

## **MEMORANDUM**

TO: Cass County Board of Commissioners

FROM: Barrett Voigt, Cass County Planner

DATE: May 23, 2019

SUBJECT: First Reading Agenda Topic for the June 3, 2019  
Commission Meeting: Cass County Subdivision  
Ordinance Section 203 Text Amendment

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The Cass County Planning Commission reviewed the application of the proposed Cass County Subdivision Ordinance Section 203 Text Amendment at a Public Hearing on April 25, 2019. The intended purpose of the text amendment is to allow for an additional subdivision ordinance exemption that would allow for abutting properties of agricultural uses to make lot line adjustments without being required to plat.

The Planning Commission is recommending approval of the proposed text amendment and has forwarded the application to the Cass County Board of Commissioners for action.

### **SUGGESTED MOTION:**

Move to accept the findings and recommendations of the Planning Commission and staff to approve of the first reading of the proposed text amendment to Section 203 of the Cass County Subdivision Ordinance #2006-1, as the proposal meets the goals and objectives of the Cass County Comprehensive Plan and the Cass County Subdivision Ordinance and all other applicable regulations; authorize notice to be published in the official county newspaper; and schedule the second reading of the proposed text amendment application for the June 17, 2019 County Commission Meeting.



## Cass County Planning Commission Staff Report

<b>Entitlements Requested:</b>	Cass County Subdivision Ordinance (CCSO) Text Amendment		
<b>Title:</b>	CCSO §203 Text Amendment	<b>Date:</b>	04-12-2019
		<b>Update:</b>	05-23-2019
<b>Location:</b>	N/A	<b>Staff Contact:</b>	Barrett Voigt
<b>Owner(s)/Applicant:</b>	Cass County	<b>Engineer/Surveyor:</b>	N/A
<b>Status:</b>	County Commission Hearing: June 3, 2019		

### Proposal

The County Planner is seeking approval of a text amendment of §203 of the Cass County Subdivision Ordinance (CCSO) for the purpose of expanding the list of exemptions of the CCSO to allow for the exemption of lot line adjustment development for property with agricultural uses.

### Staff Analysis

Planning Department staff was notified of a potential development scenario whereby a small parcel with agricultural use was proposing to acquire additional agricultural land under 10 acres for the purpose of adjusting a lot line so that the parcel would be more parallel to the street frontage of the property. Under the current exemption standards found under the “Subdivision” definition in §203 of CCSO, this scenario would not be exempt from the CCSO because it does not meet exemption criteria of exemption “C” where 10 acres or more of lot size would be required in order for the development to be exempt from the CCSO requirements.

This development proposal seems like it should be exempt because it is similar to the language proposed in the exemption list of the CCSO and is supported by other language in the CCSO and the Cass County Comprehensive & Transportation Plan. The following sections of the CCSO and comprehensive plan support the addition of language to the exemption of the development proposal mentioned above:

- Section 102 of the CCSO states that the ordinance shall in no way prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming. Thereby providing the intent that agricultural land uses are supported by the ordinance.
- The Cass County Comprehensive & Transportation Plan states that township zoning ordinances should be created for townships to preserve agricultural land.

- The implementation plan of the comprehensive plan provides the following implementation statement to preserve rural heritage, “Protect the County’s valuable farmland, agricultural traditions, and existing rural character.”
- The comprehensive plan also states that to embrace the vision of the community that, “The basis of many county policies need to remain agriculturally focused, with an eye towards the primary sector economy, as well as emerging technologies.”

This development proposal was presented to the Planning Commission on February 28, 2019. Staff advised the Planning Commission that the intent of the CCSO and comprehensive plan is to promote agricultural uses and that feedback was solicited regarding a text amendment update to allow an exemption for agricultural land lot line adjustments. Staff received feedback from the Planning Commission that support was provided for a text amendment proposal.

During the April 25, 2019 Planning Commission Meeting, staff recommended a text amendment proposal where lot line adjustments for abutting properties with agricultural uses would be exempt from the subdivision ordinance. However, the exemption would limit land transaction land areas to no more than 15% of the property transferring or acquiring the land. However, the Planning Commission voted to amend the text amendment recommendation to remove the 15% language for the reason that the limit would not serve any purpose to accommodate agricultural land uses.

**Text Amendment Proposal:**

Staff proposes the following text amendment addition in underlined font to §302 of the CCSO:

**Subdivision.** A division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, either immediate or future, of sale or of building development and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from any such lot, tract, or parcel and the creation of new or enlarged parks, playgrounds, plazas, or open spaces. The following shall not be considered a subdivision and shall be exempt from the requirements of this Ordinance:

- A. a division of land pursuant to an allocation of land in the settlement of a decedent’s estate or a court decree for the distribution of property;
- B. a division of land for federal, state, or local government to acquire street right of way
- C. a division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use with no anticipation of dwelling unit construction and does not involve any new streets, easements or accesses other than field accesses;
- D. A division of land into cemetery plots; or
- E. The combination or recombination of portions of previously subdivided and recorded lots if the number of lots is not increased.
- F. Property line adjustment for abutting properties with agricultural use.

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## Staff Recommendation

Move to accept the findings and recommendations of the Planning Commission and staff to approve of the first reading of the proposed text amendment to Section 203 of the Cass County Subdivision Ordinance #2006-1, as the proposal meets the goals and objectives of the Cass County Comprehensive Plan and the Cass County Subdivision Ordinance and all other applicable regulations; authorize notice to be published in the official county newspaper; and schedule the second reading of the proposed text amendment application for the June 17, 2019 County Commission Meeting.

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