

**MAPLETON CITY**  
**PLANNING COMMISSION MINUTES**  
October 8, 2009

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**PRESIDING AND CONDUCTING:** Chairman Oscar Mink

**Commissioners in Attendance:** Jared Bringham  
Pam Elkington – Arrived at 6:35pm  
Rick Maingot  
Skip Tandy  
Leo Thomsen  
Alternate Jeff Hawkins  
Alternate Mike Tippets

**Staff in Attendance:** Cory Branch, Planning Director  
Gary Calder, Engineering/Public Works Director

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

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Chairman Mink called the meeting to order at 6:30pm. Jeff Hawkins led the Pledge and Mike Tippets gave the invocation.

*Items below are not necessarily in the order they were heard.*

Alternate Commissioners Jeff Hawkins and Mike Tippets were seated as voting members this evening.

**Item 1. Planning Commission Meeting Minutes – September 24, 2009.**

**Motion:** Commissioner Thomsen moved to approve the Planning Commission Meeting Minutes for September 24, 2009.  
**Second:** Commissioner Tandy  
**Vote:** Unanimous

**Item 2. Wendell A. Gibby requests to amend Title 18, Development Code, Part III, Zoning, Chapter 18.78, PD-2 Planned Development, in order to allow for a private air strip or air park and associated hangar structures as a permitted use in Section 18.78.030, Permitted Uses, increase the overall density from forty-seven (47) single family homes to fifty-four (54) single family homes in Section 18.78.080(A), Maximum Overall Density, and modify the hillside preservation regarding slopes of thirty percent (30%) or greater in Section 18.78.090, Hillside Preservation, Paragraph (A), General Purpose.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance. Some of the surrounding properties to the parcel above are zoned A2 and RA-1. A presentation, containing photos of the applicant's property, were presented to those in attendance. There are three requests within this Ordinance Amendment. The Memorandum of Understanding (MOU) between the City and Wendell Gibby is felt by Staff, not to comply with the applicant's amendment requests. There are safety concerns

that Staff feels have not been considered by the Federal Aviation Administration (FAA). The request is also felt to be incompatible with the surrounding zones. Staff feels the PD-2 Text should be followed the way it is written, and therefore would recommend denial of this proposed Text Amendment.

**Dayle Jeffs**, representing the applicant, stated that the FAA has no objections to the air strip after their two (2) site inspections at the site. This would be for a private airport. The applicant feels there would only be a couple flights each month utilizing the airstrip. Once the property is developed the airstrip would be removed. Mr. Jeffs stated that the MOU was written to have no less than forty-seven (47) lots. He felt nothing was mentioned to the fact that the number of lots could not exceed forty-seven (47). Dayle Jeffs feels it is a reasonable request to add these additional seven (7) lots. The overall density of this project would be less than those typically approved throughout the City in the past. The circumstances have changed since May 15, 2007 when the MOU was put in place, bringing this amendment request forward this evening. Mr. Jeffs stated that a 30% slope is only a 15° angle. There is no definition in the City Code stating how the slope is to be determined. The applicant again stated that he does not feel these are unreasonable requests. **Commissioner Tandy** stated that the FAA rarely has opposition to private airstrips. Mr. Jeffs felt that the airstrip would be made of gravel, not asphalt. Commissioner Tandy stated that it is the Planning Commissions responsibility to maintain the health, safety and welfare of the citizens of Mapleton. Dayle Jeffs stated that he does not feel these amendments would be going against the MOU. He feels there have been a number of items that have been changed already in regards to the MOU. Mr. Jeffs does not feel the fifty-four (54) lots being requested is that much different than what the applicant had previously been approved for, and is not in conflict with the MOU. **Chairman Mink** and **Commissioner Maingot** stated that nothing in the MOU or PD-2 Zoning Ordinance states “no less than 47 lots”, as the applicant has stated multiple times this evening. Dayle Jeffs stated that a Planning Commission is formed to pass on reasonable requests, and is expected to recognize the property owner’s rights under the United States and Utah State Codes. Commissioner Maingot stated that the costs accrued on the project are those of Wendell Gibby. If he were to develop at the time he received his original preliminary approval, the drop in value of lots would not have been an issue. Commissioner Maingot feels that it was the intent of the City Council to ensure that this property was not developed at any more than forty-seven (47) lots. He does not feel this development would have any larger lots than a number of the developments throughout the City, as Mr. Jeffs had stated that it would. **Commissioner Thomsen** reiterated that he can not see anywhere in the MOU that it states a number of lots that differ from forty-seven (47) lots.

**Ed Shaw**, with Boss Engineering, stated that he has only worked on the subdivision portion of this project, and nothing more. **Dayle Jeffs**, representing the applicant, stated that he was not present at any of the FAA meetings or site visits with the applicant. Wendell Gibby has informed both Dayle Jeffs and Cory Branch that he feels there will only be two to three (2-3) flights per month accessing the airstrip. **Commissioner Tippetts** asked Mr. Jeffs why Dr. Gibby would like to put the cost into the airstrip if it is only going to be temporary. Dayle Jeffs stated that Wendell Gibby would like to use it for personal reasons until he starts his development. Commissioner Tippetts wondered if there was a way to monitor the number of flights on the private airstrip. Dayle Jeffs stated that there is not unless it is a commercial flight.

**Chairman Mink** opened the Public Hearing. **Brent Sumsion** stated that he has done quite a bit of flying himself, and knows of similar areas with private airstrips like this one which is being proposed this evening. He knows of accidents that have taken place in these areas, and feels safety is a real concern with the layout of the land and the approaches from either direction. He feels it would only be a matter of time before there would be a plane crash. He objects to all three (3) of the proposed amendments the applicant is requesting. He feels the PD-2 Zone Ordinance should stand as it is, and no exceptions should be made. Erosion is a problem, and the stability of the soils in the area. Once the slopes are disturbed it will take a while to stabilize them again, and re-vegetate those areas. **Dee Thatcher** stated that Dr. Gibby

is lucky that he has not developed the property, where he would be out the cost of the infrastructure installed, and unable to sell the lots had he developed when his project was first approved. **Larry Curtis** has lived in Mapleton over twelve (12) years. He and his wife own the first home constructed on Aspen Drive. They were seeking a quiet serene place to live when they built there. He feels the Eagle Rock Subdivision kept with the feeling of Mapleton. He had no opposition to that development, but most adamantly objects to this proposal. He feels these requests are beyond his imagination, and is totally foreign to the spirit of the Mapleton Community. One (1) airplane is one (1) too many. **David Tippetts** wondered if the Forest Service had been contacted in regards to the possibility of an airstrip on this property. He felt it would cause additional issues for the Fire Department in regards to access to the mountain. Mr. Tippetts asked what guarantee the City would have that the airstrip would only be temporary and what ability there would be to ensure it was not permanent. He does not understand why Wendell Gibby wants to change the terms of the MOU, when it was an agreement that both parties signed and agreed to already. Mr. Tippetts feels the Commission should not make concessions, as there have not been concessions made to developers in the City who developed previously. He feels these proposals should be rejected. **Patrick Hagen** feels that Mr. Jeffs' comment in regards to the compromises needing to be made to settle disputes, that the City has to remember that there is an agreement in place that was put there as a reconciliation of these disputes. He feels the MOU had a lot of work put into it, and that we do not need to go beyond it at all. Mr. Hagen does not feel Mr. Gibby's attitude has changed much since the MOU was put in place. He feels we can not be redefining these problems over and over again. He feels the airstrip is a huge safety concern in the City. Patrick Hagen does not have a problem with development, but is opposed to Wendell Gibby's constant pushing and changing that he keeps doing over and over again. **Dorothy Roundy** owns the property next to Wendell Gibby's property on the bench. She stated that the Forest Service put up a fence to keep people from riding their ATV's on the hillside. Wendell Gibby gained access to a key that would open the gate on the fence, allowing him to access the hillside. Mrs. Roundy complained to the City about this, and Mr. Gibby's access was removed. She feels Mr. Gibby is very pushy and disrespectful of other people's property. She has only received one proposal for a road on their property from the applicant, which was ridiculous. **Evan Roundy** stated that it was about two (2) years ago that they received this proposal. He feels that if the proposal were reasonable they would consider it. He opposes the airstrip due to safety reasons. **Randy Graham**, who lives adjacent to Wendell Gibby, wanted to address multiple issues this evening. Mr. Graham had spoken previously with the Roundy's about access across their land with a road to the development. Randy Graham felt that the developer should install the road at their cost, and the Roundy's would donate the easement for the road. He feels that it is Wendell Gibby's terms that he demands on others. He has a concern with the 29' right-of-way that Wendell Gibby is requesting as part of Item 3 this evening. He feels the 56' right-of-way (ROW) should be required throughout the entire development. He feels street standards need to be maintained throughout developments at their entirety. Mr. Graham does not see how it makes sense to lessen the street width at the entrance of the development, and feels Mr. Gibby can bully his way through things. He feels that access is not the City's problem, and they should not take it upon themselves to ensure Mr. Gibby has access. If this access is the right place to have these lower road widths, then he feels they should be allowed throughout the entire development. Randy Graham asked why we are hearing any of this when the PD-2 Zone may be overturned through the appeal to the Supreme Court. **Chairman Mink** stated that every property owner has the right to bring their proposals to the City, and by law are allowed to request such. Mr. Graham stated that there are over ten (10) times where an agreement has been made with Dr. Gibby, and he then comes back with an amendment to his previous proposal. Randy Graham stated that Wendell Gibby is spending money he does not need to spend, at his own expense. Mr. Graham also said that Dr. Gibby told him that this is not about development, but about bringing Mapleton to repentance. **Bill Bleggi** said that he does not feel the FAA has thoroughly looked at this proposal. He said there are wind drafts out of Maple Canyon that should restrict the airstrip from being allowed. An airstrip would have problems in regards to the wildlife in the area as well. He opposes these requests. **Sandy Jorgensen** stated that she would invite Wendell Gibby

to walk up his trail and ask himself why. She feels that we keep taking our nature away, and opposes Mr. Gibby's request. No additional comments were taken and the Public Hearing was closed.

**Motion:** Commissioner Thomsen moved to recommend denial to the City Council of an Ordinance amending Title 18, Development Code, Part III, Zoning, Chapter 18.78, PD-2 Planned Development, in order to allow for a private air strip or air park and associated hangar structures as a permitted use in Section 18.78.030, Permitted Uses, increase the overall density from forty-seven (47) single family homes to fifty-four (54) single family homes in Section 18.78.080(A), Maximum Overall Density, and modify the hillside preservation regarding slopes of thirty percent (30%) or greater in Section 18.78.090, Hillside Preservation, Paragraph (A), General Purpose for the reasons below, which were listed in the Staff Analysis section of the Staff Report for this item:

1. The PD-2 Zone was created as an important step towards fulfilling the City's obligations under the MOU between the City and Wendell A. Gibby. With this in mind, the PD-2 Zone was designed to fulfill the terms of the MOU as closely as possible. It is the opinion of Staff that all three sections of the Applicant's proposed text amendments directly conflict with specific provisions of the MOU.
2. Regarding the proposal to add "*Private Air strip or air park and associated hangar structures*" as a permitted use in the PD-2 Zone, it is the opinion of Staff that adding this permitted use does not comply with item #1 listed in the MOU, because it provides that "*Mapleton will bring forward an ordinance to rezone the 60+/- acres of the Gibby Parties' land to other than in an environmentally restricted zone to a zone comparable to an RA-1 zone.*" The RA-1 Zone does not allow "*Private Air strip or air park and associated hangar structures*" as a permitted or conditional use; thus, it is the opinion of Staff that the addition of this use would substantially change the character of the PD-2 zone so that it would not be "*comparable to an RA-1 Zone.*" Thus, it is the opinion of Staff that this part of the proposed text amendment should be denied.
3. As mentioned in Findings of Fact # 6-7 above, the FAA has issued letters that state that they have no objection to the proposed airport, but that the proposal is still subject to local laws, ordinances, and regulations. It is the opinion of Staff that there are several site safety concerns which have not been adequately considered by the FAA, which Mapleton City must consider, including: the fact that this proposed airport is at the top of the Bonneville Bench in an area of difficult terrain, the possibility of strong wind currents from Maple Canyon and Little Slide Canyon at the north and south ends of the proposed runway respectively, the proximity of the runway to the 30%+ slopes on the mountainside to the east, a 20:1 approach slope off the south end of the runway that terminates into the mountainside approximately 3,300 feet south of the runway, and the fact that the Applicant's power pole relocation plan submitted to the City would still leave a power pole and power lines sitting at or near the south end of the proposed runway. Staff is also concerned that the proposed "*Private Air strip or air park and associated hangar structures*" could make the PD-2 Zone incompatible with the surrounding zones due to the additional air traffic generated, and possibility of aircraft crashes. Additionally, the Applicant has not submitted any specific plans or written information on how the proposed subdivision development would

interface properly with the proposed use. Thus, while it is the opinion of Staff that, as mentioned in Staff Analysis #2 above, the MOU precludes allowing for a “*Private Air strip or air park and associated hangar structures*” in the PD-2 zone, safety and zoning compatibility issues are another reason to deny this part of the proposed text amendment.

4. Regarding the proposal to change the overall density of the PD-2 Zone from forty seven (47) to fifty four (54) single-family homes, it is the opinion of Staff that this proposal violates item #1 listed in the MOU, which allows for “*47 separate residential units.*” Thus, it is the opinion of Staff that this part of the proposed text amendment should also be denied.
5. Regarding the proposal to change the PD-2 slope restrictions on slopes over 30% to apply to “*the portion of property that begins at the toe of Maple Mountain and upwards. (Beginning Elevation is approx. 5160 ft.)*” it is the opinion of Staff that this proposal does not comply with item #1 listed in the MOU, which states: “*Mapleton will bring forward an ordinance to rezone the 60+/- acres of the Gibby Parties' land to other than in an environmentally restricted zone to a zone comparable to an RA-1 zone development restrictions which are on an area with a slope less than 30%.*” Thus, it is the opinion of Staff that this part of the proposed text amendment should be denied.
6. Because the PD-2 Zone is currently the subject of ongoing litigation between Mapleton City, Wendell A. Gibby, and The Friends of Maple Mountain, the Mapleton City Attorney, Eric Johnson, has informed Staff that it is not advisable for Mapleton City to make any changes to the PD-2 Zone text.

**Second:** Commissioner Bringhurst

**Vote:** 7:1:0 with Commissioners Hawkins, Bringhurst, Elkington, Thomsen, Maingot, Tandy and Mink voting aye and Commissioner Tippets voting naye feeling the private airstrip should be denied but in favor of increasing the density and the changes to the slope requirement.

**Item 3. Wendell A. Gibby requests to amend the Mapleton City Street Cross Section Standard Drawings in order to add new standard cross section drawings for hillside areas.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance. Staff feels this is an efficient design for the proposed area, and would recommend approval of the proposed Mapleton Street Cross Section Standard Drawing. **Chairman Mink** feels twenty-nine (29) feet is substandard. **Gary Calder**, City Engineer, stated that it is substandard under the City’s current street standards, which is the reason for this request this evening. The reason for Staff’s recommendation of approval is because of the minimal impact of the environmental restraints in this area. Gary Calder stated that these changes would just be for this development, due to its hillside location. **Chairman Mink** asked if there was an ability to gain a wider access entrance to the property. Gary Calder, City Engineer, stated that there are multiple areas in this proposed development that have 12% street slopes. These streets would be public streets, maintained by the City. Chairman Mink asked why the City does not take an additional few feet for the entrance of this proposed development under eminent domain in order to meet the current City Street Standard.

**Chairman Mink** opened the Public Hearing. **Jim Lundberg** stated that there is only one reason that Wendell Gibby wants to have wide roads throughout his development, and that is because he has a vendetta with some of the property owners in the area. There is no logical reason for having a bottle neck at the bottom of a hill at a major intersection. This area is where the subdivision access is going to be, which should be a huge concern for the City. **Commissioner Tandy** feels that vendettas should not be considered, and that the Commission should stick to the facts. There are other options to Mr. Gibby in regards to access through the Roundy's property, which have been stated this evening. Mr. Lundberg believes the City is precluded from considering this Item (#3) or Item 4 on the agenda this evening. He believes that Mr. Gibby has violated Mapleton City Code 15:45:130, and feels the City should consider continuing Items 3 & 4 on the agenda for this evening.

**Dayle Jeffs**, representing the applicant, stated that he feels it is a reasonable request, thus Staff is recommending approval of this item this evening. Mr. Jeffs did not appreciate the character exaggerations against Wendell Gibby, since he was absent from the meeting this evening. **Chairman Mink** asked Dayle Jeffs if he felt the twenty-four (24) feet of asphalt was safe. Mr. Jeffs stated that there is no road safe for a teenager, and that this is would give the City two accesses to this development. **Commissioner Maingot** asked why the previously proposed fifty-six (56) foot right-of-way (ROW) is no longer before the Commission in this area. Mr. Jeffs stated that he was not aware of the reason why Mr. Gibby is no longer proposing the original fifty-six (56) foot right of way shown on the preliminary plat. Jeffs does not feel the Roundy property would be a viable solution for an entrance to this development. A copy of City Code 15.45.130 was provided to each of the Commissioners at this time.

**Lewis Bankhead** asked if it would be unusual in a situation like this to require a report from a traffic engineer in order to determine if the 29' ROW is sufficient for this area. Mr. Bankhead asked if this type of change in a ROW is typical within the City. **Gary Calder** stated that he is unaware of any other situations like this in the City. Lewis Bankhead feels the issue is that the two ROW's do not line up at all. **Randy Graham** was concerned with the sidewalk ending at his property. He was also concerned with where the snow will go when it is plowed in this area. Mr. Graham stated that Wendell Gibby got rid of the previous 56' ROW on his own, and Mr. Graham suggested that the City stop doing the developers dirty work and make them personally gain the access they need for their development on their own. Wendell Gibby has sued Randy Graham, feeling that the access he would gained from Mr. Graham for the 56' ROW was too expensive. Randy Graham feels that Wendell Gibby has been told he will get this access, which is his reason for installing thousands of dollars into the Utility Easement he has been grading. **Brent Sumsion** feels that the construction work that will go on with this subdivision could go on for approximately 10-15 years. Gary confirmed this estimated timeline as being very likely. Mr. Sumsion stated that a double belly construction truck would be required to swing into on-coming traffic in order to make a turn at the proposed 29' ROW. There would be a huge liability on the City if this street were installed at the proposed ROW width. **Duane Asay** had a concern with the City approving a sub-standard Street Cross Section. He feels the approval of this could cause additional litigation with adjacent property owners in this area. **Patrick Hagen** asked if there have been other considerations to this street (i.e. one lane streets, or restricting truck access). Gary Calder stated it had, but it was not something that Mr. Gibby wanted to pursue. Mr. Hagen feels there are other alternatives to pursue, so this request should be denied this evening. No additional comments were given and the Public Hearing was closed. **Commissioner Maingot** asked Staff if the City Council has asked them to make this recommendation of approval, of which Cory Branch stated they had not.

**Motion:** Commissioner Tandy moved to recommend continuance until the November 12, 2009 Planning Commission Meeting of an Ordinance amending the Mapleton City Street Cross Section Standard Drawings in order to add new standard cross section drawings for hillside areas with the recommendations listed below:

1. Traffic Engineer study be completed in regards to safety of the proposed 29' Right-Of-Way entrance.
2. Wendell Gibby has self-imposed the smaller Right-Of-Way proposal, since he has the ability to gain additional land to meet the previously approved 56' Right-Of-Way.
3. Clarification be received from the City Attorney in regards to Mapleton City Code Section 15:45:130; does this section come into play with this proposed amendment, and if so how should we proceed.

**Second:** Commissioner Thomsen

**Vote:** 7:1:0 with Commissioners Tippets, Bringhurst, Elkington, Thomsen, Maingot, Tandy and Maingot voting aye and Commissioner Hawkins voting naye feeling the item should move on to City Council with a recommendation of denial.

**Item 4. Wendell A. Gibby requests Final Plat approval of Freedom Vista Subdivision, Plats "A", "B", "C", and "D" (54 lots proposed), on property located generally at 2000 East Maple Street. The subject property is located in the PD-2 (Planned Development - 2) zone.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance. **Commissioner Tandy** felt that there have been multiple comments made from the Commission, Staff, and the Public this evening. In regards to this he feels this item should be continued until the November 12, 2009 Planning Commission Meeting.

**Dayle Jeffs**, representing the applicant, feels that the continuance of Items 3 & 4 on the agenda this evening could possibly conflict with what the City Council may motion on regarding Item 2 this evening, which could give conflicting results. He would like to go forward but understands where the Commission is coming from in regards to the possible motion of continuance due to the continuance of Item 3 this evening.

**Chairman Mink** opened the Public Hearing. **Brent Sumsion** feels the City should not be responsible for paying for the Traffic Study, and that the cost should be paid for by the applicant. There was a concern that the applicant could possibly sway a Traffic Engineer to go in his favor. Mr. Sumsion said that a Traffic Engineer has the responsibility to honestly determine if an area is safe, and to provide accurate information. **Patrick Hagen** feels the Commission can make amendments to any motions they have made. Mr. Hagen feels there should be a vote given other than a continuance. No additional comments were given and the Public Hearing was closed

**Motion:** Commissioner Tandy moved to recommend continuance of the Final Plat of Freedom Vista Subdivision, Plats "A", "B", "C", and "D" (54 lots proposed), on property located generally at 2000 East Maple Street until the November 12, 2009 Planning Commission Meeting for the reasons listed below:

1. Item 2 was recommended for denial to the City Council and Item 3 was continued until clarification could be received from the City Council regarding their motion on Item 2 this evening, giving the Planning Commission some direction in regards to Items 3 & 4 on tonight's agenda.

**Second:** Commissioner Elkington

**Vote:** Unanimous

**Item 5. Adjourn**

**Motion:** Commissioner Elkington moved to adjourn the meeting at 9:36pm.

**Second:** Commissioner Hawkins

**Vote:** Unanimous

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April Houser, Executive Secretary

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Dated:

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Oscar Mink, Planning Commission Chairman

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Dated:

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Cory Branch, Planning Director

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Dated: