

**City of Blaine**  
**Request for Council Action**  
**Meeting Date: May 13, 2019**

**Subject: Ord 19-2928 to approve an alteration of subdivision affecting Lot 1, Boundary Ridge, Division 2.**

**Department: Community Development Services**

**Prepared By:** \_\_\_\_\_  
(Digital Signature)

**Agenda Location:**     Consent Agenda     Council Action     Unfinished Business

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**Attachments:**

1. Ordinance 19-2928 – Boundary Ridge Division 2, Lot 1, Subdivision Alternation
  2. Subdivision Alteration Request
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**Background/Summary:**

The property owner, Mr. Thompson, contacted the City towards the end of 2017 about amending the requirement for a 50-foot landscape buffer on the south side of his property, Lot 1, Boundary Ridge, Division 2. The reason for the proposed change is that an erosional steep slope impacts the northwestern portion of the lot, making it challenging to build a single family home that would be more typical for the neighborhood on Shearwater Road. Lot 1 and the subject landscaping buffer borders the City limit boundary.

The applicant’s land use consultant, Irwin Land Use Consulting, LLC, submitted a plat amendment request (Subdivision Alternation) along with a legal opinion on the required process from Belcher-Swanson Law Firm, LLC. See **Attachment 2**. The City’s legal counsel reviewed the request and legal opinion and concurs with the proposed process.

The Department processed the Subdivision Alternation request based on the legal opinions received and in accordance with RCW 58.17.215, including a public notice provided by certified mail to all property owners in Boundary Ridge, Division 2. Supplemental notice was also provided to the Semiahmoo Resort Association and on the City’s website and notice board. The public notice included a provision that allowed for any member of the public to request a public hearing on the proposed Subdivision Alternation. No such request was received and no public comments were provided to the City. The request before the City is not a public hearing.

**Budget Implications:**     Current Budget     New Budget Request     Non-Budgetary

There are no budget implications of approving Ordinance 19-2928.

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**Recommendation:**     Waive the second reading

The Department recommends that Council make a motion to waive the second reading and approve Ordinance Ord 19-2928, to approve an alteration of subdivision affecting Lot 1, Boundary Ridge, Division 2.

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**Reviewed By:**

City Manager \_\_\_\_\_ Finance Director \_\_\_\_\_ City Clerk \_\_\_\_\_  
(Digital Signature) (Digital Signature) (Digital Signature)

**ORDINANCE NO. 19-2928**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, TO APPROVE AN ALTERATION OF SUBDIVISION AFFECTING LOT 1, BOUNDARY RIDGE, DIVISION 2.**

**WHEREAS**, On August 29, 2019 an alteration of subdivision request was submitted to the Community Development Services Department to reduce the landscaping buffer on Lot 1 of Boundary Ridge, Division 2, from 50 feet to 20 feet; and

**WHEREAS**, On December 21, 2018, after consultation with the City attorney, the required public notice was completed; and

**WHEREAS**, pursuant to RCW 58.17.215, the alteration of subdivision public notice provided an opportunity to request a public hearing and no such request was received. As such, the City Council, as the acting legislative body, may take final action on the requested alteration of subdivision with no additional public comment period; and

**WHEREAS**, On May 13, 2019, the City Council considered the subject proposal and related information contained in the public record, and subsequently approved the alteration of subdivision attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLAINE DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** The Blaine City Council hereby approves alteration of subdivision affecting Lot 1, Boundary Ridge Division 2, as depicted in Exhibit A.

**SECTION 2: Severability:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. Each section, subsection, sentence, clause or phrase thereof, separately and independently and, in the event that any one or more sections, subsections, sentences, clauses or phrases may later be declared invalid or unconstitutional, then any ordinance or ordinances, or parts thereof, amended or repealed by such portion of this Ordinance shall remain in full force and effect.

**SECTION 3: Effective Date:** This Ordinance shall take effect and be enforced upon its passage by the City Council and approval by the Mayor, if approved; otherwise, as provided by law and five (5) days after the date of publication.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON** on the 13<sup>th</sup> day of May, 2019, and signed by the Mayor on the same day.

**CITY OF BLAINE, WASHINGTON**

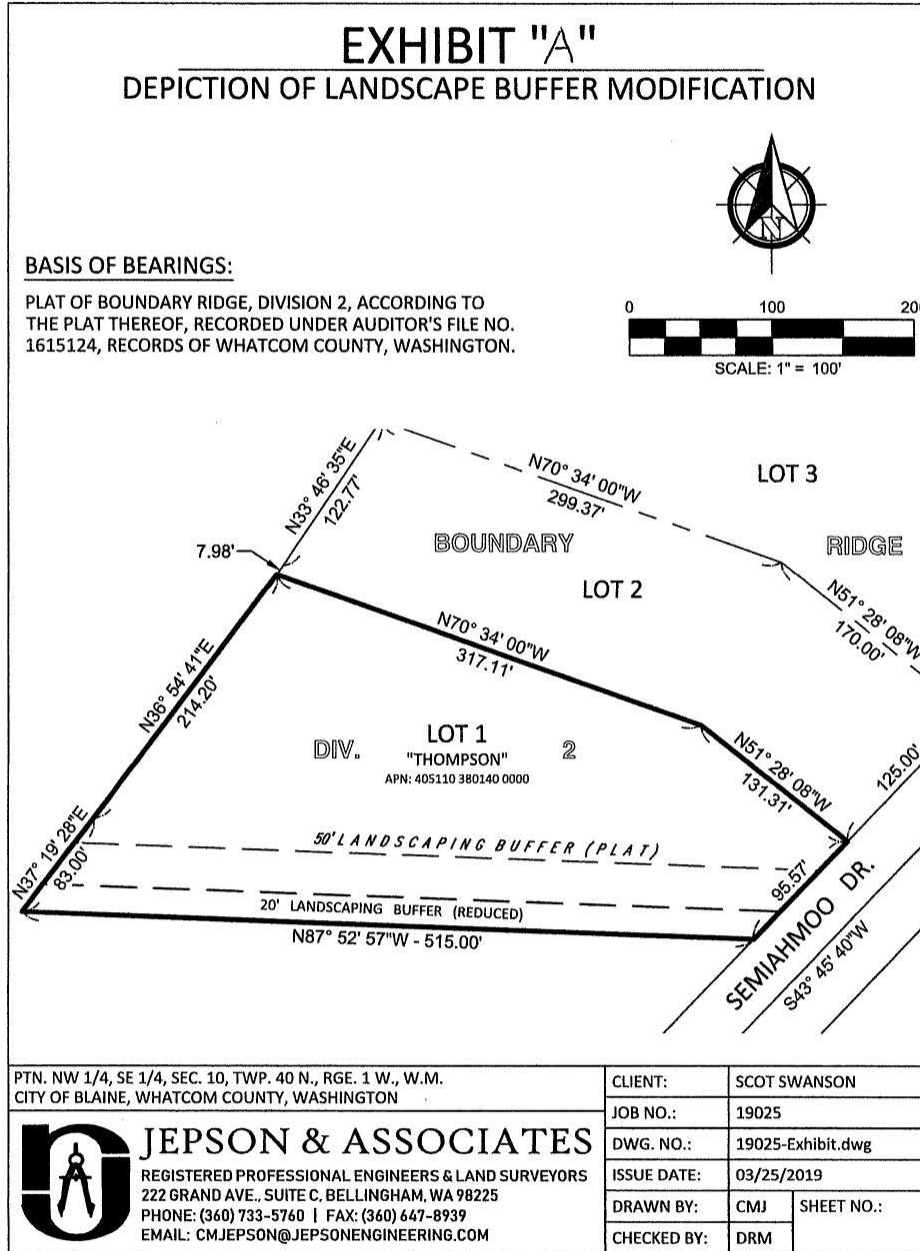
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Bonnie Onyon, Mayor

**ATTEST/AUTHENTICATE:**

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Sam Crawford, City Clerk



# Belcher | Swanson

LAW FIRM, PLLC

August 29, 2018

Alex Wenger  
City of Blaine  
Department of Community Development  
435 Martin St. Suite 3000  
Blaine, WA 98230

Re: Plat Alteration for the Landscaping Buffer at Boundary Ridge Division 2

Dear Alex:

The undersigned represents James Thompson who is the owner of Lot 1 Boundary Ridge Division 2 (APN 405110 380140 0000). The purpose of this letter is to request a reduction of a landscaping buffer within Lot 1.

Enclosed is a copy of the Boundary Ridge – Division 2 Plat. You will see that there is a 50-foot landscape buffer located on the southern portion of the plat solely within Lot 1. Simultaneously, my client and his land use consultant, Jay Irwin, are submitting materials in support of a plat alteration. Specifically, the request is to reduce the 50-foot landscape buffer to 20 feet. Included with the materials from my client is a Land Use Master Invoice and Owner Consent Form. As described below there is no formal application for a simple amendment to a plat but the information provided should be sufficient to be considered a completed application.

Mr. Thompson's letter describes the history of the 50-foot buffer. It seems that the 50-foot buffer was part of the original Semiahmoo design along the outer perimeter of the development. It predates the Boundary Ridge Division 2 Plat and was likely imposed when the area was zoned multifamily. It seems to be a relic from the past that does not provide any purpose currently. It is worth noting that there is no explanation regarding the 50-foot buffer on the face of the plat, nor is there any mention of the buffer in the Boundary Ridge Division 2 CC&Rs recorded simultaneously with the Plat.

As described in my client's letter, there are valid reasons for the buffer reduction request. Without the reduction of the buffer, it makes development of the lot extremely difficult. The buffer does not serve any legitimate purpose at this point. As you know, a buffer is an area of land generally separating two different zones or areas to help each blend more easily with the other. This type of buffer made sense between multi-family and single-family residential

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but that is no longer the case. Given the development of the plat as single-family lots, the size of the buffer no longer is logical and should be reduced.

It is important to note that the same buffer was found on the southern edge of Semiahmoo Zone 3, which is located just north of my clients Lot 1. This buffer was reduced to 20 feet during the PUD/platting process for Zone 3 which became the Sea Smoke Plat. The Sea Smoke Plat is a far more intrusive development with mixed uses. This provides precedence for reduction of the buffer for Lot 1.

At this point, the only legally binding document that provides for the 50-foot landscape buffer is the Lot 1 Boundary Ridge Division 2 Plat. Therefore, the process to reduce the buffer would be through an alteration of that plat, unless you have another alternative.

In a review of the City of Blaine Municipal Code there is no detailed process for a plat alteration. However, there is a procedure for plat alterations pursuant to state law at RCW 58.17.215. That statute provides “when any person is interested in the alteration of any subdivision or the altering of any portion thereof . . . that person shall submit an application to request the alteration to the legislative authority of the city . . . where the subdivision is located.” It goes on to say that “the application shall contain the signatures of the majority of those persons having an ownership interest of lots . . . in the subject subdivision **or portion to be altered.**”

Pursuant to statutory construction the statutory words should be construed as to give them some meaning and the statute some force and effect. Additionally, the statute must be construed in its entirety so as to give effect to every word and every part. The use of the word **or** was deliberate in this statute and must be read with meaning. The only logical reading is that you only need the signature of those persons having an ownership interest of lots in the portion to be altered. Otherwise, the use of the word **or** would be meaningless.

In our case, the only item on the plat being altered is the 50-foot landscape buffer, which is entirely encompassed within Lot 1. Therefore, Lot 1 is the only portion of the subdivision that is being altered. Pursuant to the above-described statute, only signatures of those having an ownership interest in the portion to be altered is required. While the Boundary Ridge Division 2 contains 20 lots, the only signature required is my client’s, as the portion to be altered rests solely within his property.

The landscape buffer does not affect the entire plat. Recall that the landscape buffer is a relic from the Semiahmoo Resort Master Plan and not related to the plat at all. If the buffer is reduced, an expected single-family home will be built in the size and shape as was anticipated for the Boundary Ridge community. If the buffer is not reduced, a home may be possible, but the configuration could detract from the overall character of the plat due to regulatory restrictions that were likely not considered at the time the buffer was imposed.

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The plat alteration procedure (RCW 58.17.215) provides that the City will provide notice of the application to all owners of property within the subdivision. In addition, the matter can be set for a public hearing if requested by an owner within the plat. Therefore, the owners will have an opportunity to be heard if they wish.

I appreciate your consideration of this matter. Feel free to give me a call with any questions or if you need additional information. It may be more efficient and appropriate for me to discuss this matter with your attorney. If so, I am happy to reach out to Mr. Sitkin to discuss it with him. Please let me know.

Very truly yours,



SCOT S. SWANSON  
Attorney at Law

SSS:daw