Mapleton City Council Staff Report

Meeting Date: December 2, 2014

Applicant: Mapleton City
Location: City wide
Prepared by: Sean Conroy, Community Development Director
Public Hearing Item: Yes
Zone: All TDR Receiving Zones

REQUEST

Consideration of an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivisions.

BACKGROUND AND PROJECT DESCRIPTION

Several years ago the City adopted a Transferable Development Rights (TDR) ordinance in an effort to preserve the east bench of Mapleton from development. The ordinance allowed property owners on the bench to dedicate their property to the City or place it into a conservation easement in return for a TDR certificate(s) that could be used elsewhere in town to increase density. For example, a parcel in the A-2 zone typically requires 2 acres per unit. However, with the use of TDRs the density could increase to one unit per acre. There are over 200 TDRs that have been issued that are currently unused.

Mapleton City Code (MCC) 18.76.070.B indicates that TDRs cannot be used on lots that are part of a previously approved subdivision plat. Staff has received some requests to use TDRs in existing subdivisions. Based on these requests, staff determined that there could be some benefits to the use of TDRs in existing subdivisions, and prepared a staff initiated ordinance amendment for review by the Planning Commission and City Council. The amendment would allow the use of TDRs within existing subdivisions (see attachment "1" option "1").

EVALUATION

Pros and Cons: Some of the pros of allowing TDRs in existing subdivisions include:

- Allows for additional opportunities for TDRs to be used. While the TDR program should be considered a success for its protection of the Mapleton bench, until the TDR certificates have been used, they will continue to complicate land use decisions in the City.
- Some property owners have found that maintaining large lots can be quite challenging. Allowing some properties to use TDRs could result in better maintained properties.
- There are numerous vacant subdivision lots in the A-2 and RA-1 zones. Large lots, particularly 2 acre lots are difficult to sell and not in high demand. Allowing TDRs in existing subdivisions could help sell some of these existing vacant lots.
- Open space and agricultural fields are more likely preserved through infill development rather than focusing on undeveloped green fields. The General Plan specifically prefers infill development over scattered "spot" development.

The primary con of the proposed ordinance is the potential impact on existing neighborhoods if TDRs are used extensively. Staff recognizes that the use of TDRs with existing subdivision lots could have a negative impact on neighboring properties. The proposed ordinance allows the Council to discuss some of the potential pros and cons and determine whether it makes sense make a change.

Planning Commission: The Planning Commission reviewed this ordinance on October 23, 2014 and again on November 13, 2014. Several people spoke both for and against the proposal during these meetings (see attachments "2" & "3"). The Commission could see some benefit of allowing the use of TDRs under limited circumstances, but was concerned about an ordinance that could apply broadly throughout the City. The primary concern was the potential impact on existing neighborhoods that could occur if numerous properties took advantage of the ordinance. The Commission debated whether to continue to consider additional criteria that might be adopted to limit the use of TDRs in existing subdivisions, but ultimately voted to recommend denial of the proposal to the City Council.

Existing Subdivisions: Prior to the November 13 Planning Commission meeting, staff analyzed each existing subdivision in the A-2 and RA-1 zones and found that approximately 70 lots (52 in the A-2 zone and 18 in the RA-1 zone) could be further subdivided with the use of TDRs. Of those 70 lots, 35 or 50% are corner lots and 25 or 36% are currently vacant (see attachment "2" for more information). There are other subdivisions that have lots large enough to use TDRs but they are covered by conservation easements or other restrictions that would also need to be amended in order to use a TDR.

It should be noted that many of the lots would require substantial alterations to existing landscaping, paving, fencing and out buildings in order to allow for an additional lot. These constraints, as well as a desire of some property owners to maintain existing property boundaries, and the cost of TDR certificates (estimated at between $20,000 to $40,000), would likely discourage many owners from pursing further subdivisions.

Possible Alternative: One possible alternative that would address the Planning Commission's concerns would be to require that any lot created through the use of a TDR must be at least 75% of the minimum lot size required in the zone (see attachment "1" option "2"). This would require any new lots created with a TDR to be at least 1.5 acres size in the A-2 zone and .75 acres in size in the RA-1 zone. This would help ensure that any new lots that could be created in existing subdivisions would be compatible in size with the minimum lot sizes already established in the zone. However, staff also recognizes that the proposed alternative would only benefit a few property owners.

Staff performed the same analysis on existing subdivisions as was done previously, but with the criteria that each lot would need to be at least 75% of the minimum lot size. The results of this analysis indicated that only 7 lots in the A-2 zone would qualify and 0 lots in the RA-1 zone would qualify (see attachment "2"). Again, there are other subdivisions that have lots large enough to use TDRs but they are covered by conservation easements or other restrictions that would also need to be amended in order to use a TDR.

STAFF RECCOMENDATION

Determine whether the proposed ordinance is appropriate for Mapleton City.

ATTACHMENTS

1. Draft ordinance amendments.
2. Summary of subdivisions that could utilize TDRs.
3. PC Minutes from 10/23/14 & 11/13/14 (see item #1 on this agenda).
4. Correspondence.

ORDINANCE NO. 2014-

CONSIDERATION OF AN ORDINANCE AMENDING MAPLETON CITY CODE CHAPTER 18.76.070.B TO ALLOW THE USE OF TRANSFERABLE DEVELOPMENT RIGHTS WITHIN PREVIOUSLY PLATTED SUBDIVISIONS.

WHEREAS, MCC Chapter 18.76 establishes the City's TDR ordinance; and

WHEREAS, MCC Chapter 18.76 indicates that TDRs can only be used in the A-2, RA-1, PRC and SDP zones. The code also indicates that TDRs cannot be used within existing platted subdivisions; and

WHEREAS, the proposed amendments outline the zoning districts in which TDRs can be used; and

WHEREAS, the proposed amendments would allow TDRs to be used within existing platted subdivisions.

NOW THEREFORE, BE IT RESOLVED by the City Council of Mapleton, Utah, to amend Mapleton City Code Chapter 18.76 as described in Exhibit "A".

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

This 2nd Day of December, 2014.

_____
Brian Wall
Mayor

ATTEST:

_____
Camille Brown
City Recorder

Publication Date:
Effective Date:

Attachment "1"
(Changes shown in strikeout and highlighted)

Option 1:

18.76.070: TRANSFERABLE DEVELOPMENT RIGHTS; RECEIVING SITES:

A. Transferable development right receiving sites shall be limited to the A-2, RA-1, PRC, PRD, PD and SDP zone designations exclusively unless otherwise authorized by the city council as part of an annexation agreement. (Ord. 2013-06, 7-16-2013, eff. 8-28-2013)

1. All areas shall be eligible to increase the density with the use of TDRs by no more than doubling what the underlying zone designation allows.

B. In order to transfer one or more development rights to a parcel of property, such parcel shall be located within a receiving area. The owner of such parcel shall apply for and receive approval to have the property placed in the TDR overlay zone pursuant to rezoning procedures set forth in this title. ~~In no case shall a receiving site rezone be approved in any previously platted subdivision~~ .

Option 2:

18.76.070: TRANSFERABLE DEVELOPMENT RIGHTS; RECEIVING SITES:

A. Transferable development right receiving sites shall be limited to the A-2, RA-1, PRC, PRD, PD and SDP zone designations exclusively unless otherwise authorized by the city council as part of an annexation agreement. (Ord. 2013-06, 7-16-2013, eff. 8-28-2013)

1. All areas shall be eligible to increase the density with the use of TDRs by no more than doubling what the underlying zone designation allows.

B. In order to transfer one or more development rights to a parcel of property, such parcel shall be located within a receiving area. The owner of such parcel shall apply for and receive approval to have the property placed in the TDR overlay zone pursuant to rezoning procedures set forth in this title. ~~In no case shall a receiving site rezone be approved in any previously platted subdivision~~ . A TDR overlay zone may be permitted for lots in an existing subdivision only when each lot included in the overlay zone will be at least 75% of the minimum lot size for the zone unless the subdivision has utilized average density, in which case the average density requirements would apply. By way of example, if a TDR was applied to an existing lot in the A-2 Zone, each lot would need to be at least 1.5 acres in size.

Attachment "2"

SUBDIVISION WHERE TDRS COULD POTENTIALLY BE USED IF ALLOWED TO CREATE LOTS OF 1 ACRE IN A-2 ZONE AND ½ ACRE IN RA-1 ZONE (OPTION #1)

A-2 Zone:

Maple Cove	Lots 1-7, 9
Maple Farm Estates	Lots 1, 5, 7, 9, 13, 18, 20, 22-27
Horizon Heights	Lots 2-3
Horizon Heights "B"	Lots 1, 4, 5, 7
Quiet Meadow Estates	Lots 1, 4 8-10
Sierra View Estates "A"	Lots 1-3
Sierra View Estates "C"	Lots 1-4
Sierra View Estates "D"	Lot 1
Triple Crown "A"	Lots 1-3, 23
Valley View Estates	Lots 1-2, 4-6, 10-11, 15

Total in A-2 = 52

RA-1 Zone:

Aspen Grove	Lots 15-17
Breckenridge	Lots 2-4, 6-8
Maple Hills	Lots 1, 8
Maple Ridge Estates "A"	Lots 1, 9
Mapleton Fields	Lots 4, 7, 14
Mapleton Highlands	Lots 3-4

Total in RA-1 = 18

TOTAL POTENTIAL LOTS = 70

Corner Lots = 35
Vacant Lots = 25

*There are other subdivisions that have lots larger enough to use TDRs but they are covered by conservation easements or other restrictions that would also need to be amended in order to use a TDR.

SUBDIVISION WHERE TDRS COULD POTENTIALLY BE USED IF REQUIRED TO CREATE 1.5 ACRE LOTS IN A-2 ZONE AND .75 ACRE LOTS IN RA-1 ZONE (OPTION #2)

A-2 Zone:

Maple Cove	Lots 1 – 2
Sierra View Estates Plat "A"	Lots 2-3
Horizon Heights	Lots 2-3
Horizon Heights Plat "B"	Lots 4

RA-1 Zone:
None

TOTAL POTENTIAL LOTS: 7

Attachment "3"

MAPLETON CITY
PLANNING COMMISSION MINUTES
October 23, 2014

PRESIDING AND CONDUCTING:	Chairman Rich Lewis
Commissioners in Attendance:	Golden Murray Justin Schellenberg Keith Stirling
Staff in Attendance:	Sean Conroy, Community Development Director
Minutes Taken by:	April Houser, Executive Secretary

Chairman Lewis called the meeting to order at 6:30pm. Keith Stirling gave the invocation and Golden Murray led the Pledge of Allegiance.

Item 4. Consideration of an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivision.

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. Examples were given to better clarify the proposed ordinance amendment. This would allow previously platted subdivisions the ability to use Transferable Development Rights (TDR's) if they were able to meet the requirements of the development ordinance in those zones. **Chairman Lewis** had a concern that smaller lots could potentially come in around developments where larger lots are in place and built upon. Sean stated that TDR's cannot be applied to lots that are less than 1 acre in size. **Commissioner Schellenberg** felt this could be both an equitable and inequitable ordinance amendment. **Commissioner Stirling** was on the City Council when the TDR Ordinance was put in place and felt this request was not part of the original discussion when this was approved.

Chairman Lewis opened the Public Hearing. **John Pratt** lives in a platted subdivision where he felt the character and makeup of the area was already put in place. He feels the quality of life and property values are a very real concern. He currently lives in a development where this ordinance amendment could be utilized, and would object to this request being approved. He does not feel if the change dramatically affects a development that this type of rezone should be allowed. Mr. Pratt feels the City should have some integrity in regards to changing the development possibilities of these previously platted subdivisions. **Lloyd Eldridge** lives to the north of the Pratt's. He stated that there are only 3 lots in this area that could be subdivided, and one is currently part of a 10 year lease of their land, which would prohibit any subdividing to take place during that time. They have talked to all 11 members of their subdivision, and 10 of the 11 are willing to support this type of ordinance amendment. Sean stated that if the Commission wanted further information the item could be continued or the Commission could move forward with a recommendation of approval or denial. The Commission wanted a clarification on the possibility of this being done as a variance, and Sean stated that he felt they would not be able to do that where there are 5 distinct requirements that need to be met in order to be approved. **Barbara Pratt** stated that this amendment would allow future developments to be rezoned as well, and would undermine the integrity of the City. **Leslie Loveless** lives across the street from the Pratt's and are the ones who would like to build on a possible sub dividable lot if this amendment is approved. She does not feel this will

greatly affect any properties in the area. **Colby Petersen** suggested that the average lot size in a certain radius could be considered when addressing the possible ordinance amendment to ensure it follows a certain guideline. No additional comments were given and the Public Hearing was closed.

Commissioner Murray felt the last sentence proposing to be struck could stay in place with a word change to make it more feasible for all parties. Sean felt the item should be continued until additional information could be put together to see what possible impacts could take place if this amendment were approved.

Motion: Commissioner Gappmayer moved to continue an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivision until more information can be gathered in regards to possible impacts this could make on previous and future platted subdivisions.
Second: Commissioner Stirling
Vote: Unanimous

MAPLETON CITY
PLANNING COMMISSION MINUTES
November 13, 2014

PRESIDING AND CONDUCTING: Chairman Rich Lewis

Commissioners in Attendance: Golden Murray
Justin Schellenberg
Keith Stirling

Staff in Attendance: Sean Conroy, Community Development Director
Brian Tucker, Planner

Minutes Taken by: April Houser, Executive Secretary

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

Item 6. ***(Continued 10/23/14)*** **Consideration of an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivisions.**

Sean Conroy, Community Development Director, went over the Staff Report for those in attendance. This item was discussed at the previous meeting. The Commission had some additional concerns. Staff further reviewed this and found that approximately 70 lots could utilize this amendment. 35 lots are corner lots and 25 are vacant at this time. This would allow for greater use of the TDR's. Larger parcels are becoming more difficult to maintain. The cons would be the disruption of existing neighborhoods. Staff would suggest that lots do not impact the current neighborhoods, and would allow the Commission and Council to review these on a case by case basis. This is a recommendation to the City Council, and the Commission is not the final approval body on this request.

Chairman Lewis opened the Public Hearing. **Hayes Eldridge** supports this request, and supports providing more options for property owners. They currently use their additional property for hay, which is costing them more than it is worth. **Mark Sheranian** is against this proposal. He owns TDR's and would like to see the Commission and Council stick with the plan they originally formatted. If a person is not planning on staying a resident in Mapleton Mr. Sheranian would like the City to please consider the people that live here first. **John Pratt** is opposed to allowing TDR's in platted subdivisions. He feels the integrity of zoning in Mapleton is being pushed aside. They are not interested in Mapleton becoming like California, and feel that we need to keep our integrity in place while making these types of decisions. **Julie Hall** is opposed to this ordinance change. They did their research before they purchased their home, and chose it for this reason and feel it had with the larger lot sizes. This ordinance change would be unfair to those who already bought their lots. **Ben Gardner** is absolutely opposed to this. He feels these larger lots need to remain intact. **Jeremy Martin** feels these larger lots need to remain in place, and stated that 11 units of the 70 mentioned are in his current subdivision. **Paul Edmunds** feels that the staff is admirable, and that exceptions could be made. He appreciates the rural feel, but feels limited exceptions could be made. **Craig Murdock** is opposed to this amendment. We get the individuals that move from the City and when they start to feel they do not want these larger lots they want to lower the density and profit off their acreage. **Andy Ball** is in favor of this request. He feels the previous item

Awaiting Formal Approval

should be allowed for 1 acre lots. **James Loveless** supports the proposal. He does not think this will make the sky fall. **Sandra Buckley** stated that this lot would still be large, and that it is not going to impact the environment at all. She thinks these situations need to be done on a case by case basis. **Randy Clayton** has lived in the area for 25 years and has mixed emotions about this. He feels if the Commission and Council go by public support it should be fine. He would support it in his neighborhood, as long as curb and gutter were not installed or required. Mr. Clayton does not see it as a big change for Mapleton. **Morris Warren** feels that people in Mapleton have 2 acres and are allowing this property to go to weeds. He feels by doing this you set a precedence that would be positive, and that no one needs to do it that does not want to, and everyone should have the ability to choose what they do with their property. These larger lots are going from green fields to weed fields. **Lori Sheranian** thinks weed fields are beautiful. She feels it should be done on a case by case basis based off the neighboring residents. **Sharron Warren** supports this request in her neighborhood. She hopes the Commission will take that in to consideration. She does not understand why people do not work together, and feels this should be allowed to be developed by them with the use of TDR's. **Leslie Loveless** lives in this subdivision being discussed and does not feel if this amendment was approved that it would really affect that many parcels. Most properties have accessory structures on them that would keep them for having the acreage and frontage they need without tearing down buildings, landscaping, etc. **Julie Hall** stood again and stated that theses should be done on a case by case basis. No additional comments were given and the Public Hearing was closed.

Motion: Commissioner Schellenberg moved to recommend denial to the City Council for an ordinance amending Mapleton City Code Chapter 18.76.070.B to allow the use of Transferable Development Rights within previously platted subdivisions.
Second: Commissioner Murray
Vote: Unanimous

Item 7. Adjourn.

_____ _____
April Houser, Executive Secretary Date

Awaiting Formal Approval

Attachment "4"

Sean Conroy

From: Randall Clayton <randallclytn@gmail.com>
Sent: Wednesday, November 12, 2014 9:56 AM
To: Sean Conroy
Subject: The question of using TDRs in our neighborhood

Sean Conroy,

We are Randall and Barbara Clayton. We have lived in this neighborhood for 25 years and have really enjoyed it. We do not see a problem of having lots reduced to a minimum of 1 acre.

We would support allowing TDRs in this existing subdivision but kept to a minimum of 1 acre.

Thank you,

Randy
& Barbara Clayton
1881 E. Maple Street
Mapleton

Sean Conroy

From: Robert Buckley <rfbuck1130@yahoo.com>
Sent: Tuesday, November 11, 2014 8:31 AM
To: Sean Conroy
Subject: TDRs in Existing Subdivisions

Sean,

This morning we had an opportunity to review the Planning Commission Report regarding TDRs receiving zones. In addition, we are the owners of a home on 1800 E and a neighbor of James & Leslie Loveless. We wish to add our support to the Planning Commission Staff recommendation for approval of the amendment that would allow for the use of TDRs within previously platted subdivisions along with the suggested guiding preferences outlined. We appreciate the discretion this will allow the Planning Commission in regard to development proposals within such previously platted subdivisions. This provides a reasonable consideration of home owners, withing effected subdivisions, to influence development proposals to avoid untoward impacts from individuals desiring to utilize a TDR for this purpose.

Sincerely,

Robert & Saundra Buckley

Sean Conroy

From: Andy Ball <andydovie@gmail.com>
Sent: Wednesday, November 12, 2014 9:22 PM
To: Sean Conroy; herdsire.macgyver@gmail.com
Subject: Loveless Plan to TDR the Eldridge property

Sean,
I am the neighbor directly to the west of the Eldridge property and I am 100% in favor of homeowners being able to use their property as they see fit. If they use a TDR they are well within the standards set by Mapleton city. The Pratt family seems to always be the roadblock for anyone trying to better their situation and improve their property. I'm on the side of the Loveless' and I find that the Pratts always trying to push their interests onto others as wrong. Let people do what they want with their property if they are following the general guideline of the city development plan. (and they would be) As a direct neighbor I have no problem with the move.

I actually have a plan to divide my property that I had an engineering company draw up, but I am a slacker and haven't turned it in.

Let me know if you have further questions. You can reach me at 801-995-2314.

Thanks, Andy and Dovie Ball

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Dear Commission Member:

I attended the Planning Commission meeting held on 11/13/14. I first want to thank you for the work you do on the commission. I am sure it is not an easy task. Among the topics discussed was the proposal to amend the current ordinance that restricts the use of TDRs in established subdivisions and a proposed 53 lot development for Mr. Smoot. I support the decision you made on both of these items. I wanted to offer a few of my thoughts and hope they might be helpful as the commission looks at other ways to address the matters.

In regards to the applicant that would like to subdivide their lot located in an established subdivision. While I can certainly understand their desire to do so I think allowing this (even in some other manner than using TDRs) could set a bad precedent and would lead established subdivisions being altered in a way that does not stay true to the intent and purpose of the A2 zone. In my opinion it is these types of subdivisions that add to the rural nature of the city and give the variety of housing options that the General Plan calls for.

I certainly understand the staff and commissions desire to help out with this specific situation. I know the applicants well and they are wonderful people. However, I do feel it important to point out that at the meeting it was mentioned numerous times that the lot was very close to 4 acres – which would make the subdivision legal in the current zone. The applicant's lot size is actually 3.4 acres which is significantly short of the 4 acres needed. The A2 zone states that the purpose is…*"To protect and encourage the continued use of agricultural land within the zone…and… use within this zone are large residential estates, barns, corrals, row crops, and the raising of livestock".* This 3.4 acre "estate' property is not overly large or unusual for the subdivision which consists of other 2 and 3+ acre lots. It is exactly what the A2 zone and this subdivision were designed for.

If the applicant hadn't bought a TDR with the belief they could use it then this would be a very easy case. The lot is in a zone with a minimum lot size of 2 acres. At 3.4 acres it doesn't qualify to be subdivided. Any rezone, waiver or ordinance change to accommodate this one situation would erode the stability and integrity of all established subdivisions.

So where does that leave it? I was told by one person at the meeting that they would be glad to buy the TDR off them. If they were to sell the TDR they would be right back to where they were before the process began. At that point they could make a decision if living on and maintaining a large property is right for them. If it is not they can do what is commonly done – they can downsize to a property type that better meets their current needs. If they decide they prefer the lifestyle offered by living in a A2 type subdivision they can look for ways (lease their field to someone, hire help, etc) to mitigate the parts of the lifestyle they find difficult. I think somehow in the process things got more complicated than they need to be.

I included a few ideas I think reasonable to the development for Mr. Smoot on the back of this letter.

Sincerely,

Jeremy Martin
801-928-3060
jeremylmartin@hotmail.com

Sean Conroy

To: Planning Commission
Subject: FW: Comment on Item 6 for Nov 13 Planning Commission meeting

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From: Julie Hall [mailto:julia.harker@gmail.com]
Sent: Wednesday, November 12, 2014 3:27 PM
To: April Houser
Subject: Comment on Item 6 for Nov 13 Planning Commission meeting

Planning Commission Members:

I'm writing to let you know about my family's opposition to the proposed ordinance change that will be discussed in the upcoming planning commission meeting. The proposed change would remove restrictions while using a TDR, allowing TDRs to be used anywhere in the city and not just within the previously set boundaries.

Before we purchased our house, my wife and I did our research. The size of the lots, openness, and the rural feel of the area were some of the main reasons we decided to buy a house here in Mapleton. We counted on the lot sizes in this planned and platted development, and have had no reason to believe that they could or would be changed.

Recently we have come to know that our neighbor has decided he no longer wants the large lot that he purchased, and would like to subdivide and build another house. While we respect his rights as a property owner, he also knew the zoning and ordinances that were attached to his land before he made a purchase.

If this change is allowed, it will decrease the value of the surrounding properties and alter the look and feel of Mapleton.

It is our hope that the TDR rules will stay the same and that the zoning that surrounds our house will remain intact.

Thank you,

Jordan Hall
1710 E. 400 N.
Mapleton

801-376-8645