

Mapleton City Council Staff Report

Meeting Date: July 1, 2014

Applicant: Mapleton City

Location: City-wide

Prepared by: Sean Conroy, Community Development Director

Public Hearing Item: No

Zone: All

REQUEST

Consideration of an ordinance amending Mapleton City Code (MCC) Chapter 17.24.080 regarding the requirements to dedicate water to the City as part of development approvals.

BACKGROUND AND PROJECT DESCRIPTION

As part of the approval of new subdivision plats and other development proposals, the MCC requires that water be conveyed to the City in an amount of one acre-foot per residential lot. The purpose of this conveyance is to cover the culinary and secondary water needs of the new development. The current ordinance does not distinguish between indoor and outdoor needs, nor does it account for lot size.

Staff is proposing a new water conveyance ordinance that includes the following:

- Requires .45 acre-feet of culinary water per residential unit;
- Requires 2 acre-feet per acre (pro-rated based on lot size) for secondary outdoor water use;
- Commercial and industrial water requirements will be established by the City Engineer on a case-by-case basis; and
- Requires applicant or City to process a change application with State Engineer to ensure that water can be used for intended uses within the City.

EVALUATION

Water Rights vs. Water Shares: A water right is a right to the use of water based upon 1) quantity, 2) source, 3) priority date, 4) nature of use, 5) point of diversion and 6) physically putting water to beneficial use. The right to use water must be authorized by the State Engineer. In many cases, the State Engineer has approved water rights to be held and managed by various irrigation companies throughout the state. These companies often issue stock in the form of water shares. The individual shareholders in an irrigation company do not own the water right in a legal sense, as that right is held by the irrigation company, but the shares ensure the delivery of a specific amount of water to the owner of the share.

Change Application: A water right or a water share can be sold or transferred similar to any other property. However, a change application with the State Engineer is required if there is a change in the nature of use, point of diversion, period of use, or place of use of water rights or shares. Currently the City accepts Mapleton Irrigation, Hobble Creek or in some cases East Bench Canal water shares to satisfy the water conveyance requirements of the ordinance. The City has not required a change application in most cases.

The City has consulted a water attorney in the drafting of the proposed ordinance, and the attorney has strongly recommended that a change application be required. Change applications involve a lengthy review process of anywhere between three to nine months or more. In order to avoid lengthy delays, the proposed ordinance would allow an applicant to either process a change application on their own or pay a fee and allow the City to process the change application. The City would then process a change application periodically

(likely once a year) for the shares that had been conveyed to the City in the past 12 months. This would allow development proposals to move forward without significant delays, while also protecting the City's water resources.

Indoor vs. Outdoor Use: The Utah Division of Water Rights suggests .45 acre-feet of indoor water per residential unit. This amount equates to a monthly usage of approximately 12,000 gallons. Based on an analysis of indoor water usage in the City, requiring .45 acre-feet of water will adequately cover the usage of new development. The two acre-feet per acre of irrigable land will ensure adequate water for landscaping and other outdoor uses.

Process: As proposed, the new ordinance would require the following steps:

- 1) *Determine the indoor use requirements.* Example: A 10 lot subdivision is being proposed. Multiply 10 units by .45 (required indoor dedication) = a total dedication of 4.5 acre feet for indoor use.
- 2) *Determine the outdoor use requirement.* Example: A 10 lot subdivision is being proposed, each lot is an acre in size and the allowed building coverage is 35%. Multiply 10 acres by .35 to get allowed building coverage of 3.5 acres. Subtract 3.5 acres (non-irrigable area) from 10 acres and multiply by 2 (required outdoor dedication) = a total outdoor water dedication of 13 acre-feet.
- 3) *If applicant has water rights or water shares from outside the area that will cover the required dedication, applicant shall submit a change application to the State Engineer.* Once application has been approved, plat may be recorded.
- 4) *If an applicant has water shares from acceptable irrigation companies (Mapleton Irrigation, Hobble Creek, etc.) applicant transfers those shares into Mapleton City's name and submits those to the City with a fee.* Applicant can then record the plat.
- 5) *The City will periodically process a change application for all shares received during a given time.*

STAFF RECCOMENDATION

Adopt the attached ordinance amending Mapleton City Code (MCC) Chapter 17.24.080 regarding the requirements to dedicate water to the City as part of development approvals.

ATTACHMENTS

1. Proposed water conveyance ordinance.
2. Planning Commission minutes.

ORDINANCE NO. 2014-

CONSIDERATION OF AN ORDINANCE AMENDING MAPLETON CITY CODE (MCC) CHAPTER 17.24.080 REGARDING THE REQUIREMENTS TO DEDICATE WATER TO THE CITY AS PART OF DEVELOPMENT APPROVALS.

WHEREAS, Mapleton City has adopted a development code (MCC Chapter 17) that outlines the process and requirements for developing property within the City; and

WHEREAS, the intent of the development code includes to facilitate the orderly development of the city and to ensure adequate water, sewer, drainage, utilities, and other services to developing areas of the city; and

WHEREAS, MCC Chapter 17.24.080 outlines the water dedication requirements associated with new development; and

WHEREAS, the proposed ordinance amends MCC Chapter 17.24.080 and establishes a dedication requirement for both indoor and outdoor use as well as the process for dedication; and

WHEREAS, the dedication requirements will ensure that the City has adequate water to supply to new development in accordance with the intent of MCC Chapter 17; and

WHEREAS, the Planning Commission recommended approval of the proposed ordinance on June 12, 2014.

NOW THEREFORE, BE IT RESOLVED by the City Council of Mapleton, Utah, to amend Mapleton City Code Chapter 17.24.080 as described in Exhibit "A".

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF MAPLETON, UTAH,

This 1st Day of July, 2014.

Brian Wall
Mayor

ATTEST:

Camille Brown
City Recorder
Publication Date:
Effective Date:

Exhibit “A”
(Changes shown in strikeout and underline)

~~17.24.080: WATER RIGHTS TO BE CONVEYED TO CITY:~~

~~As a condition of approval, all subdividers shall convey to the city title to one acre foot of potable water for each lot, which does not have an existing dwelling, shown in the final plat of the subdivision. Satisfaction of this requirement may be accomplished by one or a combination of the following:~~

- ~~A. Conveyance of all right, title and interest to a certificated natural flow right, well, or irrigation company stock equal to one acre foot of potable water.~~
- ~~B. Conveyance of an in lieu cash contribution in an amount not less than the then current price of an acre foot of water stock.~~

17.24.080 DEDICATION OF WATER RIGHTS TO THE CITY

A. Water Rights Dedication and Conveyance Requirements.

B. Water Rights Required to be Conveyed.

C. Approval of Water Rights by the City

D. Conveyance of Water Rights to the City

E. Effective Date.

A. Water Rights Dedication and Conveyance Requirements.

Any applicant requesting approval (“Applicant”) for a development, subdivision, annexation, or any other new connection to the City’s culinary or secondary water system (“Development”), which increases the need for water service from the City, shall dedicate and convey to the City water rights (“Water Rights”), in a sufficient quantity and type to satisfy the anticipated culinary water and secondary irrigation water needs of the proposed Development. Satisfaction of this water rights dedication ordinance and the accompanying conveyance requirements shall be a condition precedent to and requirement for approval of all Development applications.

B. Water Rights Required to be Conveyed.

(1) The City may, in its discretion, accept any water right, water company share, or water interest, it determines meets the dedication requirements of this section.

(2) With respect to the water to satisfy the culinary needs of the proposed Development, the water must be legally authorized to be diverted from City’s municipal wells or other sources of municipal water

supply, on a year-round basis, for municipal and industrial purposes in the entire service area of the City (“Municipal Rights”).

(3) With respect to the water to meet the secondary water needs of the proposed Development, the water must be legally authorized to be diverted from City’s sources of irrigation water, on a seasonal basis, for outside irrigation use in the entire service area of the City (“Irrigation Rights”).

(4) A change application is required if a change in the nature of use, point of diversion, period of use, or place of use of water rights or shares is necessary to meet the dedication requirements of this section. If a change application must be filed with the Utah Division of Water Rights to make any Water Right or Share able to meet the dedication requirements herein, the following shall apply:

(a) If an applicant is dedicating water rights or water shares from an irrigation company outside the area, the applicant shall process the change application prior to plat recording.

(b) If an applicant is submitting water shares from inside the area from an acceptable source, as determined by the city engineer, prior to the recording of a final plat the applicant shall submit the shares in the name of Mapleton City in a sufficient amount to meet the requirements outlined in section (5) of this ordinance after any reduction which the State Engineer may require to be returned to the hydrologic system. The applicant shall submit a fee to the City based on the most current fee schedule adopted by the City Council for the City to process a change application to convert the shares to municipal use.

(5) The amount of Water Rights to be conveyed to the City shall be determined as follows:

(a) Water Rights for Municipal Use.

(i) Inside Residential Use. The amount of Water Rights to be conveyed to provide an adequate supply of water for inside residential use based on the needs of the Development, shall be 0.45 acre-feet per equivalent residential unit (“ERU”).

(ii) Industrial and Other Municipal Uses. The amount of Water Rights to be conveyed in order to provide an adequate supply of water for industrial and other municipal uses based on the needs created by the Development, shall be determined by the City Engineer on a case-by-case basis according to the anticipated demand of the Development.

(b) Water Rights for Outdoor Secondary Irrigation Uses. The amount of Water Rights to be conveyed to provide an adequate supply of outdoor secondary irrigation water based on the needs of the proposed Development, shall be 2.0 acre-feet per maximum potentially irrigable acre within the proposed Development. The maximum irrigable acreage shall be determined by deducting the maximum allowed building coverage allowed in the zone in which the development is proposed from the total lot size of each lot included in the project area. Any common open space or conservation easement property shall also be included in the irrigable land when calculating the water dedication requirement.

(6) The City shall have the authority to require the transfer of more residential or secondary irrigation water than is required herein when the City Engineer determines that the Development will consume more water than is required herein.

C. Approval of Water Rights by the City

Water Rights proposed by the Applicant to be dedicated to the City must first be reviewed and formally accepted by the City. Prior to acceptance of such Water Rights, the City shall evaluate the rights proposed for conveyance based on any relevant criteria, and may, in its sole discretion, refuse to accept any water right, water company share, or water interest as enumerated in Subsection B which it determines to be: (i) defective with respect to legal title, (ii) insufficient with respect to annual quantity, priority, reliability, or flow rate, (iii) unsuitable for municipal use, (iv) not reasonably likely to be approved for change by the State Engineer for municipal and secondary irrigation purposes within the entire service area of the City, or (v) defective in any other respect that makes the Water Rights unusable by the City to deliver water to the Development. The City's refusal to accept a proposed Water right shall not constitute a waiver of, and shall not relieve the Applicant from its obligation of complying with the requirements of this Section as a condition to Development approval.

D. Conveyance of Water Rights to the City

(1) Subsequent to review and approval of the Water Rights proposed to be dedicated by Applicant to the City, the Developer shall convey the Water Rights to the City, without cost, by deed, assignment, water dedication agreement and/or such other applicable and appropriate instrument of conveyance in form and substance as shall be approved by the City.

(2) All conveyances of Water Rights shall be free and clear of all liens, encumbrances and adverse claims, except as may be expressly approved and accepted by the City in writing.

(3) The Water Rights shall be conveyed to the City prior to the recording of a final plat in connection with each phase of the Development. An approved final plat shall not be signed or recorded prior to conveyance of the accepted Water Rights.

E. Effective Date.

The City hereby specifically finds that it is necessary for the immediate preservation of the health, safety, and welfare of the present and future inhabitants of the City that this ordinance shall take effect immediately upon adoption.

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MAPLETON CITY
PLANNING COMMISSION MINUTES
June 12, 2014

5 **PRESIDING AND CONDUCTING:** Chairman Rich Lewis

7 **Commissioners in Attendance:** John Gappmayer
8 Golden Murray

10 **Staff in Attendance:** Sean Conroy, Community Development Director
11 Jon Schutz, City Water Attorney

13 **Minutes Taken by:** April Houser, Executive Secretary

15 Chairman Lewis called the meeting to order at 6:30pm. Golden Murray gave the invocation and John
16 Gappmayer led the Pledge of Allegiance.

17
18 *Items are not necessarily heard in the order listed below.*

19
20 **Item 1. Planning Commission Meeting Minutes – May 8, 2014.**

21
22 **Motion:** Commissioner Murray moved to approve the May 8, 2014 Planning Commission
23 Minutes.

24 **Second:** Commissioner Gappmayer

25 **Vote:** Unanimous

26
27 **Item 2. Consideration of an ordinance amending Mapleton City Code Chapter 17.24.080**
28 **regarding requirements to dedicate water to the City as part of subdivision**
29 **approval.**

30
31 **Sean Conroy**, Community Development Director, went over the Staff Report for those in attendance.
32 **Jon Schutz**, City Water Attorney, was in attendance to help with this amendment. The State Engineer's
33 Office is in charge of managing the water rights, and administering them as well. If a change application
34 is requested, they are handled through the state. Mr. Schutz feels the City needs to go through a change
35 application process in regards to water share submittal. The State standard is .45 acre feet per indoor
36 residential use. Staff is recommending we use .5 acre feet to protect the City's interest in being able to
37 provide sufficient water. 2 acre-feet per irrigable acre for outdoor use was also proposed. The process
38 will require that either the City or applicant go through the change application process. If they are
39 Mapleton Irrigation or East Bench Canal they will be able to be submitted with a fee and the City will
40 take care of doing the change application periodically as needed. There are a variety of requirements
41 throughout the state in regards to the amount of water being required. Mapleton City does not currently
42 accept Strawberry Water Shares, as they are tied directly to the land, and not transferable from one
43 property to another. **Chairman Lewis** asked what the reasoning is for moving forward with this change
44 at this time. Sean stated that some of the upcoming larger developments want to ensure that the
45 requirements are fair to both the City and applicants. Jon Schutz stated that tailoring it to both indoor and
46 outdoor use makes it more logical for both the applicant and City. The current ordinance is outdated, and
47 Mr. Schutz feels this is very equitable for all parties involved.
48

49 **Chairman Lewis** opened the Public Hearing. **Jesse Conway**, with LEI Engineering, has been working
50 with staff and Mr. Schutz on this amendment. They would like to make sure that the .5 acre foot indoor
51 requirement is appropriate before this item moves on to the City Council. Jon Schutz stated that the city
52 can look at possible variances in regards to this amendment that could allow a developer to petition a
53 lesser requirement on an individual basis if desired. No additional comments were given and the Public
54 Hearing was closed.
55

56 **Motion:** Commissioner Gappmayer moved to recommend approval to the City Council of an
57 ordinance amending Mapleton City Code Chapter 17.24.080 regarding requirements to
58 dedicate water to the City as part of subdivision approval, with the recommendation listed
59 below:

- 60 1. That a possible allowance be considered giving the applicant the ability to
61 request a lesser water requirement variance on an individual basis.

62 **Second:** Commissioner Murray

63 **Vote:** Unanimous
64

65 **Item 3. Consideration of Preliminary and Final Plat approvals for the Plum Creek Estates**
66 **Plat "A" subdivision consisting of 16 lots located generally at 1000 North 200 West.**
67

68 **Sean Conroy**, Community Development Director, went over the Staff Report for those in attendance.
69 The project site is located off of 300 West and about 6.59 acres in size. The zoning allows for 1/3 acre
70 lots. They are proposing 16 lots, along with the 3 existing home lots. There will be improvements of
71 curb, gutter and sidewalk added on 300 West. Staff is recommending approval of this item. Most of the
72 Development Review Committee (DRC) issues have been addressed. The Fire Department had no
73 concerns with the street widths through the subdivision.
74

75 **Bill West**, with Knight West Construction, is excited about this development. They plan to build the
76 homes in this development as well, and feel it is a good subdivision for Mapleton City. The applicants
77 have met with the City several times and have tried to meet all the requirements.
78

79 **Chairman Lewis** opened the Public Hearing. **Gene Nielson** wonders how wide these streets are, and
80 Sean stated that the majority will be 28' of asphalt. He had a concern with the narrow street width being
81 proposed. Sean stated that this is a Minor Local Street, which would be consistent with the adopted
82 standards the City has in place. Mr. Nielson also had a concern with the water that will be needed to
83 handle this development. **Chris Groberg** wondered what was going to happen with the irrigation ditch
84 between Lots 1 and 2. Sean stated that Mapleton Irrigation will sign off on the plat before it is recorded,
85 ensuring that they give approval to what is being done. **Commissioner Gappmayer** stated that Mapleton
86 Irrigation is a separate entity than the City. The ditch will be piped in the general location that they
87 currently run. All of the piping will be run on the developer's lots and not on to adjacent properties.
88 **Diane Groberg** wanted more clarification as to where the ditch being piped is located. Mr. Groberg
89 wanted to make sure that it remains on the applicant's property and not his. No additional comments
90 were given and the Public Hearing was closed.
91

92 **Motion:** Commissioner Gappmayer moved to approve the Preliminary Plat and recommend Final
93 Plat approval to the City Council for the Plum Creek Estates Plat "A" subdivision
94 consisting of 16 lots located generally at 1000 North 200 West, with the condition that all
95 outstanding issues raised in the Development Review Committee (DRC) Minutes dated
96 May 20, 2014 shall be addressed prior to plat recording.

97 **Second:** Commissioner Murray

98 **Vote:** Unanimous
99

100 **Item 4. Consideration of a Zoning Map Amendment for property located at approximately**
101 **2900 South Highway 89. Requesting a rezone from the Agricultural (A-2) Zone to**
102 **the Industrial and Manufacturing (I&M-1) Zone.**
103

104 Item to be continued until a future meeting.

105
106 **Motion:** Commissioner Murray moved to continue this item.

107 **Second:** Commissioner Gappmayer

108 **Vote:** Unanimous
109

110 **Item 5. Consideration of a Conditional Use permit for a Construction/Contractor Office**
111 **with Outdoor Storage at approximately 2900 South Highway 89.**
112

113 Item to be continued until a future meeting.

114
115 **Motion:** Commissioner Murray moved to continue this item.

116 **Second:** Commissioner Gappmayer

117 **Vote:** Unanimous
118

119 **Item 6. Discussion Item regarding potential development options for property owned by**
120 **Mark Sheranian located at approximately 1200 North and 1800 East in the A-2**
121 **Zone.**
122

123 **Sean Conroy**, Community Development Director, stated that this is a Discussion Item this evening. The
124 property owner would like to get some direction from the Commission before moving forward. They
125 have frontage to their property off of both Quiet Meadow Lane and 1600 North. Quiet Meadow Lane is a
126 private street. This property would have a portion of the Bonneville Shoreline Trail running through it.
127 In the short term they are looking to just add one more lot for their daughter to build on. There were a
128 few options discussed that the applicant could look at. **Mark Sheranian**, applicant, stated that Sean did a
129 good job with the background of the property. They would like to discuss doing a 1-lot subdivision,
130 sharing the driveway that is currently along the property. In order to get approval the lot would need to
131 have 200' of frontage onto a public street. These are Minor Local Roads in this area. **Aleesa**, the
132 applicant's daughter, would like more information about the curb and gutter, and Sean stated that the
133 Public Works Director will need to get involved with this. It was felt more discussion between the
134 applicants and staff should take place in regards to the best way to subdivide 1-lot off of this property.
135

136 **Item 7. Adjourn.**
137

138
139 _____
April Houser, Executive Secretary

Date: