

# MAPLETON CITY

## PLANNING COMMISSION MINUTES

January 11, 2018

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**PRESIDING AND CONDUCTING:** Chairman Golden Murray

**Commissioners in Attendance:** Therin Garrett  
Sharee Killpack  
Thomas Quist  
Keith Stirling

**Staff in Attendance:** Brian Tucker, Planner

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

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Chairman Murray called the meeting to order at 6:30pm. An invocation and the Pledge of Allegiance was given.

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

Alternate Commissioner Sharee Killpack was seated as a voting member this evening.

**Item 1. Planning Commission Meeting Minutes – December 14, 2017.**

**Motion:** Commissioner Stirling moved to approve the December 14, 2017 Planning Commission Meeting Minutes.

**Second:** Commissioner Killpack

**Vote:** Unanimous

**Item 2. Election of 2018 Vice-Chairman and Chairman for the Planning Commission.**

**Motion:** Commissioner Garrett moved to nominate Justin Schellenberg as the 2018 Planning Commission Vice-Chairman.

**Second:** Commissioner Killpack

**Vote:** Unanimous

**2<sup>nd</sup> Motion:** Commissioner Garrett moved to nominate Golden Murray as the 2018 Planning Commission Chairman.

**Second:** Commissioner Killpack

**Vote:** Unanimous

**Item 3. Consideration of a request for a Home Occupation Permit for Art City Family**

**Counseling, a Family Therapist business proposed at 1453 North 440 West in the RA-2 Zone.**

**Brian Tucker**, Planner, went over the Staff Report for those in attendance. This request would run by appointment only, with no outside employees. It will be required to meet the typical Home Occupation Ordinance requirements. It complies with the maximum size requirement, and there is sufficient parking in place. Staff recommends approval of this item with the conditions listed in the Staff Report.

**Motion:** Commissioner Killpack moved to approve the Home Occupation Permit for Art City Family Counseling, a Family Therapist business proposed at 1453 North 440 West in the RA-2 Zone, with the conditions listed below:

1. The applicant shall obtain a business license prior to opening for business.
2. The applicant shall obtain licensure for Marriage and Family Therapist from the State of Utah and shall maintain a copy of current licensure with Mapleton.
3. Background checks for all employees and residents of the dwelling shall be maintained with Mapleton.
4. 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. Mapleton City Police and Fire Department approvals are required.
7. Violations of the terms of this use permit or other ordinances of the City may constitute ground 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.
9. The business shall be conducted by appointment only with staggered appointment times that prevent the overlapping of patient visits.

**Second:** Commissioner Quist

**Vote:** Unanimous

**Item 4. Consideration of a request for a Variance as to the requirement that an attached accessory dwelling have direct access to the primary dwelling unit on property located at 1140 West 2630 South in the A-2 Zone.**

**Brian Tucker**, Planner, went over the Staff Report for those in attendance. Alternate **Commissioner Sharee Killpack** recused herself from this item, as she is the Realtor representing the applicant. In December 2008 the owner appealed the staff decision requiring a hallway, allowing a covered breezeway as connection from the garage to the home. The home is now for sale, and the applicant would like to purchase the home and use the accessory structure as rental property. The structure as previously built does not meet the accessory apartment standards. Variance are subject to a very tight set of rules. The Utah Code does not allow City's to approve

Variations unless all 5 criteria are met. These 5 criteria were covered by Brian as part of his presentation this evening. The applicant's statements have to do with economic hardship, being unable to purchase the property without the extra income from the rental. This would not be an appropriate reason for approving a Variance, as it is a self-imposed hardship. Staff is not aware of any similar structures being approved in Mapleton for a legal accessory apartment. The applicant could remodel the structure to make it comply with the law, but this would likely be a costly answer. This request would be in access to the rights other property owners in Mapleton enjoy if it were to be approved for the Variance. There are very strict laws regarding granting Variations in both the Utah State and Mapleton City Codes. The applicant's Variance request is clearly economic, and would not meet the requirements governed by State Law. Separate utilities are not required for accessory structures. **Commissioner Garrett** asked why the City Code requires an internal connection, or detached unit size limitation, as part of the accessory apartment approval. It is supposed to be an accessory building to the main dwelling. The current owner of the property stated in the Board of Adjustment Meeting back in December 2008 that they had no intentions of renting the property, so they were aware that the structure could not be used for anything aside of family use. **Chairman Murray** stated that it boils down to the State and City Codes in place that would not allow for this item to be approved, as the 5 required criteria are unable to being met. **Commissioner Quist** agreed. **Chairman Murray** asked if the unit were to come into compliance with a detached accessory apartment would there be a problem using it as a rental unit, and it would not.

**Loren Johnson** feels there are two hardships that were not covered in the discussion. It is basically two homes on one lot. He feels the value of the property will go down if they are unable to rent the property. Any potential owner would likely illegally rent the unit, and they feel if it were legal these two problems would be mitigated. **Commissioner Stirling** stated that the irony was that the current owners were aware of the stipulation that they could not rent out the property at any time. The problem is clearly the applicant's hardship, as they cannot, or do not, want to comply with the current State and City Codes. Both **Commissioner Garrett** and **Commissioner Quist** feel the codes in place need to be met, and do not feel this should be approved. **Patricia Ellis**, the current owner of the property, understand the Commission's reservation on this item. Ten years ago, they, as owners, asked for the allowance to utilize the detached structure for living space for their daughter and her family. At that time the additional living area was what was a necessity for their family. They are looking to downsize, and do not feel this would affect anyone in their neighborhood if this Variance was approved. Mrs. Ellis feels there are other property owners in the neighborhood that are illegally renting apartments like this. She would like the Johnson family to be able to purchase this property. Staff stated that people illegally renting their properties are subject to fines, as they would be essentially breaking the law. Commissioner Stirling asked what repercussions would be if the City were to approve this item. Brian stated that it would not be a good idea at any level to disregard the law. The only real way to change this requirement would be to change the law, not to allow it as a Variance. It may not be approved, but that would be the only route that would legally allow it. There are reasons these laws are put in place, and as far as the Planning Commission is concerned they need to make decisions that are in line with these laws.

**Motion:** Commissioner Garrett moved to deny the Variance as to the requirement that an

attached accessory dwelling have direct access to the primary dwelling unit on property located at 1140 West 2630 South in the A-2 Zone, for the reason listed below:

1. Both City and State Law requires that a Variance must be based on a hardship that is neither economic or self-imposed, and because the hardship requested is clearly economic in nature, and the circumstances that prevent the approval were knowingly created/self-imposed by a previous owner, the Variance request cannot be approved as no hardship exists as required by Utah State Code.

**Second:** Commissioner Stirling

**Vote:** 4:0:1 with Commissioners Murray, Garrett, Quist and Stirling voting aye and Alternate Commissioner Killpack abstaining since she was the realtor representing the applicant.

**Item 5. Consideration of a request for approval of the 2-lot Maple Breeze Estates Subdivision Plat C, located at 150 East 600 North in the R-2 Zone.**

**Brian Tucker**, Planner, went over the Staff Report for those in attendance. This is a 2-lot subdivision request. The request follows all zoning requirements. Final Plat approval would be given by the Development Review Committee (DRC). The applicant will complete curb, gutter, sidewalk and street widening as part of this development. Staff recommends approval. **Chairman Murray** asked if the current buildings on the property would meet setback requirements. Staff stated that they will need to ensure these are met.

**Gary Pratt**, the applicant, stated that the detached horse stable unit would be removed, but that they planned to keep the other detached garage/shop structure in place. Staff stated that any structures that remain will need to meet setback and height allowances. Utilities are already stubbed to the lot, but required improvements will be done by the applicants.

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

**Motion:** Commissioner Stirling moved to approve the 2-lot Maple Breeze Estates Subdivision Plat C, located at 150 East 600 North in the R-2 Zone, with the conditions listed below:

1. Any outstanding issues raised in the Development Review Committee (DRC) minutes dated December 20, 2017 shall be addressed prior to plat recording.
2. The applicant shall receive Final Plat approval from the Development Review Committee prior to recording.
3. Sufficient setbacks be met on all structures that remain on the property.

**Second:** Commissioner Killpack

**Vote:** Unanimous

**Item 6. Consideration of a request for approval of the 4-lot Walter Estates Subdivision Plat B, located at approximately 1000 North and 1800 East in the A-2 Zone.**

**Brian Tucker**, Planner, went over the Staff Report for those in attendance. The applicant has purchased 21.5 acres that were part of the previous Smoot/Horton property. They are hoping to build homes for their family on these lots. 2-acre lots are required in the A-2 Zone, which all the proposed lots would meet. The realtor for the property has stated that all the property owners involved would need to ensure that no additional parcels above the current 3 are created, and must retain at least 5-acres per the ranch property requirement. Staff recommends approval with the conditions listed in the Staff Report. **Chairman Murray** had a question about the little flag area on the plat. Staff stated that as a developable 12-acre property it is not of concern. It could be deeded to a neighbor, or kept as part of a future lot with legal frontage. **Commissioner Garrett** stated that it could not be considered as a future flag lot, as the City does not allow for these. There will likely be a hammerhead turnaround at the end of the street until the property is completely developed.

**Michelle Andersen** had a question about the rest of the Smoot/Horton property being referred to as a ranch property. Staff stated that they could put 1 home on each of the 5-acre parcels, or they could develop out the property with required improvements, allowing for additional lots with less acreage. Ranch developments are allowed in the A-2 Zone on properties over 5-acres in size, without required paved street frontage. There are still requirements that must be met to build on these properties. Owners would need to get approval in the future if they wanted to build or develop the property. The Walter family would have animal rights on their property, as they are over 1/3 acre in size.

**Motion:** Commissioner Killpack moved to approve the 4-lot Walter Estates Subdivision Plat B, located at approximately 1000 North and 1800 East in the A-2 Zone, with the conditions listed below:

1. Any outstanding issues raised in the Development Review Committee (DRC) minutes dated December 20, 2017 shall be addressed prior to plat recording.
2. The Smoot-Horton property located between this subdivision and the Maple Glen Subdivision, along with the landlocked parcels to the east, will be combined into no more than 3 parcels, each parcel containing no less than 5 acres.
3. The applicant shall receive Final Plat approval from the Development Review Committee prior to plat recording.

**Second:** Commissioner Quist

**Vote:** Unanimous

**Item 7. Consideration of a request for Preliminary Plat approval for the Maple Vale Subdivision and Rezone to the Planned Residential Community (PRC-6) designation for approximately 21 acres located at approximately 2001 South Main Street, in conjunction with an amendment to the Mapleton City Zoning**

## **Ordinance to include Chapter 18.82G: Mapleton Vale Subdivision, Planned Residential Community (PRC-6) Zone.**

**Brian Tucker**, Planner, went over the Staff Report for those in attendance. Item 7 and 8 will be tied together this evening. The Planning Commission is a recommending body for these items. The applicant, along with 2 other land owners, have around 21-acres of property they would like to develop. They plan to maintain the 3 existing homes on these parcels. Each PRC Zone have their own text, although they are all similar. The rezone and text amendment are legislative decisions. Without the subdivision rezone and text amendment, the development could not be approved as proposed. The two subdivisions that make up Perry Hollow Drive, are part of a PRC Zone as well. It was noted that lots have been created in the PRC Zone with less than 1-acre in size previously with the use of Transferable Development Rights (TDR's). The current zoning requires 2-acre lots, allowing for 1-acre lots with the use of TDR's. The Preserve Subdivision, Plats F & G, as well as Maple Canyon Circle in The Preserve Subdivision, are comparably zoned and developed under a PRC Zoning Ordinance. The project includes only 1 ingress and egress as currently proposed. The road system could theoretically connect to a future street to the north. Cul-de-sac in general are discouraged by Mapleton City Code. The maximum length is 400', with a possible allowance of 500', if the road cannot extend any further in the future. Both the Hillcrest and Nemelka Subdivisions have been approved with the 500' cul-de-sacs by the City Council, interpreting the code to allow for such. The applicant is proposing a 32' cross section. Lots 9 and 11 are oddly shaped, but do meet the requirements allowed if the PRC Zone was approved. There is a common area park to be constructed by, and at, the owner's expense. If the Planning Commission recommends, and the City Council approves, the zone change would allow for the development as proposed. There are many different options for approval or denial available to the Planning Commission regarding these requests, which Brian went over as part of his presentation this evening. **Chairman Murray** asked what the criteria was for allowing smaller lot sizes in the A-2 Zone, without using a PRC Zoning. It was based on the average density allowances. These requests include a rezone, text amendment and subdivision approval. **Commissioner Stirling** had concerns with The Preserve Subdivision being used as a reference in part of the discussions this evening. He wondered what enhancements would be added to the community if this project were developed.

**Kent and Chris Stephens**, the applicants, spoke to the Commission regarding their requests tonight. They have cherished this community for many years. The plan to keep the community beautiful. They plan to develop and live in this project if approved. They plan to maintain the rural feel that is felt throughout the area. Kent felt it was important to compare this project more closely with the Hillcrest Subdivision, instead of The Preserve Subdivision. None of the lots in the Hillcrest development are over .80 of an acre in size. Their project would average over 1-acre in size. They have tried to be a considerate as possible to those residents already living in the area. This development would help to beautify the area, particularly around the pond area, which they plan to remove in the 1<sup>st</sup> phase of this development. The home will be remodeled and maintained again by the Stephens family. They are trying to tackle the challenges presented in the best possible way. The proposed park will be an attractive asset to the families who would live in this development. The Stephens have tried very hard to stay in conjunction with the PRC Zone

Ordinance. They believed they have accomplished what is needed to gain this zoning. **Chris Stephens** does this type of work for a living, and does development work nationwide. He cannot even tell you how much work has gone in to this project, especially in comparison to the small amount of lots that compose it. It has been a very long and thorough process. They believe this is the best use of the land, maintaining what is around the property. **Chairman Murray** asked what the intent was with the property to the right side of the road, accessing Lots 16, 17 and 18. There is nothing attended now, for this property, as the current owners do not wish to develop in conjunction with the proposal. Brian went over the phasing that is being proposed by the applicants. **Commissioner Killpack** stated that private parks tend to not be maintained, so she felt this should be addressed with this development to prevent it happening here.

**Chairman Murray** opened the Public Hearing. Letters have been received that are both in favor, and against, this development. There was also information received regarding the contamination from the Ensign Bickford (Trojan Plant) property that was felt to have affected the soils in this area. These articles were part of the packet this evening. It is more of a public health issue that would need to be addressed by the Health Department, and not the Planning Commission. Due to the hour it was asked that comments be kept to a minimum. **Andrew Petersen** stated that the City just went through an election cycle where zoning like this type of request was voted against. He feels this would open more legal issues if it were allowed. Mr. Petersen does not feel it fits in with the General Plan. Staff stated that when asked previously why the City would entertain this request after the recent election (Proposition 9) situation, an application was received and the City is obligated to respond to that application. **Paul Andersen** lives in the upper righthand area by this proposed development. There is a tremendous amount of pollution in the old home on this parcel. He went over the health issues he believes people caught who lived in this home, and feels it is a pile of junk. That pond is full of RDX made from the Trojan Plant, and Mr. Andersen gave some history of how the RDX can affect humans. He feels until the home can be cleared, the subdivision should not proceed. The citizens of Mapleton do not want little tiny lots in this area. Paul feels there should be no more than four 1-acre lots on the property where the home he was speaking to is located. **Commissioner Stirling** stated that the Commissioners received the 44-page article regarding the contamination, that Paul Andersen kept referring to. Mr. Andersen felt this article should be given to any potential buyers of the property so that they are made aware to the problems in the area. **Richard Young** stated that his interest comes from living in the Haycock home for many years. He would have loved to have seen this development go through when he lived in the area. Mr. Young was Mayor when the Transferable Development Right (TDR) Ordinance was created, and felt this would meet those stipulations. He did not feel this development would be comparable to The Preserve Subdivision. Richard enjoys living on a cul-de-sac, and is in favor of this development. **Sharon Gomez** asked who paid for the parking lot and walking trails above their homes. They see all ages utilize this trail, and wondered where these roads go in this development. Staff stated that the property, including the homes, would be part of the proposed rezone. Mrs. Gomez is not going to be happy with the rezoning of existing houses where yards are already in place. Staff stated that the owners of these properties are the ones proposing this development, so they are very much in support of it. She hoped the old home on the property would be torn down. City Council would have to approve any zone change. Sharon stated that all developments need an exit, and did not feel this proposal was sufficient. It was clarified to Mrs.

Gomez that the who area was being rezoned, which included the current homes on the property. **Craig Murdock** has lived in Mapleton for a long time now. Twenty years ago, a survey was sent out regarding what the residents would want to do with that area. Back then you needed 2.5-acres to build a home. People do not leave in Mapleton to have it developed. Allowing smaller lots should not be allowed, and no one needs to change zoning. It needs to be looked at as to what a community wants, and not what a developer wants. A park should not be approved in exchange for higher density. Craig stated that most parks are not even maintained, and just become eye sores. **Rick Jones** stated that the street going north and south leads to their property, and they do not ever foresee developing it. Beauty is in the eyes of the beholder. They wanted to get away from the City where they did not need to worry about what comes with tight living environments. Rick still gets irrigation to farm his hay with, and had a concern with it being removed. Staff stated that Mapleton Irrigation signs off on the plat, and they will make sure that anyone utilizing the irrigation water continues to have access to it. Mr. Jones disagrees that this will make the property look better, and he believes they are doing it to make money. He does not fault them for that, but ordinances were set in place for a reason. Rick wishes they would have kept the 2.5-acre requirement in place, and recommends sticking to our current zoning and recommendation denial of this item. No additional comments were given and the Public Hearing was closed.

**Chairman Murray** read from the PRC Zoning text. They are not intended for developments where other City zoning would be achievable. He also went over the typical locations where these types of zoning would be recommended, which tended to lean towards Highway 89. The PRC Zone should not be allowed solely for gaining density. 18.78.010 was the section of the code Chairman Murray was referring to in his comments. **Commissioner Killpack** could see the applicant's point regarding some items they listed for requesting the PRC Zone. She thinks the fact that the Jones' family does not plan to develop their property; a stub street may not be the best idea. Who is going to guarantee that the home on the property is repaired, and that the pond is handled appropriately with regards to contamination. Staff stated that according to the state the Ensign Bickford property has been cleaned up, and that they are not linked to any health issues that have arose in this area. Based on the proposed concept plan, the pond area would be buried, and a street being installed in its place. **Commissioner Stirling** stated that the RDX levels were still present in the water around 1600 South when studies were done from a testing sample. Chairman Murray feels like this may be a double dipping type of situation regarding rezoning from 2-acres, to 1-acre, and then utilizing TDR's to get to ½-acre lots. Members of the Commission felt this would defeat the purpose of the TDR program. **Commissioner Garrett** stated that density grows, and we all understand that. The reality is people have the right to develop their property. He feels this request contains is a lot of lots, and he is not super comfortable with it. The statement about animal rights seemed very black and white under his own interpretation. If the rezone took place, where it would allow for the larger lots to have animal rights, but not the smaller ones, he feels this needs to be consistent throughout the development. It would help to avoid conflict. Commissioner Killpack reiterated that a double dipping of density with the use of TDR's should not be allowed. There are areas throughout the City where animal rights are allowed if the property is over ½-acre in size. These can be restricted through CC&R's, as well as zoning. The proposed lots could place ½-acre lots next to 2.5-acre lots. The undeveloped portion of The Preserve Subdivision lots in this area would be under 1-acre in size. Staff stated that there are lots in the

PRC Zone that are under 1-acre in size. The General Plan for this area is Rural-Residential, with residences with A-2 Zoning. Density is a measure of units per acre. Commissioner Killpack felt it would restrict the way the Anderson's could develop out their property in the future. The half street would help mitigate this issue. **Commissioner Quist** wondered what this property would look like if developed under an RA-1 Zoning. The applicants stated that it limited the layout, and caused issues with the layout of streets. **Kent Stephens** stated that if the properties were developed at 1-acre in size, they would become very long shallow lots, making them almost unbuildable. The minimum lot size was a concern with some of the member of the Commission. A buffer area was not given with the current proposed layout to the built-out properties in the area. Every time a decision is made it sets a precedence. Commissioner Quist felt the zoning was the issue. It would be more conducive with the A-2 (TDR-R) Zone.

**Motion:** Commissioner Quist moved to continue the Preliminary Plat approval for the Maple Vale Subdivision and Rezone to the Planned Residential Community (PRC-6) designation for approximately 21 acres located at approximately 2001 South Main Street, along with the amendment to the Mapleton City Zoning Ordinance Chapter 18.82G: Mapleton Vale Subdivision, Planned Residential Community (PRC-6) Zone, with the recommendation listed below:

1. Design a plan that meets the A-2 Zone requirements, with the use of Transferable Development Rights (TDR), as allowed by the General Plan Designation for the area.

**Second:** Commissioner Garrett

**Vote:** Unanimous

**Item 8. Consideration of an amendment to the Mapleton City Zoning Ordinance to include Chapter 18.82G: Mapleton Vale Subdivision, Planned Residential Community (PRC-6) Zone.**

This item was discussed and motioned with Item 7 this evening.

**Item 9. Adjourn.**

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April Houser, Executive Secretary

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Date