

**MAPLETON CITY  
PLANNING COMMISSION MINUTES  
December 10, 2009**

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**PRESIDING AND CONDUCTING:** Chairman Oscar Mink

**Commissioners in Attendance:** Rick Maingot  
Barbara Pratt  
Skip Tandy  
Leo Thomsen  
Alternate Mike Tippetts

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

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

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Vice-Chairman Tandy called the meeting to order at 6:30pm. Barbara Pratt led the Pledge and Leo Thomsen gave the invocation, after which Commissioners Barbara Pratt and Leo Thomsen were awarded plaques thanking them for their many years of service on the City's Planning Commission.

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

Alternate Commissioner Mike Tippetts was voted as a seated member for the meeting this evening.

**Item 1. Planning Commission Meeting Minutes – November 12, 2009.**

**Motion:** Commissioner Tandy moved to approve the Planning Commission Meeting Minutes for November 12, 2009 as corrected.  
**Second:** Commissioner Tippetts  
**Vote:** Unanimous

**Item 2. (Continued 9/10/09) E. Mellor, agent for Mellor Estates Subdivision, Plat "B", requests approval of a Delay Agreement for bonded roadway improvements on property located generally at 1833 North 500 West. The subject property is located in the RA-2 Zone.**

**Matthew Brady (Matt)**, Planner I, went over the Staff Report for those in attendance. There were a couple of letters received by the City from Mr. Mellor's neighbors stating that they are in favor of this request this evening. Matt gave a brief history of the previous meeting held on September 10, 2009 in regards to this item. The applicant and Staff have met, and Mr. Mellor has proposed a Delay Agreement to be held in a Life Insurance Policy in favor of Mapleton City. There is no specific time limitation given on the Insurance Policy. The City has done some research with other cities and found that Life Insurance Policies are not considered a form of a cash bond. The applicant has been asked to provide staff with a list of other City's that accept Life Insurance Policies as a form of a cash bond, of which none have been received. The cash value of the policy is less than the current \$27,815.00 cash bond that the City

currently holds on the subdivision. Staff recommends denial of the proposed Delay Agreement. If approved the proposed Delay Agreement would be recorded at the county where it would show up on a title search of the applicant's parcel. Staff is concerned if this request were approved that it may set precedence for future developments. The Finance Controller is looking into the possibility of putting these types of funds into interest bearing accounts that can later be returned to the applicant or the City if the funds are forfeited. The City would propose that a Life Insurance Policy not be allowed, and that if a Delay Agreement were provided, it be capped at five (5) years. **Commissioner Maingot** asked questions in regards to the necessity of this particular road being completed. He wondered if this road would ever need to be installed for traffic reasons in the future, or if the road was just going to be installed to meet the current City Ordinance, and not for the reason that the road was needed to meet traffic demands in this area.

**E. Mellor**, applicant, and **Malcom Burk**, with Farm Bureau Financial Services, stated that they do not want the road in at this time because Mr Mellor brings in irrigation water to his property, which he would be unable to do if he had to install his portion of the road. Mr. Mellor felt that the home to the northeast of his would have to be condemned and torn down to install a full width road on 500 West. **Commissioner Tandy** asked Staff if the home to the northeast would indeed have to be removed in order to get a full width street through this area. The previous Public Works Director stated that the intent in the past for this area was for a 50 foot right-of-way (ROW) width. Staff would not recommend that the home be removed, but that the ROW be narrowed in that area. Staff feels that a culvert could be put in to remove the applicant's concern with losing access to the irrigation water he currently utilizes. **Commissioner Maingot** was the only one of the Commissioners in attendance that felt he would like to hear Mr. Burk's presentation on the Life Insurance Policies. **Cory Branch**, Planning Director, stated that the applicant has the right to give the presentation if he wishes. Mr. Mellor stated that his irrigation water access and keeping the open feeling of the neighborhood are the reasons he does not want to install the improvements at this time. Mr. Mellor stated that he will bear whatever cost needed to pay for the improvements at the time they are installed.

**Chairman Mink** opened the Public Hearing. **Kim Orndorff**, who lives on Lot 1, likes the rural feel of the neighborhood. She is worried if the improvements were installed, she would have to move her horses. As citizens in the area she feels that no one around them wants these improvements installed at this time, and does not see the reason for requiring them to be done at this time. No additional comments were given and the Public Hearing was closed. **Commissioner Tandy** felt that both the City and the Applicant fell short of getting the original Delay Agreement recorded. He feels that a different form of a Delay Agreement would be appropriate in some type of an account that would be collecting interest for up to nine (9) years moving forward. **Commissioner Pratt** felt that the timeline should only be extended five (5) years from now, not the nine (9) years Commission Tandy had suggested. **Commissioner Maingot** feels we can make it work, and that the City needs to do it right, and take the time to do what works best for everyone. **Gary Calder**, City Engineer, stated that a bond is put in place to ensure improvements get completed, and not to collect interest in favor of the applicant or the City. He feels that it is important to get the improvements completed, and that there are multiple complaints in regards to access along 2000 North, which he feels the installation of this road would help to decrease. Gary stated that he would be very careful in considering any time frame as part of a Delay Agreement. He felt the responsibility for these improvements should lie upon Ed Mellor, and not the future beneficiaries of his property.

**Motion:** Commissioner Tippetts moved to recommend continuance until no later than the May 13, 2010 Planning Commission Meeting of the E. Mellor, agent for Mellor Estates Subdivision, Plat "B", request for a Delay Agreement for bonded roadway improvements on property located generally at 1833 North 500 West, with the direction below:

1. The City Finance Controller to investigate the possibility of the funds being put in an interest bearing account.

2. Get an agreement put in place that protects the City in regards to having the costs of the improvements covered entirely by Mr. Ed Mellor at the cost associated at the time of installation.

**Second:** Commissioner Maingot

**Vote:** 4:2:0 with Commissioners Tippets, Maingot, Thomsen and Tandy voting aye and Commissioners Pratt and Mink voting naye feeling that the applicant should be responsible for completing the subdivision along with the improvements that were required when the subdivision was approved five (5) years ago.

**Item 3. Nancy Sorensen requests approval of a Home Occupation Permit for Succeeding With Reading School on property located generally at 1967 North 700 West. The subject property is located in the RA-2 (Residential-Minor Agricultural) Zone.**

The applicant and Staff have asked for a continuance of this item until the January 28, 2010 Planning Commission Meeting.

**Motion:** Commissioner Tandy moved to continue Nancy Sorensen's request of a Home Occupation Permit for Succeeding With Reading School on property located generally at 1967 North 700 West, until the January 28, 2010 Planning Commission Meeting

**Second:** Commissioner Thomsen

**Vote:** Unanimous

**Item 4. Mapleton City requests to amend Title 18, Development Code, Part III; Zoning, Section 18.72.020, Permitted Uses in order to allow for commercial condominium projects in the I&M-1 (Industrial and Manufacturing) Zone.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance. Staff recommends approval of the proposed text. **Commissioner Tandy** stated that he did the plan review on Don Bleggi's project, but did not feel he needed to recuse himself. **Commissioner Pratt** had some concerns with water connections and parking stalls. Cory stated that the water connections and parking stalls would be monitored by the City, and does not usually become a problem within the I&M-1 Zone. Staff did not feel there was a problem doing these types of condominium projects within the I&M-1 Zone. Staff was directed to do some research to see if a minimum square footage requirement should be installed within the Ordinance at a future time.

**Chairman Mink** opened the Public Hearing. No comments were given and the Public Hearing was closed.

**Motion:** Commissioner Thomsen moved to recommend approval to the City Council of an Ordinance Amending Title 18, Development Code, Part III; Zoning, Section 18.72.020, Permitted Uses in order to allow for commercial condominium projects in the I&M-1 (Industrial and Manufacturing) Zone.

**Second:** Commissioner Tandy

**Vote:** Unanimous

**Item 5. Don Bleggi requests Condominium Plat approval for a 6,700 square foot warehouse/office/retail space on property located generally at 1641 West Alvey Drive. The subject property is located in the I&M-1 (Industrial and Manufacturing) Zone.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance. Staff recommends approval with the three (3) conditions listed in the Staff Report.

**Chairman Mink** opened the Public Hearing. No comments were given and the Public Hearing was closed.

**Motion:** Commissioner Pratt moved to approve Don Bleggi's Condominium Plat for a 6,700 square foot warehouse/office/retail space on property located generally at 1641 West Alvey Drive, subject to the applicant meeting the following conditions:

1. Meet all requirements of Chapter 17.03, Condominiums.
2. Submit covenants, conditions, and restrictions (CC&R's), including information on who will be responsible for the maintenance of the common areas.
3. Revise sheet 2 of 2 to read Maple Creek Properties instead of Maple Creek Business Park.

**Second:** Commissioner Thomsen

**Vote:** Unanimous

**Item 6.** **Wendell A. Gibby requests reconsideration of Final Plat approval of Freedom Vista Subdivision, Plats "A", "B", "C" and "D" (47 lots proposed), on property located generally at 2000 East Maple Street. The subject property is located in the PD-2 (Planned Development-2) Zone. This item was heard by the Planning Commission on November 12, 2009. The Planning Commission motioned to continue the item to February 25, 2010. The applicant is requesting that the Planning Commission reconsider the motion.**

**Cory Branch**, Planning Director, went over the Staff Report for those in attendance in regards to the reconsideration aspect of this item. Staff recommends that it be considered this evening. **Commissioner Tandy** feels that the Commission should wait on this item until the City Council has made a decision in regards to the road, which will be discussed at their meeting on December 16, 2009. The City Council continued the 29' Right-of-Way (ROW) portion of the applicant's request, which is the reason that Commissioner Tandy feels this item should not be heard until there is an answer from the City Council in regards to the 29' ROW.

**Wendell A. Gibby**, applicant, stated that it was three (3) years ago that they took this issue to the Legislature. The Memorandum of Understanding (MOU) was put in place to meet the needs of the applicant and the City. Mr. Gibby does not feel the City has acted in good faith to fill the agreement of the MOU. The actions performed by the Planning Commission hold weight in regards to the MOU being met. Wendell Gibby feels the Planning Commission is trying to delay this item. **Commissioner Tandy** stated that at the November 12, 2009 Planning Commission Meeting where this item was continued there were many items to be taken care of, which had not been completed by the applicant. Mr. Gibby stated that he has been working with the City on a weekly basis in regards to this project. Additional plans were submitted to Cory Branch around 5:15pm today by the applicant. Wendell Gibby stated all of the issues on the City's list of concerns has been addressed, aside of two issues which can not be addressed by the Planning Commission. One of the issues has to do with the access coming in from Maple Street. The second issue is the request from the City to give an access easement over to the Roundy property, which the applicant is not required to do, nor does the applicant plan to do it. There are approximately thirteen (13) conditions that the applicant has not met, but states his willingness to do so on all items but the two (2) listed above. Mr. Gibby feels he has done everything he can up to this point, and that this item needs to move forward at this time. He would like it voted down or up, allowing the City Council to hear it. **Gary Calder**, City Engineer, stated that he has not looked at the plans that were submitted prior to the meeting, and can not say that the issues have been resolved. Wendell Gibby stated that he will do exactly what the City has asked them to do in order to meet all of the issues, again aside of the two listed above.

**Commissioner Maingot** stated that the City can not rush through this, even with the possible lawsuit threats, and feels that the plans being brought in only a few hours ago by Wendell Gibby, has not given the Staff or Commission the chance to review them. He does not feel that the Commission is in a position to move forward on this request without being able to review the drawings submitted earlier today. Mr. Gibby would like to get on with the process, whether it is with a vote recommending approval or denial.

**Commissioner Pratt** would like to put this to bed, although she would still like to sleep well at the same time! She is uncomfortable not seeing the plat, yet being asked to move the item forward. Wendell Gibby stated that the Planning Commission can make any stipulations they would like in a motion this evening. He does not feel there will be any more information made available on January 14, 2010, if the item were continued to that date, than has been made available to the Commission today. **Commissioner Thomsen** felt the item should be moved forward with recommendation of approval or denial. **Commissioner Tippetts** agreed with Commissioner Thomsen. **Commissioner Maingot** feels it would be irresponsible to move it forward this evening. **Chairman Mink** stated that it has happened in the past where the motion by the Planning Commission has been overlooked or ignored by the City Council, which comment was made by Commissioner Maingot as well.

**Motion:** Commissioner Tandy moved to continue Wendell A. Gibby's request for reconsideration for the Final Plat for the Freedom Vista Subdivision, Plats "A", "B", "C" and "D" (47 lots proposed), on property located generally at 2000 East Maple Street until the January 14, 2010 Planning Commission Meeting.

**Second:** Commissioner Pratt

**Vote:** 3:3:0 with Commissioners Maingot, Pratt and Tandy voting aye and Commissioners Tippetts, Thomsen and Mink voting naye. Motion did not carry.

**2<sup>nd</sup> Motion:** Commissioner Tippetts moved to hear Wendell A. Gibby's request for the Final Plat for the Freedom Vista Subdivision, Plats "A", "B", "C" and "D" (47 lots proposed), on property located generally at 2000 East Maple Street, motioning with a recommendation of approval or denial.

**Second:** Commissioner Thomsen

**Vote:** 3:3:0 with Commissioner Tippetts, Thomsen and Mink voting aye and Commissioners Maingot, Pratt and Tandy voting naye. Motion did not carry.

**3<sup>rd</sup> Motion:** Commissioner Tandy, regarding the request by Wendell Gibby to reconsider this item, would like to move to have the Planning Commission hear Wendell A. Gibby's request of the Final Plat for the Freedom Vista Subdivision, Plats "A", "B", "C" and "D" (47 lots proposed), on property located generally at 2000 East Maple Street this evening

**Second:** Commissioner Tippetts

**Vote:** 4:2:0 with Commissioners Tippetts, Thomsen, Tandy and Mink voting aye and Commissioners Maingot and Pratt voting naye for reasons that have been stated throughout the discussions this evening.

After the 3<sup>rd</sup> Motion was made **Cory Branch** went over the Staff Report in regards to the Final Plat request for those in attendance. The main concern was in regards to the Development Review Committee (DRC) concerns that have not been met. Staff would recommend approval of this Subdivision with the condition that all DRC concerns be met.

**Wendell A. Gibby**, applicant, commented that the City Council mandated that this subdivision should be accessed off the Maple Canyon Road, which they could not legally do. He feels a safer and wider less steep road has been complied with, as they have added an additional four (4) feet of asphalt in those narrows areas. The project has been redesigned over the last couple years, eliminating up to 80% of the

originally proposed retaining walls. There has also been a landscape plan provided showing re-vegetation of the areas affected by the development. Mr. Gibby has refined the subdivision greatly compared to what it was three (3) years ago. **Kevin Gurr**, the applicants excavator, stated that he has found eleven (11) plus streets that the buses access within the Nebo School District. Wendell Gibby stated that he does not know if the school buses will pick children up throughout the development, but if they will not that would be a “buyer beware” issue. Mr. Gibby has offered both the Thatchers and Grahams a large amount of money to purchase some additional acreage from them in order to meet the City Council recommendations for access in this area. To this point neither property owner has been willing to sell any property to Mr. Gibby.

**Chairman Mink** opened the Public Hearing. **Kevin Gurr** reiterated that he did not know where the 8% slope came from in regards to Nebo School District. **Commissioner Maingot** stated that he also called Nebo School District and was told that they will not access roads with a slope of 8% or greater. Mr. Gurr was asked what interest he has in the project. He stated that he will be the one doing the excavation work for Mr. Gibby’s subdivision. **Lance Cooper** stated that he lives 300’ down the street from this development. He said that this development will only have full sun for about four (4) hours per day. He feels that the City should get a document from Nebo School District stating if they will or will not access this development with a slope of 8% or greater. Mr. Cooper was upset that Wendell Gibby felt that property should be condemned in order to help him gain additional road access to his development. **Denny Murray** knows that a person has a right to develop or use his property as he sees fit as long as it meets the zoning ordinances and laws of the City. He feels the City would be liable for future problems if they approve a less than standard width road in this area. He feels it is a sub-standard road being proposed. He would like to see consistency in the design of our City Streets, including corners. No additional comments were given and the Public Hearing was closed. **Wendell Gibby** stated that the Nebo School District bus access was not an issue this evening. The powerline road was installed because Rocky Mountain Power insisted upon it. Mr. Gibby feels there are sub-standard streets all throughout the City. Mr. Gibby stated that the City Attorney is the one that would deal with liability, and is the one recommending this development move forward.

**4<sup>th</sup> Motion:** Commissioner Tandy moved to recommend denial to the City Council of Wendell A. Gibby’s request of the Final Plat for the Freedom Vista Subdivision, Plats “A”, “B”, “C” and “D” (47 lots proposed), on property located generally at 2000 East Maple Street, for the reasons listed below:

1. The Final Plat request had originally been continued until the February 25, 2010 Planning Commission Meeting.
2. The proposed 29’ right-of-way (ROW) has not been decided upon by the City Council.
3. Staff did not have ample time to review the Final Plat plans submitted by Wendell A. Gibby at approximately 5:15pm this evening.

**Second:** Commissioner Pratt

**Vote:** 5:1:0 with Commissioners Maingot, Thomsen, Pratt, Tandy and Mink voting aye and Commissioner Tippetts voting naye feeling the application should be approved with the conditions that the City Council decide on the proposed 29’ right-of-way road and that there be a resolution made in regards to the two (2) issues in dispute.

#### **Item 7. Adjourn**

**Motion:** Commissioner Thomsen moved to adjourn the meeting at 10:30pm.

**Second:** Commissioner Pratt

**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: