



Mapleton dairy gets the boot

By Leland Hogan, President, Utah Farm Bureau Federation

Paul Opfar, a 28-year-old Utah County native, decided to live his lifelong dream and build his own dairy. Problem was, choosing Mapleton as home for his agriculture enterprise turned his dream into a nightmare.

Mapleton City's Web site 'Vision Statement' proclaims, "We Encourage: Agriculture, parks, green spaces, etc." and early Utah settlers made the Mapleton bench their home under the Homestead Act around 1870, using it for livestock grazing, timber and farming.

Continuing 130 years of Mapleton tradition, Opfar entered the ranching ranks with a 120 head beef cattle operation, but always wanted a dairy. In 2005 he approached the city and was granted a building permit for his dream. He transformed the cattle ranch into a dairy and with a Mapleton City's conditional use permit in hand, began milking in October, 2006.

Within days of the first milking, nearby residents that had built their homes in an agricultural zoned (A-2) portion of the Mapleton bench, complained that manure stinks and cows attract flies. Certainly not rocket science! Paul was brought before the Mapleton City Board of Adjustment in February 2007 and ordered to come up with a plan to mitigate odor and fly concerns.

For the record, Mapleton City Ordinance 18.28.010 states, "The A-2 zone is established to provide areas in which agricultural pursuits can be encouraged and supported within the municipality."

Paul is a young farmer, milking 65 cows twice a day, who holds down a full-time job with Provo City and whose wife is expecting twins in the coming weeks. He has spent more than \$300,000 getting his agribusiness up and running and has been hit with mounting legal expenses trying to live his dream.

In a March 14, 2007 letter to Mapleton's Mayor, the Utah Farm Bureau pointed out that Utah State law provides protections for agriculture operations. In 1995 and again in 2001, the Utah Legislature re-affirmed the state's protective statutes against nuisance lawsuits. The legislature declared, "agriculture operations that are consistent with sound agriculture practices are presumed to be reasonable and do not constitute a nuisance unless the agriculture operation has a substantial adverse effect on the public health and safety." *There is no legal precedence that identifies livestock odor as constituting a substantial adverse effect on the public.*

Ironically, it was a dark, stormy night in late March 2007, when Paul presented his odor plan to the Board of Adjustment. The weather was but a precursor of what was to transpire as the evening progressed. The manure management plan, prepared by Utah State University Extension Specialist Dallin Smith was ridiculed and attacked by members of the Board and legal counsel for the neighbors. Adding insult, the Board would not allow for testimony that would have pointed out that Smith is part of the Utah Partners for Conservation Team and Utah's EPA Award Winning AFO/CAFO Program dealing with manure management. Nor did they hear about the hundreds of management plans that Smith has helped design. Board of Adjustments Chairman Boyd Adams said "it [the plan] was just too vague."

Prior to the Board vote, the Mapleton City Attorney pointed out that Paul had received the appropriate legal instruments from the city and warned that a Board of Adjustment revocation of the conditional use permit could provide grounds for legal action against the city. On a 5-0 vote, the appointed (not elected) Board of Adjustment ordered Opfar to shut down his dairy. The city gave him 30 days to comply.

With mounting legal fees and dwindling resources, Paul accepted a settlement with Mapleton City this week for the modest amount of \$202,000. I say modest when in comparison to the more than \$400,000 in construction and labor costs already invested in the dairy.

Paul Opfar implemented his business plan and made financial investments in good faith based on Mapleton City's building permit, conditional use permit, compliance with state licensing and applicable standards that apply under the local agriculture zoning ordinances.

Rural lifestyles and values continue to attract our city cousins. Development continues to gobble up thousands of acres of farmland annually. Utah's \$1.3 billion agriculture industry has some minor inconveniences – dust, noise, odor and flies. At the same time, Utahns and Americans continue to enjoy the safest and most affordable food in the world today. A city friend once told me, "We ought not complain with our bellies full." That's 'Food for Thought'!