

**MAPLETON CITY**  
**PLANNING COMMISSION MINUTES**  
October 18, 2012

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**PRESIDING AND CONDUCTING:** Rich Lewis

**Commissioners in Attendance:** John Gappmayer  
Thomas Quist  
Keith Stirling  
Mike Tippetts

**Staff in Attendance:** Matthew Brady, Planner I

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

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Acting Chairman Rich Lewis called the meeting to order at 6:30pm. Mike Tippetts led the Pledge and Keith Stirling gave the invocation.

Alternate Commissioner Thomas Quist was seated as a voting member this evening.

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

**Item 1. Planning Commission Meeting Minutes – September 27, 2012.**

**Motion:** Commissioner Tippetts moved to approve the September 27, 2012 Planning Commission Minutes.  
**Second:** Commissioner Gappmayer  
**Adjourn:** Unanimous

**Item 2. (Continued 9/27/12) Betsy Ferguson requests approval of Wildflower Estates Subdivision, Plat “A” Amended, located at 1816 West 800 North, located in the GC-1 Zone.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. This item was originally discussed in length at the previous Planning Commission on September 27, 2012. The Commission continued the item in order to get feedback from the City Attorney as to if improvements could be required to be installed on the property due to the subdivision amendment. Staff and the City Attorney felt that no impact was being created by this subdivision and therefore improvements should not be a requirement. Due to a case pending with Betsy Ferguson and her title company, she would like for improvements to be required allowing her to receive some reimbursement for those improvements. Matt stated that the city has worked with Ms. Ferguson to move the water meter and fire hydrant at the city’s expense. In speaking with the City Attorney, Eric Johnson, he stated that based on two cases he would not recommend that the city require improvements to be installed. The first case stated was BAM Development vs. Salt Lake County regarding exactions. The second was Dolan vs. Diggard City regarding exactions to be roughly proportional in impact to what is being created. The City Attorney does not feel there is any additional impact being created with this lot amendment. It was a concern that the Title Company may look further into this item, if the City were to require the improvements to be installed, possibly making the city liable for any wrong doing.

**Betsy Ferguson**, applicant, is extremely disappointed with the City Attorney's recommendation. Betsy was upset that she never got a chance to personally talk with the City Attorney. She is disappointed over the 2 year process that has gone into this. It is extremely disappointing for the city to make a decision when she was originally told one thing then later told another. She believes it is disappointing on all fronts.

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

**Motion:** Commissioner Stirling moved to approve the Wildflower Estates Subdivision, Plat "A" Amended, located at 1816 West 800 North.

**Second:** Commissioner Gappmayer

**Vote:** 4:1:0 with Commissioners Quist, Gappmayer, Stirling and Lewis voting aye and Commissioner Tippetts opposing due to the feeling Ms. Ferguson was originally given a statement requiring the improvements to be installed and then later that requirement was removed.

**Item 3. Richard Herlevi and Robert Campbell request approval of a Home Occupation Permit for Nebo Shooter and Tactical, involving the sale of firearms and emergency supplies, and gunsmithing, located at 1542 West 1800 North in the RA-2 Zone.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. The applicants are proposing to do a Home Occupation where they mainly focus on custom orders online. There is one co-owner that is not a member of the family, who will be traveling to the home. The city's Police Chief and Fire Inspector have reviewed this item and given their feedback, which is part of the recommended conditions of approval listed in the Staff Report. Any modifications to this Home Occupation will require additional approval from the Planning Commission in the future if the permit is approved this evening.

**Richard Herlevi and Robert Campbell**, applicants, stated that Rob is a Provo City Police Officer and Richard Herlevi works in the Emergency Room at the Utah Valley Hospital. The applicants cannot do anything fire arm related unless they have the AFL approval. Other areas of their business are emergency supplies as well as tactical supplies. Both of the applicants are fine with the recommendations in the Staff Report from the City, Police Department and Fire Inspector. They understand the requirement that prohibits them from storing ammunition in the same location as the firearms.

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

**Motion:** Commissioner Tippetts moved to approve Richard Herlevi and Robert Campbell's Home Occupation Permit for Nebo Shooter and Tactical, involving the sale of firearms and emergency supplies, and gunsmithing, located at 1542 West 1800 North in the RA-2 Zone, with the conditions listed below:

1. No ammunition or black powder for the business shall be stored at the subject property.
2. The applicants shall provide an approved Federal Firearms License for review prior to beginning operations.
3. Applicants must pass an inspection from the Fire Inspector.
4. The applicants must abide by the conditions represented in their attached statement (see Attachment #1). 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. The applicants must abide by all other requirements set forth in the Mapleton City Code 18.84.380: HOME OCCUPATIONS.

**Second:** Commissioner Gappmayer

**Vote:** Unanimous

**Item 4. Vaughn R. Cook requests approval of a Home Occupation Permit for Sunflower Clinic, an acupuncture clinic, located at 2072 West Sunflower Lane in the SDP-1 Zone.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. Due to the SDP-1 Zone there are some additional requirements regarding parking. Parking is limited to the number of off-street parking areas for the home requiring clients and employees to utilize this area for parking. This particular unit does not have any guest parking stalls; therefore all of the parking would need to be in the applicant's driveway. Staff has reviewed the proposal and recommends approval with the condition that they comply with all Home Occupation Permit requirements. There was a neighbor who called in to oppose this item feeling it should not be allowed in the SDP-1. This gentleman also had a concern with clients visiting the home. Matt did state that the SDP-1 ordinance does allow clients to visit the home.

**Vaughn R. Cook**, applicant, stated that this will be a low volume clinic so the concern with the driveway parking is not an issue.

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

**Motion:** Commissioner Gappmayer moved to approve Vaughn R. Cook's Home Occupation Permit for the Sunflower Clinic, an acupuncture clinic, located at 2072 West Sunflower Lane in the SDP-1 Zone, with the condition listed below:

1. The applicant shall comply with all of the requirements of Mapleton City Code 18.56A.030: PERMITTED USES and Mapleton City Code 18.84.380: HOME OCCUPATIONS.

**Second:** Commissioner Stirling

**Vote:** Unanimous

**Item 5. Cory Andersen, agent for Diamond Back Subdivision, Plat "A", a one (1) lot (phased) subdivision requests Preliminary and Final Plat approval on property located generally at 600 South 500 West. The subject property is located in the RA-1 (Residential Agricultural) zone.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. The applicant is proposing to do one 1-acre lot. The general plan for the area is low density residential, which is RA-1. The applicant's property line aligns with the northern edge of the 600 South street right-of-way. The entire 600 South street currently points directly on Mr. Andersen's property at this point. The applicant's drawing shows a proposal to do a partial width street with half plus 5' of asphalt. The city has an ordinance that allows developers to do a half plus five street if the street right of way is not fully located on the property being developed. Since the property owner owns all of the property where the 600 South street will continue Staff is recommending that the applicant install the full width of the street, aside of the sidewalk to the north along 600 South. Staff feels that sidewalk; curb and gutter should be required on the south side of the street, full width of asphalt, and curb and gutter on the north side of the street. When the owner to the north goes to develop they would be required to install the sidewalk. Staff

recommends approval of this subdivision with the condition that all of the Development Review Committee (DRC) concerns are met.

**Cory Andersen**, applicant, stated that when the property was purchased there was a gap in the property that they acquired. He would like to do a fence line agreement with the adjacent property owner, instead of ripping out the current fencing. Cory would like to get this agreement done and call the fence line the boundary. Matt stated that there is currently no gap in boundary lines since Mr. Andersen acquired this gap when he purchased the property. Mr. Andersen would like to mimic what they have done in the Silver Leaf Subdivision. Matt stated that the fence is approximately 10' south of where the north property line currently is. Mr. Andersen said that he will be spending some money in lawsuits if he goes in and removes out the fence.

**Acting Chairman Lewis** opened the Public Hearing. **Rob Petersen** feels the fence line has to be at least 5'-6' off. He does not know if the people in Mapleton correspond to these fence lines. He has a concern with the ditch line that goes along the north side of the property. He would like to know where this water is going to go. He had a flood last year because there is no drainage for the water to go over to 800 South. There is no outlet now for this water since it was filled in when the Silver Leaf Subdivision was developed. Matt stated that the applicants are required to receive approval from Mapleton Irrigation before any plats are recorded. Mr. Petersen stated that the irrigation company told him the ditch should have never been filled in. Matt stated that Mapleton Irrigation is a separate entity from Mapleton City. No additional comments were given and the Public Hearing was closed.

Cory Andersen stated that if the full width of the street is installed the fence would need to be removed. If the curb and gutter is required the fence would have to be removed and there would be a disagreement with the adjacent property owner. Matt stated if there was not a grade issue the full width and improvements of the property would need to be installed, which would have included sidewalk on the north side of 600 South. Staff would suggest that if the half plus 5' street width was allowed that the full right-of-way width be required to be dedicated when the subdivision is recorded. Mr. Andersen feels a fence line agreement is the best route to go lining up the property lines with where the fence currently exists. He stated that he was going to asphalt up to the fence line, give or take a couple feet. Cory is proposing to run a pipe underneath the road to take care of the water runoff concern stated by Rob Petersen. Mr. Andersen said the Irrigation Company is allowing him to pipe into to drainage pond on 800 South.

**Motion:** Commissioner Gappmayer moved to approve the Preliminary and Final Plat for the Diamond Back Subdivision, Plat "A", a one (1) lot (phased) subdivision, with the conditions listed below:

1. The applicant meet all other concerns listed in the Development Review Committee (DRC) Minutes dated October 9, 2012 (Attachment #3 in the Staff Report) with the below revisions:
  - a. Amending provision #4 allowing a half plus 5' street width of asphalt.
  - b. Storm drain requirements be met and the developer speak with Mapleton Irrigation to make sure everything is taken care of

**Second:** Commissioner Quist

**Vote:** Unanimous

**Item 6. Mapleton City requests to amend Mapleton City Code Chapter 18.72: I&M-1 INDUSTRIAL AND MANUFACTURING ZONE in order to add provisions allowing for construction/contractor offices, outdoor storage areas, and fuel tanks**

**and pumps, and to modify general requirements relating to required site improvements.**

**Matthew (Matt) Brady**, Planner I, went over the Staff Report for those in attendance. Both Item 6 and Item 7 were discussed at this time. Staff did another Public Notice for this meeting regarding these items due to some word changes in the proposed amendment. In other City's industrial zones contractor offices are a pretty common use. The proposal at this time is to only allow contractor offices to temporarily install gasoline tanks and storage of equipment on site. There are a number of safety concerns that need to be addressed, which will be covered in the proposed amendment. Staff drafted the ordinance in such a way that if a contractor office was proposed without gasoline or storage onsite, it would be considered a Permitted Use. If outdoor storage areas and/or gasoline storage tanks were being proposed it would require a Conditional Use Permit, which needs to receive Planning Commission approval. Outdoor storage areas can not exceed 10' in height. The Planning Commission can require additional conditions in order to protect the general welfare and safety of the city. Matt went over the proposed ordinance amendments line by line for those in attendance. A 6' sight obscuring fence would be required along all sides of the lot behind the front edge of the primary building. All lot drainage shall be maintained on-site. **Commissioner Tippets** asked why landscape buffering could not be allowed in place of a fence. Matt stated that it was to keep the requirements the same for all future developments of this type in regards to fencing.

In regards to Attachment #2 the title was being changed to 18.84.210: LOCATION OF GASOLINE/DIESEL PUMPS AND FUEL STORAGE TANKS. Matt stated that this amendment is not pertinent to any certain location at this time. In the future when these types of items are being requested each proposal would be required to receive either a Permitted Use or Conditional Use Permit. This item is a City initiated item feeling this ordinance needed to be cleaned up to be more in line with the purposes of the I&M-1 Zone. Commissioner Tippets stated that if this ordinance is approved a contractor would still need to come in to get approval for their proposed location for either a Permitted Use or Conditional Use Permit. Matt stated that the Planning Commission can always add additional stipulations, and as long as they can be mitigated, these types of requests should be approved.

**Acting Chairman Lewis** opened the Public Hearing. **Mike Crandall**, along 800 North, stated that if he understands correctly this would allow the storage units on 800 North to be used for contractor offices. Matt stated that this is not correct. The building behind his home was approved for the use of Storage Units only. Due to the amount of parking required, and changes in the use would require all of the site improvements in the I&M-1 Zone. The storage units were previously approved for 3 units, and there is currently 2 built on the property. The current owner has discussed coming back to get approved for possible small industrial businesses in these units. Matt stated that there have been businesses being ran in these units which have been sent letters stating that that is not allowed. Rick Maingot, the current owner, stated that residents are more than welcome to call him if there are illegal businesses taking place in these units. Mr. Crandall stated that there is a slope on the storage unit property that could cause an environmental catastrophe if there is a gas leak from this area in the future. Matt paraphrased the proposed ordinance 18.84.210. The pumps and tanks have to be listed as a Permitted or Conditional Use in these zones. The fueling yards must be accessible to the fire department. The maximum number of tanks allowed on a property is 2 with no more than 20,000 gallons of storage. Primary and secondary containment is required on all tanks and must hold 100% capacity of all of the tanks, including dike areas with water/oil separators. These shall not be connected to any sewer or storm drain systems. Matt gave an example in regards to the fact that if the inner tank was to leak the outer tank would be double the size in order to be able to contain all of the gas being held within the inner tank. Dispensing has to be from a listed pump drawing from the top of the tank, not the bottom. Gravity discharge tanks are prohibited. Tank openings, pipes and valves have to be arranged to prevent siphoning. Automatic shut-offs have to be installed to shut off when a tank is at 90% of capacity. When fuel is put into the tanks no more than

95% of the capacity is allowed to be installed. Vent lines have to remain operable. If the tank is not used for 1 year or more the tank must be removed, following the guidelines stipulated for removal of gasoline tanks. **Commissioner Tippetts** clarified what is being proposed, which is to allow construction offices, as well as fuel if desired. Gasoline tanks would only be allowed in conjunction with contractor offices. **Betsy Ferguson** only became aware of this amendment because she was at the last Planning Commission meeting when the item was originally continued. She stated that Rick Maingot has mentioned that he would like to put in some open storage on the property where the 2 current storage buildings are located. She is concerned about this for a number of reasons. She worries that this body feels that what is approved by the Commission is what takes place, but that it is not. She stated that these storage units have not followed the requirements that were given when they were approved. A proposal of a 6' fence would not protect them from 20' fueling tanks. If the requirements could be met the storage units could cause the homeowners to be put at risk in this area. There are large trucks traveling to the storage units all hours of the day. All though the adjacent property owners have complained the city has not required the city code to be followed. Ms. Ferguson stated her complaint with the code being violated continually, and the thought of permitting this to happen to any of them is unacceptable at this point. She feels they are all bearing this load, and suggests that this property should not be allowed to have this type of use take place, and if it were approved in the I&M-1 Zone she would like the storage units to be rezoned to another zone that would not allow for this. **Brittany Ward** stated that she received a letter in the mail about the zone change pertaining to Betsy's rezone and Home Occupation, but not for this proposed ordinance amendment. She stated her concern with the large construction trucks that travel along the road in front of her home. This street has a 25 mph speed limit, which she feels is not followed by a large number of these trucks. Stacking of the steel pipes that have been moved in the past has caused cracks in adjacent property owner's homes. She feels there should be a buffer for homes around I&M-1 Zoning. She does not feel a vinyl fence will protect them, and is upset to see it was changed from a solid rock wall requirement. This zone change is city initiated, and Mrs. Ward feels that Eccles does not have a strong reason for requesting this. Robert Dymock stated that he can tell something is not right. He bought his home 12 years ago when it was farm house area. He wanted a nice place to live for the rest of his life and now these storage units are being used as individual units, and feels if the Commission has a conscience they would know this is not right. Semi trucks park in these units, and they use loud engine birds. He is very opposed to this request and feels it is not a very good thing. He wants to make sure the Commission is honest in their dealings and wonders if they can sleep at night if this is approved. **Peter Hartung** has been a resident on 800 North for just under 1 year now. When he purchased his home it was new and he was told that the buildings behind him were storage units only. He feels it is now being changed to allow for contractor offices and the storage of construction equipment. Vibration of large equipment is not something he would feel was part of the expectation of the storage unit property. He is fine with it being used as storage units, but not for storage of heavy equipment and gas storage tanks. He does not feel the 6' vinyl fence requirement is sufficient. No additional comments were given and the Public Hearing was closed.

**Commissioner Tippetts** asked if there are any Conditional Use permits granted for the area for the storage units. Matt stated that they are approved for storage units for up to three buildings. Commissioner Tippetts asked if any other uses have been approved in this area. Matt stated that no additional uses have been approved for this property. He is optimistic that the current owner will help get these units back in line. The original permit for the storage units was approved with a chain link fence and privacy slats. The audience members did not think that was the case. They felt a solid rock wall was required. Matt stated that there was a variance applied for by the previous owner in regards to the fencing. A quorum could not be gathered and the applicant went back to the Planning Commission for an amendment to the fencing requirements receiving the approval to allow for 6' chain link with solid privacy fencing. **Commission Gappmayer** would like to see what other city's require in regards to fencing around these types of Permitted and Conditional Uses. **Commissioner Stirling** wants to know why the city wants to allow fuel tanks to be installed in these areas. **Acting Chairman Lewis** feels further information should

be gathered in regards to these types of ordinances. Commissioner Gappmayer feels that greater clarity would be a good thing, and in regards to City Code perhaps we should look in to what is being enforced right now. It is best to know what is legal or not legal in regards to the city and current residents. Matt stated that the comment about the possible outdoor storage being discussed on the current storage unit property would require an amendment to the current storage unit area. **Robert Dymock** has complaints about the semi trucks and told the owner of the storage units that they were not allowed. He has been here for 12 years and never had this happen and a couple days after he complained his home was egged. He confronted the owner and was told that he relayed Mr. Dymock's complaint to those cleaning their vehicles off on the property. It was mentioned that feedback from the property owner of the storage units should be given as well.

**Motion:** Commissioner Tippetts moved to continue this item until the December 13, 2012 Planning Commission Meeting.  
**Second:** Commissioner Gappmayer  
**Vote:** Unanimous

**Item 7.** **(Continued 9/27/12) Mapleton City requests to amend Mapleton City Code 18.84.210: LOCATION OF GASOLINE PUMPS in order to amend required setbacks for gasoline pumps.**

This item was discussed as part of Item 6 in the minutes this evening.

**Motion:** Commissioner Tippetts moved to continue this item until the December 13, 2012 Planning Commission Meeting.  
**Second:** Commissioner Gappmayer  
**Vote:** Unanimous

**Item 8. Adjourn.**

**Motion:** Commissioner Tippetts moved to adjourn the meeting at 8:30pm.  
**Second:** Commissioner Gappmayer  
**Vote:** Unanimous

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April Houser, Executive Secretary

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Date: