



WASHINGTON COUNTY OREGON

June 7, 2013

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager
Planning and Development Services

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 763**

On March 20, 2013, you were notified about initial public hearings for proposed Land Use Ordinance No. 763 before the Planning Commission on April 17, 2013, and the Board of Commissioners (Board) on May 21, 2013. On May 21, 2013, the Board ordered substantive amendments to this ordinance. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 763** and are summarized below.

Ordinance Purpose and Summary

Ordinance No. 763 proposes to amend Community Development Code Section 605 (Land Divisions and Property Line Adjustments Inside a UGB) and Section 610 (Land Divisions and Property Line Adjustments Outside a UGB) to modify the property line adjustment (PLA) standards in unincorporated urban and rural areas (outside cities) to comply with the provisions included in House Bill 3629, adopted by the 2008 Oregon Special Legislature. Partial implementation of this legislation was previously completed in 2009 under Washington County Ordinance No. 720.

Who Is Affected

Owners of properties located inside and outside of the Urban Growth Boundary (UGB), but not within a city.

What Land is Affected

Properties located inside and outside of the UGB, but not within a city.

Original Ordinance No. 763 Provisions

As originally filed, Ordinance No. 763 proposed to amend Community Development Code Section 605 (Land Divisions and Property Line Adjustments Inside a UGB) and Section 610 (Land Divisions and Property Line Adjustments Outside a UGB) to modify the property line adjustment (PLA) standards in unincorporated urban and rural areas (outside cities) to comply with the provisions included in House Bill 3629, adopted by the 2008 Oregon Special Legislature. Partial implementation of this legislation was previously completed in 2009 under Washington County Ordinance No. 720.

Proposed A-Engrossed Ordinance No. 763 Provisions

Proposed **A-Engrossed Ordinance No. 763** incorporates all of the above-described amendments plus the following proposed amendments:

- Adds clarifying standards for PLAs that are above the minimum lot size established by the applicable land use district.
- Adds an allowance for a Type I review process for equal land area adjustments in the EFC District.
- Removes the initially-proposed two-acre minimum requirement for properties subject to a PLA, but requires resulting lots and parcels with less than two acres to meet health and safety requirements.
- Adds language that addresses lots and parcels with more than one land use designation.
- Includes miscellaneous text and formatting changes for clarification.

**Department of Land Use & Transportation · Planning and Development Services
Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

Public Hearings - Time and Place

Board of Commissioners

June 18, 2013
10:00 am

June 25, 2013
6:30 pm

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 N. First Avenue, Hillsboro, Oregon.

On June 25, 2013, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on June 25, 2013, the ordinance would become effective on July 25, 2013.

Community Development Code Standards Amended

- Section 605 - LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS INSIDE A UGB
- Section 610 - LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS OUTSIDE A UGB

How to Submit Comments

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board in advance of the public hearings in care of Long Range Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation
Planning and Development Services, Long Range Planning
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072
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Staff Contact

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Proposed Ordinance is available at the following locations:

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning
155 N. First Ave., Hillsboro, OR 97124-3072
Telephone: 503-846-3519
- www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs) Call 503-821-1128 for a directory of CPOs.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Third Reading and Third Public Hearing
Land Use & Transportation; County Counsel (All CPOs)

Agenda Title: **PROPOSED A-ENGROSSED ORDINANCE NO. 763 – AN
ORDINANCE AMENDING THE COMMUNITY DEVELOPMENT
CODE ELEMENT OF THE COMPREHENSIVE PLAN
RELATING TO PROPERTY LINE ADJUSTMENTS**

Presented by: Andrew Singelakis, Director of Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 763 proposes to amend the Community Development Code (CDC) Element of the Comprehensive Plan relating to property line adjustment standards.

The proposed ordinance is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

The Board conducted the initial hearing for Ordinance No. 763 on May 21, 2013 and ordered engrossment of the ordinance to make a number of changes. A description of those changes was included in the staff report for the May 21, 2013 hearing. The Board held its first hearing for A-Engrossed Ordinance No. 763 on June 18, 2013 and continued the hearing to June 25, 2013.

The staff report for the June 25, 2013 hearing will be provided to the Board prior to the hearing, posted on the above land use ordinance web page prior to the hearing, and will also be available at the Clerk's desk.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

DEPARTMENT'S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 763 by title only and conduct the second public hearing on the engrossed ordinance. At the conclusion of hearing, adopt A-Engrossed Ordinance No. 763.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>9.b.</u>
Date:	06/25/13

FILED

MAY 24 2013

**Washington County
County Clerk**

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 763

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Plan Relating to
Property Line Adjustment Standards

The Board of County Commissioners of Washington County, Oregon ("Board") ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, and 754-758.

B. Subsequent planning efforts of Washington County indicate there is a need for greater flexibility for property line adjustments on exclusive farm lands, by fully implementing the legislative changes in 2009 House Bill 3629. The Board takes note that such changes are for the health, welfare, and benefit of the residents of Washington County, Oregon.

1 C. Under the provisions of Washington County Charter Chapter X, the Department of
2 Land Use and Transportation has carried out its responsibilities, including preparation of notices,
3 and the County Planning Commission has conducted one or more public hearings on the proposed
4 amendments and has submitted its recommendations to the Board. The Board finds that this
5 Ordinance is based on those recommendations and any modifications made by the Board are a
6 result of the public hearings process;

7 D. The Board finds and takes public notice that it is in receipt of all matters and
8 information necessary to consider this Ordinance in an adequate manner, and finds that this
9 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan adoption
10 as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington County
11 Charter, the Washington County Community Development Code, and the Washington County
12 Comprehensive Plan.

13 SECTION 2

14 The following exhibits, which are attached hereto and incorporated herein by reference, are
15 hereby adopted as amendments, as follows:

- 16 A. Exhibit 1 (1 page) – amending Community Development Code Section 605, LAND
17 DIVISIONS AND PROPERTY LINE ADJUSTMENTS INSIDE A UGB;
18 B. Exhibit 2 (7 pages) – amending Community Development Code Section 610, LAND
19 DIVISIONS AND PROPERTY ADJUSTMENTS OUTSIDE A UGB.

20 SECTION 3

21 All other Comprehensive Plan provisions that have been adopted by prior ordinance, which
22 are not expressly amended or repealed herein, shall remain in full force and effect.

1 SECTION 4

2 All applications received prior to the effective date shall be processed in accordance with
3 ORS 215.427.

4 SECTION 5

5 If any portion of this Ordinance, including the exhibits, shall for any reason be held invalid or
6 unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and
7 shall remain in full force and effect.

8 SECTION 6

9 The Office of County Counsel and Department of Land Use and Transportation are
10 authorized to prepare planning documents to reflect the changes adopted under Section 2 of this
11 Ordinance, including deleting and adding textual material and maps, renumbering pages or sections,
12 and making any technical changes not affecting the substance of these amendments as necessary to
13 conform to the Washington County Comprehensive Plan format.

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1 SECTION 7

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this 25 day of June, 2013, being the 3rd reading and
4 3rd public hearing before the Board of County Commissioners of Washington County, Oregon.

5 BOARD OF COUNTY COMMISSIONERS
6 FOR WASHINGTON COUNTY, OREGON

7 **ADOPTED**

8 Gregory P. Malinowski
vice CHAIRMAN

9 Barbara Hejmanek
RECORDING SECRETARY

10 READING

11 First May 21, 2013
12 Second June 18, 2013
13 Third June 25, 2013
14 Fourth _____
15 Fifth _____

10 PUBLIC HEARING

11 First May 21, 2013 (Engrossment
ordered)
12 Second June 18, 2013
13 Third June 25, 2013
14 Fourth _____
15 Fifth _____

16 VOTE: Aye: Rogers, Terry
Malinowski, Schouten,
17 Recording Secretary: Barbara Hejmanek

16 Nay: _____
17 Date: June 25, 2013

Community Development Code Section 605, LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS INSIDE A UGB, is amended to reflect the following:

605 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS INSIDE A UGB

605-1 Property Line Adjustment (Property Line Relocation)

A property line adjustment is the relocation or consolidation of a common boundary line between two or more abutting properties where an additional lot or parcel is not created, ~~and when the existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable land use district. Notwithstanding the above, equal area land exchanges among existing lots below the minimum lot size of the district are allowed.~~

605-1.1 Procedures

~~Property line adjustments shall be processed through a Type I procedure.~~

A. General Limitations

Property line adjustments are limited as follows:

- (1) Existing lots or parcels reduced in size by a property line adjustment may not be reduced below the minimum lot size established by the applicable land use district, unless authorized by Section 605-1.1 B.
- (2) For property line adjustments on lots or parcels with two or more land use districts, the minimum lot size shall be based on the predominant land use district of the parcel.

B. Property Line Adjustments Permitted Through a Type I Procedure

Property line adjustments shall be processed through a Type I procedure provided that:

- (1) Equal land areas are exchanged; or
- (2) For properties entirely outside the boundary of a city, one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable district before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable district; or
- (3) For properties entirely outside the boundary of a city, both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the property line adjustment.

Community Development Code Section 610, LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS OUTSIDE A UGB, is amended to reflect the following:

610 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS OUTSIDE A UGB

610-1 Property Line Adjustments (Property Line Relocation)

A property line adjustment is the relocation or consolidation of a common boundary line between two or more abutting properties where an additional lot or parcel is not created.

610-1.1 A. General Limitations

Property ~~Line~~ aAdjustments are limited in the following Districts as follows:

- ~~(1)~~ In the AF-10, AF-5₁ and RR-5 Districts, lots or parcels may be reduced below the district's specified minimum lot size (10 acres, 5 acres and 5 acres, respectively) pursuant to the standards of this Section. However, if a lot or parcel is increased in size by a property line adjustment that reduces the size of one or more other lots or parcels to less than the district's specified minimum lot size (as allowed in subsection B below), or that further reduces one or more lots or parcels already below the district's specified minimum lot size, the lot or parcel which is increased in size shall not be eligible to be divided into more lots or parcels than it could have qualified for prior to the property line adjustment.
- ~~(2)~~ In the R-COM, R-IND₁ and MAE Districts, no lot or parcel shall be reduced in size below the minimum lot area established by the district unless approval is granted per the standards of Section 435.
- ~~(3)~~ In the EFC District, no lot or parcel shall be reconfigured to qualify for a Lot of Record Dwelling under Section 430-37.2 E. (2). With the exception of equal land area adjustments described under Section 610-1.1 B (1), all property line adjustments in the EFC District shall be reviewed under Section 610-1.1 C.
- (2) Property line adjustments that result in lots or parcels of less than two (2) acres shall provide:
 - (a) Documentation from the Washington County Department of Health or the Department of Environmental Quality that property(ies) less than two (2) acres in size can accommodate a subsurface sewage disposal system and/or replacement system; and
 - (b) Documentation from the Water Master that property(ies) less than two (2) acres in size can accommodate public water or an on-site water source.

(3) Existing lots or parcels reduced in size by a property line adjustment may not be reduced below the minimum lot size established by the applicable land use district, unless authorized by Section 610-1.1 B or C.

(4) For property line adjustments on lots or parcels with two or more land use districts, the minimum lot size shall be based on the predominant land use district of the parcel.

B. Property Line Adjustments Permitted Through a Type I Procedure

Property lines in the EFU, ~~EFC~~, AF-20, AF-10, AF-5, RR-5, R-COM, R-IND and MAE, ~~FD-20 and FD-10~~-Districts shall be adjusted through a Type I procedure provided:

(1) Equal land areas are exchanged; or

~~(2) A lot or parcel is reconfigured to align with a road or railroad right-of-way, a power transmission line on deeded property, an urban growth boundary (if entirely outside the boundary of a city) or a channel of a river or other watercourse or body of water that divides the lot or parcel; or~~

~~(3)~~ (2) No lot or parcel is reduced in size below the minimum lot size for the District except for the following:

(a) When a federal, state, or local judiciary issues a court decree for adverse possession, way of necessity or a prescriptive use. The adjustment shall not be larger than the minimum size necessary to implement the court decree; or

(b) Where a parcel has a lawfully established structure which is in violation of a setback requirement. The adjustment shall not be larger than the minimum size necessary to correct the violation; or

(c) Where a parcel is being reconfigured for the purpose of a Federal project for creation of, restoration of or enhancement of wetlands; or

(d) When a parcel is reconfigured to provide adequate sight distance as determined by the County Engineer; or

(e) A lot or parcel is reconfigured to align with a road or railroad right-of-way, a power transmission line on deeded property, an urban growth boundary or a channel of a river or other watercourse or body of water that divides the lot or parcel; or

(3) For properties entirely outside the boundary of a city, one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable district before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable district; or

- (4) For properties entirely outside the boundary of a city, both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the property line adjustment.
- ~~(4) In the AF-10 District no lot is reduced below eight (8) acres, except lots or parcels created through a Rural Planned Development which has received final approval are subject to the lot area standards that were in effect at the time the Rural Planned Development was approved.~~
- ~~(5) In the AF-5 District no lot is reduced below four (4) acres, except lots or parcels created through a Rural Planned Development which has received final approval are subject to the lot area standards that were in effect at the time the Rural Planned Development was approved.~~
- ~~(6) In the RR-5 District no lot is reduced below two (2) acres, except existing lots or parcels that are one (1) to two (2) acres may be adjusted through a Type I procedure if none of the lots are reduced below one (1) acre, equal areas of land are transferred, and the provisions of Section 350-6.1 C.(1) and (2) are met.~~
- ~~(7) In the AF-5 and AF-10 Districts, property lines of lots created through a Rural Planned Development may be adjusted through the Type I procedure when the findings upon which the decision is based or conditions of approval do not prevent the proposed property line adjustment; and the lotting pattern was not created to buffer an EFU, EFC or AF-20 District or commercial farm or forest use. The determination of compliance with this standard shall be based on the decision that approved the Rural Planned Development. The following standards and limits apply to these Type I adjustments:~~
- ~~(a) No lot is reduced below the minimum acreage allowed in Section 404 (RPD standards); and the adjustment:~~
- ~~(i) Is to locate a subsurface disposal system which cannot be approved due to soil conditions; or~~
- ~~(ii) Is necessary to provide suitable turn-around for emergency vehicles, but does not exceed one-half (1/2) acre in size; or~~
- ~~(iii) Is necessary to facilitate the drilling of a domestic well, but does not exceed one-quarter (1/4) acre in size; or~~
- ~~(iv) Is to correct a survey error, and is the minimum size necessary for the correction; or~~
- ~~(v) Involves an equal area exchange when the Rural Planned Development did not result in an increase in density of the basic district; and~~

~~(b) Streets within the development that abut an adjacent property or an exterior adjacent street are not relocated more than one-half (1/2) the width of the right-of-way, easement or tract; or are not relocated so that they abut a different property from the property approved in the final plat.~~

C. Property Line Adjustments Permitted Through a Type II Procedure

~~Property lines in the EFU, EFC, AF-20, AF-10, AF-5 and RR-5 Districts~~In the EFC District, on lots or parcels located entirely outside the boundary of a city, property lines may be adjusted through a Type II procedure when the following standards are met:

- ~~(1) In the EFU and AF-20 Districts, a lot or parcel with a nonfarm use, not including a nonfarm dwelling, may be reduced below eighty (80) acres through a Type II procedure, provided:~~
- ~~(a) The adjustment is the minimum amount needed to accommodate the use; and~~
- ~~(b) One of the following scenarios is present:~~
- ~~(1) (i) One or both of the abutting properties are smaller than the minimum lot or parcel size before the adjustment, and after the adjustment, at least one property is as large or larger than the minimum lot or parcel size for the applicable district; or~~
- ~~(2) (ii) Both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the adjustment.~~
- ~~(c) A power generation facility shall comply with the lot area requirements of Section 430-141.~~
- ~~(3) The adjustment shall not decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable district and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling.~~or
- ~~(4) The adjustment shall not decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling.~~
- ~~(5) The adjustment shall not allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.~~

- ~~(2) In the EFU and AF-20 Districts, a lot or parcel with a nonfarm use may be expanded through a Type II procedure provided:~~
- ~~(a) One of the following scenarios is present:~~
- ~~(i) One or both of the abutting properties are smaller than the minimum lot or parcel size before the adjustment, and after the adjustment, at least one property is as large or larger than the minimum lot or parcel size for the applicable district; or~~
- ~~(ii) Both abutting properties are smaller than the minimum lot or parcel size for the applicable district before and after the adjustment; and~~
- ~~(b) The adjustment is the minimum amount needed to accommodate the use; and~~
- ~~(c) The suitability of the remnant lot or parcel for farm and/or forest practices is not lessened due to the property line adjustment; and~~
- ~~(d) The proposed use will not:~~
- ~~(i) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or~~
- ~~(ii) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.~~

~~An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.~~

- ~~(3) In the EFC District, property lines for the uses in Sections 342-3.2 A. (navigation and aviation aids); 342-3.1 C. (exploration for geothermal, gas, oil, etc.); 342-4.1 C. (firearms training facility); 342-3.2 F. (log scaling and weigh stations); 342-3.2 I. (parks); 342-3.2 J. (permanent logging equipment repair and storage); 342-3.1 G. (production of geothermal, gas, oil, etc.); 342-3.2 L. (reservoirs and water impoundments); 342-3.1 I. (DEQ-mandated solid waste disposal site); 342-3.2 M. (communication facilities and transmission towers); 342-3.2 R. (utility facilities for generating power); 342-3.2 S. (water intake facilities and related facilities); 342-4.1 B. (campground); 342-3.2 B. (cemetery); 342-4.1 D. (mining and processing of oil, gas and other subsurface resources); 342-4.1 H. (fire station); 342-4.1 E. (permanent facility for the primary processing of forest products); 342-4.1 I. (solid waste disposal site); and 342-4.1 J. (communication facilities and transmission towers) may be adjusted through a Type II procedure when the following standards are met:~~

- ~~(a) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;~~

- ~~(b) The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;~~
 - ~~(c) The parcel is not larger than the minimum size necessary for the use; and~~
 - ~~(d) The applicant shall sign and record in agreement form, in the Deed and Mortgage records of the County, a statement which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.~~
- ~~(4) In the AF-5 and AF-10 Districts, lot lines of parcels created through a Rural Planned Development shall be adjusted through a Type II procedure when the standards for Type II property line adjustments that were in effect at the time the Rural Planned Development was approved are met:~~
- ~~(a) The adjustment meets the standards for Type II property line adjustments that were in effect at the time the Rural Planned Development was approved; or~~
 - ~~(b) If the Code in effect at the time the Rural Planned Development was submitted had no adopted standards for processing Type II property line adjustments, the adjustment meets the general Rural Planned Development approval standards.~~
- ~~(5) In the RR-5 District, a lot or parcel may be reduced to one (1) acre through a Type II procedure if the lot or parcel meets the standards in Section 350-6.1 C.~~
- ~~(6) In the EFC District, a lot or parcel with an existing dwelling may be reduced below eighty (80) acres upon findings that:~~
- ~~(a) The parcel is five (5) acres or less, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than ten (10) acres;~~
 - ~~(b) The dwelling existed prior to June 1, 1995;~~
 - ~~(c) The configuration of the parcels will allow for the establishment of an alternate septic tank drainfield for the existing dwelling;~~
 - ~~(d) The remaining parcel (not containing the dwelling) is consolidated with another parcel, and together the parcels are at least eighty (80) acres; and~~
 - ~~(e) Prior to final approval for a dwelling, the applicant records a restrictive covenant that precludes construction of a dwelling on the remaining parcel (80 acre or larger). The restrictive covenant shall be~~

~~irrevocable, unless the Director finds that the remaining parcel is no longer subject to Statewide Goal 3 (Agricultural Lands).~~
