



**COMMUNITY DEVELOPMENT
DEPARTMENT**
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Agenda Item #20

TO: Mountain Village Town Council
FROM: Amy Ward, Community Development Director
FOR: November 21, 2024
DATE: November 13, 2024
RE: Subdivision and Re-zone of Single Family Lots – Informational Session

Overview

A number of Density Transfer and Rezone applications for single family lots have come before Council in the past few months. Generally, we see these as a request to vacate a lot line between two properties and transfer the excess density to the density bank, creating one larger single family parcel. We also have a recent application that proposes to re-zone a single family lot to passive open space and transfer density to the density bank. In some of these cases, there has been discussion regarding the ability of the property owners to subdivide the subject properties in the future. Given these discussions, staff thought it would be helpful for Council to understand where the Town has stood on this issue in the past, and how it has changed over the years.

History of Single Family Subdivision and Re-zone Regulation Changes:

[Below is a chronological history of the Community Development Code as it relates to the subdivision and rezone of single family lots. Staff interpretation of the relevant provision is in blue](#)

From Land Use Ordinance 2001-01

Land

3-206-1 Single Family Lots may be used for the construction of only one (1) residence and no more than one Accessory Dwelling unit. Accessory Dwelling units constructed prior to construction of the main residence shall meet the Design Regulations for a main residence, including the parking requirement pursuant to Section 7-2 of the Design Regulations. Single Family Lots may not be further subdivided.

[Single family lots may not be subdivided, Re-zoning is not addressed](#)

From Land Use Ordinance 2002-07

4-305-1 Single-Family Lots may be used for the construction of only one (1) Single-Family Dwelling Unit and no more than one (1) Accessory Dwelling Unit. Accessory Dwelling Units constructed prior to construction of the Single-Family Dwelling Unit shall meet the Design Regulations for a Single-Family Dwelling Unit, including the parking requirement pursuant to Section 7-2 of the Design Regulations. Single-Family Zoning Designations on Lots may only be rezoned to a Zoning Designation of either Active Open Space or Passive Open Space through the appropriate rezoning procedure as outlined within the LUO. Single-Family Zoning Designations within the Density Bank may be rezoned to any Zoning Designation through the appropriate rezoning procedure outlined within the LUO.

Single family lots may be re-zoned only to Active or Passive Open Space. Also addresses density in the density bank, which can be rezoned to any zoning. The prohibition of subdividing a single family lot has been removed (unsure if it is still allowed with this Ordinance)

From Land Use Ordinance Updated October 1, 2008

4-305-1 Single-Family Lots may be used for the construction of only one (1) Single-Family Dwelling Unit and no more than one (1) Accessory Dwelling Unit. Accessory Dwelling Units constructed prior to construction of the Single-Family Dwelling Unit shall meet the Design Regulations for a Single-Family Dwelling Unit, including the parking requirement pursuant to Section 7-2 of the Design Regulations. Single-Family Zoning Designations on Lots may only be rezoned to a Zoning Designation of either Active Open Space or Passive Open Space through the appropriate rezoning procedure as outlined within the LUO; provided, however, a Single Family Lot may be rezoned to another Zoning Designation, pursuant to the Planned Unit Development process set forth in Section 4-6. Single-Family Zoning Designations within the Density Bank may be rezoned to any Zoning Designation through the appropriate rezoning procedure outlined within the LUO. Single Family Lots may not be further subdivided and additional Density may not be transferred onto a Single Family Lot; provided, however, a Single Family Lot may be further subdivided and additional Density may be transferred onto a Single Family Lot, pursuant to the Planned Unit Development process set forth in Section 4-6.

Adds specific prohibition of subdividing a single family lot, unless through a PUD process

From Community Development Code, 2013-01

- 4. Further Subdivision Prohibited.** Single-family lots may not be further subdivided to create additional lots and additional density may not be transferred onto a single-family lot; provided, however, a single-family lot may be further subdivided and additional density may be transferred onto a single-family lot by the Rezoning Process if:
- a. The density is currently permitted on a lot; or
 - b. The Comprehensive Plan envisions higher density; or
 - c. A PUD is approved pursuant to the PUD Regulations; and
 - d. The Town Council determines that the rezoning is exceptional and meets specific conditions to mitigate the upzoning, such as separation and buffering from other lots.

Broadens the path to subdivision of a single family lot to include Town Council approval, conformance with the Comprehensive Plan or PUD process

From Community Development Code, as amended June 2015

4. Further Subdivision Limited. A single-family lot may be further subdivided and additional density may be transferred onto a single-family lot by the Rezoning Process in limited situations only if:
- a. The density is currently permitted on a lot; or
 - b. The Comprehensive Plan envisions higher density; or
 - c. A PUD is approved pursuant to the PUD Regulations; or
 - d. The Town Council determines that the rezoning is exceptional and meets conditions to mitigate the upzoning, such as but not limited to clustered development, the provision of additional open space, or other community benefits; and.
 - e. The rezoning is compatible and fits with surrounding area development.

Similar to above, but somewhat clarifies rezoning criteria

In April of 2016, an emergency Moratorium (Ord. 2016-05) temporarily prohibited the subdivision of single family lots after the Town “received numerous comments from its constituents raising concerns relative to the Town’s Community Development Code, Section 17.3.4(F)(4) which allows the further subdivision of single-family lots to create additional lots and the transfer of additional density to be transferred onto a single-family lot under certain limited conditions.” Reasons cited were that the further subdivision of single family properties “may be out of character with the community and may negatively affect the cultural, environmental, and neighborhood qualities of the Town.”

After close to 6 months of review and multiple public hearings, which included significant public engagement and comment, the Town opted to return to the original concept of no single family lot Subdivision. They did add a provision that allows for re-zone to **passive open space only**. The previous allowance of re-zone to active open space seemed to be problematic in that active open space uses are much more generous than passive, and also could potentially allow for the development of denser affordable housing projects.

Ord. 2016-10 was passed to make this change, here is the redline Community Development Code language, this represents the same language that is in the code today:

4. **Further Subdivision ~~Limited Prohibited and Rezoning Limited~~.** A single-family lot may not be further subdivided and additional density may not be transferred onto a single-family lot by the Rezoning Process or otherwise. This prohibition does not prohibit lot line adjustments, lot line vacations or correction plats, which do not create additional lots. Single-family lots may only be rezoned to the Passive Open Space District, in limited situations only if:
- ~~a. — The density is currently permitted on a lot; or~~
 - ~~b. — The Comprehensive Plan envisions higher density; or~~
 - ~~c. — A PUD is approved pursuant to the PUD Regulations; or~~
 - ~~d. — The Town Council determines that the rezoning is exceptional and meets conditions to mitigate the upzoning, such as but not limited to clustered development, the provision of additional open space, or other community benefits; and~~
 - ~~e. — the rezoning is compatible and fits with surrounding area development.~~

Summary:

The ability for landowners to sub-divide and/or re-zone single family lots has changed over the years. Understanding that the Town originally prohibited single family zoning from undergoing subdivision, then moved to ever more generous paths of review to these proposed changes, and ultimately came full-circle and prohibited subdivision and severely limited re-zoning again at the request of residents is an important history to understand when reviewing density transfer and rezone applications for single family lots.

/aw