

Mapleton City Planning Commission Staff Report

Meeting Date: November 13, 2014

Item: 6

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. The proposed ordinance would eliminate this limitation and potentially allow a lot or lots in a previously platted subdivision to be further subdivided.

The Planning Commission reviewed this ordinance on October 23, 2014. The Commission expressed some concern regarding the potential impact on existing neighborhoods, and continued review of the ordinance with a request that staff provide more information on potential impacts.

EVALUATION

Existing Subdivisions: 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). It should also 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), will likely discourage many owners from pursuing further subdivisions.

TDR Use: Staff estimates that corner lots, vacant lots and those lots that are significantly larger than the minimum lot size are the most likely candidates for use of TDRs. Additional development on corner lots would typically have a minimal impact on existing neighborhoods as the new homes would likely front on a separate street. Development of vacant lots, in theory, would also have a minimal impact on neighborhoods as the new homes would be designed for the smaller lots and would not alter existing landscaping and development. Finally, lots that are larger than the minimum lot sizes would result in less of an impact to open space and the rural character if further subdivided.

City Discretion: If an ordinance was passed that eliminated the prohibition of TDRs for existing subdivisions, the City would still have the discretion to review each application on a case-by-case basis. The TDR ordinance requires the approval of a rezone to a TDR-Receiving Site prior to approval of a subdivision. A rezone request is considered a legislative decision. The City has broad discretion when reviewing legislative items. As long as the decision to approve or deny is “reasonably debatable” that it advances the general welfare of the community, it will typically be upheld by the courts if challenged.

The Commission and City Council **can** rely on public support or opposition as part of the basis for their decisions. In other words, if a rezone proposal was brought forward, but was met with significant public opposition, the City would not be required to approve the rezone request as long as it could be reasonably debated that the decision protected the general welfare.

Pros and Cons: Some of the pros of the proposed ordinance 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 a 1 or 2 acre lot 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 is more likely preserved through infill development rather than focusing on undeveloped fields.

The primary con of the proposed ordinance is the potential impact on existing neighborhoods if TDRs are used extensively. This concern can largely be mitigated based on the constraints previously mentioned and by the fact that the City is not obligated to approve a TDR Receiving Site if significant neighborhood impacts are identified.

Proposed Revisions: Staff has added some additional language to the proposed ordinance since the previous meeting. The additional language indicates that there is a preference for TDR Receiving Sites for corner lots, vacant lots, lots that are larger than the minimum lot size by at least 10%, and lots that do not significantly impact the character of the area. While this language does not require that these preferences be met, it does provide potential applicants with an expectation of what might be acceptable by the Planning Commission and City Council.

STAFF RECCOMENDATION

Recommend that the City Council adopt the attached ordinance.

ATTACHMENTS

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

Attachment “1”
(Changes shown in strikeout and highlighted)

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 with preference given for corner lots, vacant lots, lots that are at least 10% larger than the minimum lot size, and lots that do not significantly impact the character of the existing subdivision.

Attachment “2”

SUBDIVISION WHERE TDRS COULD POTENTIALLY BE USED

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.