

Licking County Planning Commission

STAFF REPORT

APPLICATION: Amendment to Subdivision, Land Division, Development and Congestion Prevention Regulations for Licking County, Ohio
Article 3 - Section 3.16 Adjacent Property Transfer (Former Exempt Split)

DATE: September 28, 2009

APPLICANT: LCPC Staff

PLANNING CONSIDERATIONS:

The revision made to this section in 2008 does not clarify exactly when adjacent property transfers are to be combined by deed and survey. The staff has found that there is some room for interpretation which we wish to narrow based on the following suggestions.

Any adjacent property transfer must be combined by survey and deed if the total acreage after the transfer is less than 20 acres. Any property 20 acres or more will not have to be surveyed as one property.

The reason for this change is based on costs for surveying. For example, a property owner wishes to purchase 3 acres from their neighbor. They currently own 59 acres. With the current regulations, the 62 total acres would have to be combined with a survey. The cost of surveying the 62 acres is quite significant. More importantly, the staff does not feel the benefit of having the 62 acres outweighs the cost of the survey. The 3 acres will have the "non-buildable" language in the deed. That will not change.

However, if a property owner wishes to straighten out their property line to ensure their driveway is on their property, they will have to buy .5 acres from their neighbor. They currently own 2.0 acres. Based on the new proposal, they must resurvey the 2.5 acre property as a whole. The reason being that smaller acreage properties tend to be involved in more disputes, ownership problems and creates issues for future lot development.

Staff has proposed the following changes to better clarify the requirements of these regulations:

Section 3.16 Adjacent Property Transfer (Former Exempt Split)

The division and sale or exchange of parcels in size between adjoining lot owners, where such sale or exchange will not create an additional building site, shall be exempted from these Regulations under the following circumstances:

1. **Criteria for surveying of property for lot combination purposes.**

A. **For property containing 20 acres or more after property transfer:**

It ~~can~~ shall be clearly demonstrated that the parcel(s) does not create an additional building site or new access to a public roadway. The LCPC shall require that deed restrictions be placed on the property limiting the use of the parcel to only accessory buildings or uses. The deed restriction will state that:

“The herein described XX.XX acres shall not constitute an independent building site separate from the Grantees’ adjacent parcel or transferred as an independent principal building parcel in the future unless approved as such in accordance with applicable Subdivision Regulations. ~~After this deed is recorded, the Grantee shall prepare another deed (original parcel & adjacent property transfer) of the total acreage under this new deed and description.”~~

B. **For property containing less than 20 acres or more after property transfer:**

It ~~can~~ shall be clearly demonstrated that the parcel(s) does not create an additional building site or new access to a public roadway. The LCPC shall require that deed restrictions be placed on the property limiting the use of the parcel to only accessory buildings or uses. The deed restriction will state that:

“The herein described XX.XX acres shall not constitute an independent building site separate from the Grantees’ adjacent parcel or transferred as an independent principal building parcel in the future unless approved as such in accordance with applicable Subdivision Regulations. After this deed is recorded, the Grantee shall ~~prepare~~ **record** another deed **and survey** (original parcel & adjacent property transfer) of the total acreage under this new deed and description.”

2. The property has been surveyed by a registered surveyor in the State of Ohio. Two copies of a drawing showing the establishment of property corners by iron pins, corner posts, and/or other monuments, and two copies of the legal description of the property must be submitted with a completed minor subdivision lot split application for administrative approval with corresponding sections completed by both the applicant and a registered surveyor.

3. The parcel cannot violate the intent of Section 4.51 Lot Standards, of the County Subdivision Regulations.

4. The parcel cannot violate the intent of all applicable Township zoning regulations.

5. Any other material deemed reasonably necessary by the LCPC to complete the application.

6. All applicable fees as stated in Appendix IX, Licking County Fee Schedule.

7. The deed that combines the original parcel and property transferred must be recorded immediately following the recording of the deed described in Section 3.16 #1B above.

NOTE: Adjacent Property Transfer (per O.R.C. Section 711) land divisions, as non-buildable lots, shall not count towards the five minor lot splits per year limitation.

When an authorized representative of the LCPC is satisfied that a proposed sale or exchange of a parcel between adjoining owners meets the requirements of this section, he or she shall stamp the conveyance "Adjacent Property Transfer" and sign and date it.

NOTE: This does not exempt any lot from the Licking County Engineer standards for faulty descriptions. Please contact the Licking County Engineer's Office at 740-670-5280 for further information.

STAFF RECOMMENDATION:

Staff recommends **approval** of the proposed amendments.

Prepared by: Jim Lenner
LCPC Mtg Date: September 28, 2009