

MAPLETON CITY
PLANNING COMMISSION MINUTES
October 23, 2014

PRESIDING AND CONDUCTING: Chairman Rich Lewis

Commissioners in Attendance: Golden Murray
Justin Schellenberg
Keith Stirling

Staff in Attendance: Sean Conroy, Community Development Director

Minutes Taken by: April Houser, Executive Secretary

Chairman Lewis called the meeting to order at 6:30pm. Keith Stirling gave the invocation and Golden Murray led the Pledge of Allegiance.

Items are not necessarily heard in the order listed below.

Alternate Commissioner Justin Schellenberg was seated as a voting member this evening.

Item 1. Planning Commission Meeting Minutes – September 25, 2014.

Motion: Commissioner Stirling moved to approve the September 25, 2014 Planning Commission Minutes.
Second: Commissioner Murray
Vote: Unanimous

Item 2. Consideration of a request for a Conditional Use Permit to operate an existing single-family residence as a short-term vacation rental located at 903 South 1300 East in the Agricultural-Residential A-2 Zone. The applicants are Dave and Ingrid Nemelka.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. The property is approximately 12 acres in size with a home of 17,000 square feet and a number of amenities. The City Council reviewed this ordinance and adopted it in September of this year. The purpose of this meeting tonight is not to dispute short term rentals in the A-2 Zone, as that has already been approved. The key points to be considered are first; what are the criteria of a short term rental in the A-2 Zone based on the recently approved ordinance, and second; does this request meet those criteria. This property would be required to provide 11 off street parking spaces. The proposed Conditions of Approval listed in the Staff Report were discussed. Staff feels the application can comply with the requirements of the ordinance. The definition of short term is anything less than 30 days. The occupancy is still considered residential, but there are certain requirements that will be required to help ensure the safety of those staying in the home.

David Nemelka, the applicant, stated that they have been through several hearings and feel they have addressed all of the concerns raised. **Commissioner Murray** asked how they plan to address the possible issue where people are unable to find the property, and David stated that they will put a sign up. They

will also ask those renting the unit not to bother the property owners in the area for directions to the home. The tenants will be required to adhere to the 10pm and 7am noise concerns, and the applicant plans to take all steps possible to ensure these are not being violated.

Chairman Lewis opened the Public Hearing. **Skip Tandy** stood in behalf of himself and the Smaldones, who were unable to attend the meeting this evening. He felt that using 1300 East would be a more appropriate address listing. Mr. Tandy lives directly to the west of this property. They are happy other people can enjoy this home, but want to make sure it stays within certain parameters. Skip asked if the property could be rented to commercial businesses. Sean stated that they could as long as it was for at least 2 consecutive nights. Mr. Tandy gave an IBC Report handout to each Commissioner, and addressed some concerns he had in regards to this code being met. He feels the home should be required to be fire sprinkled. Skip Tandy gave an email to the Commissioners and Staff as well from the State Fire Marshall stating the need for Fire Sprinklers on the property. He would like this information passed on to the City Attorney to give his input on what he feels should be required from the applicant. **Gary Williams** owns the 7.5 acres of property to the south of the Nemelka property. He utilizes these vacation properties personally. He is a professor at BYU and feels that this is a substantial business, and is very much a commercial enterprise. Mr. Williams feels it should be considered as a resort facility. He wonders if this is truly the intent of the City to allow for this type of Conditional Use Permit. Gary read two letters, one from his wife and the other from himself, to those in attendance. He believes there is a repurposing issue here, and that this should be considered a boutique hotel. Skip Tandy stood again and stated that the Nemelka's do keep the property very nice, and that Ingrid still lives in Mapleton. **Ingrid Nemelka**, applicant, is not trying to run a boutique hotel. She still owns the home, and David is the one who is managing it and she would very much vote against it being considered a commercial boutique hotel. Sean stated that the Commission does have the ability to limit the occupancy allowed if they desire to do so. The Planning Commission is the final decision making body for this item unless there is an appeal. Mr. Nemelka stated that they have approximately 33 beds in the home. In peak seasons they anticipate renting the home 24-25 nights per month, and down to 10 nights a month in slow seasons. They do not anticipate the home to be rented more than 100 nights per year. They are trying to be considerate of the neighbors, and are just trying to do what they need to do for their family. Gary Williams stood again and stated his concern is the order of magnitude. David Nemelka stated that he is very comfortable with 55-60 occupants on the home. Chairman Lewis feels this should be approved with the stipulation that if and when the property sells the new applicant/owner would need to come back before the Planning Commission if they wanted to continue the use. Staff felt it would be arbitrary to stipulate a number in regards to occupancy. If the Commission desired they could put a condition on the Use Permit that a yearly review of the property take place in order guarantee that all concerns are being addressed. No additional comments were given and the Public Hearing was closed.

Motion: Commissioner Murray moved to approve the Conditional Use Permit to operate an existing single-family residence as a short-term vacation rental located at 903 South 1300 East in the Agricultural-Residential A-2 Zone, with the conditions listed below:

1. The rental shall be located on a legal lot of record of five (5) acres in size or larger.
2. The property is developed or will be developed with a single-family residence that has received proper building permit approvals.
3. A minimum of 11 on-site parking spaces shall be provided on site.
4. A business license shall be obtained prior to operation.
5. A building and fire inspection shall be required prior to issuance of a business license.
6. The applicant shall register with the State Tax Commission and pay the Municipality Transient Room Tax.

7. Failure to comply with the standards of this section and/or conducting the short-term rental property in a manner constituting or conducive to a breach of the public peace or menace to the public health, safety, morals or welfare may result in a revocation of the Conditional Use Permit by the Planning Commission.
8. The property shall be rented as a single unit. Individual rooms may not be rented separately.
9. All rental contracts shall require a minimum of stay of two (2) consecutive nights.
10. All short term residential rental properties shall designate a local property manager. The local property manager shall be available twenty four (24) hours per day to respond to tenant and neighborhood questions or concerns. Each short term residential rental property shall have a clearly visible sign within the unit containing the name and phone number of the local property manager.
11. No on-site camping shall be permitted (i.e. tents, RV's, campers, etc.). All tenants shall utilize the indoor sleeping accommodations provided with the rental.
12. The owner and property manager shall be jointly and severally liable for any violations of this article. Any rental dwelling unit which is found in violation of this article of any other requirement of this code may be subject to revocation of the short term residential rental property' business license and the Conditional Use Permit.
13. The applicant shall agree, at its sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any appeal, claim, suit or other legal proceeding related to the short-term residential rental property approval.
14. The Conditional Use Permit is reviewed in a year to determine if there are any additional issues and concerns that need to be addressed or amended with the Conditional Use Permit (CUP).
15. If the property sells the Conditional Use Permit terminates.

Second: Commissioner Stirling

Vote: Unanimous

Item 3. Consideration of Preliminary and Final Plat approval for the Friendly Cove Plat "A" Subdivision consisting of 20 lots. The applicant is also requesting to rezone approximately 2.3 acres from Agricultural Residential (A-2) to Residential Agricultural (RA-1) and to apply a Transferable Development Right Receiving Site Overlay Zone to the property.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. This project consists of 4 parcels and has frontage onto 3 streets, which are 800 West, 800 South and 1200 West. The proposal to rezone the small section to 1 acre is consistent with the General Plan for this area. There are 8 lots that are approximately 1/2 acre in size, with the remaining 12 lots being 1 acre or larger. This does require approval by the City Council, so the Commission is a recommending body this evening. **Commissioner Schellenberg** had a concern with the privacy fence along the back of lots 5 and 6. Sean stated that the current ordinance would prohibit this from happening, but if the Commission felt it necessary they could have a note on the plat as well as list it in the Conditions of Approval in their recommendation.

Colby Petersen, applicant, does not have an issue with Commissioner Schellenberg's concern with the fencing on lots 5 and 6. They plan to bring the elevation up 4 to 5 feet from the native soils. It will

essentially be brought up similar to other developments in this area. They will have retention tanks throughout the development and in the park strip swell areas. All water will be retained on site.

Chairman Lewis opened the Public Hearing. **Ron Jensen** has a concern with the water table in this area. His property has flooded three times this year. He wants the City to make sure these issues are addressed before the development is approved. **Bob Livingston** lives in the Pheasant View subdivision to the west. He had questions about how they were going to handle their drainage. Sean stated that it will be maintained on each lot. This development will need to handle their own drainage, and will not be able to drain into the surrounding developments. **Ken Jensen** asked how 800 South was going to be improved. Sean stated that the area of their development along 800 South will be improved, but the remaining improvements will come as development takes place. Mr. Jensen is concerned with some sections not being improved due to the lots that are already developed and built upon. Sean stated that Staff does review the reports and plans, and must approve them, prior to any subdivisions be recorded. No additional comments were given and the Public Hearing was closed.

Motion: Commissioner Schellenberg moved to approve the Preliminary Plat and recommend Final Plat approval to the City Council for the Friendly Cove Plat "A" Subdivision consisting of 20 lots. The applicant is also requesting to rezone approximately 2.3 acres from Agricultural Residential (A-2) to Residential Agricultural (RA-1) and to apply a Transferable Development Right Receiving Site Overlay Zone to the property, with the condition that all outstanding issues raised in the Development Review Committee (DRC) minutes dated October 20, 2014 shall be addressed prior to plat recording.

Second: Commissioner Murray

Vote: Unanimous

Item 4. Consideration of an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivision.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. Examples were given to better clarify the proposed ordinance amendment. This would allow previously platted subdivisions the ability to use Transferable Development Rights (TDR's) if they were able to meet the requirements of the development ordinance in those zones. **Chairman Lewis** had a concern that smaller lots could potentially come in around developments where larger lots are in place and built upon. Sean stated that TDR's cannot be applied to lots that are less than 1 acre in size. **Commissioner Schellenberg** felt this could be both an equitable and inequitable ordinance amendment. **Commissioner Stirling** was on the City Council when the TDR Ordinance was put in place and felt this request was not part of the original discussion when this was approved.

Chairman Lewis opened the Public Hearing. **John Pratt** lives in a platted subdivision where he felt the character and makeup of the area was already put in place. He feels the quality of life and property values are a very real concern. He currently lives in a development where this ordinance amendment could be utilized, and would object to this request being approved. He does not feel if the change dramatically affects a development that this type of rezone should be allowed. Mr. Pratt feels the City should have some integrity in regards to changing the development possibilities of these previously platted subdivisions. **Lloyd Eldridge** lives to the north of the Pratt's. He stated that there are only 3 lots in this area that could be subdivided, and one is currently part of a 10 year lease of their land, which would prohibit any subdividing to take place during that time. They have talked to all 11 members of their subdivision, and 10 of the 11 are willing to support this type of ordinance amendment. Sean stated that if the Commission wanted further information the item could be continued or the Commission could move forward with a recommendation of approval or denial. The Commission wanted a clarification on the

possibility of this being done as a variance, and Sean stated that he felt they would not be able to do that where there are 5 distinct requirements that need to be met in order to be approved. **Barbara Pratt** stated that this amendment would allow future developments to be rezoned as well, and would undermine the integrity of the City. **Leslie Loveless** lives across the street from the Pratt's and are the ones who would like to build on a possible sub dividable lot if this amendment is approved. She does not feel this will greatly affect any properties in the area. **Colby Petersen** suggested that the average lot size in a certain radius could be considered when addressing the possible ordinance amendment to ensure it follows a certain guideline. No additional comments were given and the Public Hearing was closed.

Commissioner Murray felt the last sentence proposing to be struck could stay in place with a word change to make it more feasible for all parties. Sean felt the item should be continued until additional information could be put together to see what possible impacts could take place if this amendment were approved.

Motion: Commissioner Gappmayer moved to continue an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivision until more information can be gathered in regards to possible impacts this could make on previous and future platted subdivisions.
Second: Commissioner Stirling
Vote: Unanimous

Item 5. Consideration of an ordinance amending Chapters 18.28.050, 18.32.050, 18.32.055, 18.36.060, 18.44.050, and 18.48.050. The proposed ordinance would allow for more flexibility in the minimum lot sizes for new residential subdivisions in the A-2, RA-1, RA-2, R-1-B and R-2 zones while maintaining the density requirements that already exist in these zones.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. This ordinance would allow for more of a clustering option to address lots sizes while maintaining the overall density. Developments could have more logical layouts if this were approved in those areas where a more creative layout makes sense. This will provide for more flexibility, and allow developers to bring forth more quality developments.

Chairman Lewis opened the Public Hearing. **Colby Petersen** loves this idea. This would have been beneficial in regards to his proposed development. He feels this would stop the odd lot layouts that are out there due to the stipulation of meeting minimum lot size requirements. No additional comments were given and the Public Hearing was closed.

Motion: Commissioner Stirling moved to recommend approval to the City Council of an ordinance amending Chapters 18.28.050, 18.32.050, 18.32.055, 18.36.060, 18.44.050, and 18.48.050. The proposed ordinance would allow for more flexibility in the minimum lot sizes for new residential subdivisions in the A-2, RA-1, RA-2, R-1-B and R-2 zones while maintaining the density requirements that already exist in these zones.
Second: Commissioner Murray
Vote: Unanimous

Item 6. Adjourn.

April Houser, Executive Secretary

Date: