

Planning Commission Workshop Report



Community Development • 2025 NE Kresky Ave, Chehalis, WA 98532 • Phone: (360) 740-1146

Summary

Date of Workshop: December 8, 2020

Proposal: Update Lewis County Code to allow preliminary approval of subdivisions as Type III land use applications. The director of community development or their designee will approve the final plat approval once the conditions imposed by the hearing examiner are completed.

A. PROPOSAL-AMEND LEWIS COUNTY CODE

Update Lewis County Code to allow preliminary approval of subdivisions as Type III land use applications. The director of community development or their designee will approve the final plat approval once the conditions imposed by the hearing examiner are completed.

B. BACKGROUND INFORMATION

Currently, preliminary plats for subdivisions are processed as a Type IV application. A Type IV application requires public noticing, a public hearing with the hearing examiner, and the hearing examiner makes a recommendation the board of county commissioners (BOCC). The BOCC reviews the hearing examiner’s recommendation during an open public meeting for approval or denial of the preliminary plat. Once staff verifies the conditions of the preliminary plat are completed, the BOCC reviews the staff’s findings during an open public meeting and signs the final plat for recording.

With this proposal, preliminary plats for subdivisions would be processed as a Type III application. While the Type III application requires the same public noticing and requires a public hearing with the hearing examiner similar to the Type IV application, the difference is the hearing examiner will make the final decision on the preliminary plat. Once staff verifies the conditions of the preliminary plat are completed, the director of community development or their designee signs the final plat for recording.

Table 17.05-1 Permit Review Type - Process Chart
(modified to show Type III and IV applications only)

	Type	
	III	IV
REQUIRED PUBLIC NOTICE²		
Notice Period	At Least 15 Days Before an Open Record Public Hearing	
Mailed Notice	X	X
Notice Posted on Road Frontages	X	X

Table 17.05-1 Permit Review Type - Process Chart
(modified to show Type III and IV applications only)

	Type	
	III	IV
Notice Published in Newspaper	X	X
Notice Posted at Libraries and Senior Centers		
PUBLIC HEARING		
Planning Commission		
Hearing Examiner	X	X
DECISION-MAKING BODY		
Administrator		
Hearing Examiner	X	
Board of County Commissioners		X
APPEAL		
To Hearing Examiner (as Specified in LCC 2.25.130)		
To Appropriate Court/Hearings Board (as Defined in LCC 2.25.140)	X	X

C. BENEFITS

Process - It takes a minimum of four weeks to get items on the agenda for a public meeting with the BOCC. This time is to ensure noticing requirements are met and to give the Commissioners time to review the materials thoroughly. Under the current process, this is completed twice. The process alone adds eight weeks to the permitting.

While the current process adds a minimum of eight weeks to the permitting, those eight weeks do not add a significant amount of value to the public. The public meeting with the BOCC is not noticed any further than what was noticed for the public hearing, the public meeting with the BOCC does not allow for additional public testimony, and the BOCC cannot make any changes to the recommendation.

Hearing Examiner Expertise - The hearing examiner brings a level of expertise to legal decisions that the BOCC does not. The hearing examiner is used to making quasi-judicial decisions, and doesn't have to worry about constituents contacting him ex parte to discuss a particular plat. The BOCC is used to interacting with constituents on legislative matters and is put in a politically awkward situation if a constituent wishes to discuss a pending plat application.

D. STATUTES/CODES/FINDINGS

Since 1995, the Revised Code of Washington (RCW) has allowed the Hearing Examiner to make the final decision on preliminary plats. In 2017, the RCW was updated to allow administrative

personnel to sign off on the final plat after verifying the conditions imposed on the preliminary plat were met. This allows us to make this change to the Lewis County Code to streamline the process for subdivisions. Below are the code sections:

RCW 58.17.330

Hearing examiner system—Adoption authorized—Procedures—Decisions.

(1) As an alternative to those provisions of this chapter requiring a planning commission to hear and issue recommendations for plat approval, the county or city legislative body may adopt a hearing examiner system and shall specify by ordinance the legal effect of the decisions made by the examiner. The legal effect of such decisions shall include one of the following:

- (a) The decision may be given the effect of a recommendation to the legislative body;
- (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or
- (c) The decision may be given the effect of a final decision of the legislative body. The legislative authority shall prescribe procedures to be followed by a hearing examiner.

(2) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Each final decision of a hearing examiner, unless a longer period is mutually agreed to by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

Staff Response: Currently, the Lewis County follows RCW 58.17.330(1)(a). The proposal follows RCW 58.17.330(1)(c).

RCW 58.17.100

Review of preliminary plats by planning commission or agency—Recommendation—Change by legislative body—Procedure—Approval.

If a city, town or county has established a planning commission or planning agency in accordance with state law or local charter, such commission or agency shall review all preliminary plats and make recommendations thereon to the city, town or county legislative body to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the city, town or county. Reports of the planning commission or agency shall be advisory only: PROVIDED, That the legislative body of the city, town or county may, by ordinance, assign to such commission or agency, or any department official or group of officials, such administrative functions, powers and duties as may be appropriate, including the holding of hearings, and recommendations for approval or disapproval of preliminary plats of proposed subdivisions.

Such recommendation shall be submitted to the legislative body not later than fourteen days following action by the hearing body. Upon receipt of the recommendation on any preliminary plat the legislative body shall at its next public meeting set the date for the public meeting where it shall consider the recommendations of the hearing body and may adopt or reject the recommendations of such hearing body based on the record established at the public hearing. If, after considering the matter at a public meeting, the legislative body deems a change in the planning commission's or planning agency's recommendation approving or disapproving any preliminary plat is necessary, the legislative body shall adopt its own recommendations and approve or disapprove the preliminary plat.

Every decision or recommendation made under this section shall be in writing and shall include findings of fact and conclusions to support the decision or recommendation.

A record of all public meetings and public hearings shall be kept by the appropriate city, town or county authority and shall be open to public inspection.

Sole authority to adopt or amend platting ordinances shall reside in the legislative bodies. The legislative authorities of cities, towns, and counties may by ordinance delegate final plat approval to an established planning commission or agency, or to such other administrative personnel in accordance with state law or local charter.

Staff Response: The RCW was amended in 2017 to allow the final plat approval 'to such other administrative personnel' in accordance with state law or local charter. Based on this code section, the proposal would allow the final plat approval to be granted by the director of community development or their designee after all conditions of the preliminary plat have been met.

RCW 58.17.170

Written approval of subdivision—Original of final plat to be filed—Copies—Periods of validity, governance.

(1) When the legislative body of the city, town, or county, or such other agency as authorized by RCW 58.17.100, finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of this chapter, other applicable state laws, and any local ordinances adopted under this chapter which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat. The original of said final plat shall be filed for record with the county auditor. One reproducible copy shall be furnished to the city, town, or county engineer. One paper copy shall be filed with the county assessor. Paper copies shall be provided to such other agencies as may be required by ordinance.

(2)(a) Except as provided by (b) of this subsection, any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and

for a period of five years from the date of filing if the date of filing is on or after January 1, 2015.

(b) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ten years from the date of filing if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of filing is on or before December 31, 2007.

(3)(a) Except as provided by (b) of this subsection, a subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of seven years after final plat approval if the date of final plat approval is on or before December 31, 2014, and for a period of five years after final plat approval if the date of final plat approval is on or after January 1, 2015, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

(b) A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of ten years after final plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of final plat approval is on or before December 31, 2007, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

RCW 58.17.190

Approval of plat required before filing—Procedure when unapproved plat filed.

The county auditor shall refuse to accept any plat for filing until approval of the plat has been given by the appropriate legislative body, or such other agency as authorized by RCW 58.17.100. Should a plat or dedication be filed without such approval, the prosecuting attorney of the county in which the plat is filed shall apply for a writ of mandate in the name of and on behalf of the legislative body required to approve same, directing the auditor and assessor to remove from their files or records the unapproved plat, or dedication of record.

Staff Response: RCW 58.17.170 and RCW 58.17.190 were updated in 2017 to correlate with RCW 58.17.100 to reflect recording requirements for final plats to accommodate the final plat approval to administrative personnel.

E. CONCLUSION

The RCW allows the Hearing Examiner to make the final decision on preliminary plats. In addition, it was updated in 2017 to allow the administrator sign off on the final plat once the conditions are met. Lewis County would like to propose to make this change to be consistent

with state law for a more streamlined and efficient process, while still provide adequate notice to the public.

F. EXHIBITS

- Exhibit 1 Lewis County Code Chapter 17.05 markup
- Exhibit 2 Lewis County Code Chapter 16.05 markup
- Exhibit 3 Lewis County Code Chapter 2.25 markup