

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER**

FINAL FINDING AND DECISION

of a
**Proposed Land Offering in the Unorganized Borough
City of Thorne Bay – Platting Authority**

Old Skid Road Subdivision – ADL 108053
AS 38.05.035(e), AS 38.05.045

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision dated February 11, 2014. The preliminary decision has had the required public review.

The Preliminary Decision is considered part of this FFD and is attached herewith.

I. Recommended Action

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales and Contract Administration Section (LSCAS) recommends offering for sale State-owned land for private ownership within the Old Skid Road Subdivision project area (ADL 108053), as described in the Preliminary Decision. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally [Land for Sale]*.

For the purposes of providing land for settlement in the DNR's Southeast Region, on the south side of Thorne Bay on Prince of Wales Island, if deemed feasible, DNR may develop a subdivision of no more than 25 parcels varying in size from approximately 2½ acres to 10 acres along with larger remainder tract(s). This project area is located in the Unorganized Borough within the city limits of The City of Thorne Bay and therefore survey, platting, and road construction will be subject to the relevant local platting authority subdivision standards and ordinances. The local process includes public comment opportunity. The project may be subdivided and sold in multiple offerings over time.

There are no related actions with this proposal.

Legal Description: Government Lots 3, 4, SE¼NW¼ and the unsubdivided remainders of Government Lot 2 & SW¼NE¼ Section 33, Township 71 South, Range 84 East, Copper River Meridian, located within the Ketchikan Recording District, First Judicial District, Alaska, containing approximately 112 acres; approximately 74 acres are proposed for development.

II. Authority

The State of Alaska, Department of Natural Resources (DNR) has the authority under *AS 38.05.045 Generally [Sale of Land]* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State as required by *AS 38.05.035 (e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska mandates that the state promote the settlement of its land into private ownership.

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 2 of 8

III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in Section V below. Further research, evaluation of agency and public input, and ongoing development study may reveal new data for consideration with concept and design of the proposed project. Should this project move forward with State approval, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to The City of Thorne Bay ordinances and codes. During the process the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a traditional use finding is required for project areas within the Unorganized Borough. This project area is within the Unorganized Borough. The PD included this finding: There would be an increase in the density of the population in the area. No conflicts with traditional uses of the land have been discovered. Public review brought forth no new information indicating traditional use conflicts that were not apparent at the Preliminary Decision stage.

V. Summary of Public Notice and Comments

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <http://notes.state.ak.us/pn/> and was posted on the DNR DMLW LSCAS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period. Notification and decision copies were sent directly to area legislators and to multiple State agencies, and to other interested entities; over 7300 parties were notified via the subscribers list for public notice and subdivision offering by email; information was posted to twitter and Facebook.

Courtesy notice was also published in legal notices of the Ketchikan Daily News and requested in The Local Paper, Wednesday, February 19, 2014. Ketchikan radio public service announcements were made regarding this project. Notices were mailed to The City of Thorne Bay per *AS 38.05.945 (c) (1)*, as well as Sealaska Corporation native regional corporation per *AS 38.05.945 (c) (2)-(3)*. Additionally, notices, Attachment A map, and a request to post for 30 days were sent to 7 postmasters and 6 librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, March 18, 2014 in order to ensure consideration and eligibility for reconsideration or appeal. For more information, refer to Attachment C of the Preliminary Decision.

In response to the public notice, DNR DMLW LSCAS received timely comments from the State of Alaska Pipeline Coordinator's Office, the Chief State Historic Preservation Officer of the Office of History and Archaeology, the Division of Agriculture, The City of Thorne Bay, and 5 individuals. All comments received during the public comment period are summarized below.

State Pipeline Coordinator/s Office (SPCO) comments:

SPCO reviewed the proposed subdivision and expressed no concerns about the project.

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 3 of 8

DNR DMLW LSCAS Response:

The review and response are appreciated.

Office of History and Archaeology (OHA) comment:

OHA reviewed the proposed subdivision for conflicts with cultural resources and offered comment on possible nearby historic site. “Due to the nature of the site and the location being marked as appropriate within the AHRIS database, it is likely that its actual location is outside of the subdivision boundaries, and therefore it appears unlikely that this project will affect it.”

Included was a request that if any historic artifacts are encountered during the course of the project that OHA be notified. Any activity involving state licensing or permitting must comply with statutory requirements to protect any historic finds and to report them to OHA. An additional field survey was not recommended at this time but such a step may be evaluated if findings are reported in the future.

DNR DMLW LSCAS Response:

LSCAS has worked closely with OHA regarding this project and will support the recommendations made. It is standard procedure to advise those involved with development as well as applicants that if any sites or artifacts may be discovered on property that is offered, OHA must be notified.

Division of Agriculture comment:

A short response of non objection was received.

DNR DMLW LSCAS Response:

The reply is appreciated.

The City of Thorne Bay comments:

A March 6th letter from the City Administrator, received March 11th, stated, “... support of additional lots being developed within the City of Thorne Bay.” Concern was expressed that the state may be pursuing a time line not in keeping with the City Platting Process; it was insinuated that the state will not make application “... until after the lots are surveyed, with corner monuments installed. Seems somewhat backwards in that the city may deny the application or request changes to the lot layout or feel the number of lots should be reduced and the State already has a final plat. ... The City has planning and zoning to govern development, make sure it follows the goals and objectives of City growth (Comprehensive Plan) and does not create and [sic] economic burden on the residents of the community.” In the second paragraph there was discussion expressing anxiety over development of property without infrastructure. “Developing property with no intent of developing infrastructure to serve the lots is not acceptable to Thorne Bay. ... People want year round roads, power and communications. ... The City has design standard for development so the developer is responsible for infrastructure and the City is not saddled with bearing the cost. Yes, we want more lots but no the City does not want to be the developer and have to front the cost in the future.” The third paragraph noted that North Road in South Thorne Bay Subdivision was a bad example of infrastructure not being properly developed, i.e. “... expecting the homeowner to construct the road is a real joke.” Further, “Undeveloped lots attract seasonal or speculative buyers, which place a drain on communities, as they are seldom here, but demand the same services as full time residents.” The fourth

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 4 of 8

paragraph made brief mention of “Thorne Bay’s first fish process on the property” without any specific details included other than, “I would think this would be an historical site and preserved as such.” The concluding paragraph again stated the city is, “... supportive of a developer wanting to add additional residential lots to the local inventory. ... the City does not support development of lots that will place a financial burden on existing and new lot owners and ultimately the City. Just because the State has listed the property suitable for rural development without infrastructure, does not mean it is suitable for development in a city. Thorne Bay City Code has guidelines and standards for development.”

DMLW Response:

Support is always welcome and DMLW looks forward to working with all concerned to move this proposal forward. LSCAS sent a direct response on March 18, 2014 regarding concerns about following city time line requirements. The Preliminary Decision (PD) acknowledged (p.1, 3, 6, 7, 8, 9, 10) that all actions must be in compliance with the local platting authority, in this case The City of Thorne Bay. Concerns express in the city’s March 6th city letter appear to be based on an incorrect assumption of normal state processing procedures. To clarify, if the proposed project is advanced with state approval of a Final Finding and Decision, a contract surveyor will then be required to complete a control survey and ground truth the DMLW conceptual design prior to developing a preliminary lot configuration. The contract surveyor will adjust the conceptual design to terrain restraints, including platting access right of ways which may be brushed, and submit the subsequent preliminary plat to DNR for approval. Once the preliminary plat is approved by DNR (the client) the surveyor will submit the required application and proposed *preliminary* plat to the City for review and approval in accordance with the City’s ordinances. Typically the local review will include public input along with adjustments the city may propose. As is commonly accepted practice, the contract surveyor will not set any property corners until after the City has approved the preliminary plat and lot configurations.

Paragraph 2: At this time DNR does not know of and has not received a copy of any ordinance to establish that road construction is required. Typically a lot is considered more valuable when amenities are present, but LSCAS has experienced cases where a prospective buyer or owner actually does not want year round roads, power or communications yet desires to obtain property relatively close to locations with those features. DMLW intends to follow required city design standards and has requested additional specific information regarding this topic. It is not within the scope of this FFD to comment on costs involved with the City in carrying out its public trust responsibilities regarding their process.

Paragraph 3: DMLW does not agree with the characterization of private owners regarding road construction. We respectfully believe that homeowners are capable of forming owner’s associations or applying for local improvement districts to handle such subdivision items as road work. Developed and undeveloped lots may be found in most if not all communities around the state. No evidence was presented to establish that undeveloped lots attract seasonal or speculative buyers any more than developed lots do. The above factors are elements subject to open market responses the same that any owner or developer would face in offering lots for sale.

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 5 of 8

Paragraph 4: Notwithstanding mention in the city letter, no evidence has been discovered or presented to establish an historical site within the boundary of the proposed project. Please refer to the comment/response under the Office of History and Archaeology on this topic above.

Last paragraph: Concern over support for adding residential lots contrasted to infrastructure expenses, whether by individual land owners, city or state or federal means apparently remains an item needing further clarification at the local level. Unless the platting authority has a valid ordinance that requires all developers to physically construct subdivision roads, it remains an optional step for any subdivision project. Because of the expense of road construction, DNR gives careful consideration to this factor and has concluded at this point that it is not in the best interest of the state to have to add that cost to the land sale offering, and therefore, if it is optional, does not intend to construct platted roads within the proposed subdivision. This is not an unusual position, and other state subdivisions have been successfully offered under this constraint. DMLW has researched the city's website and obtained basic ordinance information regarding subdivision development, design, and platting standards. We believe all known requirements have been met for this project to date. In the spirit of continuing to acknowledge that the "Thorne Bay City Code has guidelines and standards for development" LSCAS, in the March 18, 2014 communication mentioned above, made a specific request for the city to provide a current, complete and valid copy of the city's Comprehensive Plan, including map, and road construction standards. DMLW looks forward to receiving the requested data and to working with all concerned to comply with lawfully required steps as the process moves forward.

5 Individual comments were received from February 12 through the March 18, 2014 deadline.

Individual Comment #1:

This person was concerned that the proposed lot size was too small. He questioned why DNR was selling state land to the public as 2.5 to 10 acre lots instead of by the section (640 acres). He stated that his, "... whole purpose in moving to Alaska is to get away from people." He really wanted to buy, "...2-3 square miles. there's plenty of land up there with no one for miles and miles ... I suppose they will want an arm and a leg for that 10 acre piece also." He definitely is only interested in, "... somewhere decent, like craig or hollis, thorne bay [anywhere in southeastern division]." [sic]

DNR DMLW LSCAS Response:

The US Department of Interior's website reports that the panhandle of Alaska occupies around 18 million acres -- 27 percent is wetland. The Tongass National Forest encompasses some 17 million acres; the rest is native corporations, municipalities, some private holdings; the State owns very little land in the panhandle.

A number of Area Plans have been developed throughout Alaska as a means of involving public, professional, and agency input regarding the management of state lands. That portion of southeast Alaska mentioned in the comment is covered under the Prince of Wales Island Area Plan (PWIAP). Table 4 of the PWIAP Amendment Report of May 2008 (the most recent document) lists Acres of State Lands Classified as Settlement Land at 1,615 upland acres. Aside from some large agriculture projects, no where in Alaska, let alone in southeast, does the state commonly offer sections of land for sale to the public. Even federal homestead programs of yesteryear and long ago only allowed 160 acres for individual applicants with the exception of certain larger tracts in a few wide open western areas. The proposed lot size for the pending

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 6 of 8

Old Skid Road project is actually very appropriate. As explained in the Preliminary Decision, all lots must be offered at current market value, and they will be sold to the highest qualified bidder.

Individual Comments #2-5:

Because these individual brief comments were similar in nature, representative quotes of part or all of each follow:

#2 “Wonderful spot for future subdivision. Should be a boon for the community. Easily developed View and Water lots are getting hard to come by in the Thorne Bay area. This subdivision is “in my back yard”, and I look forward to seeing it happen.”

#3 “As a young man living in thorne bay [sic], I would really like to see the proposed subdivision go thru and be sold as smaller parcels rather than one large one. ...”

#4 “As Broker and Owner of [local real estate company], I support the sale of the parcels proposed in the Old Skid Road Subdivision. ... In my experience, most Buyers prefer to access their property by road, not on foot, 4-wheeler, or boat. Please consider topography when designing access routes to these parcels, and make as many parcels road accessible as possible.”

#5 “As a resident of the South Side Thorne Bay, AK I would be in favor of a subdivision of the Old skid road ADL 108053 as proposed in Alternative 1.”

DNR DMLW LSCAS Response:

Favorable input expressing interest and support from local sources is always welcome. As discussed in the Preliminary Decision, all details of the actual subdivision development, including right of way/road access, will be subject to local platting authority ordinance requirements as well as Prince of Wales Island Area Plan parameters. A licensed surveyor will work with DNR to ground-truth a complete subdivision design, including topographic constraints and platted access right of ways to all lots.

VI. Modifications to Decision and/or Additional Information

The recommended action has not been modified from the original proposed action described in the Preliminary Decision.

Recommendation and Approval of the Final Finding and Decision follow.

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay
Old Skid Road Subdivision – ADL 108053
Page 7 of 8

VII. Final Finding and Decision

The Department recommends proceeding with the proposed action as described in the Preliminary Decision and as supplemented herein. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed actions are consistent with constitutional and statutory intent for State-owned land.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action as described and referenced herein.

/s/
Recommended by: Kathryn Young
Section Manager
Land Sales and Contract Administration Section
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

Sept 15, 2014
Date

/s/
Approved by: Brent Goodrum
Director
Division of Mining, Land, and Water
Department of Natural Resources
State of Alaska

24 SEPT 2014
Date

Final Finding and Decision

for a Proposed Land offering in The City of Thorne Bay

Old Skid Road Subdivision – ADL 108053

Page 8 of 8

Appeal Provision

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with *11 AAC 02*. Any appeal must be received within 20 calendar days after the date of issuance of this decision, as defined in *11 AAC 02.040(c)* and *(d)* and may be mailed or delivered to Joe Balash, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 907 269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st day after issuance. An eligible person must first appeal this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.