



San Juan County Community Development & Planning

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POLICIES / PROCEDURES / INTERPRETATIONS

60% Open Space Fees

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Policy Determination: Revisions of the 60% open space conservation design area on simple land divisions and plats, pursuant to Court decision (San Juan County Case No.: 8-2-05243-6).

ISSUE: SJCC 18.70.060B10a requires that all land divisions show 60% of the original parcel as “open space conservation design area” where residential development is not allowed. One application of this rule was appealed to Superior Court on the basis that it violated RCW 82.01.020 as a tax on the subdivision of land. The court ordered that specific section of the code invalid. That section of code (18.70.060B10a) contains the numerical value for the area that cannot be developed, so the decision eliminates the 60% figure, but existing code still requires 30% open space (SJCC 18.70.060B9 and 18.60.050 Table 6.2)

ANALYSIS: Remaining is the balance of the code that still requires protection of open space, scenic and natural resources and establishment of non-building areas to contain the most sensitive features of the site; to establish the location of roads, driveways, houses and outbuildings, and to minimize the intrusion on the most sensitive open space features of the site; to maintain orchards and meadows; to leave ridgelines and contrasting edges unbroken by structures; on open slopes to locate buildings so they are screened by vegetation or terrain; and to ensure protection of features such as wetland and wildlife habitat. Use and management provisions for the non-building area are still to be shown on the face of the plat. Locations of non-building and building areas are still to be shown on the face of the plat. Alternatively, an applicant may still choose to follow 18.70.060B10f, Alternative Design which requires the 60% non-building area, with requirements for a certain pattern of ownership of the non-building area.

Logically, some who obtained approvals under the 60% requirement will want to reduce the size of the non-building areas but there is no provision in the code to change simple land divisions. Changing the face of a subdivision plat is accomplished by plat alteration.

If the changes are restricted to the narrow scope of the decision – that is, only changing the size of the non-building area pursuant to the court decision, it is fair that the fees be somewhat less than a normal plat alteration or simple land division fee, as the work will be so limited in scope, fairly quickly accomplished and was caused by our application of the regulation that is now invalid.

POLICY: There is no process to change a simple land division, but it is apparent that this will be frequently requested, so until another process is codified or adopted this policy establishes a process to alter the size of the non-building area for simple land divisions. This policy also provides for a reduced fee for modifying short subdivision and long subdivision maps that show the 60% non-building area. No other changes may be processed using this policy, including changes to a native growth area easement established as part of a drainage plan.

Simple land division: Submit an amended map showing the reduced non-building area. Our administrative approval will be mailed, and will require recording within 6 months, to be final. The application materials will become part of the previous simple land division file. The fee will be 2 hours at the hourly rate. The applicant will also pay the recording fee.

Short Subdivision: Submit a plat alteration showing the reduced non-building area. Our administrative approval will be mailed, and will require that a new subdivision map be recorded within 6 months to be final. The application materials will become part of the previous short subdivision file, with a card for a plat alteration added to the face of the file. The fee will be 4 hours at the hourly rate. The applicant will also pay the recording fee.

Long Subdivision: Submit a plat alteration showing the reduced non-building area. The Hearing Examiner decision will be mailed, and will require that a new subdivision map be recorded within 6 months to be final. The application materials will become part of the previous long subdivision file, with a card for a plat alteration added to the face of the file. The fee will be 8 hours at the hourly rate. The applicant will also pay the recording fee.