupation is not located within a completely enclosed structure located within fifteen feet of the dwelling it cannot be permitted in accordance with Mapleton City Code. Given the state of the property it is likely not safe from a fire perspective to allow this kind of business outdoors even if the code allowed it. If the applicant cannot conduct the business from within an enclosed structure located within 15’ of the home the permit cannot be granted.

If the applicant is willing to conduct the business in a permissible structure, there are still potential issues regarding the nature of the business and its compatibility with the surrounding residential area. Specifically, will the operation of the home occupation produce noise, smoke, glare, light, fumes, dust or similar impacts that are readily discernible outside the enclosed structure? If so are there reasonable conditions that can be placed on the permit that will serve to mitigate these “readily discernible” impacts.

**RECOMMENDATION**

If the business cannot be located within a permissible structure or if there are impacts that cannot be mitigated by reasonable conditions the permit should be denied and the Planning Commission should make it clear, on the record, the reasons for the denial.

**ALTERNATIVE ACTIONS**

1. If the business can be conducted within an enclosed structure located within 15’ of the home, and if the business can be conducted in a manner and with reasonable conditions that mitigate the impacts of what could potentially be classified as a small scale light industrial use the permit should be approved.
2. Approve the application with revised conditions.
3. Continue the application with a request for changes/additional information.

**CONDITIONS**

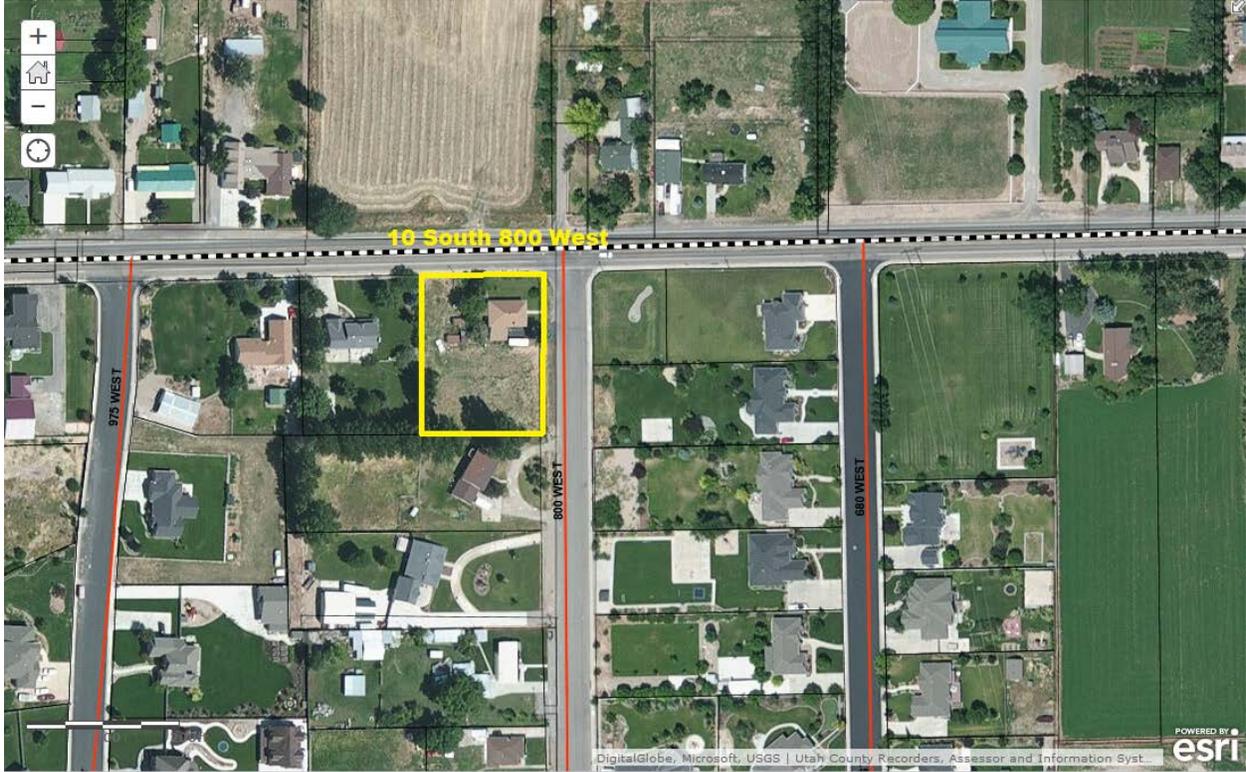
1. The applicant shall obtain a business license prior to opening for business.
2. Background checks for all employees and residents of the dwelling shall be maintained with Mapleton.
3. The home occupation shall be conducted within the confines of the structure.
4. No signs shall be placed on the property without a sign permit.
5. The iron working and all aspects of the business shall be conducted only within the confines of the home or within an enclosed structure located within 15’ of the home. The total area of the home and

accessory structure used for the business may not exceed 500 square feet.

6. There shall be no outdoor storage of materials. Indoor storage of materials included within the maximum total of 500 square feet allowed for the business.
7. Hazardous materials, chemicals or flammable substances shall not be stored in amounts that will increase the hazard of fire, explosion or safety concerns for the inhabitants of the home or neighboring property.
8. Mapleton City Police and Fire Department approvals are required.
9. Violations of the terms of this use permit or other ordinances of the City may constitute grounds for revocation of this permit and associated business license by the Planning Commission.
10. If the proposed use is abandoned for a period of six months or more, the use permit will become null and void.

**ATTACHMENTS:**

1. Findings for Decision.
2. Standard Conditions
3. Application Materials.





| <b>Standard Home Occupation Conditions</b> |  |   |
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| <b>No.</b>                                 | <b>Condition</b>   |   |
| 1.   | Home occupations shall be listed as a permitted or conditional use in the zone.  | ✓ |
| 2.   | The home occupation shall be conducted entirely within a completely enclosed structure on the property. Detached structures where a home occupation is being conducted must be located within fifteen feet (15') of the residential dwelling.  | ✓ |
| 3.   | The home occupation shall occupy not more than the equivalent of twenty five percent (25%) of the living area of the dwelling or five hundred (500) square feet, whichever is less. This shall also apply to detached structures   |   |
| 4.   | The activities of the home occupation shall be conducted by members of the residing family. Provided that not more than one person, not a member of the residing family, may be engaged in the home occupation.  | ✓ |
| 5.   | Any sale of goods not produced as part of the home occupation shall constitute a clearly incidental part of the operation of the home occupation. There shall be no display of goods produced by the home occupation observable from outside the dwelling.   | ✓ |
| 6.   | No commercial vehicles shall be stored at the premises except one delivery truck which shall not exceed ten thousand (10,000) GVW rated capacity.  | ✓ |
| 7.   | Not more than six (6) cars (including those owned by the resident family) may be parked at the residence at any one time and such vehicles shall be parked within the driveway or in front of the residence. Clients of the home occupation shall not park or store vehicles at the premises overnight.          | ✓ |
| 8.   | The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not have the effect of changing the character of the building or the attendant yard area from that of a dwelling.   | ✓ |
| 9.   | Signs shall be limited to one non-illuminated identification nameplate not larger in area than four (4) square feet. Electric or electronic signs shall not be permitted. No on site advertising signs shall be permitted. The sign must be attached to the building where the home occupation is to take place. | ✓ |
| 10.  | The home occupation shall be registered with the license agency of the city and shall maintain a current business license in accordance with city regulations.   | ✓ |
| 11.  | Entrance to the home occupation from outside shall be through the same entrance normally used by the residing family except when a separate entrance may be required by regulation of the state health department or other public agency. The garage door shall not be used to satisfy this requirement.         | ✓ |
| 12.  | The activities of the home occupation shall not involve the use of hazardous materials or chemicals in amounts that will increase the hazard of fire, explosion or safety to the structure or occupants of the dwelling or adjacent dwellings.   | ✓ |
| 13.  | The operation of the home occupation shall not produce any noise, smoke, glare, light, fumes, dust, electronic interference or similar condition which is readily discernible outside the dwelling.  | ✓ |

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| 14. | The physical appearance, traffic, and other activities in connection with the home occupation will not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding property values or the quality of the area for residential purposes as determined by the city.  | ✓ |
| 15. | The home occupation shall be operated in compliance with any applicable city or state requirements.  | ✓ |
| 16. | The home occupation applicant must either be the bona fide owner of the home (as shown on the current Utah County tax assessment rolls) or if the applicant is renting or leasing the home, the homeowner must provide written permission allowing the applicant to conduct a business in the home. Said letter of permission must be signed and notarized by the homeowner. | ✓ |

**Standard Home Occupation Permit Findings**

| No. | Finding   |   |
|-----|---|---|
| 1.  | The proposed use will not be in conflict with the City's General Plan.  | ✓ |
| 2.  | The proposed use or combination of uses are listed as permitted or conditional uses in the applicable zoning district in which the project is located.  | ✓ |
| 3.  | The proposed use will provide adequate ingress and egress to and from the proposed location   | ✓ |
| 4.  | The home occupation will be conducted entirely within a completely enclosed structure on the property. Detached structures where a home occupation is being conducted must be located within fifteen feet (15') of the residential dwelling.  | ✓ |
| 5.  | The home occupation shall occupy not more than the equivalent of twenty five percent (25%) of the living area of the dwelling or five hundred (500) square feet, whichever is less. This shall also apply to detached structures.   | ✓ |
| 6.  | The activities of the home occupation shall be conducted by members of the residing family. Provided that not more than one person, not a member of the residing family, may be engaged in the home occupation.   | ✓ |
| 7.  | Any sale of goods not produced as part of the home occupation shall constitute a clearly incidental part of the operation of the home occupation. There shall be no display of goods produced by the home occupation observable from outside the dwelling.  | ✓ |
| 8.  | No commercial vehicles shall be stored at the premises except one delivery truck which shall not exceed ten thousand (10,000) GVW rated capacity.   | ✓ |
| 9.  | Not more than six (6) cars (including those owned by the resident family) may be parked at the residence at any one time and such vehicles shall be parked within the driveway or in front of the residence. Clients of the home occupation shall not park or store vehicles at the premises overnight.         | ✓ |
| 10. | The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not have the effect of changing the character of the building or the attendant yard area from that of a dwelling.  | ✓ |
| 11. | Signs shall be limited to one nonilluminated identification nameplate not larger in area than four (4) square feet. Electric or electronic signs shall not be permitted. No on site advertising signs shall be permitted. The sign must be attached to the building where the home occupation is to take place. | ✓ |
| 12. | The home occupation shall be registered with the license agency of the city and shall maintain a current business license in accordance with city regulations.  | ✓ |
| 13. | Entrance to the home occupation from outside shall be through the same entrance normally used by the residing family except when a separate entrance may be required by regulation of the state health department or other public agency. The garage door shall not be used to satisfy this requirement.        | ✓ |

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| 14. | The activities of the home occupation shall not involve the use of hazardous materials or chemicals in amounts that will increase the hazard of fire, explosion or safety to the structure or occupants of the dwelling or adjacent dwellings.   | ✓ |
| 15. | The operation of the home occupation shall not produce any noise, smoke, glare, light, fumes, dust, electronic interference or similar condition which is readily discernible outside the dwelling.  | ✓ |
| 16. | The physical appearance, traffic, and other activities in connection with the home occupation will not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding property values or the quality of the area for residential purposes as determined by the city.  | ✓ |
| 17. | The home occupation shall be operated in compliance with any applicable city or state requirements.  | ✓ |
| 18. | The home occupation applicant must either be the bona fide owner of the home (as shown on the current Utah County tax assessment rolls) or if the applicant is renting or leasing the home, the homeowner must provide written permission allowing the applicant to conduct a business in the home. Said letter of permission must be signed and notarized by the homeowner. | ✓ |
| 19. | The proposed use will not make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.   | ✓ |
| 20. | The proposed use will not be injurious to public health, safety or welfare.  | ✓ |
| 21. | Any special conditions included in the permit are consistent with MCC Chapter 18.84.380.   | ✓ |