

Mapleton City Planning Commission Staff Report

Meeting Date: August 14, 2014

Item: 4

Applicant: Blossom Dress Boutique

Prepared by: Brian Tucker, Planner

Public Hearing Item: Yes

Location: 208 South 680 West (Parcel #55:479:0010)

Zone: RA-1-C

REQUEST

Consideration of a request for a Home Occupation to operate a “Special Occasion” dress rental and consignment business in the Residential-Agriculture Cluster (RA-1-C). The proposed business has two owners, one of whom does not reside within the home. Because not all of those engaged in the business are residents, because the business will include customer visits and because the business includes the sale of goods it requires Planning Commission approval.

BACKGROUND AND PROJECT DESCRIPTION

The property located at 208 South 680 West is in an exclusively residential area. The applicant is requesting a Home Occupation that would allow a “special occasion dress rental-consignment” business. The applicants wish to open a business that “allows teenage girls the opportunity to attend several special occasion dances at the high school each year”. The applicants hope their business “allows the client to have the dress they love, wear it once and not break the bank”. The business will also “work with women who need a special occasion dress for vacation, wedding, reunion, etc.” Proposed hours of operation are Thursday and Friday 4:00pm-8:00pm, Saturday from 10:00am-2:00pm, and Sunday 7:00pm-8:00pm. The applicants hope to move the business to a commercial space within 12-18 months.

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. Detached structures where a home occupation is being conducted must be located within fifteen feet (15') of the residential dwelling. 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. Home occupations must be listed as a permitted or conditional use in the zone,
2. The business must be conducted entirely within a completely enclosed structure on the property,
3. No more than 25% of the structure or 500 sf, whichever is less, may be used for the home occupation,
4. No more than one person who does not reside on the property may be engaged in the home occupation,
5. Any sale of goods not produced as part of the home occupation shall “constitute a clearly incidental part of the home occupation”. No display of merchandise shall be visible from outside the structure,
6. No commercial vehicles may be stored at the home except for one small delivery truck.
7. No more than 6 cars may be parked at the residence at any one time,
8. The home occupation must be secondary and incidental to the use of the dwelling as a residence,
9. Signs shall be limited to 4 square feet, attached to the building and not electrified,
10. The home occupation must be licensed by the city and comply with city regulations,
11. The entrance to the home occupation must use the same entrance as the residents unless specifically required by an agency with regulatory powers over the business,
12. The business shall not use hazardous materials or chemicals that increase the hazard of fire, explosion, or

jeopardize the safety of the neighborhood,

13. The operation of the home occupation shall not produce any noise, smoke, glare, light, fumes, dust, electronic interference or similar condition which is readily discernible outside the dwelling,
14. The physical appearance, traffic, and other activities in connection with the home occupation will not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding property values or the quality of the area for residential purposes,
15. The home occupation must be conducted by a person who occupies the dwelling. Background checks will be conducted on all inhabitants of the dwelling and employees, and
16. The home occupation shall operate in compliance with any applicable city or state requirements.

Compliance:

The home occupation 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, and the home occupation will not include any exterior changes to the home that will change the residential character of the building.

The primary issue with this business request is the requirement in Section 18.84.380.D. that “any sale of goods not produced as part of the home occupation shall constitute a clearly incidental part of the operation of the home occupation”. The issue is that the sale/rental of dresses is not incidental to another use; it is the primary use being requested. The purpose of this regulation is to preclude retail businesses in residential structures located in residential districts. The reasons for precluding this type of business include concerns over the amount of vehicle traffic, foot traffic and frequency of customer visits typically associated with retail uses. The “occasional” nature of this business, along with the fact that “sales” are specifically addressed and “rentals” are not are mitigating factors that lead staff to conclude that the proposed business does not conflict with the spirit of the ordinance.

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.

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. Background checks for all employees and residents of the dwelling shall be maintained with Mapleton.
3. The home occupation shall be conducted within the confines of the structure.
4. No signs shall be placed on the property without a sign permit.
5. The business shall remain ‘occasional’ in nature. Any increase in business hours or intensity must be approved by the Planning Commission.
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 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.

Standard Home Occupation Permit Findings

No.	Finding	
1.	The proposed use will not be in conflict with the City's General Plan.	✓
2.	The proposed use or combination of uses are listed as permitted or conditional uses in the applicable zoning district in which the project is located.	✓
3.	The proposed use will provide adequate ingress and egress to and from the proposed location	✓
4.	The home occupation will be conducted entirely within a completely enclosed structure on the property. Detached structures where a home occupation is being conducted must be located within fifteen feet (15') of the residential dwelling.	✓
5.	The home occupation shall occupy not more than the equivalent of twenty five percent (25%) of the living area of the dwelling or five hundred (500) square feet, whichever is less. This shall also apply to detached structures.	✓
6.	The activities of the home occupation shall be conducted by members of the residing family. Provided that not more than one person, not a member of the residing family, may be engaged in the home occupation.	✓
7.	Any sale of goods not produced as part of the home occupation shall constitute a clearly incidental part of the operation of the home occupation. There shall be no display of goods produced by the home occupation observable from outside the dwelling.	✓
8.	No commercial vehicles shall be stored at the premises except one delivery truck which shall not exceed ten thousand (10,000) GVW rated capacity.	✓
9.	Not more than six (6) cars (including those owned by the resident family) may be parked at the residence at any one time and such vehicles shall be parked within the driveway or in front of the residence. Clients of the home occupation shall not park or store vehicles at the premises overnight.	✓
10.	The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not have the effect of changing the character of the building or the attendant yard area from that of a dwelling.	✓
11.	Signs shall be limited to one nonilluminated identification nameplate not larger in area than four (4) square feet. Electric or electronic signs shall not be permitted. No on site advertising signs shall be permitted. The sign must be attached to the building where the home occupation is to take place.	✓
12.	The home occupation shall be registered with the license agency of the city and shall maintain a current business license in accordance with city regulations.	✓
13.	Entrance to the home occupation from outside shall be through the same entrance normally used by the residing family except when a separate entrance may be required by regulation of the state health department or other public agency. The garage door shall not be used to satisfy this requirement.	✓

14.	The activities of the home occupation shall not involve the use of hazardous materials or chemicals in amounts that will increase the hazard of fire, explosion or safety to the structure or occupants of the dwelling or adjacent dwellings.	✓
15.	The operation of the home occupation shall not produce any noise, smoke, glare, light, fumes, dust, electronic interference or similar condition which is readily discernible outside the dwelling.	✓
16.	The physical appearance, traffic, and other activities in connection with the home occupation will not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding property values or the quality of the area for residential purposes as determined by the city.	✓
17.	The home occupation shall be operated in compliance with any applicable city or state requirements.	✓
18.	The home occupation applicant must either be the bona fide owner of the home (as shown on the current Utah County tax assessment rolls) or if the applicant is renting or leasing the home, the homeowner must provide written permission allowing the applicant to conduct a business in the home. Said letter of permission must be signed and notarized by the homeowner.	✓
19.	The proposed use will not make excessive demands on the provision of public services, including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.	✓
20.	The proposed use will not be injurious to public health, safety or welfare.	✓
21.	Any special conditions included in the permit are consistent with MCC Chapter 18.84.380.	✓

June 10, 2014

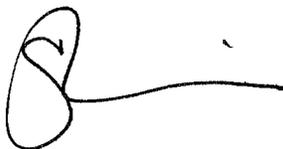
Sean Conroy
Community Development Director
Mapleton City
125 W. Community Center Way
Mapleton, UT 84664

Dear Mr. Conroy,

Thank you for reviewing our application for a Mapleton City Business License. We are excited to start this business and have the opportunity to serve woman of all ages. The dress rental and consignment business allows teenage girls the opportunity to attend several special occasion dances at the high school each year. Special occasion dresses can be very expensive and most young woman cannot afford to purchase several dresses a year with a \$300+ price tag. Blossom Dress Boutique allows the client to have the dress they love, wear it once and not break the bank. We will also work with women who need a special occasion dress for vacation, wedding, reunion, etc.

Our hours of operation will be Thursday and Friday 4:00 pm-8:00 pm, Saturday from 10:00 pm-2:00 pm, and Sunday night 7:00-8:00 pm. Karen and I will be the only employees for now and we hope to move to a commercial facility in Mapleton within 12-18 months.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Shiela Gibson', with a long horizontal line extending to the right.

Shiela Gibson
Blossom Dress Boutique LLC
801-420-3416
shielagibson@comcast.net

Date of this notice: 05-14-2014

Employer Identification Number:
46-5661427

Form: SS-4

Number of this notice: CP 575 B

BLOSSOM DRESS BOUTIQUE LLC
SHIELA J GIBSON MBR
208 S 680 W
MAPLETON, UT 84664

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 46-5661427. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1065

04/15/2015

If you have questions about the form(s) or the due date(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

LLC
Certificate of Organization
OF
Blossom Dress Boutique LLC

The undersigned person(s) do hereby adopt the following Certificate of Organization for the purpose of forming a Utah Limited Liability Company.

Article I

The name of the limited liability company is to be Blossom Dress Boutique LLC

Article II

The purpose or purposes for which the company is organized is to engage in:
Rental/Leasing of formal wear

The Company shall further have unlimited power to to engage in or to perform any and all lawful acts pertaining to the management of any lawful business as well as to engage in and to do any lawful act concerning any and all lawful business for which a Limited Liability Company may be organized under the Utah Limited Liability Company Act and any amendments thereto.

Article III

The Company shall continuously maintain an agent in the State of Utah for service of process who is an individual residing in said state. The name and address of the initial registered agent shall be:

(Registered Agent Name & Address)

Shiela J Gibson
208 S 680 W
Mapleton, UT, 84664

ACCEPTANCE OF APPOINTMENT:

Shiela J Gibson
Registered Agent Signature



Article IV

Name, Street address & Signature of all members/managers

Member #1

Shiela J Gibson

208 S 680 W

Mapleton, UT 84664

Shiela J Gibson

Signature

Member #2

Karen L Schultz

1848 Yarrow Drive

Mapleton, UT 84664

Karen L Schultz

Signature

DATED 14 May, 2014.

Article V

Management statement

This limited liability company will be managed by its Members

Article VI

Records required to be kept at the principal office include, but are not limited to the following:

Article VI.1

A current list in alphabetical order of the full name and address of each member and each manager.

Article VI.2

A copy of the stamped certificate of Organization and all *certificates of amendments thereto*.

Article VI.3

Copies of all tax returns and financial statements of the company for the three most recent years.

Article VI.4

A copy of the company's operating agreement and minutes of each meeting of members.

Article VII

The street address of the principal place of business is:

208 South 680 West
Mapleton, UT 84664

Article VIII

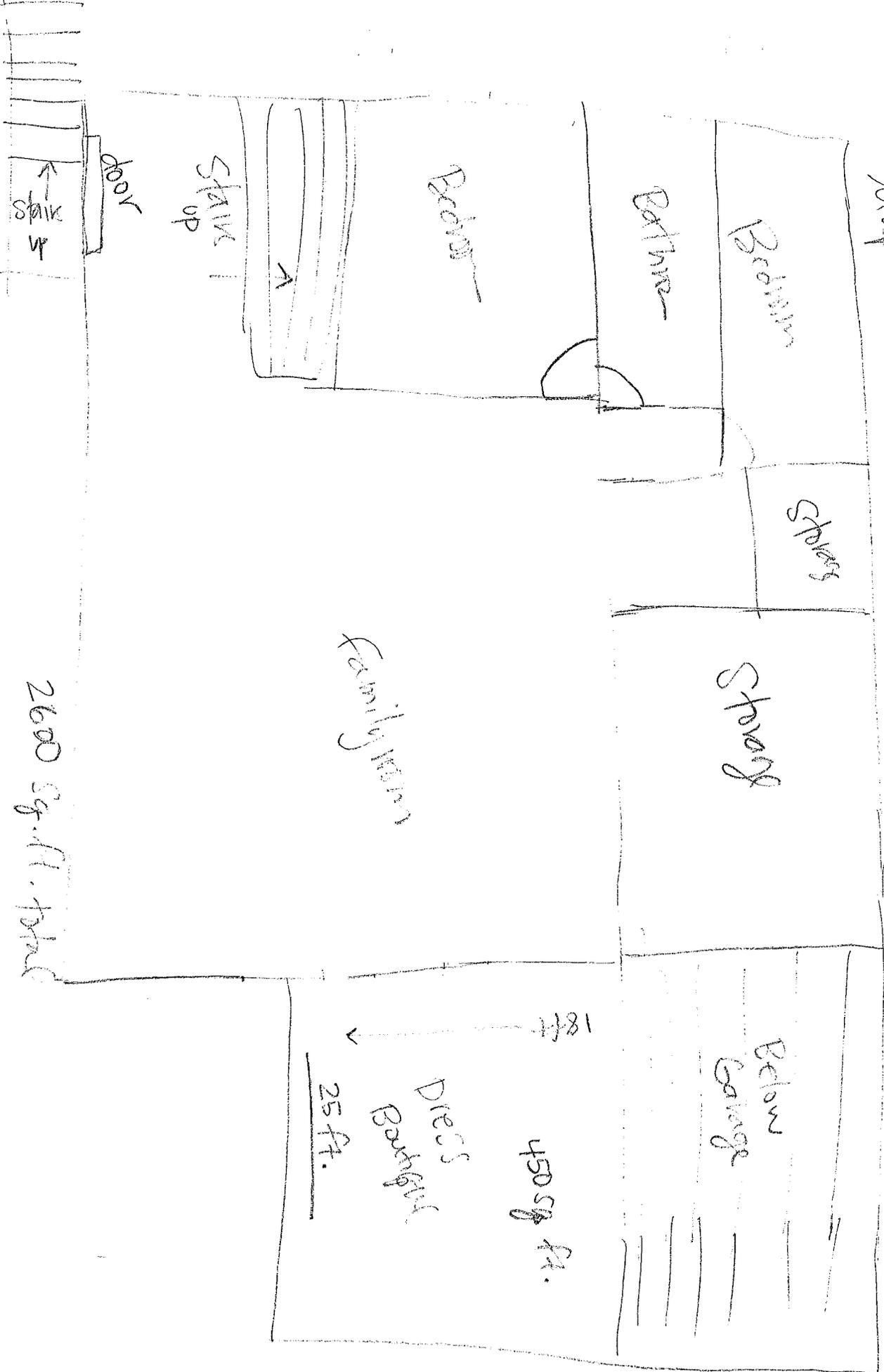
The duration of the company shall be 99 years

Under GRAMA (63-2-201), all registration information maintained by the Division is classified as public record. For confidentiality purposes, the business entity physical address may be provided rather than the residential or private address of any individual affiliated with the entity.

Shirley Gibson - Blossom Dress Boutique

Reserve

208 S. 680th.
Napleton, IL 60464



2600 sq. ft. total

450 sq. ft.

25 ft.

18 ft

Dress
Boutique

Below
Garage

Storage

Storage

Bath

Bedroom

Bedroom

Stairs
up

door

steps

