

Forest Practice Review, Staff Report and Recommendation

Project Name: Retha M Swift Trust

Case Number: FPA-2020-00136

Location: West of Amboy Road

Request: Lifting of 6 Year Development Moratorium prior to the approval of any development permits, due to logging with a State Department of Natural Resources (DNR) Forest Practice Application (FPA) #2928927; Dated 07/23/2014.

Applicant: Stephen Swift - Trustee
Po Box 249
Yacolt WA 98675
Phone - (360) 360-5730
E-mail - steve@mrsteelinc.com

Contact: Same as applicant

Property Owner: Charles and Stephen Swift Trustees
Po Box 249
Yacolt WA 98675

Recommendation
Approved subject to Conditions



Land Use Review manager's initials:

Date issued: October 7, 2020

Public Hearing date: October 22, 2020

Revised 2/5/15



Community Development
1300 Franklin Street, Vancouver, Washington
Phone: 564.397.2375 Fax: 360.397.2011
www.clark.wa.gov/development



For an alternate format,
contact the Clark County
ADA Compliance Office.
Phone: 564.397.2322
Relay: 711 or 800.833.6384
E-mail: ADA@clark.wa.gov

County Review Staff

	Name	Phone	Email Address
Community Development			
Land Use Review Manager	Susan Ellinger	564.397.5122	Susan.ellinger@clark.wa.gov
Land Use Review Planner	Melissa Curtis	564.397.5870	Melissa.curtis@clark.wa.gov
Public Works			
Lands Manager	Kevin Tyler	564.397.6118	Kevin.tyler@clark.wa.gov
Forester	Hunter Decker	564.397.4852	Hunter.decker@clark.wa.gov

Comp Plan Designation: Rural-10

Parcel Number: 276643-000

Approval Standards/Applicable Laws:

Clark County Code Section: 40.510.030 (Procedures); Chapter 40.260.080 (Forest Practices); Revised Code of Washington 76.09 (Forest Practices); Washington Administrative Code 222 (Forest Practices Board)

Neighborhood Association and Contact

Neighborhood Associations Council of Clark county (NACCC)

Phone – (564) 574-3363

E-mail – abramson@lifescrpartners.net

Vesting

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report. Contingent vesting does not apply to stormwater or concurrency standards.

A pre-application conference was not held or required. The fully complete application was submitted on August 4, 2020 and determined to be fully complete on August 13, 2020. Given these facts, the application is vested on August 4, 2020.

There are no disputes regarding vesting.

Time Limits

The application was determined to be fully complete on August 13, 2020. Therefore, the code requirement for issuing a decision within 92 days lapses on November 13, 2020. The state requirement for issuing a decision within 120 calendar days, lapses on December 11, 2020.

Public Notice

Notice of application and public hearing was mailed to the applicant, Neighborhood Associations Council of Clark County (NACCC) and property owners within 500(rural) feet of the site on September 4, 2020. One sign was posted on the subject property and two within the vicinity on September 21, 2020.

Public Comments

No comments received

Project Overview

Parcel was logged prior to the passing of Charles Swift Trustee on a DNR permit. The Trust would now like to accomplish a testamentary division of the property into three 10+ acre lots. The trust seeks a type 3 waiver of the moratorium in order to apply for development permits prior to the expiration of the 6-year development moratorium. There was no logging adjacent to creeks and the DNR has signed off on all practices as complete.

Compass	Comp Plan	Zoning	Current Land Use
Site	R-10	R-10	Vacant
North	FR-2	FR-40	Vacant
East	R-10	R-10	Single family residence
South	R-10	R-10	Vacant
West	R-10	R-10	Single family residence

Staff Analysis

Staff reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

Forest Practice**Finding 1 – Clark County Code (CCC) section 40.260.080**

According to Clark County Code (CCC) section 40.260.080 (C)(2)(b) actions that result in a six (6) year development moratorium being imposed include, "the approval or notification by the Department of Natural Resources (DNR) of a Class II, III, or IV special forest practices permit that does not have an associated COHP approval."

Clark County received notice for an approved DNR Class III forest practice permit (FPA/N No. 2934709) dated 04/26/2018 and applied the moratorium to the harvest area indicated in the forest practice permit.

Finding 2 –

CCC section 40.260.080(C)(3) states:

3. Request for Lifting of Development Moratorium. Any development moratorium established pursuant to Section 40.260.080(C)(2) may be lifted by the hearing examiner when the following requirements are met:

a. Public Hearing Required.

(1) The responsible official shall set a date for public hearing before the hearing examiner after all the requests for additional information or plan correction have been satisfied.

(2) The public hearing shall follow the procedures set forth in Subtitle 40.5, Procedures.

b. Review Criteria. The hearing examiner shall consider the lifting of a development moratorium established pursuant to this section when the following criteria are met:

(1) The forest practices conducted on the site meet the standards set forth in Section 40.260.080(A)(5).

(2) Corrective actions are implemented which would bring the forest practices into compliance with this section.

(3) If critical areas or critical area buffers have been damaged, the hearing examiner may impose increased critical area buffer standards together with additional requirements to mitigate the damage, the cost of which shall equal at least twice the value of the timber harvested within a critical area and buffer.

c. Approval.

(1) The hearing examiner shall review all requests for removal of a development moratorium, any comments received, and applicable county regulations or policies and may inspect the property prior to rendering a decision.

(2) The hearing examiner may approve an application for a request to remove a development moratorium, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this section.

d. Required Written Findings and Determinations. Removal of a development moratorium shall be approved by the hearing examiner if the application meets the review and approval criteria in Sections 40.260.080(C)(3)(b) and (C)(3)(c).

The applicant has successfully scheduled a public hearing for 10/22/2020. which satisfies the requirement of a required public hearing. This is when the hearing examiner shall consider the lifting of a development moratorium when the review criteria has been met.

To assess if the first review criterion was met, staff reviewed the Informal Conference Note (ICN #20-21401) within Exhibit 2 from the DNR Forest Practice Forester stating that, "All forest practice obligation have been met and no more obligations are required from the DNR", which satisfies the obligations of FPA No. 2934709.

Staff then reviewed the standards set forth in Section 40.260.080(A)(5) and finds that the applicant meets the first review criterion for forest practice standards set forth in CCC section 40.260.080(A)(5) by meeting the requirement of Reforestation per WAC 222-34-010.

An on-site inspection by county staff found that the forest practices conducted on the site met the standards as set forth in CCC section 40.260.080 (A)(5) and no further corrective actions need to be imposed, thereby meeting the second review criterion.

No critical areas or critical area buffers have been damaged, and therefore the third review criterion does not apply.

The approval process of this waiver is subject to the hearing examiner reviewing this request for removal of a development moratorium, any comments received, and applicable county regulations or policies and a potential inspection of the property prior to rendering a decision. The hearing examiner may approve the application for a request to remove a development moratorium, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this article.

Lastly, required written Findings and Determinations of the removal of this development moratorium shall be approved by the hearing examiner as long as the application meets the review and approval criteria.

Based on this information, the applicant has met all the requirements set forth in CCC section 40.260.080 (Forest Practices).

Conclusion

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets forestry requirements of the Clark County Code.

Staff Contact Person: Melissa Curtis, 564.397.5870
Hunter Decker, 564.397.4852

Responsible Official: Dan Young, Community Development Director

Recommendation

Based upon the proposed plan known as Exhibit 1, and the findings and conclusions stated above, staff recommends the Hearing Examiner **APPROVES** this request, subject to the

understanding that the application is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval.

Conditions of Approval

Note: The Conditions of Approval below include those identified above. The letters or numbers may have changed from those in the attachments.

A	Subsequent Development:
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A-1 The applicant must show compliance with CCC Section 40.350.030(C)(4)(i) & (j) prior to Final Plat approval or if improvements are approved by the county for bonding or other secure method, prior to issuance of Occupancy Permits.

A-2 All subsequent development proposals shall comply with the following applicable provisions of the Clark County Code:

- a. Title 15 (Fire Prevention),**
- b. Chapter 40.210 (Resource and Rural Districts District),**
- c. Chapter 40.260.080 (Forest Practices)**
- d. Chapter 40.460 (Shoreline Master Program),**
- e. Chapter 40.350 (Transportation and Circulation),**
- f. Chapter 40.386 (Stormwater and Erosion Control),**
- g. Chapter 40.430 (Geologic Hazard Areas),**
- h. Chapter 40.440 (Habitat Conservation),**
- i. Chapter 40.450 (Wetland Protection),**
- j. Chapter 40.510 (Procedures),**
- k. Chapter 40.540 (Boundary Line Adjustments and Land Divisions),**
- l. Chapter 40.570 (State Environmental Policy Act (SEPA)),**
- m. Chapter 40.610 (Development Impact Fees – General Provisions),**
- n. Title 24 (Public Health) and the Clark County Comprehensive Plan and RCW 58.17 (PLATS—SUBDIVISIONS—DEDICATIONS).**

<p>Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a “hearing extension” or “open record” and shall pay the associated fee.</p>

Hearing Examiner Decision and Appeal Process

This report to the Hearing Examiner is a recommendation from the Land Use Review program of Clark County, Washington.

The examiner may adopt, modify or reject this recommendation. The examiner will render a decision within 14 calendar days of closing the public hearing. Clark County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the

Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

Motion for Reconsideration

Any party of record to the proceeding before the Hearing Examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Clark County Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- The decision is not supported by substantial evidence in the record; or,
- The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Appeal Rights

Any party of record to the proceeding before the hearings examiner may appeal any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), to the Superior Court.

See the *Appeals* handout for more information and fees.

Attachments

- Copy of Site Plan

OWNER: SWIFT
37101 NE AMBOY RD
YACOLT, WA 98675

EXHIBIT ____
SECTION 22, T5N, R3E
CLARK COUNTY,
WASHINGTON

BLAKE
AF: 5375321
PARCEL 276625000

HOMOLA
AF: 4948725
PARCEL 276627000

PARCEL 276615000

PROPOSED 60'
EASEMENT

GATE POST

CLARK COUNTY RAILROAD
AMBOY RD

474' 335' 335'

PARCEL 276643000
31.44 Total Acres

10.00 Acres 10.00 Acres 11.44 Acres

1247'

984'

1339'

PROPOSED 60'
EASEMENT

CEDAR CREEK

BYRNE
AF: 9405200023
PARCEL 276645000

AMBOY RD

60' 522' 318'

DALY
AF: 5160021
PARCEL 271712000

CLARK COUNTY RAILROAD

CEDAR CREEK



NORTHERN
LAND SURVEYING LLC

P.O. Box 2017
Battle Ground, WA 98604
360.553.5992

PROPOSED LOT LINES

Date: 07-21-2020	Job No. 2302
Scale: 1"=400'	Drawn By: DWU