

**MAPLETON CITY
PLANNING COMMISSION MINUTES
May 22, 2008**

PRESIDING AND CONDUCTING: Chairman Oscar Mink

Commissioners in Attendance: Pam Elkington
Rick Maingot
Barbara Pratt
Skip Tandy
Leo Thomsen
Bill Bleggi (Alternate)

Commissioners not in Attendance: Jared Bringhurst
Steve Roden (Alternate)

Staff in Attendance: Cory Branch, Planning Director
Lyle Fuller, City Attorney

Minutes Recorded by: April Houser, Executive Secretary

Call to order

Chairman Mink called the meeting to order at 6:30pm. Pam Elkington led the Pledge and Barbara Pratt gave the invocation.

Items below are not necessarily in the order they appear.

Item 1. Planning Commission Minutes – April 24, 2008.

Motion: Commissioner Pratt moved to approve the April 24, 2008 Planning Commission Minutes.

Second: Commissioner Thomsen

Vote: Unanimous

Item 2. Wendell A. Gibby requests reconsideration to an action taken for a rezone on September 18, 2007 on property located generally at 2000 East Maple Street from the CE-1 (Critical Environment) zone to the PD-2 (Planned Development) zone.

Lyle Fuller, City Attorney, went over the Staff Report for those in attendance. This item stems from a September 18, 2007 City Council Meeting. The City Council approved a zone change of this property from CE-1 to PD-2, being contingent upon Final Plat approval, as reflected in the

minutes. Staff recommends that the property be zoned PD-2, not being conditional upon Final Plat approval.

Chairman Mink opened the Public Hearing. **Jim Lundberg** stated that he is here on behalf of himself and other concerned citizens. To begin with, he knows that closed sessions have taken place between the Commission and Council. He can not necessarily argue against what may be the effort in rehearing this. His concerns relates primarily to what may be the result of this. The intent behind the referendum was felt as deficiencies in the PD-2 Zone text. Once the PD-2 Zone is applied to this property the protections are no longer there. All of what they believe is significant risks associated with the existing PD-2 Zone text, they hope are covered by protections within the City Code which will preserve the underlying intent and purpose of what was contemplated by the MOU. Mr. Lundberg has significant concerns with the removal of the rezone being contingent upon Final Plat approval due to deficiencies with the PD-2 Zone text. He understands the rationale, but does not believe this will remove all disputes and litigation in the future. **Commissioner Pratt** asked what protections Mr. Lundberg was referring to. Mr. Lundberg stated that the motion by Brian Wall indicates the hillside protection in the CE-1 Zone. When reconsideration was brought back the hillside protection agents were not in the PD-2 Zone text. Had these protections been in the PD-2 Zone text, they would not have taken the actions they did at that time. He understands from a legal standpoint what the City is trying to do at this time.

Dayle Jeffs, representing Wendell Gibby, stated that it is not always a practice for a City Council to pass a zoning ordinance with the provision that it be a condition that a zone change would not apply until Final Plat approval. However it is not unheard of, due to the possibility that an applicant may not move forward with the development of the property. Mr. Jeffs thinks that the request being approved now will help facilitate items in the MOU. Due to a variety of reason the MOU was not accomplished by the deadline, giving legitimate reasons why this needs to be done. When Councilman Wall motioned the protections of the CE-1 Zone to be part of the PD-2 Zone text, it was felt to include most of these items as drafted by the City's Legal Department. In addition, the circumstances are that in the litigation between the Friends of Maple Mountain and Mr. Gibby, the hazard maps were put out to show possible hazardous areas. No expert witness produced anything about definite significant hazards on Mr. Gibby's property. Final Plat approval shows everything in conjunction with the PD-2 Zone. **Commissioner Maingot** asked for a clarification as to why the applicant is requesting to remove the Final Plat approval condition. Dayle Jeffs stated that if the PD-2 Zone text was in place, the engineers could comply with it moving forward with the drawings for Final Plat approval. Mr. Jeffs stated that normally you get a zone change first, and then move forward with the Final Plat. Commissioner Maingot felt that as is, the applicant is still able to move forward with the PD-2 Zone requirements. The requirements regarding the movement of the power poles are different between the CE-1 and PD-2 Zones. With the PD-2 Zone the engineers could move forward with the movement of the power poles under its proposed and conditionally approved zone. One of the conditions that Rocky Mountain Power has is that the City approves their proposal. **Joyce Clifton** stated her presence at a Board of Adjustment Meeting that was previously held regarding Mr. Wendell Gibby's development. During that meeting the question was directly asked if there was anything in Mapleton Code that would support this project, at which time Dayle Jeffs stated that there was not. Mrs. Clifton felt the City needs to stick to the code. **Trudy Gibby** stated that their property

has become a bit of a circle. They can continue in this, but in order to get things done there needs to be trust. They are not out to defy the code and do an ugly development. Ultimately this is not going to change the outcome, it is just making it long, hard and impossible. Sometimes you need to move forward. Rocky Mountain Power will work with everyone to make this move along as well. Please let them move the poles up the hill. Please end it. **Lori Allen** stated that Mrs. Gibby's comment that we need to step forward in a matter of trust would be difficult to reconcile. This applicant has not followed the City Ordinances in the past. Mrs. Allen is confused at the advice that has been given this evening. She feels that if items can be spun Mr. Gibby will find a way to do it and use it to his advantage. Mrs. Allen also feels there needs to be a more solid plan on this development, and greatly respects the opinion of the Planning Commission. She feels the City needs to be careful of all applicants. **Commissioner Tandy** stated that the bottom line is that we are all individual members of the Planning Commission and should not feel pressure in any way, voting the way they feel is best. **David Nemelka** felt that making a decision on the Rocky Mountain Power requirements per the applicants comment is not correct. The sequence of events that has taken place, in regards to what Mr. Nemelka feels he has read was that the Engineering study needed to be provided. He asked what the understanding is of the sequence of events. He does not feel it has to be rezoned for Rocky Mountain Power to move forward. Commissioner Tandy stated that before anything could be done with the poles an ESA Agreement would have to take place. The Commission is not doing anything this evening in regards to grading. No further comments were given and the Public Hearing was closed.

Clarification was given that a zone change is not required by Rocky Mountain Power in order for them to relocate the power poles. **Dayle Jeffs** stated that a grading permit was granted by staff and the City Council under the CE-1 Zone. Putting the property to the PD-2 Zone would allow the applicant to apply for another Grading Permit in order for Rocky Mountain Power to relocate the poles. Mr. Jeffs stated that the poles need to be relocated before the development is done. The applicant needs a grading permit to do any grading in this area. A feasibility study does need to be completed, per Rocky Mountain Powers request, before they will do any work in this area, was the comment stated by **David Nemelka**. **Trudy Gibby** clarified that as she understands that Rocky Mountain agreed to move the poles but they did not state exactly what they will do until the road is complete and they can see what the best means of movement is. They have an agreement between themselves and Rocky Mountain Power that they will move the poles, just not exactly how they will do it. David Nemelka does not think that the letters from Rocky Mountain Power state what Mrs. Gibby just said that they did. **Lyle Fuller** stated that Rocky Mountain Power has been difficult to pin down as to what exactly they are requiring.

Motion: Commissioner Tandy moved to recommend to City Council denial of a request to reconsider an action taken for a rezone on September 18, 2007 on property located generally at 2000 East Maple Street from CE-1 (Critical Environment) zone to the PD-2 (Planned Development) zone.

Second: Commissioner Elkington

Vote: 6:1:0 with Commissioners Bleggi, Maingot, Elkington, Thomsen, Pratt and Tandy voting aye for the reasons given below by Commission Maingot:

1. Reasons 1-4 given by the Planning Commission as recommendations to the City Council at their September 18, 2007 Meeting.

2. Loss of the CE-1 Zone protections.
3. Memorandum of Understanding be met by the City.
4. Premature movement of the power lines.

And Chairman Mink opposing due to the reason that he believes it is in the best interest of the City to change the zone to PD-2, honoring as much of the Memorandum of Understanding, feeling there is a tremendous amount of work to be done by Mr. Gibby

Item 3. Wendell A. Gibby, agent for Freedom Vista Subdivision, requests reconsideration to an action taken for Preliminary Plat approval on September 18, 2007 on property located generally at 2000 East Maple Street. The subject property is located in the existing CE-1 (Critical Environment) zone and the proposed PD-2 (Planned Development) zone.

Lyle Fuller, City Attorney, stated the reason for this item coming back before them this evening. Mr. Gibby is requesting that some of the fifteen conditions put on the applicant by the City Council be removed. Mainly that the requirement for the road to go through the Roundy property and the Trail location and cost to be addressed with Staff at a later date. The trail location should be as stated in the MOU, and the cost be clarified that the trail would be put in at the City's cost. That is staff's recommendation. **Commissioner Tandy** asked if the Commission needs to go through this due to their vote on Item 2, or if they should just short circuit it. Lyle Fuller stated that he feels it would be appropriate for this body to discuss this request.

Chairman Mink opened the Public Hearing. No comments were given and the Public Hearing was closed. **Commissioner Pratt** asked if by dropping the trail agreement, it would get rid of the trail all together. Lyle Fuller stated that it would not be the intent of the City for that to happen. He stated that the applicant will be required to have two ingress and egress accesses on this development, which will be approved by the City in the future at time of Final Plat. **Commissioner Maingot** would like something more definitive on the trail, its location, and the cost of installation.

Dayle Jeffs stated that the location of the trail is mostly determined in the drawings provided to the City. **Chairman Mink** stated that he could not see the trail located on the drawings he was provided. **Cory Branch** stated that Mr. Gibby in the past has given his ideas on where he would like the trail to be located, and did not want to speak for Mr. Gibby as to where he believes it will be located.

Motion: Commissioner Tandy moved to recommend to City Council denial of a request to reconsider an action taken for Preliminary Plat approval on September 18, 2007 on property located generally at 2000 East Maple Street. The subject property is located in the existing CE-1 (Critical Environment) zone and the proposed PD-2 (Planned Development) zone based on the fact that the City Council placed these conditions on there and felt it would be more appropriate for them to remove the conditions if they feel it necessary.

Second: Commissioner Pratt

Vote: 6:1:0 with Commissioners Bleggi, Maingot, Elkington, Thomsen, Pratt and Tandy voting aye and Chairman Mink voting naye with no reason being given.

Commission Tandy thanked Staff and the City Attorney for the work and time they have put in on these projects, as well as the Citizens.

Item 4. Martin Sayer, agent for West Maple, requests a discussion regarding a concept plan located generally at 1800 West Maple Street. The subject property is located in the RA-2 (Residential-Minor Agricultural) Zone.

Cory Branch, Planning Director, stated that the applicant requested continuance of this item.

Motion: Commissioner Tandy moved to recommend continuance of this item until the June 12, 2008 Planning Commission Meeting

Second: Commissioner Pratt

Vote: Unanimous

Item 5. Adjourn

Motion: Commissioner Tandy moved to adjourn the meeting at 8:20pm.

Second: Commissioner Elkington

Vote: Unanimous

April Houser, Executive Secretary

Dated:

Oscar Mink, Planning Commission Chairman

Dated:

Cory Branch, Planning Director

Dated: