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CLARK COUNTY  
WASHINGTON

## COMMUNITY PLANNING

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### MEMORANDUM

TO: Clark County Planning Commission  
FROM: Oliver Orjiako, Director  
DATE: June 2, 2016  
SUBJECT: Revised Agriculture and Forest land division code language

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As part of the preferred alternative for the 2016 Comprehensive Plan update, the Board of County Councilors included a proposal to change the minimum parcel sizes for agricultural lands from 20 to 10 acres and Tier II forest lands from 40 to 20 acres.

To implement this change, a proposed section on land divisions on parcels formerly zoned AG-20 and FR-40 has been prepared that would become part of CCC Section 40.210.010. Land divisions would have to either be through use of clustering or the designation of building envelopes. Either method requires that non-resource development avoid critical areas and maximize the remaining area for resource uses.

The original proposal required that clustering be used. At a work session on May 4, the Board asked that an additional option be added that included the use of building envelopes.

The latest draft is attached. Changes from the original draft are in gray shading.

**40.210.010 FOREST, AGRICULTURE AND AGRICULTURAL-WILDLIFE DISTRICTS  
 (FR-80, FR-20, FR-40, AG-10, AG-20, AG-WL)**

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E. Land Divisions in the AG-10 and FR-20 Zones.

1. Purpose.

- a. The purpose of subsection 40.210.010(E) is to provide for smaller lot residential development in the resource zoning districts (AG-10 and FR-20) which maintains and conserves larger remainder parcels or open space for agricultural and forest uses, protects and/or enhances sensitive environmental and wildlife habitat areas, and minimizes impacts to necessary public services. These goals are achieved by allowing the placement of homes on a small portion of the property while maintaining the majority of the site for agricultural and forestry uses. in a non-buildable remainder parcel. This is consistent with the goals and policies of the Growth Management Act, especially the provisions for innovative development techniques to conserve resource lands.
- b. The provisions of this subsection shall apply to all land divisions in the AG-10 and FR-20 zoning districts after July 1, 2016.
- c. Available options for land division are authorized:
  - (1) Pursuant to Chapter 40.540 and Section 40.210.010(E)(3); or
  - (2) Pursuant to Chapter 40.540 and by using the cluster provisions in Section 40.210.010(E)(4).
- d. In the AG-10 zoning district:
  - (1) Land divisions that result in parcels twenty (20) acres (or lots capable of being described as 1/32 of a section) in size or larger are allowed under the exemption provisions of Section 40.540.020(B)(4)(b).
  - (2) Land divisions that result in parcels less than (20) acres in size must be platted and meet the additional requirements of this chapter.
- e. In the FR-20 zoning district, land divisions that result in parcels less than (40) acres in size must be platted and meet the additional requirements of this chapter.
- f. Previously approved cluster or lot reconfiguration remainder lots are not eligible to use the provisions of this section.

2. Definitions. For the purposes of this subsection, the following definitions shall apply:

<u>Building envelope</u>	<u>“Building envelope” means that buildable portion of a lot or parcel (the area outside of setbacks and easements) which is designated on the final plat for the location of a structure and utilities.</u>
<u>Critical lands</u>	<u>“Critical lands” mean those lands classified by Chapter 40.440 as habitat areas, by Chapter 40.450 as any wetland category and associated buffers, by Chapter 40.430 as landslide hazard areas, all lands subject to Shoreline Management Act jurisdiction by Chapter 40.460, and all lands within a designated one hundred (100) year floodplain or floodway by Chapter 40.420.</u>
<u>Remainder parcel</u>	<u>“Remainder parcel” means the remainder parcel of the cluster subdivision that contains the majority of the land within the development and is devoted to resource or open space use.</u>

3. Development standards for subdivisions or short plats.

- a. A subdivision or short subdivision is allowed at a maximum density equivalent to that which would be permitted by applying the otherwise applicable minimum lot size requirements of this section. The density shall be based on one hundred percent (100%) of the gross area of the site.
- b. Building envelopes shall be shown on the plat and shall be located, as follows:
  - (1) to include the dwelling, utilities, and all non-agricultural and non-forest structures;
  - (2) be limited to one (1) acre in size, unless a larger size is required by Clark County Public Health. In no case shall building envelopes exceed one-and-a-half (1.5) acres in size;
  - (3) to minimize conflicts between housing and agricultural or forest uses;
  - (4) as close as possible along parent property boundary lines and existing roads, to minimize the need for new roads and driveways;
  - (5) to avoid critical areas, including fish and wildlife habitat areas, riparian corridors, geologic hazard areas, areas of significant natural vegetation, wetlands, prominent hillsides, meadows, ridges, and any buffers associated with the above areas;
  - (6) if located on agriculturally zoned land, and to the extent not precluded by other provisions of this subsection, to be limited to lands with poor soils or soils otherwise unsuitable for agriculture purposes; and
  - (7) to allow for a buffer from abutting resource uses.
- c. A farm or forest management plan is required for each subdivided parcel. The plan shall be submitted and approved with the preliminary application. The plan shall:
  - (1) identify permitted uses and management of the parcel so that it maintains designated agricultural or forest functions and provides for the protection of all critical areas;
  - (2) identify the responsibility for maintaining agriculture or forest uses on the parcels;  
and
  - (3) include any construction activities (for example, fencing or agricultural buildings) and vegetation clearing that may occur on-site.If in current use, The plan submitted for the current use taxation program shall suffice for meeting this requirement.

4. Development Standards for Clustering.

- a. Cluster developments are required, and are allowed at a maximum density equivalent to that which would be permitted by applying the otherwise applicable minimum lot size requirements of this section. The density shall be based on one hundred percent (100%) of the gross area of the site.
- b. Cluster lots shall be created, as follows:
  - (1) to minimize conflicts between housing and agricultural or forest uses;
  - (2) along parent property boundary lines, adjacent to existing roads, and to minimize the need for new roads and driveways;
  - (3) to have building envelopes that avoid critical areas;
  - (4) on parcels with an existing house, one of the cluster lots has to include the existing house;
  - (5) to be adjacent to each other and to any pre-existing residence, unless the location of the existing residence would preclude compliance with the other provisions of this subsection;
  - (6) if located on agriculturally zoned land, and to the extent not precluded by other provisions of this subsection, to be limited to lands with poor soils or soils

otherwise unsuitable of agriculture purpose; and  
(7) each cluster lot shall contain a buffer from abutting resource uses.

c. Remainder parcel.

- (1) The remainder parcel shall be contiguous. Fragmentation of the parcel by public or private road easements and/or building sites shall not occur unless no other reasonable alternative exists. Remainder parcels shall also be located adjacent to other bordering remainder parcels or public parks and open space, if practical.
- (2) The remainder parcel shall be non-buildable and used for the agriculture and forestry uses as listed in Table 40.210.010-1(8)(a), (b) and (d), or as open space.
- (3) A farm or forest management plan is required for the remainder parcel. The plan shall be submitted and approved with the preliminary application. The plan shall:
  - (a) identify permitted uses and management of the parcel so that it maintains designated agricultural or forest functions and provides for the protection of all critical areas;
  - (b) identify the responsibility for maintaining agriculture or forest uses on the parcels; and
  - (c) include any construction activities (for example, fencing or agricultural buildings) and vegetation clearing that may occur on-site.

If in current use, the plan submitted for the current use taxation program shall suffice for meeting this requirement.
- (4) A note shall be placed on the plat that the remainder parcel shall not be further subdivided or reduced in size unless brought into an urban growth area. In addition, a restrictive covenant shall be recorded that clearly state that only the above uses are permitted on the parcel. The note and covenant shall also incorporate the management plan, as described above.

d. Lot Requirements. New lots and structures and additions to structures subject to this section shall comply with the applicable standards for lots and building height, and setbacks in Tables 40.210.010-4 and 40.210.010-5, subject to the provisions of Chapter 40.200 and Section 40.550.020.

<b><u>Table 40.210.010-4. Lot Requirements -- FR-20 and AG-10 Cluster Developments</u></b>			
<u>Lot Type</u>	<u>Lot Size</u>	<u>Minimum Lot Width (feet)</u>	<u>Minimum Lot Depth (feet)</u>
<u>Cluster Lot</u>	<u>1 acre<sup>1</sup></u>	<u>140</u>	<u>140</u>
<u>Remainder Lot</u>	<u>85% or greater of the parent parcel<sup>2</sup></u>	<u>None</u>	<u>None</u>

<sup>1</sup> Unless a larger size is required by Clark County Public Health. In no case shall a cluster lot exceed one-and-a-half (1.5) acres in size. Cluster lots can use right-of-way to meet the minimum lot size as permitted by Section 40.200.040(C)(1).

<sup>2</sup> The minimum standard for remainder parcels controls the maximum size of cluster lots.

<b>Table 40.210.010-5. Setbacks, Lot Coverage and Building Height -- FR-20 and AG-10 Cluster Development</b>						
<u>Zoning District and Lot Type</u>	<u>Location or Structure Type</u>	<u>Minimum Setbacks</u>			<u>Maximum Lot Coverage</u>	<u>Maximum Building Height (feet)</u>
		<u>Front (feet)</u>	<u>Side (feet)</u>	<u>Rear (feet)</u>		
<u>FR-20 and AG-10 Cluster Lots</u>	<u>Residential or agricultural structures abutting a cluster lot</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>N/A</u>	<u>35<sup>2</sup></u>
	<u>Residential structures abutting a resource district</u>	<u>50<sup>1</sup></u>	<u>50<sup>1</sup></u>	<u>50<sup>1</sup></u>		
	<u>Agricultural structures</u>	<u>20</u>	<u>20</u>	<u>20</u>		
	<u>Vehicle entry gates</u>	<u>20</u>	<u>20</u>	<u>20</u>		
	<u>All other situations</u>	<u>50</u>	<u>20</u>	<u>50</u>		

<sup>4</sup>Development on remainder lots is subject to Tables 40.210.010-1 through 4.

<sup>1</sup>Except in cases where it can be shown that requiring the normal setback will result in the location of the building sites within inappropriate areas such as wildlife habitat or wetland areas or the dimensions of the development site render it unbuildable.

<sup>2</sup>Residential buildings only.

e. Design Requirements. The design requirements for cluster developments are listed below. These requirements shall be recorded on the plat.

(1) No entryway treatments, monument or other permanent development signs are permitted. This shall not be construed to prohibit landscaping.

(2) To the maximum practicable extent, existing historic rural features shall be preserved as part of the cluster development. These features include but are not limited to rock walls, fences, functional and structurally safe farm buildings, monuments and landscape features.

f. Landscaping Standards. Cluster developments shall be landscaped within the developed portion of cluster lots to reduce views of the development from public right(s)-of-way, so that a filtered view is provided of the cluster and the cluster does not dominate the landscape.

(1) At a minimum, proposed or existing landscaping and vegetation shall be of sufficient size and type to provide a buffer of vegetation six (6) feet in height and fifty percent (50%) opaque year round within three (3) years of planting. New landscaping

materials shall consist of native vegetation as provided on the Clark County plant list (see the Standard Details Manual). A combination of trees and shrubs must be used.  
(2) All landscaping shall be installed prior to final plat unless financial guarantees are made for its installation prior to any building permit activity. Any required landscaping materials that fail to survive within the first two (2) years shall be promptly replaced.  
7. Procedures. Cluster land divisions shall be processed in accordance with the procedures for land divisions in Chapter 40.540.

g. Notice of Resource Activities. For any areas abutting property zoned for agricultural or forestry uses, Where otherwise undevelopable cluster remainder parcels are designated for commercial timber or agricultural activities the following notice shall be recorded as part of the Developer Covenants to Clark County for each parcel within the cluster:  
“The subject property is adjacent to commercial agricultural or forest lands on which a variety of commercial activities may occur that are not compatible with residential development. Potential discomforts or inconvenience may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.”

#### **40.540.020 LAND DIVISION – INTRODUCTION**

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#### **B. Applicability.**

4. Exemptions. The provisions of this chapter shall not apply to the following:
  - b. With the exception of parcels in an FR-20 zoning district subject to Section 40.210.010(E)(1). Divisions of land into lots or tracts, each of which is one thirty-second (1/32) of section or larger, or twenty (20) acres or larger, if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this item which borders on a street or road, excluding limited-access streets or roads, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street, and the side lot lines of the lot running perpendicular to such centerline.

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