

# Mapleton City Planning Commission Staff Report

Meeting Date: March 13, 2014

**Item:** 2

**Applicant:** Dave Nemelka, Jr.

**Location:** All A-2 Zones

**Prepared by:** Sean Conroy, Community Development Director

**Public Hearing Item:** Yes

**Zone:** A-2

## **REQUEST**

Consideration of recommendations to the City Council regarding an ordinance amending Mapleton City Code (MCC) chapters 18.08.368 and 18.28.040 allowing short-term rentals (less than 30 days) as a conditional use for lots of five acres or more in the Agricultural-Residential (A-2) Zone.

## **BACKGROUND AND PROJECT DESCRIPTION**

On November 19, 2013 the City Council held a discussion item to discuss a request from Dave Nemelka to allow for a short-term rental of his property located at 903 South Nemelka Lane. Mr. Nemelka's property is developed with a 15,000 square foot home with approximately 10 bedrooms that could house 50 to 60 people. The property includes an indoor pool, indoor basketball/racquetball court, outdoor tennis court and many other amenities. The home sits back approximately 425 feet from the street and has a large paved driveway.

The City Council was generally supportive of the request but directed staff to evaluate the health and safety standards that might be required and to research how other communities have handled this topic. Staff has drafted the attached ordinance that would allow for short-term rentals (less than 30 days) on lots of 5 acres or more in the A-2 zone only. If the ordinance is approved by the City Council, Mr. Nemelka will need to return to the Planning Commission for the issuance of a conditional use permit.

## **EVALUATION**

**General Plan & Zoning:** Most properties in the A-2 Zone have a General Plan land use designation of Rural Residential. The General plans states the following:

*“The objectives in the RR Category are to protect and preserve the natural environment, encourage the continued use of agricultural land for agricultural purposes, discourage commercial and industrial uses, and other uses...”*

Mapleton City Code (MCC) Chapter 18.28.020 states the following regarding the purposes and objectives of the A-2 zone:

- A. *The A-2 agricultural-residential zone has been established as a zone in which the primary use of the land is for agricultural and livestock raising purposes. Land within this zone is characterized by residential estates, open fields, ranches, and farms devoted to the production of food, fiber, animals, and general agricultural uses.*
- B. *Representative of the use within this zone are large residential estates, barns, corrals, row crops, and the raising of livestock.*
- C. *The objectives in establishing the A-2 agricultural-residential zone are:*

1. *To protect and encourage the continued use of agricultural land within the zone for agricultural purposes and to discourage the preemption of agricultural land for nonagricultural purposes;*
2. *To discourage commercial and industrial uses, and any other use which tends to thwart or mitigate the use of the land for agricultural purposes;*

Both the General Plan and the Zoning Ordinance specifically state that commercial uses are discouraged in this zone. While a short-term rental would be considered a commercial endeavor, it is likely that the term “commercial uses” as used in the General Plan and Zoning Ordinance refers to more typical types of commercial uses such as retail, service or office. The proposed use could be more closely associated with large residential estate uses as identified in section “B” above. The Commission should determine whether the allowance of some short-term rentals in the A-2 Zone would be a determinant to the rural character of the area.

**Benefits & Drawbacks:** Some potential benefits of allowing the proposed use include:

- Increased revenue for the City;
- Increased exposure for Mapleton City. People may come to Mapleton that wouldn’t have otherwise; and
- More options for property owners to use their property.

Some potential drawbacks of allowing the proposed use may include:

- Increased traffic and noise in a particular neighborhood;
- Use may conflict with objectives of the General Plan and Zoning; and
- Neighborhood opposition.

The proposed ordinance was written to address some of the potential drawbacks that could result from the proposed use. Staff has included the proposed ordinance below (shown in *italics*) along with a staff response to each requirement of the ordinance.

***18.28.040: CONDITIONAL USES (A-2 Zone Proposed Amendments)***

*Short-Term Residential Rental Property that complies with the follow:*

- A. *Located on a legal lot of record of five (5) acres or larger;*

Response: Staff is recommending that short-term rentals only be allowed on lots of five acres or larger. The purpose for this requirement is to ensure that there is an adequate buffer between a short-term rental property and adjacent traditional residential properties. The lot size requirement will also protect against a proliferation of short-term rentals.

- B. *Is developed or will be developed with a single-family residence that has received proper building permit approvals.*

Response: This requirement ensures that a short-term rental will not be operated out of an unpermitted or substandard residential property.

- C. *Off street parking shall be provided to include two (2) parking spaces for the residence and one (1) additional space for each guest room. A site plan shall be submitted with the proposed parking plan.*

Response: This requirement will ensure that there is adequate on-site parking and will help avoid traffic and parking congestion on neighboring residential streets.

*D. A business license shall be required.*

Response: This will ensure that all short-term rentals are properly licensed and can be tracked. It will also ensure that all appropriate fees have been paid.

*E. A building and fire inspection shall be required prior to issuance of a business license. Additional safety requirements may be imposed above those typically required for a single-family dwelling. A checklist of inspection items shall be provided to the applicant prior to the inspection.*

Response: This requirement will ensure that all short-term rentals comply with applicable building and fire codes and are safe for all potential occupants. A sample inspection checklist is attached.

*F. All short-term residential rental properties shall be subject to the municipality transient room tax as allowed under Utah Code.*

Response: Utah Code allows a municipality to collect a tax of up to one percent of the lodging costs for this type of use. The tax will provide some revenue to the City.

*G. 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 a menace to the public health, safety, morals or welfare may result in a revocation of the conditional use permit by the planning commission.*

Response: This provision will allow the planning commission to revoke a permit if the property is not being operated in a manner that is respectful of City laws and of neighboring property owners.

*H. 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.*

Response: This requirement protects that City against any claims that may result from the approval of a short-term rental license.

### **STAFF RECOMMENDATION**

Review the proposed ordinance and make a recommendation to the City Council.

### **ATTACHMENTS**

1. Proposed ordinance.
2. Sample project inspection checklist.

## **18.08.368 – Definitions**

**SHORT-TERM RESIDENTIAL RENTAL PROPERTY:** Property which is used by any person or entity, for transient lodging uses where the term of occupancy, possession or tenancy of the property by the person or entity is for twenty nine (29) consecutive calendar days or less, for direct or indirect remuneration. For this section, "remuneration" means compensation, money, rent or other consideration given in return for occupancy, possession or use of real property.

## **18.28.040: CONDITIONAL USES (A-2 Zone)**

Short-Term Residential Rental Property that complies with the follow:

- A. Located on a legal lot of record of five (5) acres or larger;
- B. Is developed or will be developed with a single-family residence that has received proper building permit approvals.
- C. Off street parking shall be provided to include two (2) parking spaces for the residence and one (1) additional space for each guest room. A site plan shall be submitted with the proposed parking plan.
- D. A business license shall be required.
- E. A building and fire inspection shall be required prior to issuance of a business license. Additional safety requirements may be imposed above those typically required for a single-family dwelling. A checklist of inspection items shall be provided to the applicant prior to the inspection.
- F. All short-term residential rental properties shall be subject to the municipality transient room tax as allowed under Utah Code.
- G. 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 a menace to the public health, safety, morals or welfare may result in a revocation of the conditional use permit by the planning commission.
- H. 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.

**Short-term Rental Inspection Checklist**

1. Smoke alarms (less than 10 yrs. old) are required in each bedroom, each adjacent hallway to a bedroom and one on each floor, including the basement.
2. Carbon Monoxide detectors are required on each floor.
3. GFCI breakers are required in bathrooms, non-dedicated garage plugs and kitchen countertops (including islands or wet bars).
4. Water heaters
  - a. Strapped with approved straps (one strap on the top third and one on the bottom third of the tank)
  - b. Water heater expansion tank must also be strapped
  - c. Must be de-rated and have a sticker to reflect
  - d. Proper venting and gas connections
5. Furnace
  - a. Must have required clearances and access
  - b. Correct venting and gas/electrical connections
  - c. Combustion air
6. Handrails are required on any stairs over 3 risers.
7. Hot tubs
  - a. Disconnect must be a minimum of 5' but no more than 50' away (5 to 50 rule)
  - b. Guardrails must be provided on a raised deck
  - c. Glass within 5' must be tempered
8. Windows must be tempered in hazardous locations
9. Fire extinguishers shall be provided on each floor and at special locations as directed by the Fire Inspector (type 2A, 10 lbs min.)
10. Emergency egress windows in bedrooms
11. Safety ladders available in each second-story bedroom.
12. Buildings with fire sprinklers require annual inspections.
13. Adequate sanitary facilities.
14. Gas fired appliances are not allowed in sleeping areas.