

Planning Commission Staff Report

July 9, 2015

Item 5

Applicant: Sue Ashton

Location: 297 N Hwy 89

Prepared by: Sean Conroy,
Community Development
Director

Public Hearing: Yes

Zone: GC-1, A-2 & CE-1

Attachments:

1. Application materials.
2. Zoning Verification Letter

REQUEST

To discuss a zoning verification letter issued by staff to the property owners located at 295 N and 297 N and Highway 89

BACKGROUND AND PROJECT DESCRIPTION

When property owners or potential buyers are interested in the legal status of a property in the City, they can apply for a zoning verification with the City. When an application is filed, staff will research the history of the property and prepare a letter summarizing the history and indicating whether the parcel is considered a legal lot of record. Some of the questions staff researches include:

- When was the parcel created?
- What were the zoning and subdivision standards that were in place at the time of its creation?
- Was the parcel created through a legal subdivision process or through a process that was acceptable at the time of its creation?
- If the parcel was not created legally, what options exist to bring it into conformance?

The property that is the subject of this item on the agenda consists of two parcels located at 297 and 295 North and Highway 89. The attached zoning verification letter was issued on October 29, 2014. A summary of the findings of the letter include:

- In approximately 1946 the property was one parcel of approximately 4 acres in size.
- A duplex was built on the property in approximately 1947.
- In 1969, a deed was recorded with the Utah County Recorder that split the parcel into two. The duplex straddled the newly created lot line leaving one unit on each parcel with no side yard setback.
- The zoning ordinance in place in 1969 required a side yard setback of at least 8 feet.
- Because the duplex did not meet the setback requirements for the newly created lots, both units are not considered legal.
- No building permits can be issued for either lot until the illegal setback is rectified.

The following options were identified to rectify the illegality:

- 1) Recombine the two parcels into one parcel. The obvious challenge with this option is that there are two separate owners.
- 2) Demolish the structure on both lots. Again, this would be a challenge since there are two separate property owners.
- 3) One property owner could demolish his/her portion of the duplex provided a lot line adjustment could be agreed to leaving the required side-yard setback for the remaining unit. This is a complicated option as well given that the lot line dividing the unit is not straight and would be further complicated with a lot line adjustment.

The owner of the lot at 297 North is requesting that they be allowed to demolish their portion of the building and leave the existing lot lines as they currently exist. The owner's intent is to sell the lot and allow the new owner to develop the lot.

EVALUATION

The main goal with nonconformities, such as an illegal setback, is to reduce and eliminate the nonconformities over time. Staff took a strict interpretation of the code when drafting the three options described above, which basically requires the two property owners to work together in one way or another. However, the Commission could allow each owner to address his or her problem individually, rather than requiring them to work together. For example, one property owner could demolish his/her portion of the duplex, plat the lot and develop it under the current zoning standards. Under this scenario, the nonconformity would be reduced. Once the other property owner was ready to develop, the other unit could be demolished or modified to comply with current standards and the nonconformity would be eliminated. Staff could support this approach.

STAFF RECOMMENDATION

Discuss the zoning verification letter and options for the property owners to come into compliance.

Original Parcel Boundary



297 N

295 N

1600 WEST

1969 Boundary Split



Mayor: Brian Wall
City Administrator: Cory Branch
Community Development: Sean Conroy
Finance Controller: Debbie Sanchez
City Engineer/Public Works Director: Gary Calder



Treasurer: Julie Hancock
Recorder: Camille Brown
Police Chief: Dean Petterson
Recreation Director: Stacey Child

MAPLETON CITY CORPORATION

October 29, 2014

SUSAN H. ASHTON
199 HOBBLE CREEK CANYON
SPRINGVILLE, UT 84663

and

MICHAEL & KRAIG KLAUCK
PO BOX 489
SPRINGVILLE, UT 84663-0489

RE: Zoning Verification

Utah County Tax ID#s: 26:059:0055 & 26:059:0057

Located Generally at 295 North 1600 West & 297 North 1600 West

The following information has been compiled regarding the parcels listed above:

1. According to Mapleton City records, both parcels have portions located in three different zones. According to examinations of aerial photo overlays in Mapleton City's Geographic Information System (GIS), there are two buildings on the subject parcels which are split by parcel lines, a detached garage, and a dwelling which is split by property lines. The buildings on both parcels are located in the GC-1 (General Commercial) Zone. The GC-1 zone ends approximately 330 feet west of the front property lines of each parcel. To the west of the GC-1 zone, both of the properties have an area in the middle of the parcels which is zoned A-2 (Agricultural-Residential). To the west of the A-2 zone, portions of both parcels are zoned CE-1 (Critical Environment), located generally around the depression known as Big Hollow. See the current Mapleton City Zoning Map for the zoning boundaries. The zoning for the subject parcels has changed several times since Mapleton instituted its first zoning ordinance in 1950 (see below for further information on the historical zoning of the parcels). None of these zones currently permits a duplex.
2. The following information applies to parcel # 26:059:0057:
 - a. According to Utah County records, the parcel is currently owned by Susan H. Ashton.
 - b. According to Utah County records, there is a single family home (classified as that for taxation purposes) on the parcel that was built in 1947, with an effective year built (i.e. addition or remodel) of 1963. Mapleton City has no records of building permits issued for this parcel.
 - c. According to Utah County records, the parcel is approximately 2.11 acres in size, with approximately 113.69 feet of frontage on 1600 West Street (Highway 89).
 - d. According to Utah County records, the parcel was originally created by Warranty Deed (Entry # 9937-1969) from Theodore R. Pope, Irma C. Hansen, John R. Sayer, and Irma H. Sayer to John R. Sayer & Irma H. Sayer, recorded September 23, 1969.

- e. According to Utah County records, the parent parcel was a single parcel that was approximately 4.16 acres in size, with approximately 231 feet of frontage on 1600 West (Highway 89). It encompassed both of the subject parcels. It appears that the parent parcel may have been created in 1946 or earlier, which was prior to the advent of zoning in Mapleton. See Revised Ordinances of Mapleton City (1950).
 - f. According to Mapleton City records, the zoning for the subject parcels in 1969 was I-1 (Industrial District 1). The I-1 Zone, in addition to allowing industrial uses, allowed hotels and residential dwellings, subject to the zoning requirements of the RA-1 (Residential Agricultural District 1) Zone. The RA-1 Zone required a minimum lot size of 6,000 square feet, and a minimum frontage of 60 feet. The minimum setbacks for residential dwellings were: front – 30 feet, rear – 30 feet, and sides 8 feet, with the total width of the two required side yards not less than 20 feet. See Revised Ordinances of Mapleton City (1950).
 - g. From previous staff inspections of the residential building on both parcels, there is a masonry partition which completely divides the dwelling on the subject parcels. Survey stakes present on the property confirm that the partition follows the deeded property line.
 - h. According to a letter from Margaret Sayer and Martin Sayer, the dwelling on the subject parcels has always had a solid interior partition with no interior connection since its construction in approximately 1947-1948. Zoning was not instituted in Mapleton City in 1950. See Revised Ordinances of Mapleton City (1950).
3. The following information applies to parcel # 26:059:0055:
- a. According to Utah County records, the parcel is currently owned by Michael W and Kraig A Klauck.
 - b. According to Utah County records, there is a single family home (classified as that for taxation purposes) on the parcel that was built in 1947, with an effective year built (i.e. addition or remodel) of 1963. Mapleton City has no records of building permits issued for this parcel.
 - c. According to Utah County records, the parcel is approximately 2.08 acres in size, with approximately 117.6 feet of frontage on 1600 West Street (Highway 89).
 - d. According to Utah County records, the parcel was created by Warranty Deed (Entry # 9937-1969) from Theodore R. Pope, Irma C. Hansen, John R. Sayer, and Irma H. Sayer to John R. Sayer & Irma H. Sayer, recorded September 23, 1969.
 - e. According to Utah County records, the parent parcel was a single parcel that was approximately 4.16 acres in size, with approximately 231 feet of frontage on 1600 West (Highway 89). It encompassed both of the subject parcels (current parcels # 26:059:0008 & 26:059:0009). It appears that the parent parcel may have been created in 1946 or earlier, which was prior to the advent of zoning in Mapleton. See Revised Ordinances of Mapleton City (1950).
 - f. According to Mapleton City records, the zoning for the subject parcels in 1969 was I-1 (Industrial District 1). The I-1 Zone, in addition to allowing industrial uses, allowed hotels and residential dwellings, subject to the zoning requirements of the RA-1 (Residential Agricultural District 1) Zone. The RA-1 Zone required a minimum lot size of 6,000 square feet, and a minimum frontage of 60 feet. The minimum setbacks for residential dwellings were: front – 30 feet, rear – 30 feet, and sides - 8 feet, with the total width of the two required side yards not less than 20 feet. See Revised Ordinances of Mapleton City (1950).
 - g. From previous staff inspections of the residential building on both parcels, there is a masonry partition which completely divides the dwelling on the subject parcels. Survey stakes present on the property confirm that the partition follows the deeded property line.
 - h. According to a letter from Margaret Sayer and Martin Sayer, the dwelling on the subject parcels has always had a solid interior partition with no interior connection since its construction in approximately 1947-1948. Zoning was not instituted in Mapleton City in 1950.
4. Mapleton City instituted a subdivision code requiring a subdivision plat for land splits in 1971 (See Mapleton City Code Title 17: DEVELOPMENT CODE, PART II; SUBDIVISIONS). Lot splits are

required to be approved by Mapleton City by approved and recorded subdivision plats. Prior to 1971, lot splits only had to meet Mapleton City's zoning ordinance requirements. Also, Mapleton City Code 17.02.020(B) exempts the following from subdivision requirements: "*Lot line adjustments between two (2) legally created "metes and bounds" lots. Said adjustments shall not include lots that have previously been created by means of a platted subdivision. Said lot line adjustment shall leave all lots in conformance to the lot requirements in the underlying zone, including lot size and frontage requirements. If existing homes or structures are present, then the lot line adjustment shall not cause any such structure to violate the setback standards in the underlying zone. (Ord. 2002-25, 12-4-2002)*"

Conclusion:

From the above facts, it is the opinion of Staff that the subject parcels are illegal lots, because they did not meet the minimum side setbacks for dwelling units required under the Zoning Ordinance of 1950 (8 feet, with the total width of the two required side yards not less than 20 feet) when they were split by deed in 1969 (it appears that the building met the required front and rear setbacks at the time, but not the side setbacks, since the building was split down the property line). The following options exist to correct the illegal status of these lots:

Option #1: Recombine parcels 26:059:0055 and 26:059:0057 into a single parcel. This would eliminate the illegal subdivision and setback issues and allow the structure to be rented as a legal nonconforming duplex in the GC-1 zone.

Option #2: Demolish the existing structure on both lots. If this occurred, both parcels would be considered legal lots of record. However, prior to any new development, each lot would be required to comply with MCC Chapter 18.84.390 (see attached). Depending on the proposed new uses, impact fees and additional water shares may be required.

Option #3: If one property owner would like to maintain his/her portion of the duplex, the other property owner could demolish his/her portion of the structure provided the demolition did not impact the structural integrity of the remaining portion of the structure and a lot line adjustment was approved that created a 10' sideyard setback as required in MCC Chapter 18.64.050 for the GC-1 Zone. No new development could occur on either parcel until the parcel complied with MCC Chapter 18.84.390 (see attached). Depending on the proposed new uses, impact fees and additional water shares may be required.

Until one of these options has been achieved, no building permits shall be issued for repairs, maintenance, alterations or additions to any existing structure nor for any new structure on either parcel. This zoning verification may be appealed to the Planning Commission by filing an appeal within 10 business days from the date this letter is received in accordance with MCC Chapter 18.84.460. This zoning verification replaces a previous zoning verification issued on April 30, 2009.

If you have any questions about this determination, please call me at (801) 806-9101 or e-mail me at sconroy@mapleton.org.

Sincerely,

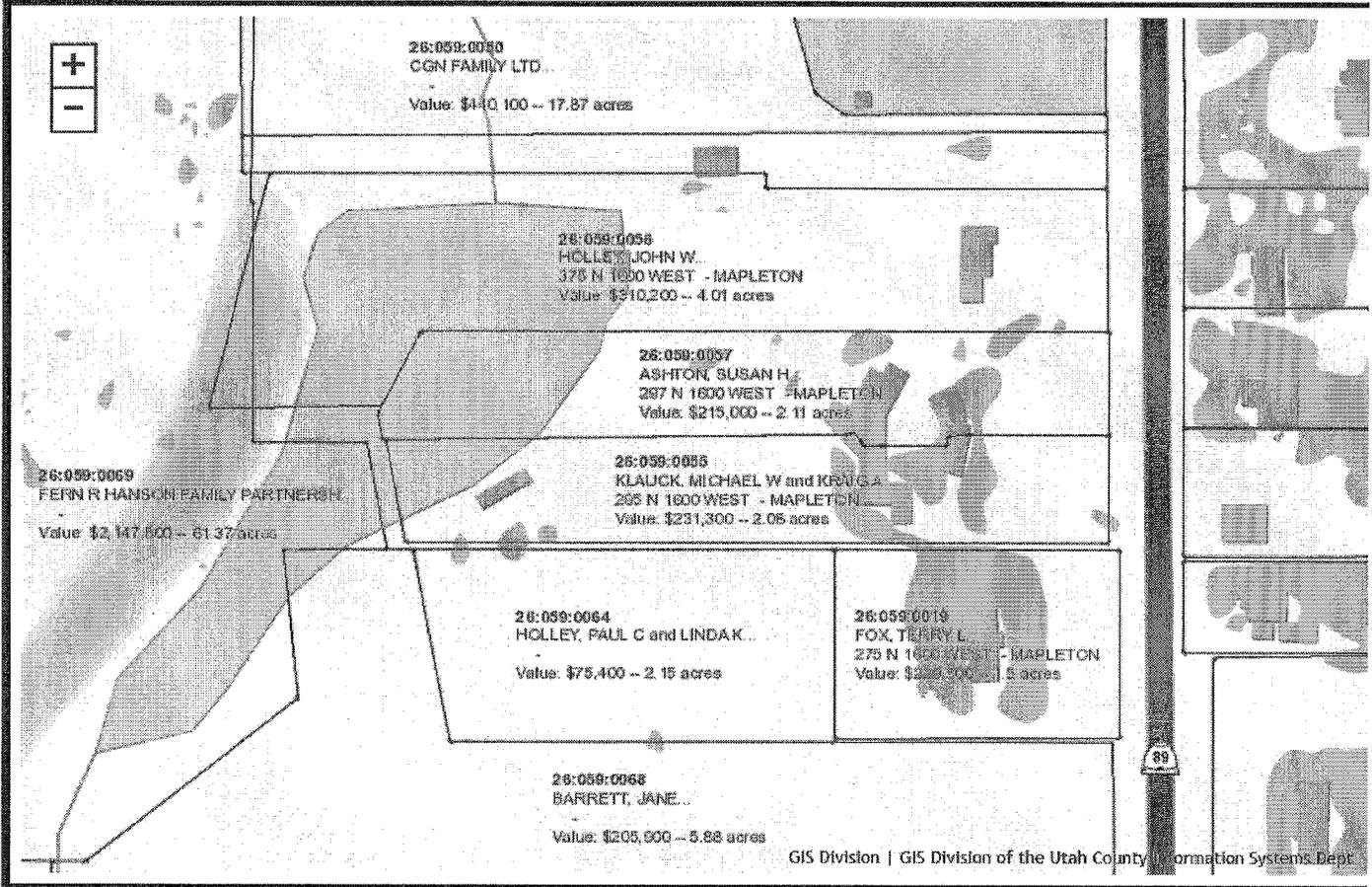


Sean Conroy
Community Development Director

ATTACHMENTS:

1. Parcel Map.
2. MCC Chapter 18.84.390.

Attachment "1" Utah County Parcel Map



GIS Division | GIS Division of the Utah County Information Systems Dept.

Attachment "2"

18.84.390: MINIMUM LEVEL OF IMPROVEMENTS TO BE INSTALLED BEFORE BUILDING PERMITS MAY BE ISSUED:

No building permit for the construction of a dwelling or other structure intended for human occupancy shall be issued unless and until the lot is served by the following minimum level of improvements:

- A. A culinary water main and pressurized irrigation, which conform to city standards and extends to and across the lot. (See title 13, chapter 13.20 of this code for requirements regarding the extension of water lines to unserved lots.)
- B. A water service line and a pressurized irrigation line including the service tap, pipe and meter housing and assembly, constructed in accordance with city standards.
- C. A hard surfaced access road (city street) having a right of way width which conforms to the minimum city standard and extends to and across the lot (see title 13, chapter 13.20 of this code for requirements regarding the extension of city streets to unserved lots). In the case of a road which is part of an approved subdivision plat or road extension, a building permit may be issued with only the subbase and gravel base installed, provided that the city holds a performance guarantee for the completion of the road improvements. Paving will be required from the existing edge of pavement to any required or existing curb and gutter.
- D. A sewer main, which conforms to city standards and extends to and across the lot. (See title 13, chapter 13.20 of this code for requirements regarding the extension of sewer lines to unserved lots.)
- E. A permanent sewer service line constructed according to city standards.
- F. Curb, gutter and sidewalk as determined necessary by the city engineer.
 - 1. An applicant may petition the planning commission to waive the requirement for curb, gutter, and/or sidewalks. However, the planning commission may only waive or modify the requirements if it is determined to more effectively achieve the policies, goals, and objectives of Mapleton City. The modifications shall be consistent with appropriate engineering measures to protect public safety.
- G. A plat map has been recorded with the Utah County recorder in accordance with section 17.04.120 of this code. (Ord. 2014-04, 3-19-2014, eff. 4-13-2014)