

MAPLETON CITY
PLANNING COMMISSION MINUTES
December 9, 2010

PRESIDING AND CONDUCTING: Skip Tandy

Commissioners in Attendance: Jared Bringham
Pam Elkington
Jeff Hawkins
Rich Lewis
Oscar Mink
Ryan Swanson
Mike Tippetts

Staff in Attendance: Cory Branch, Planning Director
Gary Calder, City Engineer
Eric Johnson, City Attorney

Minutes Taken by: April Houser, Executive Secretary

- ❖ *At 6:15pm Commissioner Hawkins moved to open a Closed Session to discuss pending or reasonably imminent litigation as provided by Utah Code Annotated §52-4-205.*
 - *Second: Commissioner Bringham*

- ❖ *At 6:37pm Commissioner Mink moved to adjourn the Closed Session as provided by Utah Code Annotated §52-4-205.*
 - *Second: Commissioner Lewis*

Chairman Tandy called the meeting to order at 6:40pm. Ryan Swanson led the Pledge and Pam Elkington the invocation.

Alternate Commissioner Mike Tippetts was seated as a voting member this evening.

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

Item 1. Planning Commission Meeting Minutes – October 28, 2010.

Motion: Commissioner Mink moved to approve the October 28, 2010 Planning Commission Meeting Minutes.

Second: Commissioner Elkington

Vote: Unanimous

Item 2. Bishop Homes & Shirlene Reservoir request approval of Hakes Subdivision, Plat “B”, a proposed 2-lot Amended Subdivision Plat, located generally at the southeast corner of 200 West 1600 North, in the RA-2 Zone.

Cory Branch, Planning Director, went over the Staff Report for those in attendance. The Hakes “A” subdivision was recorded in 2008. The applicant would like to amend the subdivision to include two lots, and adjust the property lines. The amendment will put both lots with approximately 19,000 square feet. Staff recommends approval of this item.

Mark Bishop, applicant/owner of Bishop Homes, stated that they want to adjust the property line. The applicant had an issue with the requirement to complete the improvements, due to the bank releasing the bond from Plat A before all of the improvements have been completed. **Sam Draney**, employee with Bishop Homes, has been part of the discussions between staff and the applicant. Cory recommended that if the applicant wanted this to be further reviewed as to what improvements should have already been completed with Plat “A”, and which improvements the current applicants should complete, the item should be continued allowing staff to further look into this issue. Discussion took place and it was determined the Commission would like to continue hearing this item, which Staff agreed would be fine.

The Public Hearing was opened. No comments were given and the Public Hearing was closed.

Motion: Commissioner Tippetts moved approve the Hakes Subdivision, Plat “B”, a 2-lot Amended Subdivision Plat, located generally at the southeast corner of 200 West 1600 North, with the condition that the Applicants resolve all items listed in the Development Review Committee (DRC) Minutes of November 30, 2010.

Second: Commissioner Elkington

Vote: 6:1:0 with Commissioners Tippetts, Lewis, Bringhurst, Elkington, Hawkins and Tandy voting aye and Commissioner Mink voting naye due to the Chairman requesting a continuance of this item during the discussion.

Item 3. Mapleton City requests to amend Title 18, Development Code, Part III; Zoning, Chapter 18.30, CE-1 (Critical Environment) Zone, in order to amend the provisions as it relates to slope protection, grading, filling, plowing, or excavating within the CE-1 Zone.

Staff is requesting a continuance of this item to the January 13, 2011 Planning Commission Meeting.

Motion: Commissioner Bringhurst moved to continue Item 3 until the January 13, 2011 Planning Commission Meeting.

Second: Commissioner Elkington

Vote: Unanimous

Item 4. Mapleton City request to amend Title 18, Development Code, Part III; Zoning, chapter 18.32, RA-1 (Residential Agricultural) Zone, in order to allow greater flexibility to the minimum lot size requirement by allowing for the clustering of homes.

Cory Branch, Planning Director, went over the Staff Report for those in attendance. The RA-1 Zone, with proposed amendments, was discussed. The Commission went through each page in the Ordinance. Cory emphasized that in a clustering development, Open Space would not be a requirement, unless the applicant choose to do so. **Eric Johnson**, City Attorney, stated that the City has other clustering options, such as the Planned Residential Zone (PRC). **Commissioner Lewis** asked if the zoning could change regulations in regards to fencing, etc. Cory stated that this would have to be reviewed on a case by case basis. **Chairman Tandy** asked if 18.32.055 (e) could be changed from “roads” to “drives”. The Commission agreed with this change taking place.

Chairman Tandy opened the Public Hearing. **Wendell Gibby** stated that he appreciates the many hours that the Commission has served. In 18.32.055 (C) Mr. Gibby asked what the current RA-1 Zone would allow in regards to roads in regards to the proposed RA-1 Cluster Zone. It was stated that both the current and proposed zones would not change in regards to the roads being excluded from the overall acreage. Mr. Gibby stated that Sandy City only requires a 5,000 square foot buildable zone, and he does not understand why Mapleton City would require the 11,000 square feet. He also asked why a home can not exceed 30 feet in height while an accessory building can go up to 35 feet. Cory stated that it is consistent with all of the other zones. Homes are measured to the mid-point of the roof where accessory builds are from the street elevation to the top of the roof. Wendell Gibby stated that he is in favor of this clustering option in the RA-1 Zone. He had a question as to what distance the City uses to determine slope elevations, and felt it was not clarified in the Mapleton City Code. Eric Johnson asked Wendell again if he was generally in favor of this Ordinance Amendment aside of the comments he has made this evening. Wendell Gibby stated that there would be some other items he would like to see, such as a permitted use of a possible airstrip or access regarding the Bonneville Shoreline Trail, which have been topics of conversation in the past in regards to his property. Wendell Gibby stated again that he generally supports the clustering option in the RA-1 Zone. He would like the slope to be measured over a certain distance that would be made as part of the motion tonight, so that future engineers will have a direction to use when determining the buildable area. **Gary Calder**, City Engineer, stated that contours are listed on the engineered drawings, and that the current City Code states that they are 2 feet. He has looked at other City Codes to see how they define their slopes, and could not find any regulations that are being used. Gary feels this can be very difficult or very easy, and he feels the current method of using the 2' contour line is acceptable. **Cecil Hutchings** stated that he served this City for 12 years, 8 years on the Board of Adjustment and 4 years on the City Council. He has a concern with the Master Plans being updated so often, and feels it is costly. Mr. Hutchings stated that he has heard there will be a mud slide on this property, yet he has never seen a mud slide in the hillside area in the past. He feels that homes with landscaped property are safer than the open land that is up there currently. Cecil would like the City to determine yes or no in regards to the hillside development, and stick to it. **Don Korth** stated that he served on the City Council for 3 terms. During his second time of service they discussed the CE-1 Zone area. There were surrounding cities that had homes build on the hillside, and these homes started having issues and tried to hold the City responsible. Mr. Korth would like to make sure that the City is not held liable if anything happens to any homes built in this area. **Denny Murray** asked if anyone had a problem with how to define slope. Mr. Murray drew a picture on the whiteboard for those in attendance regarding how slope is defined in regards to rise and run which are generally defined from the major breaks. Wendell Gibby stated again on where the points are fixed. He stated that there is ambiguity as to where the rise over the run is determined on where the contour points are set. No additional comments were given and the Public Hearing was closed.

After further discussion Staff and the Commission determined that in 18.32.055 (e) “, and private roads” should be deleted. **Commissioner Tippetts** felt that the City should specify a building area of 7,500 square feet instead of 11,000 square feet in 18.32.055 (b).

Motion: Commissioner Mink moved to recommend approval to the City Council of an Ordinance amending Title 18, Development Code, Part III; Zoning, chapter 18.32, RA-1 (Residential Agricultural) Zone, in order to allow greater flexibility to the minimum lot size requirement by allowing for the clustering of homes with the condition that 18.32.055 (e) should delete “, and private roads”.

Second: Commissioner Bringhurst

Vote: 4:3:0 with Commissioners Bringhurst, Elkington, Mink and Tandy voting aye and Commissioners Lewis, Hawkins and Tippetts voting naye feeling the 11,000 square foot requirement in 18.32.055 (b) should be 7,500 square feet.

Item 5. Mapleton City requests a rezone of approximately 60 acres from CE-1 (Critical Environmental) to RA-1 (Residential Agricultural) on property located generally at 2000 East Maple Street.

Cory Branch, Planning Director, went over the Staff Report for those in attendance. There were a few modifications to the proposed RA-1 area layout. These small modifications were shown to those in attendance. Staff is recommending that approximately 60 acres to be rezoned from the CE-1 Zone to the RA-1 Zone. **Chairman Tandy** stated that there would be no public comment taken in regards to Attachment 1, which is the Memorandum of Understanding (MOU). Cory stated that this item is dealing with the rezone only, and not a subdivision layout.

Chairman Tandy opened the Public Hearing. **Wendell Gibby** stated that he is disappointed that Mapleton City did not try to meet with the property owner to discuss this rezone request, since it affects his property. He feels that the property has been put in the CE-1 Zone erroneously. Mr. Gibby stated that he has had multiple studies done that he feels would show that the property does not need to be in a Critical Environmental Zone. He applauds the City in taking a step in the right direction. He feels that it does matter how slopes are measured, since it can vary depending on how the slopes areas are determined. Wendell stated that he has graded some access roads in areas shown on the map to be over a 30% slope, which would no longer be considered that. He would request again that the City determine how slopes are to be measured. Mr. Gibby also feels that using slope alone as a basis to determine if a property is Critical Environment area is erroneous. He would recommend that if the City is trying to protect the mountain as a visible interest he would propose the CE-1 Zone go from the base of Maple Mountain and state that everything west of that be considered buildable. Wendell Gibby stated again that the City needs to solve this problem on this property in regards to the slope. He feels that everything should be equal protection under the law. He feels the toe of the slope should be set and that he would then be able to work with the City and move ahead with the creation of a lovely subdivision. **Eric Johnson**, City Attorney, stated that the Commission can make an amendment to what is being proposed by staff. Wendell Gibby stated again that he feels this is a step in the right direction, and does not feel the item should be approved or denied. Wendell Gibby then stated that Mapleton City was ruled to be in violation of the MOU a few weeks ago, and he thinks in the spirit of trying to move on then both the City, and himself as the property owner, should come up with something both parties can agree upon. Eric Johnson asked Mr. Gibby if he would like to make a proposal to go to the City Council before their scheduled meeting on Tuesday, December 14, 2010, or if he would desire more time before this item moves on to the City Council. Wendell stated that he has no problem with the item going to the City Council, and would like there to be a rational agreement made. He also stated that if the type of cherry stem proposal that is before him this evening is what the City approves than it would open up the possibility of more litigation or legislation. Mr. Gibby said the only way to move on is for both parties to abide by the MOU. He stated that if he could vote he would propose that the property from the base of Maple Mountain to the west be rezoned to the RA-1 Zone. **Commissioner Mink** asked Eric Johnson if the City was ruled in violation of the MOU as Wendell Gibby had earlier stated, of which Mr. Johnson stated that they were not. Commissioner Mink then asked Mr. Gibby if the property in the current areas being addressed were to be extended, if Mr. Gibby would then want to amend the MOU and ask for additional lots than the currently approved 47. Wendell stated that he does not see any large changes being requested, and does not see them requesting to exceed 54 lots, as was originally proposed with their first plat submittal. He would like a current topography map to be used, with a set contour area. **Randy Graham** stated that he has been involved with this for a long time. He has no issue with Dr. Gibby doing a development on the hillside. He has some concerns with the statements that Dr. Gibby has stated tonight. Mr. Graham feels that the City has met their end of the MOU with the proposal before everyone tonight. Randy feels that no matter what the City puts forward it will not be good enough for Mr. Gibby. Mr. Graham feels that there is probably a way to clean up some of the property areas listed, but would not do it with a direct line like Mr. Gibby has requested. **Brian Wall** had two clarifying questions; one,

would Dr. Gibby be able to excavate the red areas shown if it were to be approved. Cory stated that all of the area within the map would be within the RA-1 Zoning and could be excavated within regards to agricultural uses. Gary Calder stated that there are natural drainage areas in the CE-1 Zone, so excavating could not take place in these areas without mitigation measures. This requirement falls under state law, not just city ordinances. Brian wondered if there are other developments in the City where a development has two different zones. Cory stated that there are, but that it is a bad zoning practice to do that, and that the City would try to stay away from doing so. As a City, we would try to work with the developer to try and get all of the property within the same zone. It can be as simple or as difficult as the developer decides to make it. Wendell Gibby stated that they can build in the CE-1 Zone, and there is the availability of additional density that can be platted in that area. No additional comments were made and the Public Hearing was closed.

Motion: Commissioner Bringhurst moved to recommend approval to the City Council of an Ordinance rezoning approximately 60 acres from CE-1 (Critical Environmental) to RA-1 (Residential Agricultural) on property located generally at 2000 East Maple Street in order to fulfill the Settlement Agreement as discussed in the Staff Report with the discussed changes this evening given by Cory Branch as shown on Attachment 3.

Second: Commissioner Mink

Vote: 5:2:0 with Commissioners Bringhurst, Elkington, Mink, Hawkins, and Tandy voting aye and Commissioners Lewis and Tippetts voting naye having the desire to see the lines cleaned up a little in regards to the zoning, showing the lines from the foot of Maple Mountain to the west be considered as RA-1.

Item 6. 2011 Planning Commission Meeting Schedule.

The Commission agreed with the 2011 Planning Commission Meeting schedule presented.

Item 7. Adjourn.

Motion: Commissioner Elkington moved to adjourn the meeting at 9:15pm.

Second: Commissioner Bringhurst

Vote: Unanimous

April Houser, Executive Secretary

Dated:

Skip Tandy, Planning Commission Chairman

Dated:

Cory Branch, Planning Director

Dated: