

City of Forks, Planning Department
Notice of approval of a Large Lot Division Application
DSDJ, LLC Large Lot Short Plat

Notice is hereby provided that on 10 Sep 2021, the City Planner did approve the large lot (lots greater than five acres) division of the property owned by DSDJ, LLC a partnership of Lynn Soloman, Dave Dilley, Mike Dilley, and Rick Jacoby. The applicants voluntarily submitted this project to the City for review with regard to access, critical areas, and utilities. Further, when originally submitted, additional information was requested of the applicant which was provided in late July regarding a binding landowner agreement to address violations of the DNR issued Forest Practices Permit and the current Critical Areas Code in relationship to the then in place Clallam County Shoreline Management Plan. Finally, the applicant provided the required SEPA checklist in early September. Final approval shall be granted upon expiration of the time noted below for appeals of this decision.

APPLICANT: Dan Kousbaugh on behalf of the partners of
DSDJ, LLC
1151 MERCHANT RD
FORKS, WA 98331-9250.

LOCATION: Parcel is located north and east of the Forks Elks Lodge and is immediately east of the Thimbleberry Lane development

DESCRIPTION OF PROPOSAL:

Division of the existing large 50.69 acre parcel into four (4) parcels ranging from ~8.5 acres to ~18.68 acres meeting the minimum lot size of the Forks Zoning Code for "R2 - Low Density Residential." Proponents will utilize a private driveway that has been in place for some time and has been used for recent logging activities of the above described parcel. The access, which will be a dedicated easement for ingress, egress, and utilities, comes off of Merchant Road south of the southern tip of the Forks Elks Lodge property. This easement is either 60' wide or a matching 30' easement adjacent to the eastern 30' easement associated with the Thimbleberry development. A single family residence (SFR) is currently underway, as any existing lot may construct one SFR. However, that development will, as a result of this short plat, be associated with one of the larger of the four large lots created by this voluntary short plat. Three of the four lots created utilize the Calawah River as their northern boundary and are subject to the City's Critical Areas Code, which adopted by reference the Clallam County Shoreline Management Plan (SMP) that was in effect prior to the Clallam County SMP that is currently in the process of being adopted by the City. A critical areas review for this proposed land division is being done in conjunction with this application.

Further, as part of the Critical Areas Review, the owner of the not yet completed SFR in order to address violations associated with the Department of Natural Resource's timber harvest permit, has entered into Forest Practice Conversion Landowner Agreement addressing required mitigation. That agreement has been incorporated into this approval and the Critical Areas review.

**GENERAL
LEGAL
DESCRIPTION:**

1. The Southerly 2.91 acres of Government Lot 5; and, the East half of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, EXCEPT the South half of the Southeast $\frac{1}{4}$ of said Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ all in Section 3, Township 28 N, Range 13 W, W.M. of Section 8, T 28 N, R 13 W, W.M., Clallam County. Subject to easements referenced in Attachment A to the Personal Representative's Deed 2017-1350507 filed 6/6/17 and also 2018-1365044 filed 5/17/18.

AND

2. The northerly 12.42 acres of Government Lot 5, Section 3, Township 28 N, Range 13 W, W.M. of Section 8, T 28 N, R 13 W, W.M., Clallam County.

(A copy of the relevant portions of the plat map for this property shall be attached to the mailing associated with this notice.)

**APPEAL
PROCESS:**

Any decision of the City Attorney/Planner may be appealed to the City of Forks City Council. A copy of the entire decision is available by contacting Mr. Fleck at his office. Those wishing to appeal this decision must file with the Clerk of the City their written request for an appeal, as well as state specific fact based reasons for the appeal. This appeal must be filed no later than 5 p.m., 27 September 2021.

**RESPONSIBLE
OFFICIAL:**

William R. Fleck
City Attorney/Planner
500 East Division
Forks, Washington 98331
(360) 374-5412

DATED:

10 Sep 2021

Signature: _____

The Forks City Attorney/Planner approves the attached application for a large lot property division (Exhibit "A") as of the date of this memorandum. This being the division of an existing large lot into two lots greater than five acres in size the action of the applicant is specifically exempted from the City's short subdivision ordinance. However, the applicant requested the City's review of its proposed division to ensure that the interests of the City are adequately addressed in ensuring that existing critical areas are adequately noted on the proposed property division; access is provided to the lots created; and, any lots created have access to municipal utilities.

REVIEW CRITERIA AND ANALYSIS

The following is the review of the above mentioned, albeit it limited, review criteria:

Minimum Lot Size: Each of the proposed lots exceed the minimum lot sizes for Low Density Residential lots in the City of Forks.

Critical Areas: The northern boundary of proposed Lots 1-3 is formed by the ordinary high water mark (OHWM) of the Calawah River. The Calawah River is classified as Class I Aquatic Habitat under the City's Critical Areas Code requiring a 150' buffer from the OHWM. See FMC 14.20.710(1). In addition, as part of that Code, the City adopted the Clallam County Shoreline Management Plan which under state law places the jurisdiction of the State's Shoreline Management Act involving all developments within 200' of the OHWM. The final plat must indicate that Lots 1, 2 and 3 are subject to development review of all actions that are undertaken within 200' of the OHWM which will be delineated on the final plat. Further, the final plat must indicate the approximate location of the 200' jurisdictional line of the SMA.

The property does front the Calawah River and as such does not require any "frontage" provision.

Final approval of the division, is contingent upon the inclusion of the following on the final plat of:

- (1) the location of the applicable buffer, as defined in FMC 14.20.710, for this critical area measuring from the ordinary high water mark;
- (2) the completion of the applicable "Notice to Title" associated with this identified critical area and the annotation of the existence of that "Notice to Title" being noted in the comments section of the final plat identifying Lots 1, 2, and 3 as subject to said notice;
- (3) language on the final plat indicating that future development of Lots 1, 2, and 3, including future division of the large lots, could require additional environmental reviews pursuant to the Critical Areas Code and the applicable SMP adopted by the City at the time of the future development;
- (4) language on the final plat that all stormwater associated with the development of all lots must be done in such a manner as to:

- (a) keep stormwater on site;
- (b) be done in such a manner as to comply with state requirements for infiltration devices; and,
- (c) be done in such a manner as to direct stormwater southward away from the Calawah River and its buffer;

(5) Any future development of Lots 1, 2, and 3 must ensure that on-site septic systems inclusive of drain fields are installed at least 200' south of the OHWM in accordance with approved County on-site septic system; and,

(6) Installation of the required permanent signage required by the Critical Areas Code.

Further, the associated river bench is an identified Geologically Hazardous Area associated potential landslide hazards under Article V of the Critical Areas Code. Final approval will be contingent upon this being noted on the final plat.

Further, the final plat will denote and reference the 15 Jul 2021 Soloman Landowner Agreement regarding the mitigation associated with the violation of the DNR harvest permit. The final plat will need to indicate the approximate area of the required Reserve Area and also the 100' buffer to that reserve area. A copy of the Soloman Landowner Agreement must be filed with the final plat.

Access: All four lots will be accessing a private driveway extending to Merchants Road. An easement of 30' will be created along the western boundary of proposed Lot 4 for ingress, egress, and utilities thereby widening the already easement found at Vol. 511, pg 447 on file with Clallam County. Said easement will note that use of this easement includes all government entities providing permits for development of the lots, as well as utilities to the lots.

Lot 3 will ensure that a proper hammer-head turnabout is constructed as part of its individual driveway development and maintained ensuring access for emergency vehicles. The portion of the 60' easement providing access to Lots 1 and 2 on Lot 3 will also be for ingress, egress, and utilities. Said easement will note that use of this easement includes all government entities providing permits for development of the lots, as well as utilities to the lots.

The easement proposed on the southern boundary of proposed Lot 2 will also be an easement for ingress, egress and utilities. Said easement will note that use of this easement includes all government entities providing permits for development of the lots, as well as utilities to the lots.

Further, a private road maintenance agreement will be completed with all lots included therein.

Finally, the final plat must include a notice to owners of Lots 1-4 that further division of the lots in the future could result in the developer being required to develop a public roadway in a manner that comports with the applicable City requirements in effect at the time of said development.

Municipal
Utilities/
Services:

All of the lots can access electrical, telephone, and water utilities. All utilities will be placed underground within the easements created within the proposed land division. On-site septic surveys have been completed for all lots and the final plat should cross reference the site registrations for each of those surveys. Final copies of those registrations should be attached to the final plat that is filed with the County Auditor

Other:

- A. Final plat shall denote that future development of the lots shall be in accordance with the applicable City zoning code and development codes. Future development shall be permitted only upon the providing for electrical, water, and on-site septic systems in a manner that comports with State and local regulations. As already noted above, future development associated with dividing of these lots may require construction and dedication of a public roadway pursuant to applicable City codes in effect at that time.
- B. The final plat shall note that Lots 3 & 4 are located to the west of forest lands that may be actively managed for timber production. That the adjacent lands could be subject to future silvaculture applications ranging from fertilization, tree removal, thinning and harvesting. As such the owners of Lots 3 & 4 are to be placed on notice that their proximity to such forested lands does not convey any right associated with views, aesthetics, and/or other enjoyments associated with the timber lands adjacent to their respective lots.

Based upon the above review, the Planning Director believes that the minimum concerns of the City of Forks in association with proposed large lot property division can be adequately addressed in the manner noted above.

This decision and determination of the Forks Planning Director may be appealed to the City of Forks City Council if done so in writing within fourteen days of the Planning Director's decision. The decision of the City Council shall be substantiated by written findings of fact.

DECISION

Based upon the review noted above the application for a large lot property division is approved as being in the best interest of the public and beneficial to the community.

This decision could be appealed by a member of the public, since there is a 14 day appeal period(excluding holidays) permitted by City Ordinance. Final approval shall be granted after 27 Sep 2021, if no such appeal is filed prior to 5 p.m., 27 Sep 2021.

William R. Fleck
City Attorney/Planner

City of Forks, Planning Department
Notice of Critical Areas Code Administrative Review

Notice is hereby provided that on 10 Sep 2021, the City Planner as administrator of the City's Critical Areas Code did complete a review of the proposed large lot land division proposed by DSDJ, LLC a partnership of Lynn Soloman, Dave Dilley, Mike Dilley, and Rick Jacoby to be referred to as the DSDJ, LLC Large Lot Division. The following is the review and determination by the critical areas code administrator:

Nature of Critical Area and Proposed Development: The northern boundary of proposed Lots 1-3 is formed by the ordinary high water mark (OHWM) of the Calawah River. The Calawah River is classified as Class I Aquatic Habitat under the City's Critical Areas Code requiring a 150' buffer from the OHWM. See FMC 14.20.710(1). In addition, as part of that Code, the City adopted the Clallam County Shoreline Management Plan which under state law places the jurisdiction of the State's Shoreline Management Act involving all developments within 200' of the OHWM. The final plat must indicate that Lots 1, 2 and 3 are subject to development review of all actions that are undertaken within 200' of the OHWM which will be delineated on the final plat. Further, the final plat must indicate the approximate location of the 200' jurisdictional line of the SMA.

Division of the property into the identified lots is consistent with the critical areas code in that it creates one residential building lot on a five acre parcel that incorporates the required buffers of the critical areas code. Applicant will be required on the final plat to clearly identify the buffers identified with the critical areas code. The applicant will be required to install the necessary critical areas notices. Applicant will ensure that the proposed Lot 3 is noted as having to comply with the 15 Jul 2021 Soloman Landowner Agreement regarding the mitigation associated with the violation of the DNR harvest permit. The final plat will need to indicate the approximate area of the required Reserve Area and also the 100' buffer to that Reserve Area. A copy of the Soloman Landowner Agreement must be filed with the final plat.

The mitigation associated above addresses both DNR harvest permit violations, but also potential critical areas buffer issues. Regarding Lots 1, 2, and 4, no alterations to the required buffer are being proposed with this development.

Further, the language on the final plat that all stormwater associated with the development of all lots must be done in such a manner as to:

- (a) keep stormwater on site;
- (b) be done in such a manner as to comply with state requirements for infiltration devices;
- and,
- (c) be done in such a manner as to direct stormwater southward away from the Calawah River and its buffer;

Administrator's Review/Decision: Shortplats, as well as single family residences, are exempt from SEPA review pursuant to FMC 14.10.220 adopting by reference the State Environmental Policy Act exemptions found at WAC 197-11-800 to include minor land use decisions such as short plats; HOWEVER, FMC 14.20.560 does require that such actions be reviewed by the administrator of the City's critical areas code ordinances. Proposed short plat will not adversely affect the buffer associated with either the Calawah River's Aquatic Habitat and the Geologically Hazardous Area

associated potential landslide hazards. The following shall be required of the development of this parcel, and will be in place prior to the final approval of the short plat:

- Final plat shall establish the buffer would be required as part of the division of this property and the final plat will note that additional compliance with the specific shoreline management code provisions could occur with the development of Lots 1, 2, and 3.
- Buffer shall be established, pursuant to FMC 14.20.700(3)(c), through dedication “as open space tracts, or an easement or covenant encumbering the buffer.” This dedication shall be done in such a manner as to allow for its filing with the short plat documents. This buffer shall be applied to Lots 1, 2, and 3. The dedication should note that the buffer could be reduced upon submission of a habitat management plan that is consistent with the requirements of the FMC 14.20 et al. PROVIDED, that any assessment of any buffer reduction also consider the geotechnical report recommendations submitted with the application. Prior to final approval, proponents will draft all necessary easements and/or buffer dedications for review by the administrator prior to finalizing and obtaining the signature of the City Planner on the short plat. The final plat shall note the Calawah River is a considered Class I Aquatic Habitat Conservation area as defined by FMC 14.20.690.
- Further, the buffer notice needs to indicate that the FIRM Flood Maps (Community Panel No 530021-580-C) denotes the existence of a Zone A floodplain for the Calawah River and appears to be contained within the applicable SMA buffer. Any development outside of the noted buffer above may require the delineation of that floodplain based upon the proposed development.
- Proponents shall file with the Clallam County Auditor’s office, as part of the materials that are approved by the City planner, a “Notice to Title” as specified and required by FMC 14.20.620. This notice to title will be filed for Lots 1, 2, and 3.
- Plat map shall also clearly state that the all stormwater must be kept on site when driveway and residential development occurs. Further, that Lot 3’s development must be done in such a manner as to ensure that the stormwater collection and infiltration system is located outside of and in a direction away from the SMA jurisdictional line (200’ from OHWM);
- Plat map shall also clearly state that any future development of Lots 1, 2, and 3 shall require further analysis and review of the proposed development pursuant to the critical areas code prior to obtaining further development permits and/or approvals.
- Plat map shall also clearly state that the current development of proposed Lot 3 will need to be done in such a way as to ensure that any on-site septic system is placed outside of the buffer area noted above in association with the identified critical areas code. Future development of Lot 3 must be done in such a manner as to ensure that this is in fact what is actually installed. Further, Lots 1 & 2 have had septic registrations undertaken. Those should be referenced on the final plat map and filed with the plat map. Future development of Lots 1 & 2 will require a review of the placement of any on-site septic systems by both the County and the City to ensure that the location is outside of the SMA jurisdictional area.
- Plat map shall attach to it “Certificate of Compliance” with the Forks Critical Areas Code for the shortplating of the property as proposed by the proponent subject to the requirements noted above and found within FMC Title 14.20. The certificate of compliance shall specifically note that it is in no way to be construed as an approval on future development of the properties; PROVIDED, that the proposed development of LOT 3 shall be noted as having been reviewed by and in compliance with the City’s critical areas code subject Lot 3 is noted as having to comply with the 15 Jul 2021 Soloman Landowner

Agreement regarding the mitigation associated with the violation of the DNR harvest permit.

This review, and the determination made by the administrator that a certificate of compliance for the shortplating of the property and the development of Lot 3, already underway, could be issued, is subject to appeal. Those wishing to appeal this decision must file with the Clerk of the City their written request for an appeal, as well as state specific fact based reasons for the appeal. This appeal must be filed no later than 5 p.m., 27 Sep 2021.

William R. Fleck
Attorney/Planner

Date: 10 Sep 2021