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**COMMUNITY PLANNING &
ECONOMIC DEVELOPMENT DEPARTMENT**

Creating Solutions for Our Future

Joshua Cummings, Director

MEMORANDUM

TO: Thurston County Planning Commission

FROM: Andrew Boughan, Associate Planner

DATE: August 17, 2022

SUBJECT: Development Code Docket # A-22 – Boundary Line Adjustment (BLA) Code Amendments

Purpose

The purpose of the proposed amendment is to bring the current Boundary Line Adjustment (BLA) code language into compliance with [RCW 58.17.040\(6\)](#) and address programmatic issues. The proposed amendment will improve the application review process by defining review procedures and required application materials, as well as other regulatory requirements.

Background

Thurston County's Boundary Line Adjustment (BLA) code language is not in compliance with RCW 58.17.040(6) which defines the county's BLA review requirements, due to case law regarding Boundary Line Adjustments. The project was initially started in April 2008 and has been worked on over the past 10+ years but has not been completed due to staffing and the Board of County Commissioner's prioritization. In addition to the compliance issues with the code, current planning staff identified additional changes throughout TCC 18.04.040(H) to improve the organization of the code and identified additional text to clearly outline the expectations for an applicant.

Court Cases

Seattle v. Crispin, 2003, and Mason v. King County, 2005 are the primary reasons for the amendment because they were the result of vagueness in state law. Both cases challenged the BLA process based on the definition of building lot size, either by the creation of a developable lot through the BLA process without creating a new lot, or by resizing a lot through a BLA that results in a lot that does not conform to the definition of "building site" as noted in the RCW.

The Thurston County Code defines lot size requirements in 18.04.040(H)(2)(a)(i) by including a size limitation for a lot. However, BLA procedures are limited under state law to what RCW 58.17.040(6) defines as the county’s review requirements, which is limited to the review of BLAs by the definition of “building site” as noted in the RCW. The County must ensure that zoning and environmental references are outlined clearly in the definitions to ensure that all applicable regulations are considered when reviewing a BLA.

Changes to Thurston County Code

The following code sections are included in the Development Code Docket Item A-22 Boundary Line Relocation Code Amendment. Each code section will explain the changes.

Amendment to Review Standards (TCC 18.04.040(H)) for Boundary Line Adjustments (BLA). Amendments to Section 18.04.040(H) streamline existing code language to clarify review procedures and required application materials. In addition to the changes to the definition of building site to meet legal requirements, several other changes are included to clarify procedures around BLAs, as identified by the Building Development Center. These include:

1. Standards for application materials
2. Standards for review processes
3. Standards for BLAs impacting easements
4. Situational limitations for BLAs, like conflict with previously approved conditions, expansion/creation of nonconforming situations, or circumventing existing regulations
5. Procedures to finalize BLA plats
6. Conflict Resolution Exemption

Amendment to Building Site Definition (TCC 18.08.080) for Boundary Line Adjustment (BLA). Amendments to Section 18.08.080 – ‘Building Site’ revise an existing definition to ensure compliance with Growth Management Hearings Board decisions.

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**Thurston County Community Planning and Economic Development
Department
Community Planning Division**

**THURSTON COUNTY
PLANNING COMMISSION
DRAFT**

August 17, 2022

**Boundary Line Adjustment (BLA)
Code Amendment**

Section I: Title 18, Chapter 18.04 – General Provisions
Section II: Title 18, Chapter 18.08 - Definitions

Deleted Text: ~~Strikethrough~~ Proposed Changes: Underlined
Staff Comments: *Italics* Unaffected Omitted Text: ...

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I. Thurston County Code Chapter 18.04 TCC (GENERAL PROVISIONS) shall be amended to read as follows:

...

18.04.040 – Specific exemptions.

...

H. Boundary Line Adjustments (BLA). A division made for the purpose of adjusting boundary lines which does not create any additional building lot, tract, parcel, building site or division nor create any building lot, tract, parcel, building site or division which contains insufficient area and dimension to meet minimum requirements for a building site, ~~except as described in subsection (H)(3) of this section,~~ provided:

1. ~~The proponent has shall~~ file an complete application which includes with the Building Development Center (BDC). Application requirements are outlined in the application and include, but are not limited to, the following:
 - a. ~~Original and An~~ adjusted legal description(s) of the lots affected by the adjustment prepared for each lot involved in the BLA. Adjusted legal descriptions must be prepared and certified by a registered land surveyor or title company,
 - b. A scaled drawing of the lots affected by the adjustment of the adjusted boundaries shall be prepared by a registered land surveyor and meet the map requirements outlined in the application,
 - c. ~~Notarized declaration that the transferor consents to the proposed adjustment~~ A complete Declaration of Boundary Line Adjustment and Covenants form that includes notarized signatures of all persons having ownership interests in the property. Where a company is listed as owner, documentation shall be submitted that demonstrates the person signing has the authority to do so, and
 - d. Any additional information requested on and within the application provided by the BDC.
2. Review Process. The BLA application shall be reviewed to ensure minimum requirements are met for building sites on resulting lots. Such review includes an evaluation of the following:
 - a. Zoning regulations,
 - b. Critical areas and associated buffers (wetlands, streams, high groundwater, lakes, marine waters, etc.),
 - c. Areas regulated under the Shoreline Master Program,
 - d. On-site water and sanitary systems,
 - e. Property, lot, and permitting history,

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- f. Access or easement for vehicles, utilities, or other as determined,
- g. Accuracy of legal description, ownership, lot dimensions, improvements on the lots, and
- h. Any other applicable County development standards and land use regulations that applies to the subject property.

3. A BLA shall not create easements or alter recorded easements.

24. The proposed boundary line adjustment shall meet the following criteria:

a. No conforming lot shall be made nonconforming, with the following exceptions

i. One or more adjustments may be made in a conforming lot so long as the cumulative reduction in lot size is the lesser of ten percent or ten thousand square feet below the minimum lot size requirement for the applicable zone, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from other county ordinance requirements. After reaching the reduction limit, any subsequent boundary line adjustment (BLA) shall be prohibited on the subject lot for a period of five years after the subject BLA recording, or

ii. If the land conveyance is made to an adjacent existing nonconforming lot, the conforming lot may be reduced so long as it is not reduced below eighty percent of the minimum size requirements for the applicable zone, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from other county ordinance requirements. After reaching the reduction limit, any subsequent boundary line adjustment (BLA) shall be prohibited on the subject parcels for a period of five years after the subject BLA recording, or

ii. If, prior to the July 31, 1990 county wide rezone, parcels were zoned at a higher density and had residential structures onsite, the conforming lot may be reduced to the minimum size allowed under the zoning in effect on July 30, 1990. After reaching the reduction limit, any subsequent Boundary Line Adjustment (BLA) shall be prohibited on the subject parcels for a period of five years after the subject BLA recording,

ba. An existing nonconforming lot may be reduced in size through one or more adjustments so long as the cumulative reduction is limited to the lesser of ten thousand square feet or ten percent of the existing lot size, with the exception that a lot may be reduced further if each lot involved in the BLA is averaged to a substantially similar size, provided that reduction of lot size would not result in the need for a variance from

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~~other county ordinance requirements. The reduced lots must still meet the building site criteria. After reaching the reduction limit any subsequent boundary line adjustment (BLA) shall be prohibited on the subject lot for a period of five years after the subject BLA recording. Prior to final plat and final inspection of any ongoing development, a BLA cannot be approved if it materially alters, modifies or conflicts with conditions or requirements under previously approved permit(s) or division of land that remain unexpired at the time of a BLA application. Prior to final plat, modifications to any lots that are subject to unexpired preliminary plat approval shall be accomplished pursuant to procedures in TCC 18.04.060, unless special circumstances exist as determined by the sole discretion of the director.~~

- ~~eb.~~ Only parcels that are legal lots and also qualify as building sites shall be allowed to complete the BLA process. Legally established existing lots, structures, or uses shall not be required to correct existing nonconforming feature(s) to meet current regulations as a condition of a BLA approval. BLAs shall not apply to road and utility vacations.
 - ~~dc.~~ Pursuant to the shoreline master program for the Thurston region, no shoreline lot shall be made nonconforming or more nonconforming without an approved shoreline variance. A boundary line adjustment shall not result in a conforming lot or use becoming nonconforming to the requirements of the applicable zone and development standards or result in an increase in the number of nonconforming lots or uses.
 - ~~ed.~~ All newly configured lots must comply with applicable standards for sewage disposal and provision of water contained in Articles III and IV of the Thurston County Sanitary Code. Proof of such compliance may be required in the form of a conditional site approval or other similar approval. The adjustment of lot lines between two or more nonconforming lots shall be allowed only when the adjustment is necessary to correct a controversy regarding the location of a boundary line, to remedy adverse topographical features, or to provide access to an otherwise inaccessible parcel.
 - e. A BLA shall not serve to circumvent or eliminate requirements related to building height, setbacks, or landscaping, nor shall it serve to eliminate requirements related to frontage improvements or other design requirements imposed pursuant to Thurston County Code provisions.
 - f. An application for a BLA shall not involve more than five contiguous lots, unless a greater number is allowed by the Director.
- F5. A BLA shall not detrimentally affect access, design, or other public safety and welfare concerns. The evaluation of detrimental effect may include review by the environmental health department, public works department, or any other applicable agency or department.

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- ~~h. Except as provided in this subsection, the proposed BLA shall not make any land use nonconforming or more nonconforming as set forth in the Thurston County Code;~~
 - ~~i. Lots created through the forty acre exemption provided in subsection I of this section may only be adjusted once through the BLA process every five years.~~
36. Unbuildable lots used for purposes of habitat conservation, ~~or~~ critical area preservation, or any other public purpose, shall be allowed to use the BLA process. BLAs involving such lots may not result in a modification that makes an adjacent lot building site unbuildable, nonconforming, or further nonconforming.
47. Upon approval of a BLA application, the following requirements shall be met:
- a. All applicable property taxes must be paid prior to recording.
 - 4. b. The final map, legal description(s), seal drawing (map), and notarized Declaration of Boundary Line Adjustment and Covenant form, Tax Certification form, any other applicable documents, and recording fee shall be recorded with the county auditor by the department submitted to the Building Development Center. County staff will record the BLA with the Thurston County Auditor's Office. The county auditor shall furnish copies to other county agencies as required. The fee for these copies shall be in addition to all other recording fees. All required copies shall bear contain the auditor's recording data.
- ~~I. Defining of Land. Where a subdivider owns not less than one eighth of a section or, if the land is not capable of subdivisional description, eighty acres, the subdivision may define the boundaries of the subdivider's short subdivision to include not less than one sixteenth of a section or, if the land is not capable of subdivisional description, forty acres; provided, that no increment of land containing less than one sixteenth of a section or, if the land is not capable of subdivisional description, forty acres, remain; and provided further, that the subdivider's definition of boundary leaves proper provision for access to the remaining parcel and is approved by the approving authority.~~
8. Landowners may resolve the location of a point or line between two or more parcels of real property as set forth in RCW 58.04.007 without need for applying for a BLA under this section.
9. A Boundary Line Adjustment is not considered final until the applicant has recorded a Conveyance Deed with the Thurston County Auditor, and pursuant to RCW 64.04.010.

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II. Thurston County Code Chapter 18.08 TCC (DEFINITIONS) shall be amended to read as follows:

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18.08.080 – Building Site

"Building site" means ~~a parcel of land occupied or possible to be occupied by one main building and its accessory buildings, in a way that meets the requirements for setbacks and open space in the Thurston County Zoning Ordinance, and meets the requirements of the Thurston County Sanitary Code, and, if applicable, meets the setback and lot coverage requirements of the shoreline master program for the Thurston region~~ an area of land, that is currently developed or has the potential to be developed in a way that meets applicable zoning code and land use provisions, including but not limited to setbacks and lot size, lot coverage limitations, minimum lot area for construction, shoreline master program provisions, critical area provisions, and applicable health and safety provisions, including requirements of the Thurston County Sanitary Code.

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