

**MAPLETON CITY**  
**PLANNING COMMISSION MINUTES**  
September 27, 2012

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**PRESIDING AND CONDUCTING:** Jared Bringhurst

**Commissioners in Attendance:** John Gappmayer  
Leslie Jones  
Golden Murray  
Keith Stirling  
Mike Tippetts

**Staff in Attendance:** Matthew Brady, Planner I

**Minutes Taken by:** April Houser, Executive Secretary

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Chairman Jared Bringhurst called the meeting to order at 6:35pm. Golden Murray led the Pledge and John Gappmayer gave the invocation.

Alternate Commissioner Golden Murray was seated as a voting member this evening.

*Items are not necessarily heard in the order listed below.*

**Item 1. Planning Commission Meeting Minutes – June 14, 2012.**

**Motion:** Commissioner Tippetts moved to approve the August 9, 2012 Planning Commission Minutes.  
**Second:** Commissioner Murray  
**Adjourn:** Unanimous

**Item 2. Mapleton City requests a rezone of approximately 0.57 acres located generally at 1816 West 800 North from GC-1 (General Commercial Zone) to R-2 (Residential Zone).**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. The home on the property was built in 1996. The GC-1 Zone does not currently allow for single family residential homes. The General Plan calls for this property to be High Density Residential. This rezone would make it consistent to the properties to the west. Staff recommends approval of this rezone.

**Chairman Bringhurst** opened the Public Hearing. **Betsy Ferguson** said she had comments on the Amended Plat but not on the rezone, and was in favor of it.

**Motion:** Commissioner Tippetts moved to recommend approval to the City Council of an ordinance rezoning approximately 0.57 acres located generally at 1816 West 800 North from the GC-1 (General Commercial Zone) to R-2 (Residential Zone).  
**Second:** Commissioner Jones  
**Vote:** Unanimous

**Item 3. Betsy Ferguson requests approval of Wildflower Estates Subdivision, Plat "A" Amended, located at 1816 West 800 North, located in the GC-1 Zone.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. The Development Review Committee (DRC) has reviewed the plat and feels this is doing a minor boundary cleanup and is not creating any new lots or impact on City facilities. Matt read the Utah State Code 10-9a-508, which states "*A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (2), an exaction for a water interest, if: ...each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development*". It is the opinion of Staff that in this case, since no new/additional subdivision lots are being created, and this is a boundary line adjustment only, the proposed amended plat should not create any additional impacts to Mapleton City. Thus it is the opinion of Staff that improvements should not be required for this proposed amended plat. Commissioner Jones asked if the properties around this one had improvements. Matt stated that those to the west of this property do. He also stated that the city does not typically have a lot of capital funds to go in and install improvements in areas such as this where improvements may be in surrounding a parcel, but not along an entire street. When properties owners come in and ask to finish the improvements in front of their property the city will try and work with them in regards to getting the utilities re-located if needed. Commissioner Jones asked if the improvements could go in if the City did not require them too, and Matt stated that they could.

**Betsy Ferguson**, the applicant, handed out a timeline to the Planning Commissioners in attendance regarding the history of her property regarding what she feels has went on with her property over the past couple of years. She was entirely unaware of the amended plat issue when she originally applied for the Home Occupation Permit. Had she known what would become of it she may not have ever taken on the venture. She submitted her Home Occupation Permit request in 2010 and was told that the previous owners of the home never recorded a boundary line agreement with the property owners to the north. She was told she would need to do the amended plat because her Home Occupation would be taking place in the basement of her home, and the current zoning for GC-1 required all Home Occupations to take place on the main level of the home. She hired a surveyor to draw up the plan for the amended plat. When she was preparing to submit her paperwork for this she was told that the property would have to be brought up to current development code which would require improvements to be installed along the front of the home. Knowing she could not afford to do this Matt suggested she talk with her Title Company to see if there was anything in her policy that could help her out in this regard. She did not file her amended plat at that time so she could get everything in order before doing so. Mrs. Ferguson stated that the City wrote a letter to the Title Insurance Company stating that improvements would need to be installed on her property when her subdivision lot was amended. She stated that after a year's time dealing with the Title Insurance Company regarding the installment of the improvements, and after receiving their approval, the City came back and told her that these improvements are not required to amend this Subdivision Plat. She does not understand why the Development Review Committee (DRC) minutes came back stating that the State Code would not require these improvements. She feels that City Code should be followed as long as it falls within the State Code, and has a concern that if these improvements do not go in now she will not be able to personally install and pay for them if ever they are required in the future. The city has stated their willingness to move the sewer and water meters out of the future right-of-way where the street will be widened. Rocky Mountain Power has also relocated their power pole at no cost to Betsy Ferguson. Ms. Ferguson felt that the City could put this requirement on the amended plat and still allow it to follow the Utah State Code being mentioned. She feels she gets contradictory statements, and is at a loss of how to proceed. **Commissioner Jones** asked for some clarification as to some of the things Ms. Ferguson had stated. Betsy stated that she feels these improvements going in would be in the best interest of everyone, and was initially told improvements would need to be installed with the amended plat. The Title Insurance has stated that they will cover her claim, but she cannot proceed with these improvements because she does not want to commit Insurance Fraud if these improvements end up not being required by

the City. **Chairman Bringhurst** asked if the Commission could require these improvements if they wanted to and Matt stated that only if it falls within the code. Matt stated that initially the City's opinion would be to put in the improvements. When the initial letter was sent to the Title Insurance Company it was stated that the Planning Commission would be required to approve the amendment, and would determine at that time what would be required. **Commissioner Tippetts** asked if the City had talked with their Attorney regarding this amendment and if improvements could be required, which Matt stated they had not. If improvements were required a bond would then need to be done for the cost of these improvements. There was some discussion about a previous subdivision, the Diamond Homestead Plat A Subdivision that had come before the Commissioner where improvements were required to be installed. Matt stated that it was an actual parcel split and was taking a lot out of a larger piece of land, thus creating the requirement for improvements to be installed. Betsy stated that she had purchased the home in February 2009. Matt stated that originally Betsy Ferguson did not want to install the improvements and she stated that this statement was incorrect, and that she never said she did not want to install them. She was upset when she was told she had to due to the cost, but was willing to do what was required. Ms. Ferguson said that nothing should be required to be installed by Mapleton City, but by her only as the property owner. She feels the city is able to choose what they want the applicant to do. Commissioner Tippetts asked if the Home Occupation Permit could be approved if the amended plat was continued, and Matt stated that they are separate items. Betsy stated that because the amended plat was required no additional work could be done on her property. She had a contractor come in and tell her that she did not need a permit to finish the basement since it was already framed in, so she went ahead and finished the basement. She had disclosed this information to Matt because she did not want to defraud the City of the Title Company. She feels improvements would make it easier access to the home. Commissioner Tippetts asked if a bond would be required if they were to recommend these improvements be installed with this subdivision amendment. Matt said that a bond for 100% of the costs of the improvements would be required as well as a 20% durability bond for an additional year after the improvements are installed. Chairman Bringhurst asked Betsy Ferguson is she could move the Home Occupation up to the main level of the home and she stated no. **Tracy Padgett** asked why the city would not want the sidewalk finished. **Commissioner Gappmayer** stated it was more of a liability issue in regards to requiring the improvements that is the concern. Betsy stated that the costs for the improvements would be approximately \$12,500. The Title Company has agreed to cover \$10,000 of these costs. Her deductible is \$2,500, and she feels her out of pocket expenses will exceed this but she is willing to do that in order to get this process completed.

**Chairman Bringhurst** opened the Public Hearing. **Tracy Padgett** stated that Betsy is willing to put in \$12,000 worth of improvements, and does not understand why the City would not want them. She feels no one in the future is going to personally come in asking to pay the cost to put these improvements. **Commissioner Jones** asked if this conversation would be taking place had the city not originally sent them a letter stating the improvements would be required. She would be interested to see if the city's position would change if additional case law could be shown. Betsy stated that the Title Company is not going to pay for improvements to go in if they are not required. Commissioner Murray was given some clarification as to when improvements are required to be installed. Matt stated again that it is Staff's opinion that no improvements should be required to be installed. Commissioner Jones asked if this whole thing was created because she was trying to do a Home Occupation Permit, and again Betsy stated that it was the bases for these items coming forth. No additional comments were given and the Public Hearing was closed.

**Betsy Ferguson** stated that if a bond was required she would be fine with that and she would have it covered. She is in a position where she can move money from accounts in order to come up with the difference in cost to install these improvements in addition to the \$10,000 that the Title Company will cover. **Chairman Bringhurst** asked what timeframe Ms. Ferguson had to complete the improvements and she stated that she has a contractor ready to do them now. Matt stated that the City is willing to work

with Betsy Ferguson to get these improvements in within the boundaries of the law. **Commissioner Tippets** feels the Commission should get the City Attorney's opinion before any recommendations are made in order to ensure the City does not become liable for any installation of the improvements. **Commissioner Jones** thought this was in need of some clarification as well. Commissioner Gappmayer stated that he feels they would all like to see the improvements go in but is concerned about what liability this could bring to the city in the future. **Commissioner Murray** felt these improvements probably should have been installed when the subdivision was done, and thought the question now is what liability Ms. Ferguson has to install these improvements at this time. At the time the lot was created it was not a requirement to install the improvements. Matt stated that he would not be surprised if before the Title Insurance Company paid the claims they did further research into this item. Commissioner Jones agreed and felt they would do additional due diligence before paying out any funds. Commissioner Tippets felt this item could not move further without getting feedback from the City Attorney to ensure no liability falls back on the city. Matt stated that the next available meeting date would be Thursday, October 18, 2012 and asked if Betsy Ferguson was okay with this item being continued, or if she would prefer a recommendation for approval/denial this evening. Betsy stated again that she has lost several years, and it has been quite costly to her, having this item continue on for a couple years now. It is not possible for her to move the Home Occupation to the main level of the home as there are racks upon racks of clothing, a dressing room, and mirrors that are currently installed in her basement. Commissioner Stirling does not want to perpetuate something that will put the city under liability, and felt legal counsel needed to be sought on this decision. He can appreciate that Ms. Ferguson is financially challenged with this, but a larger mess would be created if the Commission moved forward without legal counsel.

**Motion:** Commissioner Tippets moved to continue the Wildflower Estates Subdivision, Plat "A" Amended, located at 1816 West 800 North, until the October 18, 2012 Planning Commission Meeting.

**Second:** Commissioner Gappmayer

**Vote:** Unanimous

**Item 4. Betsy Ferguson requests approval of a Home Occupation Permit for *Costume Capers*, a costume rental business, located generally at 1816 West 800 North.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. **Commissioner Tippets** asked what is required for an inspection to be done on the basement finish where the proposed Home Occupation would take place. He wondered if there is any city code that would require the applicant to complete an inspection on the basement finish portion of the home. Matt stated that the original permit shows a Certificate of Occupancy for the home, but it does not stipulate if it is for the entire home, or what areas it covers. Commissioner Jones asked what the cost was on a basement finish permit, and it was stated that it is based on the value of work being completed. Betsy stated that all of the work on the basement of the home that she finished was done aside of the drywall and flooring. Commissioner Tippets asked again if there was any code that would prohibit them from striking the condition that a basement finish permit is required. He felt that the basement could have been finished and inspected when the original permit was pulled on the home. Matt stated that the city now requires an inspection for both insulation and drywall, which was not done in previous years. If homes have work completed without a permit there is a note on the inspection form that states any work that was not visible at time of this inspection is not liable as being done per building code by Mapleton City. Commissioner Jones asked if there was any type of temporary permit that could be given, and Matt stated that there was not.

**Betsy Ferguson**, the applicant, stated that the city file shows her home being completely finished. However, she is willing to get a permit for the basement finish if needed. She stated that Cory Branch had originally told her that a Home Occupation could be approved without the basement finish permit

being required, then when she went to apply for the Home Occupation Permit she was told it would be required. Matt stated that condition #1 in the Staff Report could be removed. **Chairman Bringhurst** stated that if the Certificate of Occupancy states the home is finished then there should be no concern about the basement area that may not have been completed when the rest of the home was given a Certificate of Occupancy. He felt the city would not know if it were done at the time the original permit was pulled or not. He wondered if they could approve the Home Occupation Permit and then put a stipulation on the Amended Plat when it comes back before them requiring an inspection to take place on the home. **Commissioner Tippetts** feels the Fire Inspection should be sufficient, and the building permit requirement should be put aside. **Commissioner Jones** stated that they could bypass the building permit and require a final inspection and fire inspection in its place. Commissioner Tippetts asked if they could put the recommended conditions #1 and #2 from the Staff Report, and give them a timeline of 6 months. Matt stated that code would require a building permit to be obtained on the basement finish portion of the home in order to run a Home Occupation down there. Chairman Bringhurst stated again that they do not know if that portion of the basement was inspected when the rest of the home was built. Betsy stated that there is nothing on the city records that says the basement is not finished. Chairman Bringhurst said that when a Certificate of Occupancy is issued the home is concerned complete. If there are concerns about the safety of this portion of the basement add it to the amended plat. Commissioner Stirling asked if the sheetrock was up when this area of the basement was finished. She stated that part of the room was sheet rocked and the other was not. Betsy stated that the entire basement is fully completed now. Commissioner Gappmayer would assume an inspection had already been done on the electrical, plumbing and HVAC at the time the rest of the home was inspected.

**Chairman Bringhurst** opened a Public Hearing. **Tracy Padgett** stated she votes to approve this item. No additional comments were given and the Public Hearing was closed.

**Motion:** Commissioner Tippetts moved to approve Betsy Ferguson's Home Occupation permit for *Costume Capers*, a costume rental business, located generally at 1816 West 800 North, with the conditions listed below:

1. The applicant must pass an inspection by the Fire Inspector.
2. The applicant must abide by all requirements set forth in Mapleton City Code 18.84.380: HOME OCCUPATIONS.

**Second:** Commissioner Murray  
**Vote:** 5:1:0 with Commissioners Murray, Stirling, Gappmayer, Jones and Tippetts voting aye and Chairman Bringhurst voting nay due to the reason that he wanted the amended plat heard in item 3 tonight to be attached to the conditions of approval for the Home Occupation Permit.

**Item 5.** **Mapleton City requests to amend Mapleton City Code Chapter 18.72: I&M-1 INDUSTRIAL & MANUFACTURING ZONE in order to add provisions allowing for construction/contractor offices and general provision allowing for outdoor construction storage yards and outdoor fueling tanks.**

Staff is requesting a continuance of this item.

**Motion:** Commissioner Tippetts moved to continue this item.

**Second:** Commissioner Jones

**Vote:** Unanimous

**Item 6.** **Mapleton City requests to amend Mapleton City Code 18.84.210: LOCATION OF GASOLINE PUMPS in order to amend required setbacks for gasoline pumps.**

Staff is requesting a continuance of this item.

**Motion:** Commissioner Tippetts moved to continue this item.

**Second:** Commissioner Jones

**Vote:** Unanimous

**Item 7. Adjourn.**

**Motion:** Commissioner Tippetts moved to adjourn the meeting at 8:00pm.

**Second:** Commissioner Jones

**Vote:** Unanimous

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April Houser, Executive Secretary

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Date: