

Planning Commission Staff Report

March 10, 2016

Item 4

Applicant: Joseph Scoma

Location: 1220 E 1200 North

Prepared by: Brian Tucker

Public Hearing Item: No

Zone: A-2

ATTACHMENTS

1. Certificate of Notice of Non-Compliance
2. Zoning Verification Letter
3. Home Occupation Staff Report
4. Applicable Law

REQUEST

Consideration of an appeal to a zoning verification determination of ‘not a zoning lot’ for property at 1220 East 1200 North.

BACKGROUND

On January 30, 2006 a Certificate of Notice of Non-Compliance was recorded by Mapleton City with the Utah County Recorder against property located at 1220 East 1200 North in Mapleton, Utah. On that date the property was owned by Washington Mutual Bank. The purpose of the notice was to alert future potential buyers to the illegal status of the lot. The Certificate in question noted that the nature of the non-compliance was that “this property was illegally subdivided in 2002.” Additionally it was noted that “the illegal split resulted in a lot that does not meet the requirements of the underlying zone designation.” The requirements that were specifically cited as non-compliant included lot size and the lack of “200 feet of frontage” on a “public and dedicated street that meets Mapleton City Standards.” As a remedy to the non-compliance, the Certificate in question noted that the owner could “re-attach said parcel to parcel number 26-066-0069, or make application to subdivide the property so that it meets the requirements of the A-2 Zone Designation, including lot size (two acres) and lot frontage (200 feet).”

On or about June 14, 2012 Joseph Scoma (et al) became the owner(s) of the property when a Warranty Deed was recorded with the Utah County Recorder.

On April 25, 2013, the Mapleton City Planning Commission heard a request for a home occupation by Jennifer Scoma to operate a daycare/preschool for up to 16 children. The staff report, which had been transmitted to the applicant, stated that the property in question was created contrary to the requirements of the Mapleton City Subdivision Ordinance. The staff report stated that Mapleton City Code prohibits the issuance of a building permit on illegal lots but did not specifically prohibit uses that do not require a building permit. The presentation given by Mapleton Staff included a brief indication that the lot was illegal but that that was not a valid reason for denial of the home occupation permit.

On October 26, 2015, Vivint Solar, on behalf of Jennifer Scoma, made a building permit application for the installation of solar panels on the home at 1220 East 1200 North. The application was denied by the Mapleton City Community Development Department based on the 2006 Certificate of Notice of Non-Compliance recorded with Utah County. Staff contacted Vivint Solar and informed them that the City was unable to issue the permit

because “no property created by a "metes and bounds" description and recorded with the Utah County recorder shall be considered eligible for the issuance of a building permit” unless the property is recognized as a “legal lot of record” or a “legal nonconforming lot of record” in accordance with Mapleton City Code, Section 17.02.030. The Certificate of Notice of Non-Compliance recorded against the property was the justification for deeming the lot to not comply with Section 17.02.030.

On February 3, 2016, in response to inquiries as to why the Certificate of Non-Compliance was recorded against the property, a Zoning Verification Letter was issued on property located at 1220 East 1200 North determining that the property in question, along with another adjacent property, Utah County Tax ID#'s 26:066:0109 and 26:066:0108 respectively, did not qualify for ‘zoning lot’ status. This determination was due to non-compliance with the area, width and frontage requirements of the A-2 zoning district in which they are found. In addition the lots were determined to have been created in violation of Mapleton City’s Subdivision Ordinance. The letter was sent via US Mail to Joseph Scoma and via e-mail to Jennifer Scoma. A letter was also sent to the owner of parcel # 26:066:0109, Mike Klauck, indicating that his property was also part of the illegal subdivision. Jennifer Scoma sent an e-mail requesting an appeal to the conclusions of the letter on February 5, 2016.

APPLICABLE LAW

Staff has included all relevant municipal code sections for commission reference in attachment 4 of this staff report.

ZONING VERIFICATION ANALYSIS

The Zoning Verification Letter dated February 3, 2016 was the result of research into the circumstances of the creation of Utah County parcel # 26:066:0109 and as a consequence of the relationship with the aforementioned property, parcel # 26:066:0108. The verification letter addresses the status of the property dating to 1961, however for the purposes of this appeal, it is the property as it existed from September 20, 1993 as part of Utah County parcel #26:066:0074 that is important. On that date, parcel #26:066:0069 was zoned A-2, a zoning designation that on that date required a minimum of 2.5 acres of area and 250 feet of width/frontage. Parcel #26:066:0074 contained 3.389 acres and was 418 feet wide along what is now 900 North. This parcel, if it existed today as it existed in 1993, would qualify as a legal lot of record and could be eligible for additional building permits.

In 2002, parcel #26:066:0074 was divided into two parcels, both with “metes and bounds” descriptions through a Warranty Deed. The resulting properties, parcel #'s 26:066:0108 and 26:066:0109 are currently owned by Mike Klauck and Joseph Scoma (et al) respectively. No subdivision plat was recorded as was then required and both lots contained less than the 2 acres then required in the A-2 zone. Additionally, parcel #26:066:0109 has no frontage on a public street as required by Section 18.84.140 of Mapleton City Code. As lot width is measured at the front setback from the street upon which the lot fronts, the lot lacks the required width by definition.

Based on these facts, staff determined that the lot did not qualify for “zoning lot” status as defined in Section 18.08.475 of Mapleton City Code.

BUILDING PERMIT ELIGIBILITY

Eligibility as a Zoning Lot:

Mapleton City Code, Section 18.20.060.E states that: “Any lot that does not meet the strict definition of a "zoning lot" as described in section 18.08.475 of this title, and has been created illegally, shall not be issued a building permit. Any home located on a lot that was created illegally, shall not be issued a building permit to expand, enlarge, or rebuild the home, or a building permit to construct an accessory building or structure.” As parcel #26:066:0109 is not a “zoning lot,” it is not eligible for the issuance of building permits in accordance with the zoning ordinance.

CONCLUSION

The analysis of the property history found in the Zoning Verification Letter dated February 3, 2016 has taken into account all available property records on file with both Utah County and Mapleton City. No additional records or evidence has been submitted by any party to this appeal. Based on all of the available evidence, the Zoning Verification Letter has determined that the property does not qualify for “zoning lot” status. A lot that does not meet the definition of a “zoning lot” is not eligible for the issuance of a building permit. In addition to the zoning verification, the parcel in question is neither a “legal lot of record” nor a “legal nonconforming lot of record” and cannot be made legal and therefore eligible for a building permit by merely recording a plat with Utah County.

The options for bringing the illegal lot into a state of compliance vary based on the circumstances of the property with respect to the minimum area, width and frontage standards as well as the state of the property prior to the illegal subdivision. In the case of the Scoma property, the zoning verification letter addressed two specific options, though it is possible other options may exist (See attached Zoning Verification Letter for details on options).

While Staff is sympathetic to the Scoma’s situation, there does not appear to be any legal way to classify the lot as legal based on the City’s Development Code. The City recorded the Certificate of Notice of Noncompliance specifically to avoid a prospective owner unknowingly purchasing an illegal lot.

PLANNING COMMISSION OPTIONS

1. Uphold the determination of “not a zoning lot” for Utah County Parcel #'s 26:066:0108 and 26:066:0109 and deny the appeal.
2. Based on new evidence presented at the Planning Commission Meeting, determine that the determination of “not a zoning lot” for Utah County Parcel #'s 26:066:0108 and 26:066:0109 is incorrect.
3. Based on new evidence presented at the Planning Commission Meeting, ask staff to re-evaluate the determination of “not a zoning lot” for Utah County Parcel #'s 26:066:0108 and 26:066:0109.

**CERTIFICATE OF NOTICE
OF
NON-COMPLIANCE**

A notice is hereby filed in the office of the County Recorder in Utah County by the Planning Director of Mapleton, Utah of the following action:

Structure and Property located at: 1220 E 1200 NORTH MAPLETON UT 84664
Owned by: Washington Mutual Bank
Utah County Parcel Id (Tax Id)#: 26-066-0109

Legal Description: COM N 758.02 FT & W 895.17 FT FR E 1/4 COR. SEC. 11 T8S R3E SLB&M.; S 0 DEG 40'35"E 249.85 FT; N 89 DEG 46'43"W 418.72 FT; N 0 DEG 40'3"W 183.98 FT; N 88 DEG 53'34"E 316.69 FT; N 0 DEG 25'3"W 56.92 FT; N 89 DEG 19'25"E 101.7 FT TO BEG. AREA 1.947 AC.

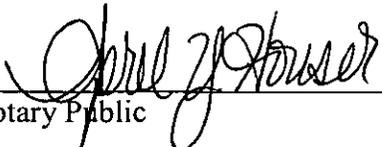
Nature of Non-Compliance: This property was illegally subdivided in 2002. It was split from parcel number 26-066-0069 and 26-066-0108. The illegal split resulted in a lot that does not meet the requirements of the underlying zone designation, including lot size (one dwelling unit/lot per two acres with 200 feet of frontage onto a public and dedicated street that meets Mapleton City Standards. The parcel is hereby considered an illegal, non-conforming parcel. The parcel also has no street frontage, which is required by Mapleton City Code Section 18.28.050(B).

Remedy to Non-Compliance: Re-attach said parcel to parcel number 26-066-0069, or make an application to subdivide the property so that it meets the requirements of the A2 Zone Designation, including lot size (two acres) and lot frontage (200 feet).

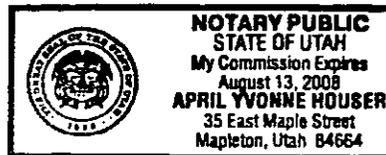


Mathew W. Evans
Planning Director

Subscribed, acknowledged and sworn to before me this 25th day of January, 2006


Notary Public

My Commission Expires:
8/13/08



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: John Jackson
 Recreation Director: Stacey Child

MAPLETON CITY CORPORATION

February 3, 2016

Joseph Anthony Scoma (ET AL)
 1220 E 1200 N
 Mapleton, UT 84664

**RE: Property located at 1220 East 1200 North, Mapleton, UT 84664
 Utah County Tax ID#'s 26:066:0108 and 26:066:0109**

Dear Mr. Scoma,

There have been inquiries into the reasons that in 2006 a Certificate of Non-Compliance was recorded against the above property and to why a building permit for the installation of solar panels was recently denied as a result of the non-compliance. Mapleton City Staff have researched the property and found the following:

1. In 1961 a Quit Claim Deed, Utah County Recorder Entry 6978-1961, was recorded describing property, later known as Utah County Parcel # 26:066:0006, as follows:
Commencing at a point 20 Chains South and 15 Chains West of the Northeast corner of Section 11, Township 8 South, Range 3 East, of the Salt Lake Base and Meridian: thence South 10 Chains; thence East 1.5 chains more or less to the west boundary line of the Strawberry Canal right of way; thence Northwesterly along said boundary line of said canal right of way to a point due East of the point of beginning; thence West 0.5 of a chain more or less to the point of beginning.
2. On July 21, 1982 a Warranty Deed, Utah County Recorder Entry 18074-1982, was recorded describing property, then known as Utah County Parcel # 26:055:0055 and since divided, that is a parent parcel to Utah County Parcel #'s 26:066:0108 and 26:066:0109. The grantors were J Fay Jensen and Elizabeth A. Jensen with William Clark Merkel as the grantee. The original property was described as follows:
Commencing at a point in a fence line, said point being North 359.30 feet and West 1310.82 feet from the East quarter corner of Section 11, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence along a fence line North 0 deg. 34' 42" West 303.82 feet; thence North 89 deg. 50' 34" East 355.90 feet; thence South 00 deg. 34' 42" East 306.31 feet to a fence line; thence North 89 deg. 45' 23" West along said fence line 355.93 feet to the point of beginning.
3. On May 1, 1991 A Quit Claim Deed, Utah County Recorder Entry 16143-1991, was recorded describing property then established as Utah County Parcel # 26:066:0065, described by Utah County as follows:
COM N 674.37 FT & W 891.17 FT FR E1/4 COR SEC 11, T8S, R3E, SLM; S 40'35"E 298.35 FT; W 71.64 FT; N 34'42"W 306.31 FT; S 89 DEG 50'34"W 355.90 FT; N 653.18 FT; E 330 FT; S 660 FT; S 89 DEG 54'E 97.12 FT TO BEG. AREA 5.42 ACRES
4. On September 20, 1993, a Boundary Line Agreement, Utah County Recorder Entry 65387-1993 was recorded to adjust the boundaries between parcels 26:066:0055 and 26:066:0065. The same boundary line agreement adjusted the boundary lines between parcels 26:066:0006 and 26:066:0055.

5. On September 20, 1993, a Warranty Deed, Utah County Recorder Entry 65388-1993, was recorded to reflect the new parcel that resulted from the previous boundary line adjustments (Entry 65387-1993), known as Utah County Parcel #'s 26:066:0069 and 26:066:0074 and described by Utah County as follows:
26:066:0069 - COM N 758.02 FT & W 895.17 FT FR E 1/4 COR. SEC. 11, T8S, R3E, SLB&M.; S 89 DEG 19' 25" W 101.7 FT; S 0 DEG 25' 4" E 56.92 FT; S 88 DEG 53' 34" W 316.69 FT; N 0 DEG 40' 2" W 616.33 FT; N 89 DEG 14' 34" E 357.75 FT; S 30 DEG 28' 36" E 34.99 FT; ALONG A CURVE TO R (CHORD BEARS: S 15 DEG 34' 36" E 168.77 FT, RADIUS = 328.17 FT) ARC LENGTH = 170.69 FEET; S 0 DEG 40' 36" E 364.08 FT TO BEG. AREA 5.689 AC.
26:066:0074 - COM N 758.02 FT & W 895.17 FT FR E 1/4 COR. SEC. 11, T8S, R3E, SLB&M.; S 0 DEG 40' 35" E 399.86 FT; N 89 DEG 46' 43" W 418.74 FT; N 0 DEG 40' 3" W 333.99 FT; N 88 DEG 53' 34" E 316.69 FT; N 0 DEG 25' 3" W 56.92 FT; N 89 DEG 19' 25" E 101.7 FT TO BEG. AREA 3.389 AC.
6. In September of 1993 all of the area encompassed by parcels 26:066:0069 and 26:066:0074 was zoned A-2, a zoning designation then requiring 2.5 Acres and 250 of width/frontage.
7. On October 15, 2002, a Warranty Deed, Utah County Recorder Entry 121367-2002, creating a new parcel, Utah County Parcel 26:066:0108, described by Utah County as follows:
COM N 508.19 FT & W 892.22 FT FR E 1/4 COR. SEC. 11 T8S R3E SLB&M.; S 0 DEG 40' 35" E 150.01 FT; N 89 DEG 46' 43" W 418.74 FT; N 0 DEG 40' 3" W 150.01 FT; S 89 DEG 46' 43" E 418.72 FT TO BEG. AREA 1.442 AC.
8. The recording of aforementioned Warranty Deed (Entry 121367-2002) created a remainder parcel, Utah County Parcel 26:066:0109, described by Utah County as follows:
COM N 758.02 FT & W 895.17 FT FR E 1/4 COR. SEC. 11 T8S R3E SLB&M.; S 0 DEG 40' 35" E 249.85 FT; N 89 DEG 46' 43" W 418.72 FT; N 0 DEG 40' 3" W 183.98 FT; N 88 DEG 53' 34" E 316.69 FT; N 0 DEG 25' 3" W 56.92 FT; N 89 DEG 19' 25" E 101.7 FT TO BEG. AREA 1.947 AC.
9. In October 2002, the subject area was zoned A-2, though the zoning requirements had by that time changed to require each lot/parcel to contain 2 acres of land area and required 250' of width/frontage.
10. As of the date of this letter the subject parcels are zoned A-2, a district that currently requires 2 acres of land area, 200 feet of width and frontage on a city street. Frontage requirements can be found in Mapleton City Code, Section 18.26.030.

Conclusions:

Status of the Property: From the above facts, it is the opinion of the Community Development Staff that parcels 26:066:0108; and 26:066:0109 were created in violation of the Mapleton City Zoning and Subdivision ordinances in place when the property was divided in October 2002. Parcels 26:066:0108 and 26:066:0109 lack the required 2 acres of land area required by the A-2 zone. Parcel 26:066:0109 lacks frontage of any kind on a city street. Additionally, the division of property was in violation of Mapleton City's Subdivision Ordinance. As the lots are the result of an illegal subdivision, and because they do not meet all the area, width and other zoning requirements, parcels 26:066:0108 and 26:066:0109 do not qualify for "zoning lot" status, a prerequisite for the issuance of a building permit. Both lots are ineligible for the issuance of any building permit for any purpose.

Options: The property can be brought into compliance with the subdivision and zoning laws. The simplest fix would be to revert back to the original parcels as they legally existed in September 1993, with a legal description matching that of parcel 26:066:0074. In this instance the property would meet the zoning standards, would not be subject to the subdivision ordinance, and could be defined as a zoning lot.

Another option would be to work with adjoining parcels to create a legal subdivision with each lot meeting the minimum lot size, width and frontage requirements of the A-2 zone.

Severability & Appeals:

The statements and interpretations of Mapleton City Code sections given in this letter are hereby declared severable, and the invalidity of any statements in this letter shall not affect the validity or enforceability of any other statements or parts thereof (see Mapleton City Code 1.01.060: PROVISIONS SEVERABLE).

If you have any additional information that may affect the conclusions of this letter, please contact Mapleton City Community Development Department. Additionally, please keep in mind that you do have the right to appeal the above decisions to the Planning Commission within 10 business days in accordance with MCC Chapter 18.84.460 (APPEALS).

If you have any questions about this determination, please call me at (801) 806-9108 or e-mail me at btucker@mapleton.org.

Sincerely,

Brian Tucker
Planner
Mapleton City

Mapleton City Planning Commission Staff Report

Meeting Date: April 25, 2013

Item: Approved as Presented

Applicant: Tony and Jennifer Scoma

Prepared by: Brian Tucker, Planner

Public Hearing Item: Yes

Location: 1220 E 1200 N (Parcel # 26:066:0109)

Zone: A-2

REQUEST

Consideration of a request for a Home Occupation to operate a daycare/preschool for up to 16 children in the Agricultural-Residential (A-2) Zone.

BACKGROUND AND PROJECT DESCRIPTION

The property located at 1220 E. 1200 N. is located in a low density area in the northeast part of Mapleton with direct access off of 1200 North, a major local road that also provides access to Hobble Creek Elementary. The applicant intends to provide daycare and preschool services that may include before and after school care. The applicant is requesting a Home Occupation that would allow daycare and preschool activities and up to one employee to help with the business.

EVALUATION

Law:

Home Occupations are governed by section 18.84.380 of the Mapleton Municipal Code. Home occupations are allowed so long as they constitute no more than a modest level of business within dwellings, conducted under conditions and levels of operation that do not adversely affect, undermine, or significantly depreciate the residential character of the area. Conditions may be imposed in order to mitigate specific, legitimate impacts to the neighborhood or to neighboring property. Section 18.84.380 does not label specific uses as being allowed as a home occupation, rather it suggests criterion that must be met in order to issue a home occupation permit. The following conditions and criteria apply to the proposed use:

1. The business must be conducted entirely within a completely enclosed structure on the property,
2. No more than 25% of the structure or 500 sf, whichever is less, may be used for the home occupation,
3. No more than one person who does not reside on the property may be engaged in the home occupation,
4. No more than 6 cars may be parked at the residence at any one time,
5. The home occupation must be secondary and incidental to the use of the dwelling as a residence,
6. The daycare must be licensed by the city and comply with city regulations,
7. The home occupation must be conducted by either a person who occupies the dwelling,
8. Background checks will be conducted on all inhabitants of the dwelling and employees, and
9. The home occupation shall operate in compliance with any applicable city or state requirements.

Compliance:

The home occupation will be subject to daycare regulations from the State of Utah and will be required to carry a Mapleton City Business License. The business does not include the use of more than 500 sf, will include no more than one employee, pickup and drop off times can be staggered in order to keep parking in check, and the home occupation will not include any exterior changes to the home that will change the residential character of the building.

As these and any other potential issues can be mitigated by reasonable conditions it appears that the application is in compliance with the applicable standards.

Additional issues:

In 2002 the subject property (Parcel # 26:066:0109) was created as a metes and bounds lot contrary to the requirements of the Mapleton City Subdivision Ordinance. The property division that created this lot was not part of an approved subdivision, lacks the required frontage on a city street and according to the Utah County Recorder lacks the required 2 acres (1.947 acres). Mapleton City Code prohibits the issuance of a building permit on illegal lots such as this but does not specifically prohibit business licenses or permitted uses that do not require a building permit. This lack of a specific prohibition and the fact home occupations are listed as a permitted use in the A-2 zone indicate that issuance of the home occupation license is in compliance with Mapleton City Code.

RECOMMENDATION

Approve the application with the attached findings and conditions.

ALTERNATIVE ACTIONS

1. Approve the application with revised conditions.
2. Deny the application.
3. Continue the application with a request for changes/additional information.

CONDITIONS

1. The applicant shall obtain a business license prior to opening for business.
2. The applicant shall obtain licensure for a daycare from the State of Utah and shall maintain a copy of current licensure with Mapleton. The maximum number of children shall not exceed that allowed by the state license.
3. Background checks for all employees and residents of the dwelling shall be maintained with Mapleton.
4. With the exception of activities that are clearly incidental and secondary to the daycare/preschool use, the home occupation shall be conducted within the confines of the structure.
5. No signs shall be placed on the property without a sign permit.
6. The access easement must be approved by the Mapleton City Police and Fire Departments to ensure safe access for emergency vehicles.
7. Violations of the terms of this use permit or other ordinances of the City may constitute grounds for revocation of this permit and associated business license by the Planning Commission.
8. If the proposed use is abandoned for a period of six months or more, the use permit will become null and void.

ATTACHMENTS:

1. Findings for Decision.
2. Application Materials.

ATTACHMENT #4 - APPLICABLE LAW

17.02.030: LOTS CREATED BY METES AND BOUNDS DESCRIPTION:

In order to ensure the accurate location of property lines and the location of future construction and land uses within those property lines; and in order to ensure the orderly dedication of rights of way for public thoroughfares; and in order to facilitate the orderly transfer of ownership of buildable lots, no property created by a "metes and bounds" description and recorded with the Utah County recorder shall be considered eligible for the issuance of a building permit unless:

A. The property is recognized as a legal lot of record by the community development director or his or her designee, meets all current zoning standards, and a plat describing such parcel of land is approved by the community development director or his or her designee and recorded with the Utah County recorder; or

B. The property has been recognized by the community development director or his or her designee as a legal nonconforming lot of record, a plat describing such parcel of land is approved by the community development director or his or her designee and the plat is recorded with the Utah County recorder.

A plat authorized by this section shall be prepared in accordance with section [17.08.030](#) of this title and section [18.84.390](#) of this code. (Ord. 2013-05, 6-18-2013, eff. 7-12-2013)

18.08.475: ZONING LOT:

"Zoning lot" means a lot or parcel of land which:

A. Meets all area, width, access, buildable area, utility, setback, and other requirements applicable within the zone in which it is located; or is a nonconforming lot of record which met the requirements of the underlying zone upon its creation; and

B. Is served by the minimum level of improvements required for issuance of a building permit; and

C. Is shown as a separate lot in a recorded subdivision or planned development, or was legally exempted from compliance with the subdivision ordinance prior to July of 1992. A parcel which is part of an unrecorded or illegal subdivision shall not qualify as a zoning lot. (Ord. 2002-19, 10-2-2002)

18.20.025: DEFINITIONS:

ILLEGAL LOT: Any lot that does not meet the definition of a "zoning lot" as defined in section [18.08.475](#) of this title.

ILLEGAL NONCONFORMING: Any use, or structure that was created or erected, either contrary to the requirements of the underlying zone, and/or without the required permission from Mapleton City and in conformance with this code.

NONCONFORMING LOT: A lot or a parcel of real property that:

A. Legally existed before its current zoning designation;

B. Has been shown continuously on the records of the Utah County recorder as an independently existing piece of property; and

C. As a result of subsequent zoning changes does not conform with the minimum size, width, frontage, depth or other applicable dimensional requirement of the zone where the lot is located.

18.20.060: NONCONFORMING LOTS:

E. Illegal Lots: Any lot that does not meet the strict definition of a "zoning lot" as described in section [18.08.475](#) of this title, and has been created illegally, shall not be issued a building permit. Any home located on a lot that was created illegally, shall not be issued a building permit to expand, enlarge, or rebuild the home, or a building permit to construct an accessory building or structure. Any home or structure located on a lot that was illegally created prior to July 1992, may be granted the status of "nonconforming" by the planning commission with the following criteria and conditions of approval:

- 1. Ownership: The home must not be owned by the person(s) who created the illegal lot nor by anyone related to said person(s) either by blood or adoption to the fourth degree of consanguinity.*
- 2. Setbacks: The creation of the illegal lot did not cause nonconformance to the setbacks of any structure located on the lot or adjacent lots.*
- 3. Conditions: The planning commission may require that the property owner enter into a signed and recorded agreement stating that if the property that was split away from the parcel containing the existing home is developed, that the lot with the home must become a part of the development either by means of a subdivision lot or as allowed in [title 17](#) of this code. If the lot is adjacent to property that has been improved to meet Mapleton City standards, including the installation of curb, gutter and sidewalk, the planning commission may also require the installation of those improvements, which may have been required when the property was divided or altered. Other conditions may include additional landscaping and/or any other items necessary to bring the property to current standards as directed by this code.*

18.84.050: CREATION OF ILLEGAL PARCELS PROHIBITED:

No parcel of land shall be severed from another parcel of land which would leave either parcel with less than the minimum frontage and area requirements for the zone in which it is located. (Ord. 2002-05, 3-20-2002)

18.84.140: LOTS TO ABUT UPON A PUBLIC STREET:

At least one side of each zoning lot shall abut upon and have direct access to a designated city street. The minimum lot width and the length of the side abutting on the street shall conform to the minimum standards of the zone in which it is located. (Ord. 2002-05, 3-20-2002)

18.84.350: BUILDINGS TO BE ON ZONING LOT:

No permit authorizing the construction or moving of a building on a lot shall be issued unless the parcel of land upon which said building is to be constructed qualifies as a "zoning lot" as defined by section [18.08.475](#) of this title. (Ord. 2002-05, 3-20-2002)

18.84.460: APPEALS:

A. Appeals To The Planning Commission: Decisions made by the community development director or other official enforcing the provisions of this chapter may be appealed to the planning commission by filing a notice of appeal in writing with the planning commission secretary. All valid appeals shall be filed within ten (10) business days of the date of action and shall include payment of the required filing fees as established by city council resolution.

1. Such notice of appeal shall set forth specifically the ground or grounds upon which such appeal is taken, and the name, address and signature of the appellant.

2. Within ten (10) business days after receipt of a valid appeal the planning commission secretary shall set a date for public hearing at which the appeal shall be considered by the planning commission. All appeals shall be set for the next regular planning commission meeting unless insufficient time exists for public notice as established by state code.

B. Appeals To The City Council: Decisions made by planning commission to approve or deny projects or appeals may be appealed to the city council by filing a notice of appeal in writing with the city recorder. All valid appeals shall be filed within ten (10) business days of the date of action and shall include payment of the required filing fees as established by city council resolution.

1. Such notice of appeal shall set forth specifically the ground or grounds upon which such appeal is taken, and the name, address and signature of the appellant.

2. Within ten (10) business days after receipt of a valid appeal the city recorder shall set a date for public hearing at which the appeal shall be considered by the city council. All appeals shall be set for the next regular city council meeting, unless insufficient time exists for public notice as established by state code.

C. Stay Of Proceedings Pending Appeal: An appeal stays all proceedings in furtherance of the action appealed from, unless the community development director, planning commission or city council certifies after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause eminent peril of life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the district court on application and notice and on due cause shown.

D. Judicial Review Of City Council's Decision: Any person aggrieved by any decision of the city council may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction; provided petition for such relief is presented to the court within thirty (30) days after the final decision by the city council. (Ord. 2013-04, 2-19-2013, eff. 4-1-2013)