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REAL ESTATE & LAND USE

LAND USE

Van Ness Feldman attorneys and land use planners forge innovative, reasoned solutions to facilitate development that is compatible with public policy and community values. This unique collaboration demands not only a deep understanding of the law but of the highly nuanced practical, political, and public relations aspects of complex, large-scale land use projects.

The firm's experience extends from regulatory analysis, compliance, and mitigation to permit acquisition and expedition, defense and appeals.

A broad range of public- and private-sector clients includes developers, property managers, municipalities, institutions, commercial building and real property owners, energy companies, ports, citizens groups, and local, state and federal government, and regulatory bodies.

PERMIT DUE DILIGENCE, ACQUISITION & EXPEDITING

Van Ness Feldman attorneys assist development companies, property owners, investment funds, institutions and public agencies with all aspects of land use permitting—from initial regulatory due diligence to negotiation of acceptable permit conditions.

The firm is highly skilled at assisting a range of private and public clients obtain permits for large, complex and controversial projects, including commercial, housing, office, industrial, resort, and marine-related developments. Attorneys and land use planners have extensive experience with:

- Complete assessment of regulatory compliance as part of major property investment or acquisition
- Permit acquisition and approval
- Property zoning, rezoning, use permits, and variances
- Code language amendment
- Negotiation of development agreements and developer extension agreements
- SEPA / NEPA environmental review associated with land use permits
- Shoreline permits
- Critical areas permits
- Corps of Engineers Section 404 permits
- NPDES permits

ADMINISTRATIVE APPEALS

Van Ness Feldman has extensive experience representing clients in administrative and judicial land use appeals. While the firm strives to resolve disputes amicably in the interests of clients, when necessary Van Ness Feldman vigorously advocates clients' positions. Attorneys are well-regarded for their representation of clients in appeals and defense of appeals at all forums, including Hearing Examiner proceedings, City and County Councils, Environmental Hearings Boards, Growth Management Hearings Boards, and at various levels of state and federal court.

The firm's depth of experience with land use appeals has given Van Ness Feldman a strong command of the procedural requirements and substantive standards. Attorneys and land use planners approach

permitting with an eye towards making a strong substantive record in the event of appeal and pride themselves on finding creative and persuasive arguments. Van Ness Feldman's experience includes:

- Washington Land Use Petition Act (LUPA) appeals
- Federal Court appeals
- Local Government Administrative/Hearing Examiner appeals
- State Environmental Hearings Board appeals
- Pollution Control Hearings Board
- Shorelines Hearings Board
- State Growth Management Hearings Board
- Federal Administrative appeals (e.g., EPA and Corps)
- Other land use appeals, including writ actions, declaratory judgments and injunctive relief.

MUNICIPAL LAND USE

A broad spectrum of clients — cities, counties, and other government entities; housing and port authorities; and school, water, and sewer districts — trust Van Ness Feldman's knowledge of growth management, land use, planning, environmental, and infrastructure-related issues. The firm has particular knowledge and experience in:

- Environmental review and permitting of major mixed-use master-planned developments
- Growth Management Act plans and development regulations
- Hearings Board compliance and court appeals
- Defense of land use decisions (legislative, project permit and associated damage claims)
- SEPA / NEPA compliance for major development projects
- Public/private partnerships for construction of water and sewer infrastructure
- Inter-jurisdictional disputes and mediation
- Acquisition and strategic development of water rights
- Utility infrastructure planning and permitting
- Concurrency management, impact fees and other regulatory exaction and mitigation programs

GROWTH MANAGEMENT ACT PLANNING & COMPLIANCE

Van Ness Feldman is renowned for its strong representation of public and private sector clients on matters pertaining to interpretation, compliance, and defense of actions under the Growth Management Act. The firm seeks to leverage its keen understanding of local planning efforts, statutory requirements, political climate, and its direct involvement with local staff, planning commissions and legislative bodies to help clients achieve wide-ranging goals. In addition, Van Ness Feldman is adept at helping clients with the critical presentation phase of their plans. The firm has extensive experience in the following areas:

- Comprehensive plans and development regulations
- Urban growth areas
- Planning for and provision of urban services
- Concurrency
- Impact fees, exactions, and other mitigation programs
- Limited areas of more intensive rural development (LAMIRDs)

- Critical areas regulations
- SEPA/GMA integration
- Unified development codes
- Natural resource lands designation and de-designation
- Urban and rural land capacity analysis and density requirements
- Buildable lands analysis

NEPA/SEPA

Van Ness Feldman attorneys and planners have extensive knowledge and experience with the National Environmental Policy Act (NEPA) and its Washington counterpart, the State Environmental Policy Act (SEPA). The firm helps clients streamline the environmental review process through creative methods of minimizing unnecessary or duplicative environmental reviews, such as the use of categorical exemptions and "adoption" and "addendum" mechanisms.

The firm has an exemplary reputation helping clients assess reasonable SEPA/NEPA requirements and negotiating mitigation measures to address adverse impacts in a way that meets clients' needs and addresses agency concerns. Often, the firm is able to avoid a full EIS process by facilitating issuance of a Finding of No Significant Environmental Impact (FONSI) or Mitigated Determination of Nonsignificance (MDNS). If a SEPA EIS or NEPA EA/EIS is required, Van Ness Feldman aggressively manages consultant teams to complete thorough and timely environmental documents that survive challenge. The team's focused knowledge and experience includes:

- SEPA/NEPA compliance for acquisition of federal permits or funding
- Negotiation of three-party contracts for EIS preparation
- Coordination of technical consultant studies
- Expedition of environmental assessments
- Facilitation of environmental impact statements
- Assertive defense of, or against, NEPA decisions in federal court
- Pursuit and defense of administrative and judicial appeals of SEPA threshold determinations and EIS adequacy

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