

MEMORANDUM REGARDING
TOWN REQUIREMENTS FOR CONSTRUCTING
ROADS IN 40-ACRE PARCELS

7008-001
Exhibit A
Approved 7/3/14

The Town of Cassian has a Land Division and Subdivision Control Ordinance. It also has a Town Road Ordinance. Recently, the Board has been asked to respond to requests for information concerning responsibilities of individuals who purchase 40- and 80-acre parcels of land. As a general rule, the smallest parcel of land is a 40-acre tract. These were created by original government surveys. Therefore, if a Buyer acquires several 40-acre tracts, the Buyer is not considered to be dividing the land if he sells the tracts individually. The Town's Subdivision Control Ordinance defines land division as "a division of a lot, parcel, or tract of land." Therefore, speaking generally, anytime an intact 40 is divided into lots of a smaller size, additional responsibilities must be undertaken by the divider. First, for any lot created in such a land division, there must be a road to the lot which fronts or abuts the lot for at least 66 feet and the road must have a 66-foot right-of-way. If the land division results in a road that services more than two parcels of land, then the road must be constructed to meet the minimum standards for Town Road construction as set forth in the Cassian Town Road Ordinance as Amended (Section 3.06). It is important to note that the road must be built to Town Road specs if it "services more than two parcels of land." That means that if a land division occurs on a parcel that is separated from an existing Town Road, then even other existing 40-acre parcels (through which the road extends) would be lots "that are serviced" by the new road. For example, if a person bought a 40 which was separated from an existing town road by one other 40, he could decide to subdivide the 40 that he purchased. However, because the road that would have to be extended to serve the two lots in the 40 that he developed and if the road touched another 40 removed from a Town Road, then the developer would have to build the entire road up to Town specifications because the developer's two lots and the adjoining 40 would all be lots which are serviced by the proposed road. Consequently, although there is the slight possibility that a subdivision into two lots would not require a road built to Town Road specifications, it would require a road built with 66 feet of right-of-way. I would suggest that attempts to subdivide lots be reviewed by the Town for an opinion prior to incurring survey costs. However, it can generally be stated that if an intact 40 or an intact 80 is sold, the Town Ordinance will not require right-of-ways of 66 feet and will not require a road built to Town Road specifications.

Hopefully this information is helpful to any developers interested in developing property purchased from timber companies in 40- or 80-acre tracts.

If this document is to be used as a way to clarify the existing ordinance and to serve as a disclosure of sorts, I think something like the following paragraph should be included as a protection to the Town: "It should also be noted that although a private easement road can be used to access multiple existing parcels of land without being built to Town Road specifications, a Buyer of one of these parcels who chooses to build a year-round residence will be responsible for the maintenance and snow plowing of the private easement road and it should also be noted that bus companies will only make stops on Town Roads. The Town of Cassian is in no way responsible for private easement roads."