

**MAPLETON CITY**  
**PLANNING COMMISSION MINUTES**  
March 13, 2014

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**PRESIDING AND CONDUCTING:** Vice-Chairman Golden Murray

**Commissioners in Attendance:** Thomas Quist  
Keith Stirling

**Staff in Attendance:** Sean Conroy, Community Development Director

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

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Vice-Chairman Murray called the meeting to order at 6:38pm. Keith Stirling gave the invocation and Thomas Quist led the Pledge of Allegiance.

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

**Item 1. Planning Commission Meeting Minutes – February 27, 2014**

**Motion:** Commissioner Quist moved to approve the February 27, 2014 Planning Commission Minutes.

**Second:** Commissioner Stirling

**Vote:** Unanimous

**Item 2. Consideration of recommendations to the City Council regarding an ordinance amending Mapleton City Code (MCC) Chapter 18.28.040 allowing short-term rentals (less than 30 days) as a conditional use in the Agricultural-Residential (A-2) Zone.**

**Sean Conroy**, Community Development Director, went over the Staff Report for those in attendance. This request originally came to the City Council a couple months back as a discussion item by Dave Nemelka who was inquiring about renting out his family's property on Nemelka Drive as a vacation/retreat home. The 15,000 square foot home is located on approximately 12 acres of land with 10 bedrooms and a long driveway leading up to the home. The City Council did not discourage this item and recommended that Mr. Nemelka apply for this text amendment and go through the process if it was something he was serious about doing. Tonight the Planning Commission is not reviewing his particular parcel, but just the amendment to the A-2 Zone possibly allowing these types of conditional uses. If this zoning ordinance amendment is passed the applicant would then need to apply for a Conditional Use Permit for this property and go through the approval process. If this use is allowed it would also be something that could be done in other areas in the City that are located in the A-2 Zone as well. The request this evening includes a new definition for a SHORT TERM RENTAL PROPERTY as well as allowing for these types of uses in the A-2 Zone on properties that are at least 5 acres or more in size. The ordinance outlines parking standards, licensing requirements, etc. so these items are all open for discussion. Both the General Plan and Zoning Ordinances discourage commercial or industrial uses, so it will be important for the Commission to discuss whether this type of use is consistent with these goals and directions. If they feel this is not something that should be allowed there would not need to be further discussion on what regulations should be put on it. However, if they feel it is something that they would

like to consider Staff would like some recommendations for possible stipulations that these types of uses would need on them. This type of use would be for a single group or entity, so Bed and Breakfast type uses would not fall under this category. **Vice-Chairman Murray** asked which part of the proposed amendments would exclude these types of uses, and Sean stated that they could request better clarification to be made part of the DEFINITIONS as well as added to the ordinance itself. The intent is not to have the property owner rent out each bedroom individually. **Commissioner Stirling** asked if the home was connected to the sewer system and it was stated that it is on a septic system.

**Dave Nemelka**, applicant, stated that the reason they have determined that they would like to use this property like this is mainly for financial reasons. It is clear that his parents invested a great deal of time and money into this home and have not been able to sell it without taking a significant financial loss. They have looked into the economics of developing the property, but aside of the two lots they have subdivided off as of recently, this option has not been a viable one. They explored the option of a Drug Rehab Facility, which is the most financially attractive choice, but felt it was the least attractive use from a community standpoint. However, they are considering it as an alternative choice to this request. The location, size and amenities this property offers make it a logical choice for these types of vacation/retreat rentals. They have tested out this alternative and found it to be a very viable use of the property, so that is the reason they approached the City with this request. They are comfortable that they can manage the situation on the property, and have hired a full time property manager. Dave does not feel the ordinance will be put in place to facilitate new properties desiring this type of use, but only to help with financial strains for properties similar to this one that currently cannot be sold with large financial losses. He feels the impact on the neighbors is very minimal, and appreciates the amendments Staff has put into this proposal. Mr. Nemelka feels this type of use could be beneficial for the City, and does not think it would be a negative conditional use. Vice-Chairman Murray asked if there was an expected busy season for these types of uses. Dave stated that there studies show they would book at about 80% during June, July and August as well as around the larger Holidays like Thanksgiving, Christmas and New Year. Aside of these they would anticipate a 25-50% booking rate. This would be his pricing goal in order to maximize his income on the property. They require one person to sign the rental contract, so they do not rent out separate parts of the home to different groups. They have a full time property manager who lives in the carriage house next to the home, which should help to mitigate some of the concerns the local residents may have in this area. The last thing the applicant wants to do is interrupt the neighbors or community in a negative way. The home has both 10 bedrooms and bathrooms.

**Skip Tandy** stood and gave a summary of how he believes this approval/denial process can go. He stated that the property was being rented before any discussion on the use had been discussed with the City. Mr. Tandy asked Sean if there was any time of distance requirements in regards to Drug Rehabilitation Centers, since there is one currently that has been approved in this area. Sean stated that the City does not have anything in place that dictates the distance between these types of facilities. Skip does not want to have another one of these facilities in the area, and does not want to feel threatened that if this vacation/retreat home is not approved that the applicant will come back with the request for a Drug Rehab Facility. He would prefer that the home remain as a single family home, but does not want to feel like they are forced to pick one that would be considered the lesser of the two evils. Mr. Tandy spoke to the audience and stated that if this amendment was to move forward they would be able to give their input when the Conditional Use Permit came before them as to what types of restrictions should be imposed.

**Denise Maingot** stood and thanked Skip for his comments. She is saddened by the comments and possible threats that Mr. Nemelka has put before them in regards to the Drug Rehab Facility. Mrs. Maingot stated that as she has read through the Staff Report and the A-2 Zoning Ordinance that these types of rental homes should be discouraged. When they purchased their lot they looked into what types of things could be allowed around them. The Nemelka home was a single family home at the time, and the use of a rental home was not being discussed. She feels that those ordinances were put in place in order to maintain the agricultural feel that is what the A-2 Zone does. Denise talked about some new

neighbors that have had negative experiences with those renting the property. She talked about the foul language these new property owners had heard coming from those renting the Nemelka home, and the fact that it has already become a negative thing in their neighborhood before it has even become approved to be used as such. Denise does not want her neighbor to change, and feels that the City should stick with the original plan which is to have this property used as an agricultural/residential home. She does not feel the City should be pushed into a corner and threatened to approve this amendment in order to keep them from the even larger threat of a Rehab Facility. Mrs. Maingot loses respect when these types of threats are made, and feels strongly this should not be recommended for approval. **Dave Smaldone** lives directly to the west of the Nemelka property. He would like to respectfully make a few comments, and would echo a lot of Mrs. Maingot's comments. This Conditional Use would violate the General Plan, and would change the A-2 Zone for the entire city of Mapleton. It is established to discourage commercial and industrial uses, and which does not keep the land in line for agricultural uses. Mr. Smaldone feels this would open up the use of hotels and bed and breakfast homes as they would fall under the proposed amendments in regards to short term rentals. The property has been used for this type of use for nearly a year illegally and the city has done nothing. This makes Mr. Smaldone wonder how if this amendment was allowed how a hotel or bed and breakfast would not be allowed? As for a rehab center, he is very disappointed in Mr. Nemelka as he has used this as a threat in order to get this use approved. Dave Smaldone thinks this is outrageous, and wonders why in the world the City would want to change this about Mapleton. When he attended the City Council Meeting where this was originally discussed that there was a member of the Council that was against this, and felt the others were neutral, but not in full support likes it's been portrayed. They came to this area for the purpose it's there for, which is agricultural and residential. Sonya Smaldone stated that this website is already on a vacation rental website, and has been for a while now. She is strongly opposed to it. They have invested into Mapleton and she is saddened that this has all come about. This past summer there were nights that they could not sleep with their windows open due to the noise that was coming from this home during all hours of the night. She wonders about their investment and property values. The City allowed for him to subdivide, and feels this should have helped him out. Mrs. Smaldone feels that there are other options for him to look at in regards to this home. She is concerned with the City not enforcing this rental use, and allowing him to continue using the home for this purpose. Sonya would recommend denial of this request, and feels other residents should have notification that this is going on. **Peter Robinson** just moved to their home in July. He loves Mapleton, and met Mr. Nemelka for the first time tonight. He understands the applicant is in a pinch. After their first month in the home they experienced some foul language coming from renters of the Nemelka home. He feels if he would have known about this property before buying the home he would not have purchased it. They love to do all kinds of things outside, but are conscience of their neighbors. His concern with a possible rental home here could cause all sorts of difference issues with noise and traffic. He wonders what it will be like if this is approved. Mr. Robinson is feeling they may be forced to sell, and asked if the citizens and commissioners put themselves in the adjacent property owner's shoes, how they would feel. Skip Tandy stood again and asked the Commission not to deny or approve this request this evening. He felt that a lot of residents probably did not see this request, and would like to get the word out more to those in the A-2 Zones so they could share their input. Dave Nemelka said he appreciates the comments made this evening. The property these individuals live on use to be owned by his family so none of them would live here if it wasn't for his parents. He is willing to work with Staff to put in some requirements that will help mitigate the concerns the concerned property owners in the area have discussed this evening. Mr. Nemelka stated that the financial concerns that others have spoke of this evening is no different than what they are experiencing with their home, which is the reason they are trying to seek other alternatives for the property that seem most suitable for them and the adjacent property owners. He does not feel he was threatening them with the possibility of a Rehab Facility, but was in turn trying to find another use for the property that was more beneficial to those living in the area. Skip Tandy stood for the 3<sup>rd</sup> time and talked in regards to the Drug Rehab Center currently going in. All of the families here tonight feel that it was a real threat to consider doing one of these facilities in this Nemelka home. Mr. Tandy wonders if the applicant will be able to continue renting this

property while it's still going through the approval process. He asked the Planning Commission again to please continue the item until more residents could be notified of the proposed amendment to the A-2 Zone. No additional comments were given and the Public Hearing was closed.

Sean stated that although the comments received tonight are helpful, the Commission needs to look at this request and if it's appropriate for the A-2 Zone. Economic concerns or a possible Drug Rehabilitation Facility are not a part of what needs to be considered when reviewing the proposed amendment. It is strictly to decide if this amendment meets all of the requirements to move forward, and if it is something they can support or not. Sean also stated that there are some commercial businesses currently in the A-2 such as greenhouses and equestrian facilities. The Commission needs to determine if the proposed use would be appropriate in this zone as well, maintaining the current standards of the A-2 Zone. Commissioner Stirling has a concern with permitting these types of changes to the ordinance that was put in place as a guideline years ago. He is concerned that this would be a decision that is cross grain to the fundamental that have been approved and built around by those currently living in these areas. Commissioner Quist stated that he remembers a time before all the homes were in this area and that as the City becomes more populated that changes will have to be made. He feels that this item should be continued in order to receive more feedback from other property owners in the A-2 Zone, as well as to get more feedback from other Commissioners that are not in attendance this evening. If this ordinance is changed it will be far reaching, so all aspects needs to be looked at before making a decision. Vice-Chairman Murray was concerned with the transient nature, and stated how those running greenhouses or equestrian type businesses still occupy the home, and are known by their neighbors. This change to the ordinance would not require the same to be adhered to. He feels the spirit of the A-2 Zone would be violated by this. Sean stated that he feels the Commission is not supportive of it based off the comments they have made. If this is not going to change based off additional public comment that this item should be sent on to the City Council with a recommendation one way or the other. However, he feels they should do whatever they feel is appropriate. Commissioner Stirling is sensitive to what Sean is saying, and feels there have been significant points made tonight that if continued would likely not change. He feels there are red flags that come up if they start changing these ordinances and would vote to continue or deny based upon his feelings tonight. Sean stated that currently commercial zones would be the only place where a person could conceivably apply for a Bed and Breakfast/Hotel type facility. Currently these types of proposed uses are not addressed in the code, so ultimately if these are not going to be allowed the code should be fixed to clearly state this. Vice-Chairman Murray asked if a sign would be allowed on this property if this was approved. Sean stated that they would have to follow the rules of the Sign Ordinance. Any uses that are allowed within in any zone need to fall under the General Plan of the City for that area, and then each individual decision needs to be based on those guidelines when determining if it should be allowed or not. A General Plan is suggestive, so it is not binding. The Commission needs to look and see if the proposal fits into that framework they feel the ordinance was put in place with. Vice-Chairman Murray could see how there would be a concern if there were to be 50+ people visiting the home at one time. Commissioner Stirling feels the A-2 Zone is an area more family oriented, which would not fall into the 50-60 individuals per household that could potentially occupy this home under the proposed changes.

**Motion:** Commissioner Stirling recommended denial to the City Council regarding an ordinance amending Mapleton City Code (MCC) Chapter 18.28.040 allowing short-term rentals (less than 30 days) as a conditional use in the Agricultural-Residential (A-2) Zone, for the reasons listed below:

1. It is not consistent with the long term definition of the A-2 Zone, and that the City Council should discuss what areas in the City may be more appropriate for these types of facilities.

2. Additional outreach be made to the residents of Mapleton in order to give them the ability to voice their concerns regarding this proposed amendment when the item is heard by the City Council.

**Second:** Commissioner Quist

**Vote:** Unanimous

**Item 3. Planning Commission Training**

No training was held.

**Item 4. Adjourn.**

**Motion:** Commissioner Quist moved to adjourn the meeting at 8:15pm.

**Second:** Commissioner Stirling

**Vote:** Unanimous

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April Houser, Executive Secretary

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Date: