

MAPLETON CITY
PLANNING COMMISSION MINUTES
May 12, 2011

PRESIDING AND CONDUCTING: Jeff Hawkins

Commissioners in Attendance: Leslie Jones
Rich Lewis
Oscar Mink
Skip Tandy

Staff in Attendance: Cory Branch, Planning Director

Minutes Taken by: April Houser, Executive Secretary

Chairman Hawkins called the meeting to order at 6:35pm. Skip Tandy led the Pledge and Oscar Mink gave the invocation.

Alternate Commissioner Leslie Jones was seated as voting member this evening.

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

Item 1. Planning Commission Meeting Minutes – March 31, 2011.

Motion: Commissioner Jones moved to approve the March 31, 2011 Planning Commission Minutes.
Second: Commissioner Tandy
Vote: Unanimous

Item 2. Steven Jackson requests to rezone approximately 0.51 acres from R-2 to R-3 in order to construct a 4-plex on property located generally at 580 North 300 West.

Cory Branch, Planning Director, went over the Staff Report for those in attendance. Councilman Mike Cobia directed staff to talk with the applicant regarding a possible rezone of his property. The Jackson Hollow Subdivision that this property is part of was approved in 2007. There was a note placed on the plat stating that this lot would be approved for a duplex only, and the other remaining lots would only be allowed as single family homes. The property is approximately 22,222 square feet (0.51 acres). The Staff Report included a letter from the applicant regarding their reasoning for the rezone request. Two letters were also included from John W. Allan (614 North 300 West) and Knight West Construction (Owner of multiple lots in the Jackson Hollow Subdivision) stating their objection to the rezone request this evening. Staff recommends denial of the proposed rezone.

Steven Jackson, applicant, stated that most of the information contained in the two objection letters are non-sense or non-issues. Mr. Jackson stated that it has never been used as a four-plex, but was once used as a legal non-conforming triplex. The applicant stated that since 2007 the unit has only been used as a duplex, and the letters received were not from individuals who directly live in the neighborhood. Steven Jackson does not want to add anything to the lot, but would like to utilize the units as a four-plex to increase revenue, allowing him to redo the outside of the buildings. **Commissioner Mink** asked what has happened in the past with the 2 units that are not being utilized since there are essentially 4 units here.

Mr. Jackson stated that it was only used as a legal non-conforming triplex until 2007 when it was reduced to a duplex. The applicant stated that there are 4 gas meters and 4 electrical meters on the building. **Commissioner Tandy** asked why the building was put to be used as a *DUPLEX ONLY* on the plat of the Jackson Hollow Plat "A" Subdivision. Cory stated that he only came in at the tail end of the development, but felt that at the time the City wanted to bring the building into conformance with its zoning. Steven Jackson also stated that due to his personal financial situation he and his family moved in to one of the units, so it is now being utilized as a triplex. The building is connected to the sewer system. Steven stated that Councilman Cobia supported this project due to it providing affordable housing in Mapleton, as well as other reasons that he and Mr. Jackson share. There is only one utility billing account that the City collects for on the sewer, water and garbage. Steven Jackson stated that the real property owner, his grandmother, takes care of paying this bill. Commissioner Tandy asked if the applicant was planning to change any of the foot print on the building. Steven stated that they do not, only to enhance the exterior of the building. Cory stated that he has not looked closely as to if this building would pass current building code requirements for a four-plex, nor if it would have sufficient off-street parking. Steven stated that there would be a few interior items that would need to be updated in order to come into code compliance. Commissioner Mink asked the applicant what he would say to those surrounding property owners who bought their property under the assumption this would only be a duplex. Steven stated that he would not know exactly what to say, other than the only changes they would notice are a couple additional vehicles and beneficial things with the exterior being updated. Commissioner Mink stated that there are already extra vehicles at the unit due to the violation of using the building as a triplex, rather than the approved use of a duplex only. Mr. Jackson stated that the 3 families living in the units currently are not related; however he is related to the owner of the building. Cory stated that he has not had anyone call him complaining about the use of the property. In 2007 Cory met the applicant on site to verify the building was only being utilized as a duplex. Steven Jackson stated that he has lived in one of the units since 2003. Transferable Development Rights (TDR's) were mentioned as a possible recommendation to receive more density. Cory stated that the R-2 Zone does not allow for the use of TDR's to be applied. Commissioner Mink asked if the Commission could put conditions on the rezone, where the improvements to the units would have to be made, if the rezone was approved. If the Commission felt that improvements could be done to the property as part of the rezone, Cory stated that a Development Agreement should be put in place, and a continuance of this item should be done until that is completed.

Chairman Hawkins opened the Public Hearing. **Joe Kirby** has lived in Mapleton since 1972. He has been around since the development of the Jackson property from the beginning. He can see the advantage of having the four-plex if it is legal. It was built as a four-plex, and he would be in favor of trying to maintain that. He is sure there is a financial strain on Mrs. Jackson, who owns the property, and would be in favor of the four-plex being approved. He lives at 102 West 600 North. **Bill West**, with Knight West Construction, stated that they own 3 of the adjacent lots to this duplex in the Jackson Hollow Subdivision. Mr. West had originally sent in a letter opposing this rezone request. He would now like to see if they could make some lemonade out lemons. He has some financial risks due to this property, since people do not want to live next to this building in its current state. He wonders if there is a potential of grandfathering this building in as a four-plex. If the City would carefully monitor the improvements on this unit Knight West would not oppose approval of this rezone. He would also like to see some fencing around the project, and some work done to fix the building up. If this could take place, Knight West would not oppose the rezone. However, if the building stays the same as it currently is, they would oppose the rezone, since it would only add to their problems of selling the lots they currently own. One of the buyers spoke with Knight West Construction about allowing the rezone if the building was to be improved and remodeled. Mr. West would like to see some fencing on the north, east and south sides of the duplex, allowing an opening for the driveway area on the north. Mr. West does not feel that cost sharing in the price of the fence to be feasible, since they are unable to sell the lots under their current pricing. **Commissioner Lewis** stated that there are a number of items to fix up on the building, as well as landscaping issues. **Mike Rau**, an adjacent property owner, is in favor of this rezone taking place as long as the building is fixed up as part of the approval. He shares the same feelings as Mr. West shared in his

comments. Mr. Rau feels that the nicer the units look the better it would be for everyone. He is not opposed to having four families in the building, and is not personally opposed to the rezone. **Bruce Jackson**, father to Steven Jackson, has lived in Mapleton since 1957. He is also the son of Mrs. Jackson, who owns the building. He stated that a lot of the stuff done in the past in Mapleton was done with a wink and a nod. When the building was constructed it had regular inspection on it by Building Inspectors. The building was generally constructed as a four-plex, but was really never used as a four-plex. He feels it has been more than 35 years since the building was constructed. Commissioner Mink asked how he would feel about the comments regarding the fencing. He was in support of it, other than on the north side along 600 North. He knows there could be a lot done with the landscaping. Steven Jackson stated that they originally planned to fence the property as part of the Jackson Hollow Subdivision, but when the market crashed it just did not happen. Chairman Hawkins asked where the capital would come from to pay for these improvements, and if the marginal income provided by the additional unit would have to be gathered before the improvements would be completed. Mr. Jackson is not opposed to getting a Home Equity Line Load, but due to his credit, is not sure how quickly that can happen. Steven Jackson also stated that he is a man of his word and will make the improvements as quickly as possible. He felt that the fencing could be done relatively quickly, as it is a reasonable cost to complete. No additional comments were given and the Public Hearing was closed.

Commissioner Tandy summed up for those in attendance, in his own words, the discussions he felt had taken place regarding this proposal. He would typically oppose a spot zoning such as this, but with the comments made, would like to see a continuance made and have some additional research done to see if it was incorrectly done at the time of the Jackson Hollow Subdivision. Cory stated that the only difficulty he sees is that they would have to identify it as a four-plex in order to be grandfathered in, then there is the difficulty of considering it a legal four-plex. He does respect it is difficult to market a four-plex continuously. He fears that finding much history on the property will be the problem. Rezoning the property or grandfathering is the only 2 methods to allowing a four-plex that Cory is aware of. Cory stated that there were two things that could be done; first to research the property and second, to come back with a Development Agreement as to what the applicant is proffering. **Chairman Hawkins** felt that the worst thing that could be done is if the rezone were approved and the applicant did no improvements to the property. Bonding was discussed as a possible way of ensuring that the work gets completed. Cory stated that he has always been comfortable with a Letter of Credit and a Cash/Durability Bond. Staff does feel there is an ordinance in place that if the work were not done within a year after the rezone being put in place, that it would revert back to its prior zoning. **Steven Jackson** just wanted to address a couple concerns. Putting a fence up has been in the plan for 5 years now. The items they would do to fix up the property first would be the landscaping and the fencing. Mr. Jackson would prefer there not be a requirement stating the exact types of exterior he needs to put on the building, but he will do all he can to upgrade the building. Having the building labeled as a four-plex would also help the applicant to get funding to remodel the building, according to Mr. Jackson

1st Motion: Commissioner Mink moved to recommend approval to the City Council for Steven Jackson's rezone of approximately 0.51 acres from R-2 to R-3, located generally at 580 North 300 West, with the conditions listed below:

1. Block walls be constructed along the east and south sides of the property within a timely constraint.
2. The property is immediately cleaned up.
3. If the improvements are not done as stated and promised the rezoning reverts back to what it is today.

Second: None

Vote: Motioned died due to lack of a Second

2nd Motion: Commissioner Tandy moved to continue Steven Jackson requests to rezone approximately 0.51 acres from R-2 to R-3 in order to construct a 4-plex on property

located generally at 580 North 300 West until the June 9, 2011 Planning Commission Meeting, with the recommendations listed below:

1. That Staff meet with the applicant regarding a possible Development Agreement for the improvement of the property.
2. Staff to research and compile the history of the property.

Second: Commissioner Jones

Vote: 3:2:0 with Commissioners Tandy, Hawkins and Jones voting aye and Commissioners Lewis and Mink voting nay due to the reason of that the motion could be reworked to be something they would all agree on rather than continuing the item and re-discussing it in June.

Item 3. Byron Kirk Bertelsen requests a Home Occupation Permit for *Bert's Guns*, a gun-smithing business, located at 615 East 300 North, in the R-1-B Zone.

Cory Branch, Planning Director, went over the Staff Report for those in attendance. The home has a 1-car garage. Staff recommends approval of the Home Occupation with conditions, which are listed in the Staff Report this evening. The applicant is a Police Officer for Orem City. **Chairman Hawkins** feels that ammunition relating to repair of firearms should be allowed. Cory stated he could be supportive of that type of verbiage. **Commissioner Tandy** stated that there could be a condition of approval stating no ammunition for sales could be allowed on site. It was also stated that none of the applicants personal items should be part of the restrictions placed on the Home Occupation Permit.

Byron Kirk Bertelsen, applicant, stated that he will be using dummy rounds when fixing the firearms. There is no intent to manufacture firearms or rounds. The main goal for this is so the applicant can receive a Federal Firearms License. This will be a very small business, and does not plan for it to generate big revenue. With this permit he would be able to buy and sale firearms so he can have guns shipped from other areas directly to his home, rather than to a dealer where he has to pay an additional fee.

Chairman Hawkins opened the Public Hearing. **Gina Bertelsen** supports Bert's Guns. Her husband is learning gun-smithing from her Uncle, and says he is passionate about the guns and she looks at them as an investment. No additional comments were given and the Public Hearing was closed.

Motion: Commissioner Tandy moved to approve Byron Kirk Bertelsen's Home Occupation Permit for *Bert's Guns*, a gun-smithing business, located at 615 East 300 North, with the conditions listed below:

1. No commercial ammunition or black powder for the business shall be stored or sold on the property.
2. The Applicant shall provide an approved Federal Firearms License for review.
3. Applicant must pass an inspection from the Fire Inspector.
4. The Applicant must abide by the conditions he has represented in his letter received by Mapleton City on May 3, 2011. Any modifications in business practices shall be approved by the Planning Commission, subject to an application and applicable fee to re-appear before the Planning Commission.
5. Clients shall enter the home through an entrance designated by the Fire Inspector.
6. That the work area in the garage shall not interfere with the parking space for 1 car.
7. The Applicant must abide by all other requirements set forth in Mapleton City Code 18.84.380: HOME OCCUPATIONS.

Second: Commissioner Jones

Vote: Unanimous

Item 4. Adjourn.

Motion: Commissioner Mink moved to adjourn the meeting at 8:25pm.

Second: Commissioner Lewis

Vote: Unanimous

April Houser, Executive Secretary

Dated:

Jeff Hawkins, Planning Commission Chairman

Dated:

Cory Branch, Planning Director

Dated: