

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

**AN ORDINANCE OF LEWIS COUNTY, WASHINGTON)
AMENDING LEWIS COUNTY CODE CHAPTER 16.02) ORDINANCE NO. 1246
SUBDIVISIONS GENERAL PROVISIONS)**

WHEREAS, Lewis County is authorized to adopt development regulations under authority of Chapter 36.70A RCW; and

WHEREAS, the Board of County Commissioners received recommendations from the Planning Commission concerning amendments to Lewis County Code Chapter 16.02 Subdivisions General Provisions; and

WHEREAS, the Lewis County Planning Commission and the Board of County Commissioners have held public meetings and hearings as required under state law and consistent with the public participation program of Lewis County, to take public testimony and consider the matter; and

WHEREAS, the proposed amendments of the development regulations do not amend the Lewis County Comprehensive Plan; and

WHEREAS, the Board of County Commissioners has reviewed the recommendations of the Planning Commission and County staff, considered testimony from the public, and finds that the proposed amendments to these development regulations are consistent with the Lewis County Comprehensive Plan and are in the best interest of the public;

NOW THEREFORE BE IT ORDAINED by the Lewis County Board of County Commissioners that:

1. Lewis County adopts and incorporates the amendments to Lewis County Code Chapter 16.02 as recommended by the Planning Commission as follows:

16.02.040 Specific exemptions.

The provisions of this title shall not apply to:

(9) ~~Defining of Land. The land to which this title applies is any parcel, the division of which will create or leave a parcel less than 20 acres in size~~ Divisions of land into lots or tracts each one of which is:

(a) one-thirty second of a section of land or larger, or twenty acres or larger if the land is not capable of description as a fraction of a section of land; or

(b) one eighth of a section of land or eighty acres or larger if within a Forest Land of Long-Term Commercial Significance (FRL) zoning district; and

(c) for purposes of computing the size of a lot that borders on a street or road, the lot size shall be expanded to include that area that would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line ;

(11) Conservation lots. Conservation lots are created for purposes of environmental mitigation, conservation or restoration, owned in fee simple interest by a registered, non-profit conservation land trust or government agency. Such lots may not be created so as to make the remaining lot unbuildable or less than the minimum lot size for the zoning in that area. For the purposes of this chapter, an unbuildable lot shall be defined as a lot which is unable to be developed without a variance or reasonable use exception. Surveys and/or deeds recorded for the purpose of creating such conservation lots shall:

(a) Be prepared by a professional land surveyor licensed by the state of Washington, and shall be submitted with a notice placed on the face of the survey map stating:

This conservation lot segregation is created solely for purposes of environmental mitigation, conservation or restoration. Any subsequent conveyance of this property shall continue use of the property for the purpose of environmental mitigation, conservation or restoration.

(b) Be annotated with language that prohibits human habitation, conversion of native vegetation to another use, or construction of buildings and other structures.

(c) Contain a note explaining the purposes of the exempt lot, such as the protection of a particular species, habitat conservation or critical area preservation and listing the entity responsible for management of the exempt parcel.

(d) Be reviewed and approved by Lewis County Community Development prior to recording with the Lewis County Auditor's Office.

0380

2. This Ordinance amends only the referenced provisions of Chapter 16.02 Lewis County Code. All other provisions of the Lewis County Code shall remain in full force and effect.

3. If any portion of the actions taken herein is found to be invalid by a Board or Court of competent jurisdiction, the remainder of the actions shall be deemed valid and shall continue in full force and effect. Further, if such invalidated portion repeals an existing rule or regulation, the replaced rule(s) or regulation(s) shall be reinstated until modified or replaced by the County Commissioners.

4. The provisions of this Ordinance No. 1246 are in the public interest and this Ordinance shall take effect immediately upon adoption by the Board.

PASSED IN REGULAR SESSION THIS 7th day of October 2013, after a public hearing was held October 9, 2013 pursuant to Notice published in the *East County Journal* on September 18, 2013 and the *Chronicle* on September 17, 2013

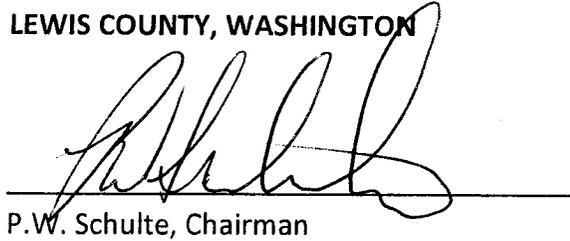
APPROVED AS TO FORM:

Jonathan Meyer, Prosecuting Atty.

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**



By: Glenn Carter
Deputy Prosecuting Attorney



P.W. Schulte, Chairman

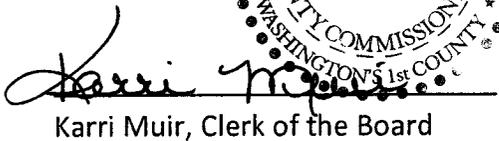


Edna J. Fund, Member



F. Lee Grose, Member

ATTEST:



Karri Muir, Clerk of the Board

LETTER OF TRANSMITTAL

To: Lewis County Board of County Commissioners
From: Lewis County Planning Commission
Date: July 9, 2013
Subject: Transmittal to the BOCC: Findings and Conclusions Regarding an amendment to Chapter 16.02 of the Lewis County Code

Dear Commissioners:

The Lewis County Planning Commission, during the months of January through June of 2013, held three workshops on January 22, February 26 and May 28 to review proposed staff recommendations for amending Chapter 16.02 of the Lewis County Code. The Planning Commission held public hearings on April 9 and on June 25.

As Chairman of the Planning Commission, I am transmitting herewith the recommendations of the Planning Commission pertaining to the above topics.

The attached staff report (**Exhibit A**), proposed code amendment (**Exhibit B**) and the following findings and conclusions are presented to the Board of County Commissioners for consideration:

General findings of fact:

- 1) The amendment(s) were reviewed by the Lewis County Planning Commission to determine the validity and the overall impacts, taking into account the comprehensive plan, the zoning ordinance, planning policies, the GMA and development regulations, staff reports, and public testimony.
- 2) For consistency with the zoning code and to avoid creating nonconforming lots, exemptions to the Lewis County Subdivision code, based on lot size, would be increased to 80 acres for land divisions within Forest Land of Long-Term Commercial Significance (FRL) only. This increase reflects the minimum lot size requirement of the FRL zoning district, making the Title 16 exemption consistent with the zoning code. Additionally, based on input from land division professionals, a new exemption is proposed for streamlining the transferring of conservation lots to land trusts and public agencies. The modifications and proposed changes to Chapter 16.02 have been identified by ~~strike thru~~ for deletions and underlining for additions or changes to the original text.

- 3) The amendments were presented at several public forums, and public testimony was taken consistent with the state regulations and LCC 17.12.

Conclusions

Based on the above findings and conclusions, amendment to the Lewis County Code appeared to warrant the proposed changes. The Planning Commission recommends adopting all proposed amendments.

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit these to the Lewis County Board of County Commissioners.

Submitted by Arny Davis Date 7/9/2013
Arny Davis, Chairman
Lewis County Planning Commission

Exhibit A

Lewis County – Code Amendment

Subdivision Exemption Regulations – Staff Report

ISSUE:

Division of land that results in lots of 20 acres or more is exempt from subdivision regulations. Since the largest minimum lot size covered by zoning regulations is 80 acres, all divisions of land in which any lot of 80 acres or less is created should be included under the Lewis County Subdivision regulations. Currently, records of survey for land divisions that create lots greater than 20 acres, filed with the Auditor's office, are not reviewed for zoning compliance. This can result in a 20-acre lot, for example, in an area zoned for one residence per 80 acres, rendering it difficult or challenging for the purchaser to comply with zoning requirements and leading to disputes between the seller and purchaser. Community Development review as proposed in the code amendment will ensure that the planned division meets existing zoning requirements.

DISCUSSION:

To avoid creating nonconforming lots, exemptions to the Lewis County Subdivision code, based on lot size, would be increased to 80 acres for land divisions within Forest Land of Long-Term Commercial Significance (FRL) only. This increase reflects the minimum lot size requirement of the FRL zoning district, making the Title 16 exemption consistent with the zoning code.

Additionally, based on input from land division professionals, a new exemption is proposed for streamlining the transferring of conservation lots to land trusts and public agencies.

HOW COUNTIES FULLY PLANNING UNDER GMA REGULATE LARGE LAND DIVISIONS:

<i>County</i>	<i>Details*</i>
Whatcom	20 acres; must apply for a Certificate of Exemption
Skagit	80 acres
Snohomish	80 acres
King	40 acres; lots must meet minimum lot size for zone
Pierce	100 acres
Thurston	40 acres
Lewis	20 acres
Klickitat	80 acres
Yakima	40 acres
Kittitas	No size exemption; must comply with minimum zoning requirements
Chelan	20 acres; must apply for a Certificate of Exemption
Jefferson	40 acres; within the commercial forest district (i.e., CF-80), each lot, tract or parcel shall be at least 80 acres in size JCC 18.35.040
Mason	40 acres; 80 acres within designated long-term commercial forest land

** Includes exempted tract sizes and additional requirements*

IMPACTS TO LANDOWNERS:

Exemptions to the Lewis County Subdivision code, based on lot size, would be increased to 80 acres for land divisions within Forest Land of Long-Term Commercial Significance (FRL) only. The increase to 80 acres coupled with the addition of conservation lots to the list of exemptions would have minimal impact to land owners within FRL. Property owners have always needed to comply with zoning regulations and the potential loss of the ability to easily transfer properties to land trusts is mitigated by the addition of the conservation lot exemption.

RESPONSE TO COMMENTS:

Mr. Eugene Butler comment Planning Commission at public hearing, April 9, 2013

Comment: Stated he fully supports the proposed amendment to increase exempted lot sizes in Title 16

Response: Proposed amendment was modified to retain the 20 acre and larger exemption but increases the exemption only within FRL zones since that is the only zone district with minimum lot sizes over 20 acres.

Mr. Chris Butler comments at Planning Commission public hearing, April 9, 2013

Comment: Cowlitz County is a GMA county, not included in table within the staff report

Response: Table only included Counties fully planning under GMA, Cowlitz County is only required to designate critical areas and resource lands under GMA (RCW 36.70A.170).

Comment: Roads will be better because of PW and planning review

Response: Roads only required if property owner decides to do a Large Lot Subdivision; A Simple Segregation only requires access to public road.

Comment: Referenced his phone conversation with Lee Napier where he laid out the ideas of the timber companies and conservation groups.

Response: Based on that conversation, the provision for "Conservation Lots was added to the proposed amendment.

Comment: He does a considerable amount of work for Green Diamond Resource Company in their Mason County holdings, also a county that has different thresholds and was not included in the table.

Response: Proposed amendment was modified to include provisions used in the Mason County Plats and Subdivisions code.

Comment: Concerned about losing the 20 acre and larger exemption in Rural Development Districts (RDD)

Response: Proposed amendment was modified to retain the 20 acre and larger exemption except within FRL zones.

Comment: If 20 acre and larger lots are no longer exempt from subdivision code, those subdivision lots will become subject to the question of water rights

Response: *This is correct if any type subdivision is applied for except for Simple Segregations.*

Mr. Brandon Bird comments at Planning Commission public hearing, April 9, 2013

Comment: Submitted an example of the Jefferson County Land Division code specifically highlighting the division of land exemption contained in their code

Response: *Proposed amendment was modified to include provisions used in the Jefferson County code.*

RECOMMENDATION:

After careful consideration of input by the public, including land division professionals, staff modified the proposed amendment to the Subdivisions code. Using suggestions from the Public Hearing, the 20 acre exemption was retained but an exception is added for Forest Land of Long-Term Commercial Significance only, where the exemption is increased to 80 acres. Also an exemption is added for conservation lots to streamline the process for transferring those lots to registered, non-profit conservation land trust or government agencies. Staff recommends amending the Lewis County code to include proposed language as shown in the revised Attachment A.

Exhibit B
Subdivisions Exemptions

Title 16 Subdivisions

16.02 General Provisions

16.02.040 Specific exemptions.

The provisions of this title shall not apply to:

~~(9) Defining of Land. The land to which this title applies is any parcel, the division of which will create or leave a parcel less than 20 acres in size~~ Divisions of land into lots or tracts each one of which is:

(a) one-thirty second of a section of land or larger, or twenty acres or larger if the land is not capable of description as a fraction of a section of land; or

(b) one eighth of a section of land or eighty acres or larger if within a Forest Land of Long-Term Commercial Significance (FRL) zoning district; and

(c) for purposes of computing the size of a lot that borders on a street or road, the lot size shall be expanded to include that area that would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line ;

(11) Conservation lots. Conservation lots are created for purposes of environmental mitigation, conservation or restoration, owned in fee simple interest by a registered, non-profit conservation land trust or government agency. Such lots may not be created so as to make the remaining lot unbuildable or less than the minimum lot size for the zoning in that area. For the purposes of this chapter, an unbuildable lot shall be defined as a lot which is unable to be developed without a variance or reasonable use exception. Surveys and/or deeds recorded for the purpose of creating such conservation lots shall:

(a) Be prepared by a professional land surveyor licensed by the state of Washington, and shall be submitted with a notice placed on the face of the survey map stating:

This conservation lot segregation is created solely for purposes of environmental mitigation, conservation or restoration. Any subsequent conveyance of this property shall continue use of the property for the purpose of environmental mitigation, conservation or restoration.

(b) Be annotated with language that prohibits human habitation, conversion of native vegetation to another use, or construction of buildings and other structures.

(c) Contain a note explaining the purposes of the exempt lot, such as the protection of a particular species, habitat conservation or critical area preservation and listing the entity responsible for management of the exempt parcel.

(d) Be reviewed and approved by Lewis County Community Development prior to recording with the Lewis County Auditor's Office.

Executive Summary

BOCC Meeting Date:

2013-09-16

Contact:

Lee Napier

Department:

Community Development

Wording

Consider Ordinance 1246 amending Lewis County Code Chapter 16.02 Subdivisions General Provisions

Description

Currently, the provisions of Title 16 Subdivisions do not apply to land divisions that result in any parcels of 20 acres or more. This code amendment would increase that size to 80 acres for land divisions within Forest Land of Long-Term Commercial Significance (FRL). This increase would be consistent with the minimum lot size requirement of the FRL zoning district as defined in Title 17 Land Use and Development Regulations.

Additionally, a new exemption for Conservation Lots is proposed allowing for the transfer of lots of any size to land trusts and public agencies for purposes of environmental mitigation, conservation or restoration.

The Planning Commission held two workshops and two public hearings on the amendment. After careful consideration of input by the public, including land division professionals, along with staff recommendations, the Planning Commission adopted a set of findings and conclusions and transmitted their recommendation to approve the code revisions to the BOCC (See attached Planning Commission Transmittal material).

Recommendation

Adopt Ordinance 1246 amending Lewis County Code Chapter 16.02 Subdivisions General Provisions

Other