



BEACHWALKER VILLAS ASSOCIATION

9495-9499-9505 Semiahmoo Pkwy, Blaine WA
PO Box 5127
Bellingham WA 98227

June 18, 2020

The Mayor and Councilmembers
City of Blaine, WA
435 Martin Street
Blaine WA 98230

Dear Mayor and Councilmembers,

We are the owners at Beachwalker Villas, a Semiahmoo condominium, and are writing to address the June 22 Public Hearing, in particular the 3rd item: Semiahmoo Bike/Ped Path Improvements (Multiple Phases).

Attached is the letter we sent to you March 4 on the City staff actions that have created the significant and costly dispute regarding the historic Public Access Easement granted by Beachwalker in 1985.

We have not received a response from Council to our letter. With the upheavals, tragedies and worries forced on us by Covid-19 that is understandable. However, given that City staff are now evidently returning to regular duties, we write now to ask that you re-read our March 4 letter, and address the issues it raises.

We hope Council will stop any funding that will empower City staff to continue their costly and disruptive actions against the owners at Beachwalker.

As set out March 4 Beachwalker has spent considerable monies and energy over three years trying to convince City staff that their pursuit of a relocated easement on Beachwalker property is unlikely to succeed in court. We have also tried to have City staff see that when the easement is not relocated their threatened timber/concrete causeway on the granted easement is also a non-starter. Similarly, we have pointed out to City staff that the threatened eminent domain action to expropriate Beachwalker private property, will either not succeed or will cost the City dearly.

Throughout this we have told City staff these actions, likely to cost Beachwalker and the City tens or hundreds of thousands of dollars, are totally inappropriate uses of City budgets.

As our March 4 letter states, we hope the Council will take a hard look at the actions being considered by City staff, and from this Public Hearing, decide to limit City funding to Semiahmoo Bike/Ped Path Improvements on non-disputed property. That will have the beachfront access at Beachwalker retain its natural state and maintain it as a peaceful and neighborly element of the Semiahmoo Spit.

Sincerely,

The owners of Beachwalker Villas

c.c. Blaine Park & Cemetery Board
Chmelik, Sitkin & Davis PS
Mitch Faber, Adelstein, Sharpe & Serka LLP
Rachel Long, Property Manager, Access RES, LLC



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March 4, 2020

The Mayor and Councilmembers
City of Blaine, WA
435 Martin Street
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Dear Mayor and Councilmembers,

We are the owners at Beachwalker Villas, a Semiahmoo condominium. We write because we are extremely concerned that City staff appear to be about to start a series of unnecessary and potentially costly litigations against Beachwalker.

- **There has been a public access easement over the beach in front of Beachwalker for more than 30 years.** In the original short plat creating the Beachwalker lot, the owners granted Blaine a 30' wide public access easement inland from a specific location on the beach: "4.16 Mean Sea Level". The Beachwalker condos were sited, designed and built, and owners bought their condos knowing the legally defined easement is at the specified location, and the public has enjoyed use of the beach on that easement for decades.
- **City staff are trying to shift the easement inland onto Beachwalker private property.** A few years ago, City staff set in motion a plan to place an 8' wide gravel trail inland from the beach on the Spit's west side including a section immediately in front of Beachwalker. There the gravel trail (or boardwalk) proposed by City staff would encroach on private property. That plan would take over the Beachwalker privacy buffer and place a part of that trail onto Beachwalker front yards.
- **This easement shift was part of the planning at the newer Marin and Semiahmoo Shore condos; it was not at Beachwalker.** City staff required the developers of those newer condos to amend their original easement 4.16' line to an inland line set by the City as part of their permit approvals. Consequently, those condos were sited, designed, built and sold with buyers aware of that reduced privacy and the 8' wide gravel trail separating them from the beach.
- **An easement shift is an "after the fact" intrusion at Beachwalker.** Our community was not designed to accommodate public access to our privacy buffer and be so near to the front of the condos. Beachwalker owners' expectations for enjoyment of its private property are based on the public access easement's legal, 1985 location on the beach. Obtaining the required 2/3 consent vote of owners and their 1st mortgage holders to move the easement is an impediment to any easement shift and likely a practical impossibility for Beachwalker.
- **Beachwalker has offered to share legal details, and a reasonable compromise with the City, only to be rebuffed.** Beachwalker has met with City staff several times over the last three years. Beachwalker lawyers have offered to meet the City staff and attorneys to share the practicalities and risks of the

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potential lawsuits. While Beachwalker believes an inland trail is not needed as people walk comfortably on the beach easement every day Beachwalker offered to manage the design and siting of a trail and participate in an appraisal program, which might have gained Beachwalker owner and 1st mortgage holder approval.

- **City staff appear to be headed towards a lengthy and expensive series of court battles.** Staff have directed the City's attorneys to craft a legal argument that the easement should be "shifted" to the City's preferred location, and have threatened Beachwalker with a lawsuit. Beachwalker's attorneys do not believe that a judge will unilaterally move the easement as staff propose, but in either event Beachwalker would have no option but to fight this lawsuit to the end. Staff have suggested that even if they lose, they will pursue other legal avenues, including an eminent domain proceeding, or erecting a pier-like "causeway" on the legal easement. Again, Beachwalker would be forced to resist in court.

The beach easement is great resource for the public, and stairs recently placed by Beachwalker on our north side allow a continuous route from adjoining trails. A network of trails provides public access nearly everywhere on the Spit. People can walk on and enjoy the beach and the Spit and be a neighborly and respectful distance from Beachwalker living rooms, bedrooms, patios, and decks.

We believe that a series of lawsuits seeking to impair the legal, decades-old easement and our quiet enjoyment of our homes is a profound misuse of City resources. We do not believe it is wise or responsible for the City to spend tens or hundreds of thousands of dollars in legal fees pursuing a dubious legal theory, when we assume there are more compelling needs and projects elsewhere in the City.

At Beachwalker, we are frustrated that tens of thousands of dollars in lawyer fees and survey costs have been required to uphold our legally defined and long-held property rights, openly agreed to by the City in 1985.

Beachwalker urges the Council to take a hard look at the actions being considered by City staff.

Thank you for reading this. We hope that this note will start a serious discussion on this matter, which will have the beachfront at Beachwalker retain its natural state and return to it being a peaceful and neighborly element of the Semiahmoo Spit.

Sincerely,

The owners of Beachwalker Villas

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