Van Ness Feldman LLP
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LAND USE



PRACTICE CONTACTS

Tadas Kisielius
Co-Chair, Partner
tak@vnf.com
206.802.3840
Cell Phone: 206.779.5523

Ray Liaw
Partner
rliaw@vnf.com
206.802.3842

Clara Park
Partner
cpark@vnf.com
206.802.3855

A hallmark of the firm for over four decades, our robust land use team is well-regarded for their successful representation of major private and public sector clients in permitting complex development projects.

The team has significant experience interpreting and navigating state and local land use and environmental regulations and is highly sought-after for our unparalleled relationships with local, state, and federal agency officials and their attorneys, which allows us to quickly assess implications of proposed development. Providing the full-range of land use counsel—from conception through permitting to construction—our team regularly works with engineers, economists, scientists, planners, and elected officials to understand unique local circumstances in permitting all types of proposed development.

"*The Van Ness land use team is top-notch for sophisticated and complex matters - it has the knowledge and the right people to handle it.*" -Firm Client

DUE DILIGENCE & LAND USE ENTITLEMENTS

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 to secure permits for large, complex, and controversial projects and 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
- Zoning code interpretations and text amendments
- Negotiation of development agreements and utility extension agreements
- NEPA and state equivalents (SEPA/CEQA) environmental review
- Shoreline, Critical Areas, Floodplain permits
- Corps of Engineers Section 10 & 404 permits
- Industrial Discharge Permits (NPDES)

GROWTH MANAGEMENT, SHORELINES, & CRITICAL AREAS

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 Washington State's Growth Management Act (GMA), Shoreline Management Act (SMA), and within designated Critical Areas (wetlands, streams, habitat areas, floodplains, and geologically hazardous areas). The firm seeks to leverage its keen understanding of local planning efforts, statutory requirements, and political climate to direct our involvement with local staff, planning commissions, and legislative bodies to help clients

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achieve wide-ranging goals. In addition, we are 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)
- Fully-Contained Communities (FCC)
- Critical areas designation, permitting, mitigation, and reasonable use exemptions
- Agricultural, Silviculture, and mineral lands designation
- Urban and rural land capacity analysis and density requirements
- Buildable lands analysis

NEPA/SEPA/CEQA

Van Ness Feldman attorneys and planners have extensive knowledge and experience with the National Environmental Policy Act (NEPA) and its states' counterparts: Washington's State Environmental Policy Act (SEPA), and California's California Environmental Quality Act (CEQA). 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 NEPA/SEPA/CEQA 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 Environmental Impact Statement (EIS) process by developing resource documents and proposing mitigation measures/alternatives. If an 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:

- NEPA compliance for acquisition of federal permits or funding
- Negotiation and management of three-party contracts for EIS preparation
- Coordination of technical consultant studies
- Expedition of environmental assessments
- Litigation of NEPA decisions in federal court
- Pursuit and defense of NEPA/SEPA/CEQA decisions before administrative bodies and state and federal courts.

LAND USE LITIGATION & ADMINISTRATIVE HEARINGS

We routinely represent clients in administrative proceedings, including before Hearing Examiners, City and County Councils, Environmental Hearings Boards, Growth Management Hearings Boards, federal agency boards and in related appeals to both state and federal court.

Our team understands the procedural requirements and substantive standards necessary to prevail in these settings. Attorneys and land use planners approach permitting with an eye towards making a

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strong substantive record in the event of appeal and pride themselves on finding creative and persuasive arguments. The team is well-regarded for establishing a strong foundational record at the outset of projects to maximize success. Focused experience includes:

- State, local, and federal government administrative/hearing examiner hearings & appeals
- State Administrative Procedure Act
- Pollution Control Hearings Board
- Shorelines Hearings Board
- State Growth Management Hearings Board
- Washington Land Use Petition Act (LUPA) appeals
- Federal Administrative appeals (e.g., Surface Transportation Board, Environmental Protection Agency, and U.S., Army Corps of Engineers)
- Other land use appeals, including writ actions, declaratory judgments and injunctive relief

PLANNING, POLICY, & CODE DEVELOPMENT

In-house land use planners are an integral part of our team and regularly assist both public and private clients with advice and counsel pertaining to planning processes and policy and code development. A unique and collaborative approach with all stakeholders, including governments, elected officials, developers, and citizens, helps achieve clients' goals effectively and efficiently.

- Strategic advice for plan adoption and amendments
- Comprehensive and sub-area plans
- Growth Management Act compliance
- Zoning and development regulations
- SEPA policies and regulations
- Shoreline master programs
- Land use development review procedures
- Impact fee and mitigation fee programs
- Community engagement and facilitation

PROJECT MANAGEMENT, PERMITTING, & ENVIRONMENTAL REVIEW

Our team emphasizes early, comprehensive regulatory analysis, careful permitting strategy formulation, and permit expediting to help clients achieve their land use planning goals. Up-front analysis affords innovative and alternative permitting strategies that minimize cost, time, and uncertainty. The firm's planners and land use attorneys are leaders in collaborative project management and permitting and provide the full-range of planning counsel including:

- Project management for development applications and master plans
- Development of feasibility studies for due diligence
- Preparation of regulatory compliance narratives and related documents
- Land use entitlements and permitting
- Shoreline, wetlands, and environmentally sensitive areas permitting
- Identification, review, and coordination of technical studies and environmental documents
- SEPA and NEPA analysis and compliance

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- Preparation of SEPA checklists and mitigations for threshold determinations
- Presentations at public meetings and hearings
- Public participation and engagement
- Coordination of efforts with agency staff and concerned citizens
- Mapping and spatial analysis using geographic information systems (GIS)

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