

CITY COUNCIL WORKSHOP

**September 16, 2014
5:30 p.m.**

AGENDA



“Where Dreams Can Soar”

The City of Bonney Lake’s Mission is to protect the community’s livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.
www.ci.bonney-lake.wa.us

The City Council may act on items listed on this agenda, or by consensus give direction for future action. The Council may also add and take action on other items not listed on this agenda.

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. Call to Order: Mayor Neil Johnson

II. Roll Call:

Elected Officials: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember James Rackley, and Councilmember Tom Watson.

III. Agenda Items:

- p. 3 **A. Proclamation:** Beautify Bonney Lake Day.
- B. Presentation:** Bonney Lake Police Department 2013 Year End Report. (No advance materials provided)
- C. Council Open Discussion.**
- p. 5 **D. Review of Council Minutes:** August 19, 2014 Council Workshop, August 26, 2014 Council Meeting, and September 9, 2014 Council Meeting.
- p. 19 **E. Discussion:** AB14-104 – SMP Update – DOE Recommended and Required Changes.
- p. 49 **F. Discussion/Action:** AB14-115 – Resolution 2410 – First Amendment to the WSU Development Agreement.
- p. 59 **G. Discussion:** AB14-122 – Planning Commission Memo – Licensed Marijuana Businesses.

IV. Executive Session: Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

V. Adjournment

For citizens with disabilities requesting translators or adaptive equipment for listening or other communication purposes, the City requests notification as soon as possible of the type of service or equipment needed.

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Proclamation

WHEREAS, since 2004, the annual event known as Beautify Bonney Lake has produced thousands of volunteer hours for the improvement of the community, with community volunteers and businesses generously contributing time, materials and money toward needed improvement projects; and

WHEREAS, Beautify Bonney Lake strives to inspire increasingly greater numbers of citizens and businesses to donate at least 3 hours a year to enhance the beauty of the City, by providing a means to easily capture the goodwill of the citizens via their willingness to create permanent and positive improvements to the City; and

WHEREAS, the City of Bonney Lake wishes to recognize the efforts of Beautify Bonney Lake on this 11th Annual event; and

WHEREAS, Beautify Bonney Lake is a registered charitable 501(C)3 organization, organized to engage the community in positive and charitable activities and to enhance the livability of the City.

NOW, THEREFORE, I, Neil Johnson, Jr., Mayor of the City of Bonney Lake, Washington, do hereby proclaim:

Saturday, September 20, 2014

as

Beautify Bonney Lake Day,

And urge all citizens, property owners and businesses to participate in “Beautify Bonney Lake”; and support this great community effort by donating time, labor, talents, materials and monetary contributions to the local improvement projects associated with this wonderful event.

Mayor Neil Johnson

Date

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**CITY COUNCIL
WORKSHOP**

**August 19, 2014
5:30 P.M.**

DRAFT MINUTES



“Where Dreams Can Soar”

The City of Bonney Lake’s Mission is to protect the community’s livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.

Website: www.ci.bonney-lake.wa.us

Location: Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Deputy Mayor Dan Swatman called the Workshop to order at 5:30 p.m.

II. ROLL CALL:

Administrative Services Director/City Clerk Harwood Edvalson called the roll. Mayor Johnson was not in attendance during Roll Call, and arrived to the Workshop at 5:52 p.m. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Randy McKibbin, and Councilmember Jim Rackley. Councilmember Katrina Minton-Davis arrived at 5:44 p.m. Councilmember Lewis was absent.

Councilmember Rackley moved to excuse Councilmember Lewis. Councilmember Watson seconded the motion

Motion approved 6 -0.

Staff members in attendance were City Administrator Don Morrison, Chief of Police Dana Powers, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, and Administrative Specialist II Renee Cameron.

III. AGENDA ITEMS:

A. Review of Draft Minutes: July 15, 2014 Workshop, July 22, 2014 Meeting, and August 12, 2014 Meeting.

This item was forwarded to the August 26, 2014 Meeting for action, with no corrections.

B. Discussion: AB14-115 – Resolution 2410 – First Amendment to the WSU Development Agreement

Community Development Director Vodopich summarized the agenda bill for this item and said the first amendment to the WSU Development Agreement would alter the timeline on the expiration of use restriction on the City property; clarify that the developer is responsible for constructing the 204th extension, SR410 frontage improvements, and provide for signal timing at developers’ expense and at such a time when the first phase of development begins; provide for a drive aisle connection from the commercial property to the City property and provide for City support of a traffic signal at SR410 & 204th. Wally Costello of Quadrant advised regarding the final detail for access to the City property and the 30’ drive aisle. Council stated their concern that no communication to date has been made with the Kroger property owner. Community Development Vodopich responded to Councilmember Hamilton regarding the access issue to the

Kroeger at property and the Council agreed that they would like to see the City to be more proactive notifying the commercial property owners of the City's intent. Councilmember Watson expressed his concern about traffic onto South Prairie. Public Works Director Grigsby expressed his concern for the development agreement clarifying the synchronized traffic signal. Council said they support the amendments, however, they want to know that the City and the developer are going to do something about the interconnections to allow access without having to access SR 410, and that City administration are diligent in working with and notifying the affected properties. Mr. Costello said the process with the State will likely take 3-4 months. He said the amendment to the development agreement would establish what they can and cannot do with the connectivity. Councilmember McKibbin said the Economic Development Committee or the Community Development Committee would be willing to contact the affected property owners. Director Vodopich spoke regarding the initial development agreement and the agreement for access to the south leg to 211th. Council consensus was to move this item forward to the August 26, 2014 Meeting for action.

C. Council Open Discussion.

WSU Development Agreement-Connectivity Issues. Deputy Mayor Swatman said that he heard from the Council earlier in the Workshop that they want the City to try to find connectivity options for the WSU Development Agreement with the affected property owners. Councilmember Rackley said it is important to advise the property owners at an early stage the City's intentions to keep them informed, especially in case the property owners have redevelopment intentions too.

Sumner/Bonney Lake Communities First Families Councilmember Watson said he attended the August 7th Sumner/Bonney Lake Communities First Families meeting which focused on the needs for families in the area, as well as the people reach out to help take care of those in need.

Lions for Kids. Councilmember Watson said Lions for Kids Garage Sale on August 20th from 3-7 p.m. to help with raising money for clothes for kids for going back to school. He also passed out the Fuji Apples fundraiser flyer which supports the Bonney Lake Lions.

Renaissance Fair. Councilmember Watson spoke again about the traffic impacts the Renaissance Fair and the Warrior Dash causes the City and the neighborhoods. He asked that the City provide a letter to the Renaissance Fair Administration asking them to follow through on the needs of the traffic impact during their events. Mayor Johnson said the same request was made for Renaissance Fair as well as the Warrior Dash and ask them both to follow through on the request for traffic control.

Bonney Lake Days. Mayor Johnson thanked Council and staff who attended the City booth and the coordinated the event. Councilmember Minton-Davis suggested that besides throwing candy out during the parade that we could find an alternative to candy. Mayor Johnson also suggested possibly handing out dog treats. Deputy Mayor Swatman spoke about numerous activities that occurred during the Bonney Lake Days, and wants to encourage a plan for the City to utilize various locations for the events that draw the crowds, and to utilize all the areas the City has available.

Historical Markers. Mayor Johnson said he wrote a letter to Pierce County Councilmember Dan Roach and received a \$2,500 donation for the needed historical markets.

DM Disposal Information. Mayor Johnson said DM Disposal is working hard on educational components to provide additional information regarding upcoming recycling opportunities to their customers.

Bonney Lake Food Bank. Deputy Mayor Swatman spoke regarding the tour he did on July 29th of the Bonney Lake Food Bank/Bread for Life and the educational support that Good Bank are hoping to expand on.

Auburn Chamber Luncheon. Councilmember Watson spoke regarding the luncheon he attended at the Auburn Chamber regarding the health care issues that were discussed, as well as the need for food from the food banks, and the families affected by both needs.

D. Discussion: Budget Projections.

City Administrator Morrison spoke regarding the budget projections for next year, including the effects of the building permits and transportation impact fees. He advised that there are four basic options to consider to balance the budget. Option 1 was to use all of the City's resources to make it balanced, including selling surplus property; Option 2 was cutting programs and staff, though the programs are already lean and the service levels have already been squeezed tightly; Option 3 would be to balance the budget with revenue increases like tax and fees increases and possibly a transportation benefits district for, a sales tax option which would help to ease the street maintenance budget; and Option 4 would be a business and occupation (B&O) tax. Council inquired about revenue and how a B&O tax would affect local businesses and how it would be applied. Councilmember Hamilton asked about how the medical services businesses can be required to pay B&O taxes since they pay no property taxes. Councilmember Rackley addressed his concern about the costs of credit card usage and believes a B&O tax should be implemented. Mayor Johnson addressed the concerns with the budget and the affect the City has with occupying the Justice & Municipal Center and he thinks that is an important factor with funding the budget with fund balance. He said the other key component is looking at recurring revenue through commercial sales tax, as this this the way most cities are funding projects. He said Bonney Lake does not impose a lot of taxes, and he believes that in order to provide services, recurring revenues will have to come from sales tax and that is the reality for the area to balance it out. He said there are other areas that can be adjusted to allow for change of use of businesses. Deputy Mayor Swatman said if the City can get everyone on the same page and understanding regarding use of sales tax, storm, water, credit cards issues, then it would be beneficial for everyone. City Administrator Morrison said huge building permit fees being paid on a credit card is a huge cost to the City when developers are getting the break on it. Councilmember Hamilton said the City needs to come up with new revenue ideas and living off the residuals from the building boom are going to be coming to an end. He said that there are ways that the City can combine their efforts with the County to better everyone. Councilmembers asked for clarification to the options presented. Councilmember Minton-Davis said it appears to her that Option 4 looks like the best option to her, though she is not in favor of the \$20 tab fee. She asked about the City's lower staffing level numbers and what is the difference between comparable cities. City Administrator said it is the tax basis, and the payments for the police radios and the Justice & Municipal Center. Mayor Johnson said the cost of some of the bigger projects that the City took on are a large current expense, however, they are not long term expenses. He believes City staff are paid comparable to other cities and staff are not paid higher. A lot of our employees are paid through utilities.

Councilmember Watson agreed with Councilmember Minton-Davis regarding Option 4 and they type of things he would like the City to review and go back and review some items in departments on spending. City Administrator Morrison discussed the health care premium increases, state mandated payroll contribution rates for PERS, and the rates are increasing. Mayor Johnson said there are times when some things need to be addressed to make sure it is being followed and addressed if there is a concern with the costs. There was then discussion for

the surplus property appraised behind the 192nd Junction the City will list it for sale. City Administrator Morrison spoke regarding the park impact fees and the revenue from that will go to pay off the Moriarty property, and with that paid off approximately two million dollars could be applied to a capital park project/projects. He thinks it would be prudent that the City work on building the master plan to start working on the projects the Council would like to see done. Councilmember Minton-Davis spoke about the discussion they had at the retreat and would like to see the Council focus on the smaller projects to get completed.

City Administrator Morrison spoke regarding the \$75,000 improvements for the Victor Falls property and the long range plan for how it is being built out. Council would like to see a plan that completes projects. There was discussion about what the plans could/would be for the Moriarty property. Mayor Johnson spoke regarding options and things to consider for the future at the Moriarty property, the boat launch, a park at Mid-Town Park, all the options

E. Discussion: AB14-108 – Ordinance D14-108 – BLMC 9.17 – Disposal of Forfeited Firearms.

City Administrator Morrison summarized the agenda bill for this item for disposing of forfeited firearms. This item had been briefly reviewed by the Public Safety Committee and the Police Department would be overseeing the disposal of the firearms. Council sought clarification regarding ownership of the firearms, or possession of forfeited firearms and City Attorney Haggard advised them regarding the difference between, ownership, forfeited and surplus firearms. This item was forwarded to the August 26, 2014 Meeting for action.

Agenda amended to add Agenda Item III.F. for Discussion/Action.

Deputy Mayor Swatman moved to amend the agenda and Councilmember Rackley seconded the motion to Add Agenda Item III.F. AB14-56 – Resolution 2378 – Release of Temporary Cul De Sac & Temporary Turnaround Easement with D.R. Horton.

Motion approved 6 - 0.

F. Action: AB14-56 – Resolution 2378 – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Release Of Temporary Cul De Sac & Temporary Turnaround Easement With D.R. Horton.

Councilmember McKibbin said the item has been reviewed by the Community Development Committee and if the Council approves the resolution then the D.R. Horton's permits are ready for approval and pick up. Community Development Director Vodopich advised that East Pierce Fire and Rescue have reviewed and approved the permits. Council had no further questions.

Councilmember Rackley moved to approve Resolution 2378, Councilmember Watson seconded.

Resolution 2378 approved 6 – 0.

IV. EXECUTIVE SESSION: None.

V. ADJOURNMENT:

At 7:15 p.m., Councilmember Rackley moved to adjourn the Council Workshop. Councilmember Watson seconded the motion.

Motion to adjourn approved 6 - 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the August 19, 2014 Workshop:

- John Vodopich, Community Development Director – *AB14-56 – Resolution 2378 - A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Release Of Temporary Cul De Sac & Temporary Turnaround Easement With D.R. Horton.*

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

CITY COUNCIL MEETING

**August 26, 2014
7:00 P.M.**

DRAFT MINUTES



“Where Dreams Can Soar”

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Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Deputy Mayor Dan Swatman called the meeting to order at 7:00 p.m.

- A. Flag Salute: Deputy Mayor Dan Swatman led the audience in the Pledge of Allegiance.
- B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Deputy Mayor Dan Swatman, elected officials attending were Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember Jim Rackley, and Councilmember Tom Watson. Mayor Neil Johnson, Jr. was out of town and absent from the meeting.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Assistant Police Chief James Keller, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, and Records & Information Specialist Susan Haigh.

C. Announcements, Appointments and Presentations:

- 1. Announcements: None.
- 2. Appointments: None.
- 3. Presentations: None.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments:

Kim Nygard, Drug Free Community Coordinator, Sumner School District, spoke about drug prevention in the community. She thanked the Council for passing a moratorium on marijuana retail sales. She said her group can provide educational resources if the Council is interested.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS:

- A. Finance Committee: Deputy Mayor Swatman said the Committee met at 5:30 p.m. earlier in the evening as the Committee of the Whole and discussed budget issues and the proposed Public Works facility on 96th Street East in Eastown.
- B. Community Development Committee: Councilmember McKibbin said the Committee met on August 19, 2014 and forwarded two items to the Consent Agenda and one item to CDC Issues on the current agenda.
- C. Economic Development Committee: Councilmember Minton-Davis said the Committee met earlier in the afternoon and reviewed the monthly development activity report. She said the report for the 3rd quarter will be provided to the full Council in the future.
- D. Public Safety Committee: Councilmember Watson said the Committee has not met since the last Council Meeting.
- E. Other Reports:
Pierce County Regional Council: Councilmember Hamilton said he attended the PCRC Meeting on August 21, 2014. He said jurisdictions should submit any legislative issues they want the organization's lobbyist to address. The PCRC also discussed ways to provide planning services for small cities who do not have dedicated planning staff.

IV. CONSENT AGENDA:

- A. **Approval of Minutes**: July 15, 2014 Council Workshop, July 22, 2014 Council Meeting and August 12, 2014 Council Meeting.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers**: Accounts Payable checks/vouchers #69341-69386 in the amount of \$242,462.69.
Accounts Payable checks/vouchers #69387-69419 (including wire transfer's #20140811, and 2014080801) in the amount of \$42,871.93.
Accounts Payable checks/vouchers #69420-69426 in the amount of \$10,719.92 for Bonney Lake Days vendors.
Accounts Payable checks/vouchers #69427-69430 (including wire transfer #13838804) in the amount of \$83,355.72.
- C. **Approval of Payroll**: Payroll for August 1st-15th 2014 for checks #31931-31952 including Direct Deposits & Electronic Transfers is \$ 488,599.41.
- D. **AB14-109 – Ordinance 1488 (D14-109)** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adding A New Subsection 12.08.020(E) To The Bonney Lake Municipal Code, Relating To Permit Fees For Work In The Public Right Of Way Outside The City Limits.
- E. **AB14-116 – Resolution 2411** – A Resolution Of The City Council Of The City Of Bonney Lake, Washington, Authorizing A Professional Services Agreement With KPG Engineering For Environmental Permitting For The Church Lake Road Culvert Replacement Project.

Councilmember Watson moved to approve the Consent Agenda. Councilmember Lewis seconded the motion.

Consent Agenda approved 7 – 0.

V. FINANCE COMMITTEE ISSUES:

- A. **AB14-111 – Resolution 2406** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Renewed Agreement For Access To County GIS Systems With Pierce County.

Councilmember Lewis moved to approve Resolution 2406. Councilmember Watson seconded the motion.

Deputy Mayor Swatman noted this is an automatically renewing or ‘evergreen’ agreement.

Resolution 2406 approved 7 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

- A. **AB14-106 – Resolution 2397** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Road Mitigation Agreement With Nash Cascadia Verde LLC (“Nash”) For The SR410 And Veterans Memorial Drive Intersection Improvement Project.

Councilmember Watson moved to approve Resolution 2397. Councilmember Lewis seconded the motion.

Scott J. Jones, Vice President and General Manager, Newland Communities, was invited to address the Council; he thanked the Council for moving the project forward.

Public Works Director Grigby noted that the related intersection improvement project will provide double left-turn lanes for eastbound traffic on SR 410, open the right-turn lane from SR 410 onto Veteran’s Memorial Dr E, and two right-bound turn lanes from Veterans Memorial Dr E to SR 410. He said this will reduce the queuing distance for vehicles entering and exiting SR 410. The project also includes a small landscaped median on SR 410, replacing the center turn lane where many accidents have occurred.

Councilmember Rackley added it will improve safety for those entering and exiting Myers Road E on the hill; Mr. Grigsby explained only right-turns will be allowed for the street. He said staff hope to advertise for the project in January 2015 and begin around April 2015. Councilmember Watson said he is glad the project is moving forward with cooperation between the developers and city. Councilmember Minton-Davis asked how long the project will take to complete; she noted that past projects on SR 410 have impacted commuters and resulted in a lot of complaints. Mr. Grigsby said a more firm timeline will be available once the project goes out to bid. He added that there are three projects slated for SR 410 in 2015, including City projects at Angeline Road and Veterans Memorial Drive, and a WSDOT project as well.

Deputy Mayor Swatman said the project will be possible due to the proposed mitigation agreement, with the communities of Bonney Lake and Tehaleh working together more closely.

Resolution 2397 approved 7 – 0.

VII. ECONOMIC DEVELOPMENT COMMITTEE ISSUES: None.

VIII. PUBLIC SAFETY COMMITTEE ISSUES:

- A. **AB14-108 – Ordinance 1487 [D14-108]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adding A New Chapter 9.17 To The Bonney Lake Municipal Code Relating To The Disposal Of Forfeited Firearms.

Councilmember Watson moved to approve Ordinance 1487. Councilmember Rackley seconded the motion.

Councilmember Rackley said the proposed ordinance codifies existing practice, and is in compliance with state laws.

Ordinance 1487 approved 7 – 0.

IX. FULL COUNCIL ISSUES: None.

X. EXECUTIVE SESSION: None.

XI. ADJOURNMENT:

At 7:15 p.m., Councilmember Lewis moved to adjourn the Council Meeting. Councilmember Watson seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the August 26, 2014 Meeting: None.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

CITY COUNCIL MEETING

September 9, 2014
7:00 P.M.



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DRAFT MINUTES

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:00 p.m.

- A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.
- B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember Jim Rackley, and Councilmember Tom Watson.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Police Chief Dana Powers, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, Records & Information Specialist Susan Haigh, and Senior Planner Jason Sullivan.

C. Announcements, Appointments and Presentations:

- 1. Announcements: None.
- 2. Appointments: None.
- 3. Presentations:
 - a. **AB14-122** – Planning Commission Memo – State-Licensed Marijuana Industry Regulations.

Planning Commission Chair Grant Sulham summarized the memo presented by the Commission, which offers three options for the Council to consider moving forward. He asked the Council to select one of these options to provide direction for the Commission, which can then move forward with SEPA review and further study.

Mayor Johnson suggested the Council discuss the memo at a future workshop with Mr. Sulham and staff members. Councilmember Hamilton thanked the Commission for their diligence in working on this issue over the months. Councilmember Rackley asked for clarification on the City's liability if a full ban is put in place. Mr. Sulham described some differences between the Colorado and Washington laws. The item was forwarded to a future Workshop for discussion.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings:

1. **AB14-115** – A Public Hearing Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding Resolution 2410, Authorizing The Mayor To Sign The First Amendment To The WSU Development Agreement.

Mayor Johnson opened the public hearing at 7:04 p.m.

The City Clerk noted correspondence via email to be submitted into the record from Bonney Lake resident Roger Watt. Deputy Mayor Swatman provided copies of correspondence to the City Clerk to be submitted for the record; a 2005 letter from WSDOT and a 2006 letter from Christine Gregoire.

Wally Costello 11505 NE 75th St, Kirkland, Washington, spoke as a representative of Weyerhaeuser and WSU. He thanked the Council for their consideration and said that all the amendments discussed at the previous Council Workshop have been incorporated into the proposed agreement. He said he and his staff are available to answer any questions.

Seeing no further speakers, Mayor Johnson closed the public hearing at 7:07 p.m.

B. Citizen Comments:

Laura Metzler, 8004 183rd Ave E, Bonney Lake, introduced herself as the new Executive Director for the Bonney Lake Chamber of Commerce. She announced upcoming events including 9/17 candidates forum and a family event on September 27th at Tehaleh. She said the Chamber's office hours are from 9:00 a.m. to 1:00 p.m. Monday through Friday at Harborstone Credit Union in Bonney Lake.

Mark Isaacs, 115 Silvernail St, Orting, spoke about an incident on August 3rd when his wife was struck by a bicyclist while riding around Lake Bonney. His wife was knocked unconscious, but the cyclist drove away. Mr. Isaacs expressed concerns with a delayed police investigation, lack of response to a call to dispatch regarding the suspect, and lack of follow-up from the detective working on the case. He said he is concerned about safety for those walking and biking around Lake Bonney.

Mayor Johnson requested Mr. Isaacs' contact information and said he would follow up with him soon. Councilmember Watson invited Mr. Isaacs to attend the next Public Safety Committee meeting.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS:

- A. Finance Committee/Committee of the Whole: Deputy Mayor Swatman said the Committee of the Whole met at 5:30 p.m. earlier in the evening and discussed credit card fees; proposed fee schedule updates; a labor negotiation services contract; and funding for the Public Safety Building heating and cooling system.
- B. Community Development Committee: Councilmember Lewis said the committee met a week ago and forwarded two items to the current agenda as Consent Agenda issues C. (AB14-117) and D. (AB14-118).

- C. Economic Development Committee: Councilmember Minton-Davis said the Committee met earlier in the afternoon and spoke with representatives from the Berk Company about their consulting services.
- D. Public Safety Committee: Councilmember Watson said the committee has not met since the last Council meeting but is scheduled to meet on September 15, 2014 at 5:00 p.m.
- E. Other Reports: None.

IV. CONSENT AGENDA:

- A. **Approval of Accounts Payable and Utility Refund Checks/Vouchers**: Accounts Payable checks/vouchers #69431-69481 (including wire transfer #'s 20140801, 20140802, 20140803, and 20140815) in the amount of \$346,181.75. Accounts Payable wire transfer #2014081801 for p-card purchases in the amount of \$39,067.06. Accounts Payable checks/vouchers #69482-69522 (including wire transfer #20140825) in the amount of \$251,187.57. Accounts Payable checks/vouchers #69523-69571 for utility customer refunds in the amount of \$4,118.00.
- B. **Approval of Payroll**: Payroll for August 1st–15th, 2014 for checks #31931-31952 including Direct Deposits and Electronic Transfers is \$ 488,599.41. Payroll for August 16th-31st, 2014 for checks # 31953-31982 including Direct Deposits and Electronic Transfers is \$ 693,515.30.
- C. **AB14-117 – Resolution 2412** – A Resolution Of The City Council Of The City Of Bonney Lake, Washington, Authorizing A Contract With Parametrix Engineering For The Lake Tapps Flume Trestle Structural Evaluation.
- D. **AB14-118 – Resolution 2413** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Two Contract Amendments To Resolution 2255 Awarding The Professional Services Agreement To RH2 Engineering, Inc. For The System Upgrade Analysis Of The City's SCADA System For Water And Sewer Systems.

Councilmember Watson moved to approve the Consent Agenda. Councilmember Lewis seconded the motion.

Consent Agenda approved 7 – 0.

- V. **FINANCE COMMITTEE ISSUES**: None.
- VI. **COMMUNITY DEVELOPMENT COMMITTEE ISSUES**: None.
- VII. **ECONOMIC DEVELOPMENT COMMITTEE ISSUES**: None.
- VIII. **PUBLIC SAFETY COMMITTEE ISSUES**: None.
- IX. **FULL COUNCIL ISSUES**:
 - A. **AB14-115 – Resolution 2410** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign The First Amendment To WSU Development Agreement. [Pursuant to Public Hearing.]

Councilmember Rackley moved to suspend the Council's rules to take action on proposed Resolution 2410. Councilmember Watson seconded the motion.

Deputy Mayor Swatman said if the issue is not time-sensitive he would prefer to table it to a Workshop. He spoke in favor of providing a long public process for commenting and discussion. He said he submitted correspondence from then-Governor Chris Gregoire and the State Traffic Engineer that the Council should review. Senior Planner Jason Sullivan confirmed that all the revisions requested at the Council Workshop were made to the proposed agreement. He said the developers also got input from Public Works on intelligent systems design, and from adjacent property owners on cross-access issues.

Councilmembers discussed options and whether to take action at the current meeting; consensus was to table the item to a Workshop for discussion and action. City Attorney Haggard advised that if the Council votes against suspending its rules to consider the resolution, it will automatically be tabled from consideration on the current agenda.

Motion to suspend the Council rules failed 0 – 7.

Proposed Resolution 2410 was tabled to the September 16, 2014 Workshop for discussion and action.

X. CLOSED SESSION:

Pursuant to RCW 42.30.140(4)(b), the City Council adjourned to a Closed Session at 7:26 p.m. for 15 minutes to discuss labor negotiations. At 7:49 p.m. the Closed Session was extended for 5 minutes. The Council returned to Chambers at 7:59 p.m. No action was taken.

XI. ADJOURNMENT:

At 7:59 p.m., Councilmember Lewis moved to adjourn the Council Meeting. Deputy Mayor Swatman seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the September 9, 2014 Meeting:

- Roger Watt, Citizen – 9/8/2014 email re: WSU Property Development Agreement Amendment.
- Deputy Mayor Dan Swatman – 9/29/2005 email from Alana Hess, Washington State Department of Transportation re: SR 410 WSU – Quadrant Comprehensive Plan Update Submittal.
- Deputy Mayor Dan Swatman – 8/8/2006 letter from Governor Christine Gregoire.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

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City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Community Development / Jason Sullivan - Senior Planner	Meeting/Workshop Date: 16 September 2014	Agenda Bill Number: AB14-104
Agenda Item Type: Discussion	Ordinance/Resolution Number: D13-56	Councilmember Sponsor: Councilmember Lewis

Agenda Subject: Shoreline Master Program Update

Full Title/Motion: n/a .

Administrative Recommendation:

Background Summary: On January 28, 2014 the City Council passed Resolution 2297 stating the City Council’s intent to adopted Ordinance D13-56, which would repeal the City’s 1974 Shoreline Management Master Plan and adopt a new Shoreline Master Program (SMP). The adoption of the new SMP was require to comply with the requirements of the Shoreline Management Act (Chapter 90.58 RCW) and the guidelines adopted by the Department of Ecology (DOE) in Chapters 173-26 and 173-27 WAC.

Resolution 2297 directed the Community Development Director to submit a copy of the updated Bonney Lake SMP, along with all other required materials, to DOE. A complete submittal packet was provide to DOE on February 24, 2014, which was officially deemed complete by DOE on March 26, 2014. DOE conducted its public comment period from May 8, 2014 to June 9, 2014. DOE has now completed its review of the City’s SMP and issued its findings conditionally approving the City’s SMP, on August 14, 2014, subject to making a number of required changes to the draft SMP. DOE’s conditional approval also included a list of recommended changes that the City could choose to make to the draft SMP. The required and recommended changes are fully identified in DOE’s August 14th letter Attachments B and C, respectively. The City has 30 days to review the changes and provide a response to DOE. DOE’s required changes mandate that the City:

1. Add policies to the draft Shoreline Element for the Aquatic Shoreline Environmental Designation (SED). There are currently no policies in the draft Shoreline Element and the proposed policies are based on the policies established in the Chapter 173-26 WAC.
2. Amend the setback provisions for the Natural SED to remove an internal inconsistency. The change does not change any of the substantive requirements, but is a grammatical change.
3. Remove the requirement that non-conforming houses obtain a Shoreline Substantial Development Permit (SSDP) as the use is specifically exempt from this requirement. This change would make it easier for owners of non-conforming homes to obtain permits.
4. Include a reference to the 1987 Corps of Engineer’s Wetland Delineation Manual as it is still used to delineate wetlands.
5. Cite DOE’s new technical guidance for wetland mitigation. This change is required in three different places in Ordinance D13-56 and as such is identified as Items 5 – 7 in Attachment B.

DOE’s recommended changes would:

1. Allow municipal well facilities in the Natural SED around Victor Falls, the current draft SMP does not include this use as a permitted use.

2. Change trails to permitted use from a shoreline conditional use in the Natural SED around Victor Falls. The permitting requirements for a permitted use are substantially less than for a shoreline conditional use.
3. Change the name of the State Office of Archaeology and Historic Preservation to the Department of Archaeology and Historic Preservation, which is now the correct name of the department.
4. Ensure that fills upland of the Ordinary High Water Mark (OHWM) are allowed for all approved uses. DOE was concerned that the City's draft SMP was too restrictive as it related to fills for approved uses.
5. Change the requirements that utilities associated with docks be above the waterline instead of the OHWM. The recommended change is less restrictive than the current draft standard.
6. Allow transmission lines and municipal well facilities in the shoreline setback for the Natural SED around Victor Falls.
7. Require a conditional use permit instead of a SSDP for non-conforming single family residents. The City could also simply adopt the require change which would allow non-conforming homes to be processed as a shoreline exemption. The recommended change would significantly increase the permitting requirements as compared to the required change.
8. Remove sections 25 thru 34 of Ordinance D13-56. These sections address more than just the SMP and will be adopted under a separate ordinance. The reason for the change is that if the sections are include in Ordinance D13-56, DOE will consider the sections part of the SMP and would require the City to go through the SMP amendment process to amend these sections in the future even if the change was not directly or indirectly related to the SMP.
9. Remove the requirement that docks have to be fully grated. This change was requested by a resident around the lake to reduce the cost of building docks. Staff was able to work with DOE to include the request as one of the recommended changes.
10. Remove the table of contents and chapter number for the Shoreline Element. This will allow the City to adopt the table of contents and chapter number as part of the Comprehensive Plan Update. If it is include in the SMP, the City could not change the number of the chapter without going through the full SMP amendment process.

Staff recommends that the City Council adopted all of the required and recommend changes with the exception of the recommended change identified as number 7 above and in Attachment C of DOE's August 14th letter. At this time the City cannot make any further changes to the draft SMP unless the change is required or recommended by DOE.

If the City Council is okay with the required changes and would like to incorporate the recommended changes, with the exception of item 7, staff will make the changes to Ordinance D13-56 and bring the updated ordinance back to the City Council for final action on September 9, 2014. Once the Council adopts Ordinance D13-56, the adopted version will be sent to DOE for final approval and will become effective 14 days following DOE's final approval per RCW 90.58.090(7). Staff expects that the new SMP would be effective by early October 2014.

In regards to the recent article in the Tacoma News Tribune indicating that DOE would be allowing a 50 foot buffer or setback along the portions of Lake Tapps regulated by the County. DOE has not issued a final decision on the proposal. At this time DOE has only indicated that it might be a responsible approach and would considered it once the County submits the revised draft SMP.

The reason that the City proposed a 60 foot setback was that it maintain the existing development pattern around the City's portion of Lake Tapps and helped to preserve some of the views from adjacent properties. Currently, the average distance between homes and the OHWM in the City is 61.8 feet. The setback was used in the required no net loss documentation and cumulative impact study. Both of these

would have to be amended by a professional biologist in order to document that the change in the setback requirement would not have a negative impact on Lake Tapps.

The City's SMP also includes a process to reduce the 60 foot setback to a 40 foot setback; a similar process is not provided in the County's code. In a previous conversation with County on the topic, County staff has indicated that if the County went with a 50 foot buffer or setback then DOE may require that the County prohibit buffer reductions and buffer averaging around Lake Tapps.

The SMP is not a static document and can be amended once it is adopted. If DOE ultimately approves the 50 foot setback, the City could consider reducing the setback through a separate SMP amendment process, but the City would need to look at all of the ramifications prior to making that decision.

Attachments: DOE Conditional Approval Letter dated August 14, 2014 and City Response to Public/Agency Comments

BUDGET INFORMATION

Budget Amount n/a	Current Balance	Required Expenditure	Budget Balance
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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:

Date:

Approvals:

Yes No

Chair/Councilmember

Councilmember

Councilmember

Forward to:

Consent Agenda: Yes No

Commission/Board Review: Planning Commission

Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): 3 December 2013 and
21 January 2014

Public Hearing Date(s):

Meeting Date(s): 28 January 2014

Tabled to Date:

APPROVALS

Director:
JPV

Mayor:

**Date Reviewed
by City Attorney:**
(if applicable):

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 14, 2014

The Honorable Neil Johnson
City of Bonney Lake
PO Box 7380
Bonney Lake, WA 98391-0944

**Re: City of Bonney Lake Comprehensive Shoreline Master Program Update –
Conditional Approval, Resolution Number 2297**

Dear Mayor Johnson:

I would like to take this opportunity to commend the city of Bonney Lake (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update. The SMP will provide a framework to guide development and habitat restoration along the City's shorelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point, the City may:

- Agree to the proposed changes (required and/or recommended changes), or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally developed by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guideline requirements.

The Honorable Neil Johnson
August 14, 2014
Page 2

Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that the City Council, City staff (Jason Sullivan), the Planning Commission, and the community have put into the Shoreline Master Program update.

We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Sarah Lukas, at Sarah.Lukas@ecy.wa.gov/(360) 407-7459.

Sincerely,



Maia D. Bellon
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 3560]

cc: Jason Sullivan, City of Bonney Lake
Paula Ehlers, Ecology
Sarah Lukas, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF BONNEY LAKE
SHORELINE MASTER PROGRAM**

SMP Submittal accepted March 26, 2014, Resolution No. 2297
Prepared by Sarah Lukas on August 8, 2014

Brief Description of Proposed Amendment:

The City of Bonney Lake has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains City of Bonney Lake Resolution No 2297, an intent to adopt Draft Ordinance D13-56 that contains locally tailored shoreline management regulations to be codified as City Code Chapter 16.34 and updated critical area code regulations from Bonney Lake Municipal Code Chapter 16 and the following: a findings of facts and conclusions on the comprehensive update process; an updated Shoreline Environment Designation Map; Chapter 13 of the Comprehensive Plan that contains draft policies and goals; and, a finalized Restoration Plan. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. The original City SMP was approved by Ecology in August 1975 and was last amended in May 1988. This SMP update is also needed to address land use changes that have occurred along the City's shorelines over the past 26 years.

The area of shoreline jurisdiction regulated under the city's SMP has changed. The new SMP now regulates approximately 1,290 linear feet of Fennel Creek below Victor Falls. This part of the Creek is not contiguous with the rest of the city and is completely surrounded by unincorporated Pierce County. The regulated area of Lake Tapps, a Shoreline of Statewide Significance, has also changed. The White River Flume once considered part of the Lake Tapps shoreline, located on the Southeast shoreline of Lake Tapps, has been removed from shoreline jurisdiction.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated from a local planning process that began in August 2009. As part of the Public Participation Plan the City formed a Citizen's Advisory Committee (CAC) to provide organized input and recommendations for the Planning Commission and City Council. Recruitment for the CAC was posted on both January 11, 2010 and on February 4, 2010 in several local public spaces including Bonney Lake City Hall, the City Hall Annex, the Bonney Lake Public Library, the Tacoma News Tribune, the Puyallup Herald Newspaper, and the Bonney Lake webpage bulletin board. A total of five meetings were held between April 2010 and February 2011. The CAC reviewed and provided recommendations on several aspects of the SMP including Shoreline Environment Designations, Docks and Floats, Shoreline Stabilization, and Residential Development.

The record shows that a workshop on the update open to the public was held on October 18, 2010. A hearing in front of the Planning Commission was held on October 16, 2013. Affidavits of publication provided by the City indicate notice of the hearing was published on September 18, 2013 in the

Enumclaw Courier-Herald Weekly Newspaper, as well as sent to interested parties and all shoreline property owners in the city.

With passage of Resolution #2297, on January 28, 2014, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on February 26, 2014 and verified as complete on March 26, 2014. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on April 28, 2014, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on May 8 and continued through June 9, 2014. Ecology did not hold a public hearing on the proposed amendment. A total number of two comment letters were submitted to Ecology during the public comment period. Ecology sent all comments it received to the City on June 10, 2014. On June 24, 2014, the City submitted to Ecology its responses to issues raised during the state comment period, see Attachment D. Ecology's own responses to issues raised during the comment period are reflected in the recommended changes, see Attachment C.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on September 13, 2013. Notice of the SEPA determination was published in the Enumclaw Courier-Herald on September 18, 2013. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- *a November, 2009 Public Participation Plan;*
- *a June, 2010 Shoreline Inventory and Analysis Report;*
- *a January 2013 Shoreline Analysis Report Supplement;*
- *an Environmental Designation Justification;*
- *a December 2013 Cumulative Impacts Analysis;*
- *a December 2013 No Net Loss Report; and*
- *a November 2013 Restoration Plan.*

Summary of Issues Raised During The Public Review Process:

The City's SMP amendment identified complex issues related to shoreline jurisdiction. Areas of the Bonney Lake and Pierce County shoreline were removed from shoreline jurisdiction related to the water conveyance system that is the primary source of hydrology of Lake Tapps called the White River Flume. The White River Flume is an eight mile man made water conveyance system originating at the White River in Buckley, WA. Historically, areas of the flume that fell within the Ordinary High Water Mark of Lake Tapps were regulated as part of the Lake Tapps shoreline. However, after several discussions with the city and Cascade Water Alliance (property owner), and site visits; the terminus of the White River Flume was determined and areas upstream of the terminus were excluded from jurisdiction. The result of this change is illustrated in the proposed Shoreline Environmental Designation Maps submitted by the city for approval as part of this SMP.

Summary of Issues Identified by Ecology as Relevant To Its Decision:

The following required changes are necessary for consistency with the Shoreline Management Act and applicable Washington Administrative Code as cited below.

The submittal does not contain policies for the Aquatic shoreline environment designation (SED). The addition of policies within the 'Shoreline Element,' Chapter 13 of the Bonney Lake Comprehensive Plan are necessary for consistency with WAC 173-26-211(4)(a)(iii).

An internal conflict exists between the allowed intrusions into the setback and prohibited uses for the Natural (SED). Several allowed intrusions into the setback area are also prohibited in the Natural SED. A change is necessary to alleviate an internal inconsistency within the SMP and clarify what uses can be allowed in the Natural SED. The removed language identifies several allowed intrusions into the setback that are inconsistent with Use and Modification Table found in BLMC16.50.020. The additional text specifies the appropriate allowed uses consistent with the Use and Modification Matrix, as allowed intrusions into the setback.

The proposed non-conforming use provisions require a shoreline substantial development permit for proposals to expand legally existing single-family residences not meeting the current shoreline setback requirements in the SMP. In most cases, such proposals will be exempt from the substantial development permit process under 90.58.030(3)(e) RCW and WAC 173-27-040(2)(g), when it meets the conditions of the exemption, making this a conflict with the applicable administrative code. This change removes the requirement for the substantial development permit leaving it to approval by the city which will either be a substantial development permit or a shoreline exemption that the city can condition.

Four incorrect citations were identified in the wetlands section of the Critical Areas Ordinance, these changes are necessary for consistency with WAC 173-26-221(2)(c)(i), a requirement to use Ecology's guidance for wetlands.

Along with the above required changes necessary to be consistent with the state law, the following changes are recommended and found in Attachment C.

The proposed SMP requires a shoreline conditional use permit to develop trails in the Natural shoreline environment designation (SED). This area within the City of Bonney Lake is completely owned by the city and would be providing public access to the shoreline through the adjacent public park lands. Ecology recommends allowing trails for public access with a substantial development permit to implement the policy found in 90.58.020(5) RCW, "Increase public access to publicly owned areas of the shoreline."

There is an existing municipal well facility along with associated utility infrastructure located in the Natural SED. The submitted SMP prohibits utilities and is silent on the allowance of well facilities in the Natural SED, this prohibition is consistent with the provisions found in WAC 173-26-211(5)(a)(ii). However, Ecology recommends allowing such facilities and the associated transmission lines with a conditional use permit. This allowance will remove a conflict with the existing well and the regulations, and avoid creating a non-conforming use for the city's municipal water supply. This change is reflected in the use matrix, found in BLMC 16.50.0202.

In comments received by the Department of Archaeology and Historic Places (DAHP), DAHP identified the general regulations concerning Archaeological and Historic Resources incorrectly identified DAHP as the State Office of Archaeology and Historic Places. Ecology recommends the city resolve this inconsistency by changing the title of DAHP in the SMP.

The submitted SMP contains regulations for fill that are more restrictive than required in WAC 173-26-231(3)(c). The Guidelines distinguish between regulations below the Ordinary High Water Mark (OHWM), and on lands above the OHWM. Ecology recommends distinguishing the placement of fill in the water compared to fill placed on land above the OHWM consistent with the associated administrative code. This change will avoid conflicts with future proposed development of areas on land where the placement of fill can be common practice, and necessary for the allowed uses of the SMP.

The proposed dock provisions contain contradictory language for the placement of utility lines running underneath docks. Ecology recommends clarifying that lines need to be placed above the water when below the OHWM.

The submitted SMP contains the requirement for a substantial development permit to expand an existing single-family residence that does not conform to the current setback requirements. As identified in the required changes section above, in most cases a single family residence is exempt from a substantial development permit when it meets the conditions found in 90.58.030(3)(e) RCW and WAC 173-27-040(2)(g), so the permit requirement conflicts with the exemption. The city requested the ability to require a conditional use permit for such expansions, which would provide the city with a higher review standard over the review and approval process for such proposals.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending

beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternatives is effective 14 days from Ecology's final action approving the alternatives.

Attachment B:

Ecology Required Changes for the City of Bonney Lake

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	SMP Submittal PROVISION (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1		The Aquatic Environment Designation	<p><u>Policy SL 1.1 Areas designated Aquatic (“A”) shall be all areas waterward of the ordinary high-water mark. Within these areas, only water depended uses should be allowed in order to protect, restore, and manage the unique characteristics and resources of the aquatic environment. The following management policies should be implemented though the development regulations adopted by the City for these areas:</u></p> <ul style="list-style-type: none"> • <u>Allow new over-water structures only for water-dependent uses, public access, and/or ecological restoration.</u> • <u>The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.</u> • <u>In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.</u> • <u>All developments and uses on navigable waters should be located and designed to minimize interference with surface navigation and to consider impacts to public views.</u> 	The SMP Submittal did not include Aquatic shoreline environment designation policies the addition of these policies are necessary for consistency with WAC 173-26-211(4)(a)(iii).

			<ul style="list-style-type: none"> • <u>Uses that adversely impact the ecological functions should not be allowed except where necessary and then only when impacts are mitigated to assure no net loss of ecological functions.</u> • <u>Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.</u> • <u>Shoreline areas should be reserved for shoreline preferred use and development of the shoreline should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing residential uses, critical habitats, aesthetics, public access and views.</u> 	
2	16.46.030(C), Page 25	The Natural Environment Designation	<p>Minimum Shoreline Setback:</p> <ol style="list-style-type: none"> 1. All structures and developments shall be setback a minimum of 200 feet from the OHWM- <u>except as provided in BLMC 16.56.100(8).</u> 2. No development is allowed within the setback areas established in this section ; except as provided in BLMC 16.56.100 	This change is necessary to alleviate an internal inconsistency within the SMP, 16.46.030(C)(1) and 16.46.030(C)(2); The additional language specifies which intrusions cited found in 16.56.100 are appropriate in the Natural SED.
3	16.56.150 (B), page 63	Non-Conforming Uses and Developments	Single-family residences that were legally established and are located landward of the OHWM that do not meet the shoreline setback may be enlarged or expanded upon approval of a Shoreline Substantial Development Permit provided that the new construction complies with applicable bulk and dimensional standards of the Title 18, the applicable provisions of the Shoreline Code, and does not expanded further into the shoreline setback except as provided for in BLMC 16.56.040 and BLMC 16.56.100.	The city cannot require a substantial development permit for the development of a single-family residence that meets the conditions of the exemption found in 90.58.030(3)(e)(vi) RCW and WAC 173-27-040(3)(g). The city has requested that this provision be changed to require a conditional use permit (see attachment C, recommended changes), but Ecology cannot require this change.

4	16.22.010, page 77	Wetlands	Wetlands are those areas, designated in accordance with the <u>1987 Corps of Engineers Wetlands Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region – Version 2.0 prepared by the U.S. Army Corps of Engineers (2010) or as revised.</u>	The additional language specifies the current approved federal wetland delineation manual and applicable regional supplements technical documents, consistent with WAC 173-22-035.
5	16.22.050(A), page 80	Wetlands	Mitigation for alterations to wetlands may be <u>satisfied</u> by restoring former wetlands, creating wetlands, or enhancing degraded wetlands, consistent with the “Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, (2004),” as revised. <u>“Wetland Mitigation in Washington State Parts 1 and 2”(2006) or as revised.</u>	The corrections reference current Ecology technical guidance documents, consistent with WAC 173-26-221(2)(c)(i).
6	16.22.050(E), page 81	Wetlands	Mitigation projects shall be designed utilizing Washington State Department of Ecology Publication #06-06-011a: Wetland Mitigation in Washington State – Part 1 <u>and 2: Agency Policies and Guidance – Version 4 (2006) or as revised.</u>	The corrections reference current Ecology technical guidance documents, consistent with WAC 173-26-221(2)(c)(i).
	16.22.050(F), page 81	Wetlands	Compensatory mitigation replacement ratios is shall be based on a before and after count of functions and values, not acreage, as determined using the methodology established in Department of Ecology Publication #10-06-01: Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (2012); Or, the mitigation ratios found in Wetland Mitigation in Washington State Parts 1 and 2 (2006) as revised. Mitigation projects shall score the impact site and the mitigation site using the scoring form provided in Publication #10-06-01 – Appendix A. Wetland Rating Data Form of the “Revised Washington State Wetlands Rating System for Western Washington.” The aggregate total of debits for impacts to wetland functions and values and credits for wetland mitigation and preservation shall be zero as determined by the worksheets provided in Publication #10-06-01 – Appendix DE.	The corrections reference current Ecology technical guidance documents, consistent with WAC 173-26-221(2)(c)(i).

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Attachment C:

Ecology Recommended Changes for the City of Bonney Lake

The following changes are recommended to clarify elements of the City’s updated SMP

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions; italics= required changes in attachment B)	RATIONALE																																																																		
1	16.46.030, page 23	The Natural Environment Designation	Minimum Shoreline Setback: 1. All structures and developments shall be setback a minimum of 200 feet from the OHWM- <i>except as provided in BLMC 16.56.100(8) and (9).</i>	This addition of allowing municipal well facilities was requested by the city to accommodate the existing municipal well facility located within shoreline jurisdiction adjacent to Fennel Creek.																																																																		
2	16.50.020, page 25	Use Matrix	<table border="1"> <thead> <tr> <th>Shoreline Uses</th> <th>Residential – Low Density</th> <th>Residential- High Density</th> <th>Park</th> <th>Natural</th> <th>Aquatic</th> </tr> </thead> <tbody> <tr> <td colspan="6" style="text-align: center;">Resource Land Uses</td> </tr> <tr> <td>Agriculture</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Aquaculture</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Forest Practices</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Mining</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td colspan="6" style="text-align: center;">Commercial Uses and Development</td> </tr> <tr> <td>Water oriented uses</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td>Non-water oriented uses</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> <tr> <td colspan="6" style="text-align: center;">Industrial Uses and Development</td> </tr> <tr> <td>Water oriented uses</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> </tr> </tbody> </table>	Shoreline Uses	Residential – Low Density	Residential- High Density	Park	Natural	Aquatic	Resource Land Uses						Agriculture	X	X	X	X	X	Aquaculture	X	X	X	X	X	Forest Practices	X	X	X	X	X	Mining	X	X	X	X	X	Commercial Uses and Development						Water oriented uses	X	X	X	X	X	Non-water oriented uses	X	X	X	X	X	Industrial Uses and Development						Water oriented uses	X	X	X	X	X	<p>Changes to the use matrix include the following:</p> <p>A change to the permit requirements of trails within the Natural environmental designation from a conditional use permit to a substantial development permit. The area designated natural is owned entirely by the city, and is a public shoreline. This change will assist in the implementation of planned public access trails on Fennel Creek which</p>
Shoreline Uses	Residential – Low Density	Residential- High Density	Park	Natural	Aquatic																																																																	
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			Non-water oriented uses	X	X	X	X	X	<p>furtheres the public access principles found in WAC 173-26-221(4)(b).</p> <p>The addition of municipal well facilities to the utilities section as a conditional use permit in the Natural Environment Designation. There is an existing municipal well within shoreline jurisdiction along Fennel Creek. The allowance of such facilities will accommodate the existing well. The requirement of a conditional use permit for these facilities is a compromise between permitting such structures to a higher standard and the strict prohibition of utility corridors in the Natural environment designation found in WAC 173-26-211(5)(a)(ii)(B).</p>
			Recreational Uses and Development						
			Docks and Piers	P	P	P	X	X	
			Parks or Picnic Areas	P	P	P	X	X	
			Trails or Walk-ways	P	P	P	GP	X	
			High intensity recreational activities	X	X	P	X	X	
			Transportation and Parking Facilities						
			Causeways	P	X	X	X	X	
			Roadways	P	P	P	X	X	
			Railroads	X	X	X	X	X	
			Parking Facilities- primary	X	X	X	X	X	
			Parking Facilities- accessory	Same as the primary use it supports				X	
			Residential Uses and Development						
			Single Family Dwelling	P	X	X	X	X	
			Accessory Dwelling Units	P	X	X	X	X	
			Duplex	P	P	X	X	X	
			Multifamily Dwelling	X	P	X	X	X	
			Subdivisions and Short Plats	P	P	X	X	X	
			Live-aboard vessels	X	X	X	X	X	
			Boating Uses and Facilities						
			Docks and Piers	P	P	P	X	See Adjacent upland SED	
			Boating Ramps	X	X	P	X		
			Covered Moorages	X	X	X	X		
			Boat Houses	X	X	X	X		
			Temporary Moorage ¹	P	P	P	X		
			Marinas	X	X	X	X		
			Launching Rails	X	X	X	X		
			Utilities						
			Water System Treatment Plants	X	X	X	X	X	
			Sewage Treatment Plants	X	X	X	X	X	
			Electrical Generation Plants	X	X	X	X	X	
			Electrical Stations	X	X	X	X	X	

			Solid Waste Disposal Facilities	X	X	X	X	X	
			Accessory Utilities	Same as the primary use it supports					
			Utility Transmission Facilities	P	P	P	C	X	
			Personal Wireless Facilities	C	C	C	X	X	
			Radio Towers	X	X	X	X	X	
			<u>Municipal Well Facilities</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>X</u>	
3	16.56.030, page 48	Archaeological and Historic Resources	<p>A. Development in areas documented by the Washington State Office <u>Department</u> of Archaeology and Historic Preservation or identify by affected Tribes to contain archaeological resources shall comply with the following:</p> <ol style="list-style-type: none"> 1. A site inspection and a draft written report prepared by a qualified professional archaeologist. Copies of the draft report shall be provided by the applicant to the City; upon receipt of the draft report the City shall forward copies to affected tribe(s) and the State Office <u>Department</u> of Archaeology and Historic Preservation for review and comment. 2. After consultation with these agencies, the archaeologist shall provide a final report that includes any recommendations from the affected tribe(s) and the State Office <u>Department</u> of Archaeology and Historic Preservation on avoidance or mitigation of the proposed project's impacts. 3. The Shoreline Administrator may condition project approval, based on the final report from the archaeologist in consultation with the affected Tribes, to ensure that impacts to the site are avoided or minimized consistent with federal and state law. <p>B. All Shoreline permits and letters of exemption shall contain provisions that require developers to immediately stop work and notify the City, the State Office <u>Department</u> of Archaeology and Historic Preservation, and affect tribes if any potential archaeological resources are uncovered during land surface modification or development activity. Failure to comply with this requirement shall be considered a violation of the shoreline permit.</p>						The correction to the title of the State Department of Archaeology and Historic Places (DAHP) was requested in comments from DAHP staff during the state public comment period.

4	16.54.040, page 42	Fill	<p>A. Fills <u>located waterward of the OHWM</u> allowed pursuant to the use <u>and modification</u> table in BLMC 16.50.020 shall be <u>demonstrated</u> necessary to support a:</p> <ol style="list-style-type: none"> 1. Water-dependent use; 2. Public access; 3. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan pursuant to Chapter 70.105D RCW – Model Toxics Control Act (MTCA), Chapter 173-340 WAC – MTCA Cleanup Regulation, and/or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund; or 4. Mitigation action, environmental restoration, beach nourishment or enhancement project. <p>B. Fills <u>located landward of the OHWM</u> allowed pursuant to the use <u>and modification</u> table in BLMC 16.50.020 shall <u>only be allowed in support of a permitted use or development.</u></p>	<p>The addition of the language distinguishes the placement of fill in and out of the water. The proposed SMP contained one standard for both areas which unintentionally restricted the placement of fill for allowed uses and development on dry land within shoreline jurisdiction.</p>
5	16.54.030(I)(1) page 39	Docks	<p>All piers and docks shall comply with all of the following design standards:</p> <ol style="list-style-type: none"> 1. All utility and service lines located waterward of the OHWM must be <u>located</u> below the pier or dock deck and above the <u>OHWM waterline.</u> 	<p>This change in terms clarifies the placement of utility lines when they are waterward of the OHWM.</p>
6	16.56.100(A), page 57	Intrusions into the setback	<p><u>9. Utility transmission lines and municipal well facilities are subject to the requirements in BLMC 16.52.070 and BLMC 16.56.110 where no other feasible location exists. Such structures shall be placed as far from the OHWM as feasible.</u></p>	<p>This change was requested by the city to accommodate the existing municipal well located in this area adjacent to Fennel Creek. Non-water-dependent utilities should not be located in shoreline jurisdiction when feasible according to WAC 173-26-241(3)(I), and the Natural environment designation</p>

				provisions found in WAC 173-26-211(5)(a)(ii)(B) identify that utility corridors should be prohibited.
7	16.56.140(B), page 63	Nonconforming Development	Single-family residences that were legally established and are located landward of the OHWM that do not meet the shoreline setback may be enlarged or expanded upon approval of a Shoreline Substantial Development <u>Conditional Use</u> Permit provided that the new construction complies with applicable bulk and dimensional standards of the Title 18, the applicable provisions of the Shoreline Code, and does not expanded further into the shoreline setback except as provided for in BLMC 16.56.040 and BLMC 16.56.100.	In most cases this expansion will be exempt from substantial development permitting per 90.58.030(3)(e)(vi) RCW. Requiring a conditional use permit for the expansion of an existing single-family residence ensures the city has the ability to condition the expansion to the standards in the SMP. The city has identified the Conditional Use Permit as the vehicle appropriate for the city to ensure compliance with the SMP.
8	Section 25 – 33, pages 84 - 89.	Critical Areas Ordinance Administrative Provisions	Remove Section 25 thru Section 34. See Exhibit 1 to Attachment C for strike through changes.	The removal of this language was requested by the city. These sections of the critical areas ordinance include administrative procedures for permitting that do not pertain to the Guideline requirements of the SMP.
9	16.54.030(I)(4), page 39	Docks	Docks shall be fully grated within the first thirty (30) feet as measured waterward of the OHWM. Decking shall have a minimum open space of forty percent (40%)	The removal of this language was requested by the city. Waterways entering Lake Tapps exclude all native fish species (salmonids. Scientific justification for removal of this

				<p>requirement can be found in <i>Over-Water Structures: Freshwater Issues</i> (Carrasquero, 2001). Further the addition of shading increases both feeding and spawning habitat for large and small mouth bass <i>Over-Water Structures: Freshwater Issues</i> (Carrasquero, 2001), which Lake Tapps is stocked with for recreational fishing by WDFW.</p>
10	<p>Ordinance D13-56, Chapter 13: Shoreline Element, Table of Contents, page i</p>	<p>Table of Contents</p>	<p style="text-align: center;">CHAPTER 13: Shoreline Element Tables of Contents</p> <p>1. INTRODUCTION.....11 1.1 Statutory Framework.....1 1.2 Vision.....1 1.3 Organization.....2 1.4 Lake Tapps Reservoir.....2 1.5 Fennel Creek.....5 2. SHORELINE ENVIRONMENT DESIGNATIONS (SED).....6 3. GENERAL SHORELINE POLICIES.....8 3.1 Public Access.....8 3.2 Critical Areas.....9 3.3 Water Quality and Water Quantity.....10 3.4 Shoreline Vegetation Conservation.....11 3.5 Archaeological, Historic and Cultural Resources.....13 4. SHORELINE USES AND DEVELOPMENT.....13 4.1 General.....13 4.2 Residential.....14 4.3 Recreation.....15</p>	<p>The removal of the chapter number and table of contents was requested by the city to accommodate administrative changes to the comprehensive plan currently being implemented.</p>

			4.4 Boating Facilities.....	17
			4.5 Over Water Structures.....	18
			4.6 In Stream Structures.....	19
			4.7 Transportation Facilities.....	19
			4.8 Utilities.....	20
		5	SHORELINE MODIFICATIONS.....	21
		5.1	General.....	21
		5.2	Shoreline Stabilization.....	21
		5.3	Filling.....	22
		5.4	Clearing and Grading.....	23
		5.5	Dredging.....	23
		5.6	Shoreline Restoration and Ecological Enhancement.....	23
		6	SHORELINES OF STATEWIDE SIGNIFACANCE.....	24

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Attachment C, Exhibit 1- City of Bonney Lake SMP

~~**Section 25.** The name of Chapter 14.40 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~Type 2 Permits (Categorically Exempt Short Plats and Final Plats)~~

~~**Section 26.** The name of Chapter 14.50 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~Type 3 Permits (Non-SEPA-Exempt Building Permits, Short Plats, Sensitive Area Permits, Shoreline Letters of Exemption, and Site Plan Approvals)~~

~~**Section 27.** The name of Chapter 14.60 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~Type 4 Permits (Variances and Categorically Exempt Conditional Use Permits)~~

~~**Section 28.** The name of Chapter 14.70 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~Type 5 Permits (Shoreline Permits and Critical Areas Variances)~~

~~**Section 29.** The name of Chapter 14.80 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~Type 6 Permits (Preliminary Plats and Site-Specific Rezones)~~

~~**Section 30.** BLMC 14.20.010 and Ordinance No 1466 § 1, 2013 is hereby amended to read as follows:~~

~~**14.20.010 Classification.**~~

~~Permits shall be classified according to which procedures apply. In the following table an "X" designates the procedure (row) that pertains to that type of permit (column):~~

	Type					
	1	2	3	4	5	6
Regulatory reform applies; that is, per RCW 36.70B.140, the city must issue a determination of completeness, ect.		x	x	x	x	x
Non-SEPA exempt (SEPA threshold determination required)			x	x	x	x
Public hearing required				x	x	x
City council decision after recommendation from hearing examiner (preliminary plats, site0specific rezones) or planning commission (code or comprehensive plan amendments)						x

The above table, applied to permits issued pursuant to the Bonney Lake development code, results in the following list of permits by type:

	Type					
	1	2	3	4	5	6
Accessory dwelling units (ADU) permits	X					
Administrative wireless communication facility (WCF) permits	X					
Boundary line adjustment	X					
Building permits, SEPA exempt	X					
Land clearing permits	X					
Lot combinations	X					
Sensitive area permits, SEPA exempt	X					
Sign permits	X					
Sign variances	X					
Temporary permits	X					
Short plats, SEPA exempt		X				
Final plats		X				
Building permits, non-SEPA exempt			X			
Sensitive area permits, non-SEPA exempt			X			
Shoreline letters of exemption	X		X			
Short plats, non-SEPA exempt			X			
Site plan approvals			X			
Conditional use permits, SEPA exempt				X		
Variances				X		
Critical area variances					X	
Shoreline substantial development permits and variances			X		X	
Preliminary plats						X
Site specific zoning reclassification not processed concurrently with a comprehensive plan amendment.						X

Section 31. BLMC 14.20.010 and Ordinance No 1325 § 2, 2009 is hereby amended to read as follows:

14.30.010 Procedure.

A. The director(s) shall approve completed Type 1 permit applications that meet the appropriate permit approval criteria. See the pertinent BLMC section or building code as follows:

1. Building permits, SEPA exempt	The pertinent building code
2. Temporary permits	Chapter 14.100 BLMC
3. Sign permits	BLMC 15.28.050 – 15.28.060
4. Sign variances	BLMC 15.28.260

5. Land clearing permits	BLMC 16.12.030
6. Sensitive area permits	BLMC 16.20.060
7. Boundary line adjustments	BLMC 17.56.010
8. Lot combinations	BLMC 17.56.020
9. Administrative WCF permits	BLMC 18.50.009(B) & 18.50.013
10. ADU permits	BLMC 18.22.090(B)
11. Shoreline Letters of Exemption	BLMC 16.58.020

~~B. If the proposal is not exempt from design review (see Chapter 14.95 BLMC), the design commission shall review it and issue a finding of conformance (with or without conditions) or non-conformance with the community character element of the comprehensive plan.~~

~~C. The director(s) shall not approve the permit unless (1) the design commission has issued a finding of conformance with the community character element of the comprehensive plan, or (2) the director(s) has issued a finding of conformance contravening the design commission's finding. If the director(s) contravenes the design commission's finding, the director(s) shall promptly inform the design commission in writing of the reasons for doing so.~~

~~D. For appeals of shoreline permits see RCW 90.58.180BLMC 16.58.100. For other appeals see BLMC 14.120.020 and 14.120.030.~~

~~E. No building permit shall be issued for work requiring a Type 1 permit until the 15-day appeal period has lapsed; provided, that this prohibition shall not apply if:~~

- ~~1. The work requires only a building permit; or~~
- ~~2. The director(s) waives this prohibition based on the applicant signing a statement acknowledging the appeal period and agreeing to remove or modify the permitted work at the applicant's expense should an appeal result in revocation or modification of the appealed permit.~~

~~**Section 32.** BLMC Section 14.70.110 and the corresponding portion of Ordinance No. 988 § 2, 2003 is hereby amended to read as follows:~~

~~**14.70.110 Appeal.**~~

~~For appeals of shoreline permits see RCW 90.58.180BLMC 16.58.100. For other appeals see BLMC 14.120.040.~~

~~**Section 33.** BLMC Section 18.14.06 and the corresponding portion of Ordinance No. 1302 § 2, 2003 is hereby amended to read as follows:~~

~~**18.14.060 Setback and bulk regulations.**~~

~~The following bulk regulations shall apply to the uses permitted in this district, subject to the provisions for yard projections included in BLMC 18.22.080:~~

- ~~A. Required density at the conclusion of any short plat or subdivision: four to five~~

~~dwelling units per net acre. For example, the subdivision of a parcel of three net acres must result in between 12 and 15 dwelling units.~~

~~B. Minimum lot width: 55 feet. See also subsection H of this section.~~

~~C. Minimum front setback: 20 feet for garages, 10 feet for residences. See also subsection H of this section. In areas where existing right-of-way is insufficient, additional setback shall be required as necessary.~~

~~D. Minimum side yard: five feet (not applicable to property lines where single-family residences are attached).~~

~~E. Minimum rear setback shall be as follows. See also subsection H of this section.~~

~~1. Residence: 20 feet; other than residences on Lake Tapps, which shall have a rear setback of 30 feet.~~

~~2. A separate garage or accessory building: within 10 feet.~~

~~3. A boathouse, if approved, may be constructed with no rear yard setback.~~

~~F. Maximum height: 35 feet above grade.~~

~~G. Maximum lot coverage by impervious surfaces: 60 percent. See also subsection H of this section.~~

~~H. In the case of new subdivisions that cluster residences and preserve open space, concurrent with subdivision approval the city may reduce the requirements in subsections B, C, E and G of this section by up to 50 percent if indicated by application of the conditional use permit criteria (see BLMC 18.52.020(C)). See the list of conditional uses at BLMC 18.14.040.~~

~~**Section 34. Codification.** Sections 5 – 17 of this Ordinance shall be codified as Article III in Title 16 of the Bonney Lake Municipal Code and entitled "Shoreline Code"~~

Public Comment Summary: City of Bonney Lake Locally Adopted SMP

Ecology Public Comment Period, May 8 to June 9, 2014.

Prepared by Sarah Lukas, WA Dept. of Ecology, June 10, 2014

Comment Number	Comment Topic and Section Number (Citation)	Commenter	Comment	Local Government Response and Rationale
1	General comment	Andy Mulcahy	<p>I am a resident on lake tapps and have been hearing some alarming things coming out about the update to the smp. I was hoping to understand it better and get some facts..We have been hearing things like we would not be able to fix seawalls if they start eroding..that we would not be able to maintain lawns within 50 feet of the water..that new docks would never be permitted. Is this true? I have a hard time understanding how we can restore a man made lake to its natural condition..there was not lake here before! 90% of the lake is surrounded by concrete walls..I guess I just don't understand the goal here.</p>	<p>In regards to bulkheads (seawalls), BLMC 16.54.020.E (Ordinance D13-56 – p. 36) includes specific provisions to allow the repair of existing bulkheads adjacent to Lake Tapps.</p> <p>The City's SMP does not include a 50 foot buffer, but establishes a 60 foot setback with a 20 foot vegetation conservation area. The portion of the shoreline setback between the residential structure and the vegetation conservation area can be traditional lawn area that is regularly maintained. The vegetation conservation area does not cover the entire width of the lot, but only 75% of the width of the lot for the first 20 feet as measured from the OHWM not the property line which is the 545 elevation line. Vegetation within the conservation area would need to remain in its current state. However, the vegetation in the other 25% can be modified for access and views.</p> <p>BLMC 16.54.030.G (Ordinance D13-56 p. 38) continues to allow the same size docks as allowed under the City's current SMP. Additionally, 16.56.040.D (Ordinance D13-56 p. 51) allows docks serving a single property or shared by two property owners to be up to 120 square feet larger than currently allowed, if the property owner(s) install shoreline vegetation at a specific ratio.</p>

2	Cultural Resources	Department of Archaeology and Historic Preservation	Please change all references to the State Office of Archaeology and Historic Preservation to Department of Archaeology and Historic Preservation.	Noted.
3	Cultural Resources	Department of Archaeology and Historic Preservation	The language in the Draft Plan is very broad and does not refer to specific processes or requirements under state laws for the protection of archaeological resources. We have attached a copy of our model language for your use that would allow more specificity and guidance when dealing with archaeological and historical resources.	<p>The City's shoreline along Lake Tapps is almost 100% developed: there are very few properties that have not been developed or do not already have a constructed bulkhead. The Shoreline area adjacent to Fennel Creek has been placed in the Natural designation with a 200 foot setback.</p> <p>The City's draft Comprehensive Plan Shoreline Element Section 3.5 (p. 13) contains policies to protect cultural and historic resources. The City's proposed SMP contains specific language that requires the preparation of a cultural resources report prepared by a qualified professional archeologist if the site is documented to contain cultural and/or historic resources. This report is also required to be reviewed by the tribes and DAPH prior to issuance of any permits by the City.</p> <p>Finally, the City's adopted Comprehensive Plan includes a Cultural and Heritage Element which includes an inventory of known historic resources within the City.</p>
4	Cultural Resources	Department of Archaeology and Historic Preservation	We note that the City of Bonne Lake (City) does not datashare with DAHP. We currently have GIS shapefiles, a predictive model and other tools for use by local governments for planning and protection of archaeological and cultural resources. We recommend that the City enter into a datasharing agreement with DAHP so that archaeological sites and cultural resources may be identified in shorelines and other parts of the City.	Noted

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Community Development/ John P. Vodopich, AICP	Meeting/Workshop Date: September 16, 2014	Agenda Bill Number: AB14-115
Agenda Item Type: Motion	Ordinance/Resolution Number: 2410	Councilmember Sponsor:

Agenda Subject: First Amendment to the WSU Property Development Agreement

Full Title/Motion: A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington. Amending the WSU Property Development Agreement.

Administrative Recommendation:

Background Summary: On December 22, 2009 (Resolution 1991) the City entered into a Development Agreement for the WSU Property. This amendment to the Development Agreement would alter the timeline on the expiration of use restriction on the City property; clarify that the developer is responsible for constructing the 204th extension, SR410 frontage improvements, and provide for signal timing at their expense and at such a time when the first phase of development begins; provide for a drive aisle connection from the commercial property to the City property, commits the developer to making best efforts to obtain a vehicular access connection to properties to the east and provides for City support of a traffic signal at SR410 & 204th.

Attachments: Resolution 2410, First Amendment to Development Agreement

BUDGET INFORMATION			
Budget Amount	Current Balance	Required Expenditure	Budget Balance
Budget Explanation:			

COMMITTEE, BOARD & COMMISSION REVIEW											
Council Committee Review:	Economic Development Date: April 8, 2014	Approvals: Chair/Councilmember Councilmember Councilmember	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Yes</th> <th style="width: 50%;">No</th> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> </table>	Yes	No						
Yes	No										
	Forward to:	Consent Agenda:	<input type="checkbox"/> Yes <input type="checkbox"/> No								
Commission/Board Review:											
Hearing Examiner Review:											

COUNCIL ACTION	
Workshop Date(s): May 6, June 3 & August 19, 2014	Public Hearing Date(s): September 9, 2014
Meeting Date(s): September 9, 2014	Tabled to Date:

APPROVALS		
Director: <i>John P. Vodopich, AICP</i>	Mayor:	Date Reviewed by City Attorney: August 13, 2014 (if applicable):

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RESOLUTION No. 2410

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN THE FIRST AMENDMENT TO WSU DEVELOPMENT AGREEMENT

WHEREAS, the City entered into a Development Agreement for the WSU property on December 22, 2009 (Resolution 1991); and

WHEREAS, the Development Agreement states that the intersection of 204th Avenue E and SR 410 shall not be signalized; and

WHEREAS, traffic studies have established that signalization of the intersection, along with the retiming and coordination of other traffic signals, will improve traffic flow; and

WHEREAS, the parties desire to amend the Development Agreement to allow for the installation of a traffic signal at the intersection of 204th Avenue E and SR 410;

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the attached First Amendment to Development Agreement.

PASSED by the City Council this ____ day of _____, 2014.

Neil Johnson Jr., Mayor

ATTEST:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

RECITALS

- A. On December 22, 2009 Weyerhaeuser Real Estate Development Company (“WY”), Washington State University (“WSU”), and the City of Bonney Lake (“City”) entered into a Development Agreement for property consisting of 149.1 acres of land lying south of SR-410 between South Prairie Road E. and 214th Avenue E. in the City of Bonney Lake (the “Property”).
- B. The Development Agreement restricts the 204th Avenue E./SR-410 intersection to right-in, right-out access.
- C. A connector arterial with full access is important to the success of the commercial area.
- D. Transportation engineering analyses performed by agents for WSU/WY indicate that, under full buildout of the Property, a traffic signal at the 204th Avenue E./SR-410 intersection and coordination of the seven signals on SR-410 between 192nd Avenue E and 214th Avenue E will result in slightly faster travel times during afternoon peak hour traffic for both east and west bound traffic between 184th Avenue E and 234th Avenue E and improved Level of Service at the following intersections on SR-410: S. Prairie Road E., 204th Avenue E., 208th Avenue E., and 214th Avenue E.
- E. The City’s independent transportation engineering consultant has reviewed the supporting traffic analysis and detailed signal timing/phasing plans and agrees that the proposed signal would improve traffic flow along the SR 410 corridor and would be a benefit to the City of Bonney Lake.

AMENDMENT

NOW, THEREFORE, the Development Agreement is amended as follows:

1. Add a new Section 2.27:

“Short Subdivision” means City of Bonney Lake Short Subdivision No. PLN-2010-01247.

2. Section 2.10 is amended as follows:

"Expiration of Use Restriction" means the earlier of January 1, 2025 or the issuance of ~~final the first~~ building permits for a development on Lot 2 or Lot 3 of City of Bonney Lake Short Subdivision No. PLN-2010-01247. ~~all of the property in the Commercial/Medical and Residential areas (also referred to as "build out of the Commercial/Medical and Residential areas")~~. A copy of the short subdivision map is attached to this Amendment as Attachment 1.

3. Add a new section 6.6.4:

6.6.4 The developer(s) of Lots 2 and 3 shall construct the following improvements at its (their) sole cost and without credit against the City's Traffic Impact Fees:

6.6.4.1 Construction of 204th Avenue E. from its current terminus in Lot 3 (shown on Attachment 1) to SR-410.

6.6.4.2 Frontage improvements on SR-410 to City standards, including any necessary dedications of right-of-way.

6.6.4.3 Removal of a portion of the median barrier and arterial widening on SR-410 to provide a westbound left turning lane and a new eastbound "third" through lane to complete the "missing link" between arterial roadway sections east and west of the project frontage as shown conceptually on Attachment 3.

6.6.4.4 Installation of a traffic signal at the intersection of 204th Avenue E. and SR-410.

6.6.4.5 Traffic signals along the SR-410 corridor between and inclusive of 192nd Avenue E. and 214th Avenue E. will be connected and operated by a single master controller to provide real time interaction between all signals in order to enhance traffic flow and reduce congestion in this corridor. This type of system monitors and implements the overall corridor progression framework using a Interconnection Control or Traffic Adjusted Control type programming that will be consistent with the traffic operations and signal timing plan prepared by TENW dated February 11, 2013. This type of signal control system is also commonly referred to as a type of an Intelligent Transportation System (ITS).

4. Add a new paragraph 6.6.5:

6.6.5 Construction of the improvements identified in §6.6.4 shall not begin prior to the start of construction of the first phase of development within Lot 2 or 3 of the Short Subdivision.

5. Add a new paragraph 6.6.6:

6.6.6 The developer of Lot 2 shall provide a drive aisle allowing a potential future connection to the commercial property to the east of Lot 2 and to the City Property. As shown conceptually on Attachment 2, the drive aisle shall be located adjacent to the common property line of Lots 2 and 4 of the Short Subdivision and extend to the southeastern terminus of Lot 2.

6.6.7 Within 90 days of execution of this Amendment by the parties, WSU/WY and/or the developer of Lot 2 will contact the record owner of Parcels to the east of Lot 2 and will use its/their best efforts to obtain the owners' consent to a vehicular connection between those parcels and the drive aisle.

6. Section 6.6.1.3 is amended as follows:

6.6.1.3 204th Avenue E. shall ~~will~~ be constructed from its current terminus in Lot 3 to SR-410 in conjunction with construction of the first phase of development within Lot 2 or 3 of the Short Subdivision. ~~in phases by the commercial and medical developments as warranted by traffic studies.~~

7. Section 6.6.1.4 shall be replaced with the following:

The City will fully support a traffic signal at the new intersection of 204th Avenue E. with SR-410.

8. Section 9.2.2 is deleted.

**WEYERHAEUSER REAL ESTATE
DEVELOPMENT COMPANY**

By: _____

Date: _____

Its: _____

WASHINGTON STATE UNIVERSITY

By: _____

Date: _____

Its: _____

The City of Bonney Lake

By: _____

Neil Johnson, Jr.

Its: Mayor

Date: _____

STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that Neil Johnson, Jr. is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Bonney Lake, Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public in and for the State of Washington,
residing at _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that Scott Dahlquist is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Vice-President, West of Weyerhaeuser Real Estate Development Company, a wholly owned subsidiary of Weyerhaeuser Company, a Washington Corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public in and for the State of Washington,
residing at _____
My appointment expires: _____

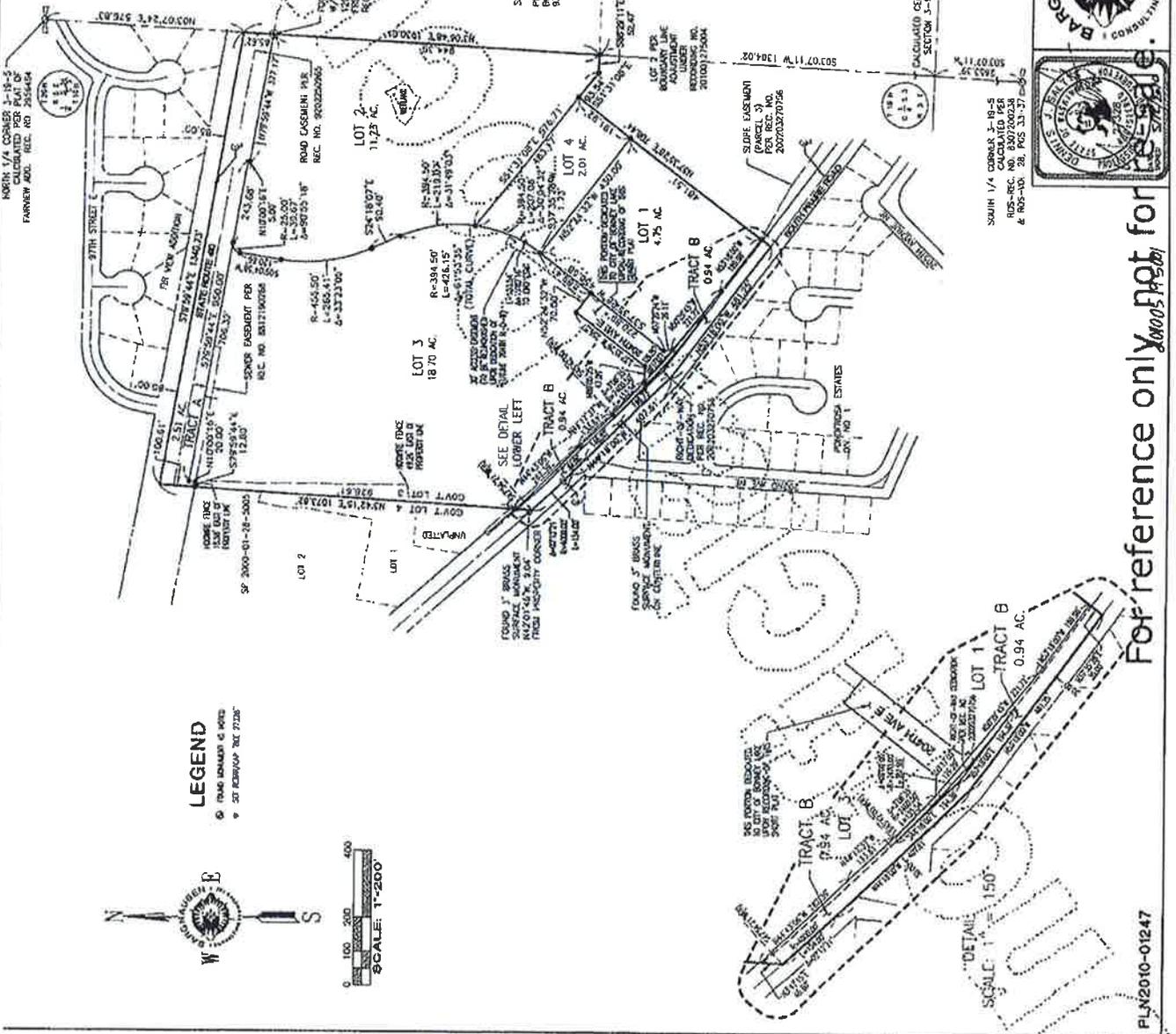
STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of Washington State University, a _____, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public in and for the State of Washington,
residing at _____
My appointment expires: _____

CITY OF BONNEY LAKE SHORT SUBDIVISION NO. PLN-2010-01247
 A PORTION OF GOV. LOT 3 & 4 OF THE SE&4 OF SEC. 3, T8N, R9E, W1E



LEGEND

- FOUND BRASS MARKS
- 3/4\"/>

0 100 200 400
 FEET
 SCALE: 1"=200'

BARGEHAUSEN ENGINEERING, INC.
 18215 72ND AVENUE SOUTH
 KENT, WA 98032
 (425)251-6222
 (425)251-8782 FAX
 CIVIL ENGINEERING, LAND PLANNING,
 SURVEYING, ENVIRONMENTAL SERVICES

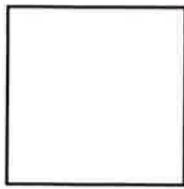
DATE: 11/20/09
 SCALE: 1"=200'
 SHEET NO. 1 OF 2
 SHEET 2 OF 3



For reference only, not for
 1000519500

PLN2010-01247

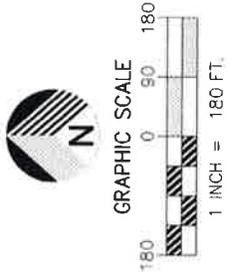
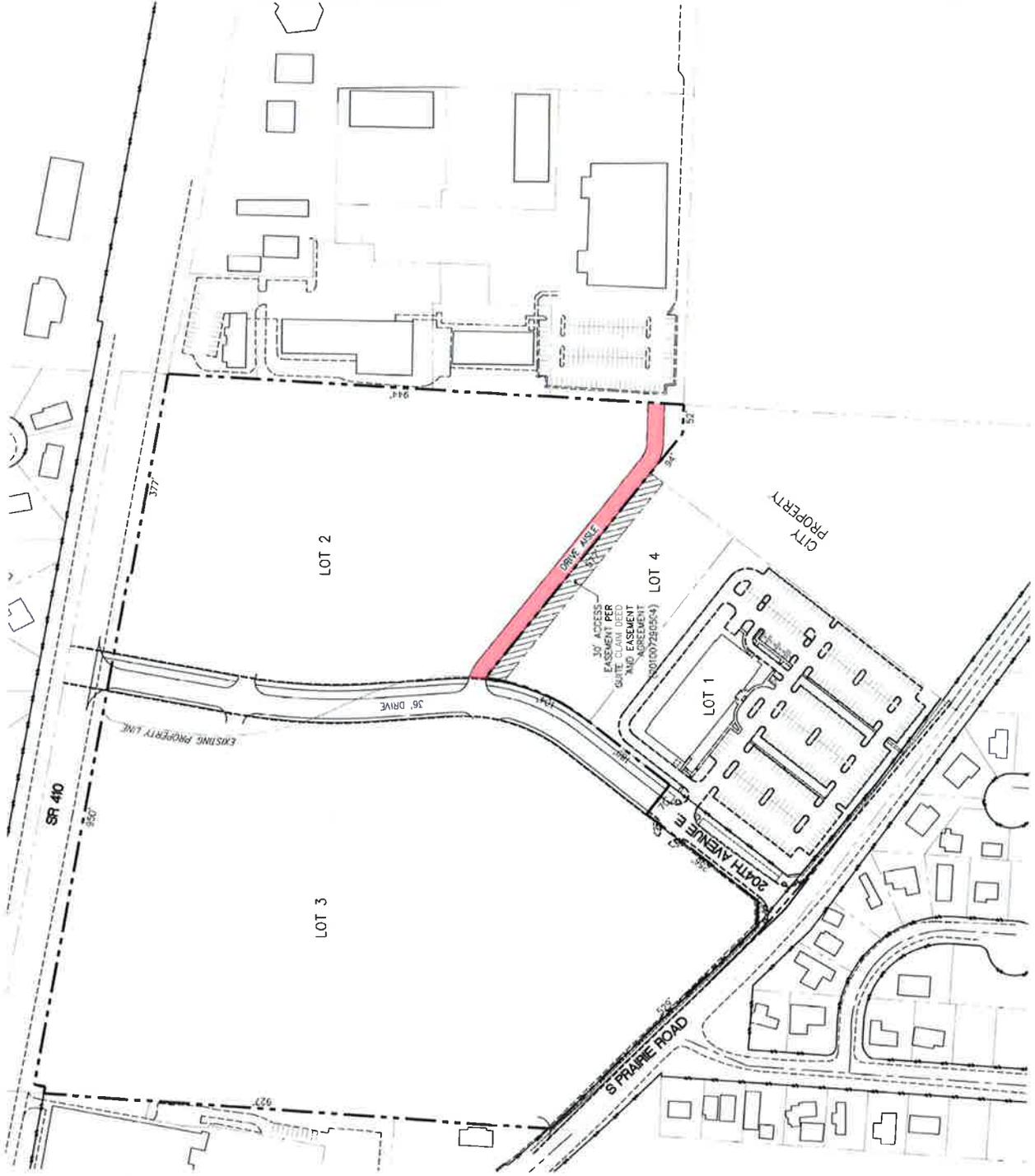
Attachment 1

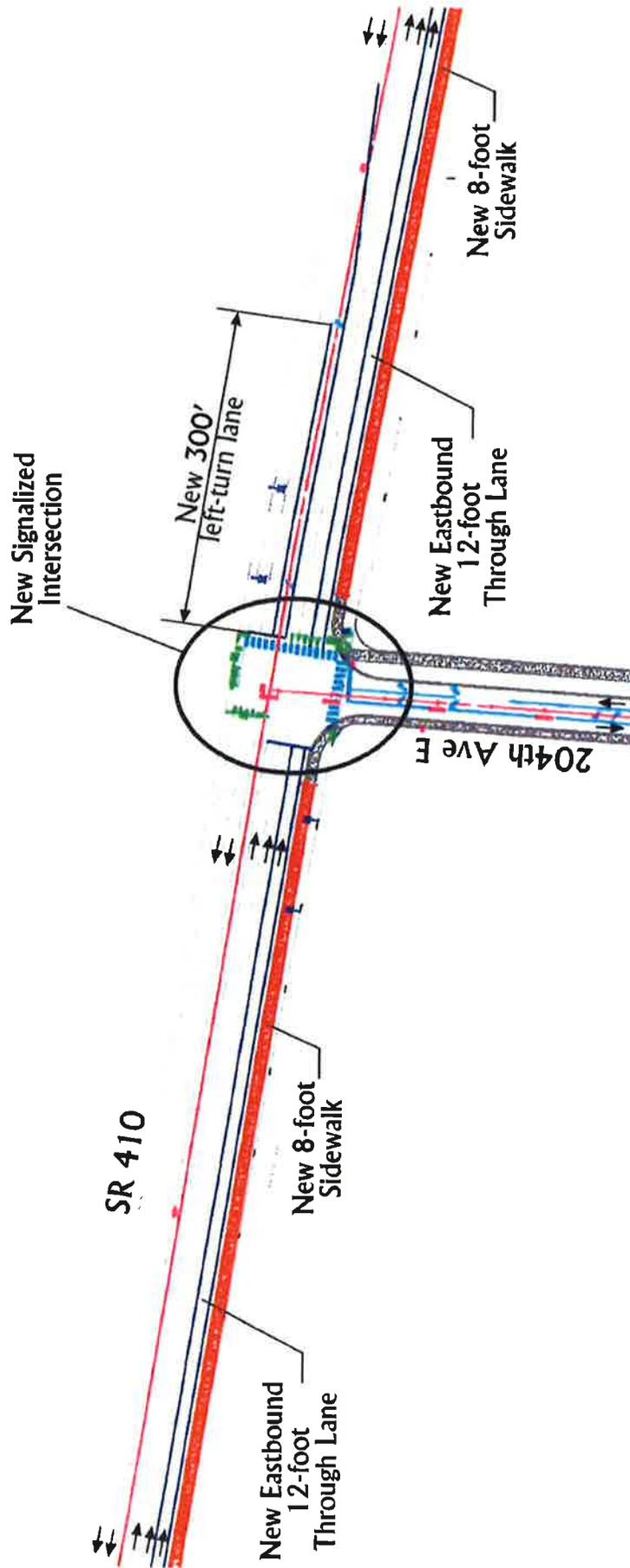


ATTACHMENT 2 TO THE FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT

PROJECT No.:
 DWG NAME: BL EX-6
 DWG SCALE: 1"=180'
 DRAWN BY: SAJ
 CHECKED BY: SAJ
 DATE DRAWN: 7/17/14
 REVISION: 7/30/14
 8/28/14

SHEET NO.
ATT2





(Not to Scale)



Transportation
Engineering
NorthWest, LLC

SR 410 / 204th Ave E Attachment 3
Roadway & Intersection Improvements

**WSU Bonney
Lake Site**

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Community Development/ Jason Sullivan – Senior Planner	Meeting/Workshop Date: September 16, 2014	Agenda Bill Number: AB14-122
Agenda Item Type: Discussion	Ordinance/Resolution Number:	Councilmember Sponsor: Councilmember Lewis

Agenda Subject: State-Licensed Marijuana Industry

Full Title/Motion:

Administrative Recommendation:

Background Summary: On April 8, 2014 the City Council adopted Ordinance 1481 extending the moratorium related to the issuance of permits associated with state-licensed marijuana businesses and directing the Planning Commission to study and propose development regulations to the Council on or before the expiration of the moratorium. The Planning Commission was instructed to study a range of approaches including zoning, development regulations, and a complete or partial prohibition in all zones. The Planning Commission has completed this work and has identified three options for consideration by the City Council: (1) ban all state-licensed marijuana business, (2) allow state licensed retail operations, but ban producers and producers, and (3) allow the moratorium to expire and rely solely on the Liquor Control Board regulations. These options are fully discussed in the attached memorandum from the Planning Commission.

If the City Council identifies either Option 1 or Option 2 as the preferred option, the City Council will need to extend the current moratorium, which expires on October 8, 2014, to December 31, 2014. The extension of the moratorium is required to provide sufficient time to prepare a draft ordinance to amend the zoning code, provide the required notice to the Department of Commerce, issue the required notice of a public hearing, and allow the Planning Commission to conduct the public hearing. These items must be completed prior to final City Council action on any ordinance that amends the City’s zoning code.

Attachments: Planning Commission Memo: State-Licensed Marijuana Industry Regulation

BUDGET INFORMATION			
Budget Amount	Current Balance	Required Expenditure	Budget Balance
Budget Explanation:			

COMMITTEE, BOARD & COMMISSION REVIEW			
Council Committee Review:	<i>Approvals:</i>		Yes No
Date:	Chair/Councilmember		<input type="checkbox"/> <input type="checkbox"/>
	Councilmember		<input type="checkbox"/> <input type="checkbox"/>
	Councilmember		<input type="checkbox"/> <input type="checkbox"/>
Forward to:	Consent Agenda: <input type="checkbox"/> Yes <input type="checkbox"/> No		
Commission/Board Review:	Planning Commission		
Hearing Examiner Review:			

COUNCIL ACTION

Workshop Date(s): October 15, 2013,
April 1, 2014, and
September 16, 2014

Public Hearing Date(s): November 12, 2013

Meeting Date(s): October 22, 2013,
April 8, 2014, and
September 9, 2014

Tabled to Date:

APPROVALS

Director:
John P. Vodopich, AICP

Mayor:

Date Reviewed
by City Attorney: September 2, 2014
(if applicable):



Memo

Date : September 3, 2014
To : Mayor Johnson and City of Bonney Lake City Council
From : Bonney Lake Planning Commission
Re : **State-Licensed Marijuana Industry Regulations**

PURPOSE:

On April 8, 2014, the City Council passed Ordinance 1481 extending the moratorium related to the issuance of permits associated with the State-licensed marijuana industry and adding the development of regulations to the Planning Commission's work plan. The purpose of this memo is to present three options developed by the Planning Commission related to the regulation of marijuana uses within the City.

BACKGROUND:

In 1998, voters approved I-692 which legalized the use of marijuana for medicinal purposes. In 2011, the Washington State Legislature approved Engrossed Second Substitute Bill (ESSB) 5073 allowing medical marijuana collective gardens which was partially vetoed by Governor Gregoire. The veto removed all sections that established a state registry for collective gardens. The remaining sections of ESSB 5073 were codified as Chapter 69.51A RCW. The Court of Appeals ruled last spring that medical marijuana collective gardens are illegal. The City currently has no medical marijuana collective gardens or dispensaries, and these uses have been prohibited in the City since 2012.

Initiative 502 (I-502), now codified in Chapter 69.50 RCW, was passed by Washington voters in 2012. The initiative authorized three types of licenses (producer, processor, and retailer) and directed the Washington State Liquor Control Board (LCB) to develop rules regarding the issuances of the licenses and regulating the production, processing, and sale of marijuana. As explained in the City Attorney's letter to the City Council on October 14, 2013:

A producer's license authorizes its holder to produce, possess, deliver, distribute, and sell marijuana. A processor's license authorizes its holder to process, package, and label marijuana and

marijuana products for sale to marijuana retailers. A retailer's license authorizes its holder to possess, deliver, distribute, and sell usable marijuana and marijuana-infused products. A single licensee can hold licenses for both production and processing. However, a marijuana retailer cannot hold a production or processing license. All three types of marijuana licenses are subject to regulation by the Liquor Control Board and are also subject to the Board's annual renewal. Additionally all three licenses are limited to the specific location for which the license is issued and are not freely transferrable from the licensee to another individual.

Final rules went into effect on September 16, 2013, at which time applications for licenses could be submitted to the LCB. The major provisions of the rules adopted by the LCB, codified as Chapter 314-55 WAC, include:

- Provisions that require businesses to allow law enforcement officers unfettered access to the business, without notice or cause. Home occupation businesses are not allowed.
- Prohibition on allowing employees or customers to consume marijuana or marijuana-infused products on the premises.
- Prohibition that businesses and advertising may not be located within 1000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park (excluding trails), public transit center, library, or any game arcade (where admission is not restricted to persons age twenty-one or older).
- Limitations placed on retailers of marijuana by the LCB as explained in the City Attorney's October 14, 2013 letter:

Retailers are not allowed to sell anything other than usable marijuana, marijuana-infused products, or products related to the storage or use of marijuana or marijuana-infused products. RCW 69.50.357; WAC 314-55-079. Retailers are prohibited from selling pure marijuana extract, in addition to being prohibited from selling their products over the internet or by home delivery. Retailers are restricted to a 1,600 square inch [about 11 square feet] sign stating the business's name and may not display usable marijuana or marijuana-infused products in a manner that makes them visible to the general public.

- Required background checks which will be used to deny licenses to those who have a criminal background that exceeds a certain threshold based upon a point system developed by the LCB. The point system is provided in WAC 314-55-040.

- Security requirements on licensees as explained in the City Attorney's October 14, 2013 letter:

All employees are required to display an identification badge issued by the licensed employer at all times when they are on the premises. Each licensed premises must have a security alarm system installed on all perimeter entry points and all perimeter windows. Additionally, each licensed premises must maintain an extensive surveillance system, as detailed in the WAC 314-55-083.

The regulations also contain traceability requirements to ensure that marijuana or marijuana-infused products do not make their way out of the regulated stream of commerce. WAC 314-55-083(4). These traceability requirements include providing the Liquor Control Board with notification of certain events such as harvesting plants, destroying marijuana or marijuana products, and any theft of an item containing marijuana. The licensee must also maintain a complete inventory and retain all point of sale records.

Any time a licensee transports marijuana or a marijuana-infused product, the licensee must notify the board of the amount and type of marijuana products being transported, along with the name of the transporter and the times of departure and expected delivery. Licensees who receive such shipments must also report the amount and type of marijuana products received. WAC 314-55-085.

To further ensure that marijuana products do not escape the state-regulated stream of commerce, the Liquor Control Board has also included extensive marijuana waste disposal procedures in its regulations. WAC 315-55-097.

I-502 imposes a 25% excise tax at each transaction point (producer to processor, processor to retailer, and retailer to consumer) but local governments will not receive any of the excise tax revenues. Local governments will receive sales tax revenue that will be collected on retail sale of marijuana in the same way they do for all retail sales. In Colorado, local governments do receive a share of the state-imposed taxes on marijuana, and Association of Washington Cities (AWC) is making efforts to encourage the legislature to enact a similar provision in Washington.

DISCUSSION:

The City Council has directed the Planning Commission to study and propose development regulations to the Council. The Planning Commission was directed to study a range of approaches to regulation, including zoning, development regulations, and a complete or partial prohibition in all zones. This Planning Commission presumes the Council will want to keep the existing ban on medical marijuana collective gardens and dispensaries, which has been on the books since 2012. With this presumption, the Commission developed three different options for the Council to

consider for new regulations: (1) Complete ban on State-licensed marijuana uses in all zones; (2) allow licensed retail establishments in specific zones but ban producers and processors; or (3) pass no legislation concerning state-licensed marijuana uses.

I. Option 1: Permanent Ban of All Marijuana Businesses

The first option that is available to the City is a complete ban on all state-licensed marijuana businesses. In exploring this option the Planning Commission considered legal advice on:

1. Whether or not the City was preempted from establishing a complete prohibition on marijuana business in light of I-502; and
2. Whether or not the City can rely on the Federal Controlled Substances Act of 1970 (CSA) to ban marijuana businesses.

Based on the Opinion issued by the Washington State Attorney General (AG) in January 2014, as well as a decision issued by Pierce County Superior Court on August 29, 2014, the City is not preempted by state law from totally prohibiting marijuana related businesses under its traditional zoning authority; whether the City can rely on the CSA to ban marijuana related businesses has not been answered and may be a riskier argument.

A. State Preemption of Local Ordinances

The AG issued AGO 2014 No. 2 on January 16, 2014 which stated that I-502 did not include any specific language to preempt a local jurisdiction's ability to regulate marijuana business under traditional zoning authority. The opinion went on to conclude that given the strong presumption against finding that state law preempts local ordinances, the broad power granted by the Washington Constitution to local jurisdiction to regulate land use, and the lack of any specific preemption language in I-502, cities do have the authority to ban marijuana procedures, processors, and retailers. While the Courts are not bound by the AG's opinion, it is given substantial weight by the Courts. However, the LCB has indicated that a local ban will not be used to justify the denial of a state license and it would be up to the local jurisdiction to enforce the ban.

On August 29th, Judge Ronald Culpepper of Pierce County Superior Court upheld the City of Fife's ban on marijuana businesses under the rationale that I-502 does not preempt traditional zoning authority. Fife also raised the federal law supremacy argument in support of the ban, but this argument was opposed by both the AG and the ACLU, who intervened in the case. Judge Culpepper did not make a decision on the federal law argument because the state law preemption issue disposed of the case. Judge Culpepper's decision will be appealed, most likely directly to the Washington State Supreme Court.

The Council should keep in mind that the legislature could amend the law in the 2015 session to include clear language preempting local zoning authority. In Colorado, the legislature gave cities express authority to zone out marijuana businesses; about a third of municipalities have done so.

B. Federal Preemption of Legalized Marijuana

No court has addressed the argument justifying a ban based on the supremacy of federal law. The AG and advocacy groups like the American Civil Liberties Union (ACLU) vigorously challenge any argument that could threaten the viability of Initiative 502 – including the argument that legalizing marijuana at the State level violates federal law. Courts that choose to uphold the argument that I-502 does not preempt local zoning authority do not have to answer the federal law question. Therefore, the federal law supremacy argument remains untested and risky.

II. Option 2: Establish Zoning Regulations for Marijuana Businesses

The second option that is available to the City is to establish specific zoning and land use controls related to the regulation of State-licensed marijuana businesses. Any zoning or development regulations the City adopts will be in addition to the regulations already imposed by the LCB, including the 1,000 foot rule, surveillance and alarm systems, and regulations on the size and placement of signage.

A. City approaches to regulation

Cities in Washington have chosen an array of approaches to regulating State-licensed marijuana uses. Some have imposed bans (e.g., University Place, Fife, Wenatchee). Others have opted for no regulations other than what is imposed by the LCB (e.g., Shelton). Others have adopted specific zoning and development regulations. A summary of these regulatory approaches from a number of cities in Washington is provided below:

- Carnation limits marijuana uses to the City's Horticultural Zone.
- Des Moines limits marijuana uses to areas zoned Business Park, which is a light industrial zone, and two commercial zones along SR-99 within the City.
- Ellensburg allows marijuana uses in all of the commercial zones in the City. The City limits the maximum size of retail facilities to 3,000 square feet, prohibits drive-thru facilities, requires that all production facilities be located in-doors, and prohibits all off-site signage.

- Gig Harbor allows marijuana uses in some of the City’s commercial zones. The City requires that no collective garden or other marijuana use be within 1,000 feet of each other, establishes parking requirements, and expands the definition of game arcade. The City is also considering legislation that would expand the definition of schools to include non-traditional school sites not covered in the LCB definitions. Gig Harbor also establishes a more formal permit review process in addition to any required building permits and state licenses.
- Issaquah allows marijuana uses in some of the City’s commercial zones. The City requires that no collective garden or other marijuana use be within 1,000 feet of each other and requires that all marijuana uses be within an enclosed building. Issaquah also establishes security requirements in addition to the LCB regulations related to security cameras, and implements crime prevention through environmental design (CPTED) regulations. Issaquah also utilizes a more formal permit review process in addition to any required building permits and state licenses.
- Renton allows marijuana uses in some of the City’s commercial zones, provided that the use is within an enclosed building or structure. The City requires that any person obtaining a business license from the City for a marijuana use to:

... indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool, if any, against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the marijuana-related business that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

Renton’s procedures also require that the person obtaining the business licenses from the City acknowledges that marijuana is still illegal under federal law and that:

Based on the Supremacy Clause and federal law in general, the applicant may still be subject to arrest, prosecution, imprisonment, and/or fines for violating federal law, the Renton [sic] shall have no duty, responsibility, or liability based on any of those events, and that Renton may be the entity to arrest, prosecute, imprison or fine the applicant.

A complete map of the approaches, including bans, taken by cities within Washington is available on the MSRC website at the following link:

<http://www.mrsc.org/subjects/legal/502/recmarijuana.aspx#rreads>. The interactive map provides links to the actual ordinance adopted by cities by clicking on the city and then the ordinance link provided in the popup.

B. Recommended additional regulations for Bonney Lake

The Planning Commission studied approaches taken by other cities and recommends the Council consider adopting any or all of the following regulations for state-licensed marijuana businesses, if the City Council decides to pursue Option II:

1. Allow State-licensed marijuana businesses only in Eastown and Midtown.

The only commercial areas within Bonney Lake that would allow state-licensed marijuana businesses would be portions of Midtown and Eastown, based on the LCB's current regulations. If the City Council adopts the expanded definition of parks discussed below, most of Midtown would also likely be excluded as appropriate areas for state-licensed marijuana business. Given that Eastown is a substantial distance away from the City's commercial centers and family-oriented uses, most of the area would still be available for state-licensed marijuana businesses.

2. Expand the Definition of Parks/Playground

The current definition of playground and public park used by the LCB in WAC 314-55-010(16) and (17), respectively, requires that the playground or park be owned and/or managed by a city, county, state, or federal government. Based on these definitions, marijuana business can be located within a 1,000 feet of a private park facility like Swiss Park or homeowner association parks. Bonney Lake had significant development of residential subdivisions over the past two decades, resulting in a substantial number of private recreational facilities. The City has typically required subdivisions to provide private park facilities for their residents, and record covenants that these areas will be preserved for park use in perpetuity. Therefore, private park facilities are not meaningfully different than public park facilities.

Given the intent to keep marijuana uses away from areas where children congregate and outdoor recreation occurs, the Planning Commission recommends that as part of any adopted regulations the Council expand the definition of "park" and "playground" to include privately-owned and managed recreational areas and playgrounds.

3. Include Liability Language

The Planning Commission also recommends that if the City Council allows retail marijuana businesses that the indemnification language in the Renton Ordinance be included in the City's business license materials. The City may also want to consider requiring that the insurance for the business required by WAC 314-55-082 name the City as additional insured for claims or lawsuits arising out of the operation of the business. Licensees are already required to identify the LCB as an additional insured on all insurance policies as a condition of the license per WAC 314-55-082(3).

4. Require Crime Prevention Through Environmental Design

The Planning Commission recommends the Council adopt Crime Prevention Through Environmental Design (CPTED) requirements for marijuana businesses. Given the valuable product and cash on premises, the Commission expects marijuana businesses to be potential targets for robberies, similar to businesses like jewelry stores, gun shops, or pawn shops. CPTED standards modify the environment to deter criminal activity and increase overall safety for citizens by ensuring that the layout and design of a building does not facilitate criminal activity. CPTED imposes standards for additional lighting, maintenance of landscaping, putting doors in visible locations, and building layouts that eliminate exterior hiding spaces.

C. Ban producers and processors

If the Council elects to allow marijuana retail businesses, the Planning Commission recommends a complete ban on producers and processors, to be revisited later if the State solves some of the environmental and safety problems with these types of uses.

1. Air Pollution and Odors

The Clean Air Agency's primary concern is the emissions that may come from facilities for producers and processors. The primary concern is that grow operations create a significant amount of odorous emissions which may cause nuisance impacts off-site, if they are not properly controlled and managed by the licensees. As a result of these concerns, producers and processors are required to obtain a license from the Clean Air Agency in addition to the license from the LCB. The permits entail a case-by-case review of individual applications and will result in each facility using the best available control technology to control odor and other emissions. The Clean Air Agency does not have concerns related to retail operations.

Given that producers and processors are required to obtain a license from the Clean Air Agency, the construction activities associated with these uses would not be categorically exempt from SEPA pursuant to WAC 197-11-800(1) and (2). Therefore, the City would have to complete a review under SEPA for every building permit, including tenant improvements, associated producers and processors.

2. Hazardous Materials

The production and processing of marijuana involves a number of chemicals and other hazardous materials.

During the grow operations, producers use a number of fertilizers and pesticides that must be treated before entering the City's sewer or storm water system. Grow operations also pump oxygen into indoor grow operations to provide an oxygen rich environment that facilitates plant production and also increases the fire danger as high oxygen environments are highly flammable.

During the processing of marijuana, hydrocarbon solvents like N-butane and isobutane are used to extract tetrahydrocannabinol (THC) from other parts of the plant. These materials are highly combustible and must be used correctly to prevent explosions. In addition to the hydrocarbon solvents, other solvents are used like ethanol, propylene glycol, and vegetable glycerin. In addition to the fire hazard of the solvents, steps must also be taken to ensure that the waste products from processing do not end up in the City's sewer or storm water systems.

3. Energy Consumption

One of the biggest environmental concerns with indoor grow operations is the carbon footprint of the industry. Indoor grow operations typically rely on multiple 1,000 watt High Intensity Discharge (HID) Grow Lights that are either high pressure sodium or metal halide. The energy consumption for one HID Grow Light is approximately 360 kilowatts (KW) per month. A small grow operation can easily use 15 grow lights consuming 5,400 KW per month. The average single family home utilizes 700 to 1,200 KW per month.

4. Food Safety Regulations

Typically businesses that handle or process food for sale for human consumption are required to get a license from the Washington State Department of Agriculture (WSDA). While marijuana-infused products must be made in facilities that meet the WSDA requirements in Chapters 16-165 and 167-167, the Assistant Director of the WSDA

issued a letter on May 6, 2014 stating that individuals interested in producing marijuana-infused products would need to get a license from the LCB. The letter also stated that WSDA licensed facilities are not allowed to process both conventional food products and marijuana infused products due to safety requirements. At this time there do not appear to be inspection and license procedures for marijuana-infused food products.

At the federal level, food handling and processing are either regulated by the USDA or the FDA to ensure the safety of the food supply. However, since marijuana is still illegal under federal law, the USDA and FDA will not issue licenses or inspect producers of marijuana-infused products.

III. Option 3: Pass no new legislation.

The third option is to allow the current moratorium to expire and rely on the City's existing land use controls and the LCB regulations to regulate marijuana businesses. Within Bonney Lake, the only areas where marijuana uses could be allowed under the State's regulations would be a portion of Midtown and Eastown as a result of the 1,000 foot buffer zone established by WAC 314-55-050(10). Marijuana uses are also not allowed in association with a residential structure pursuant to WAC 314-55-015(5).

CONCLUSION:

At this time the Planning Commission is looking for further guidance from the City Council as to the City Council's preferred option. The Planning Commission is aware that the identification of a preferred option does not obligate the City to vote in favor of that option when the final ordinance is presented to the City Council.

The City Council may need to extend the moratorium to provide sufficient time to prepare a draft ordinance, complete the required SEPA review, provide the required sixty day notice to the Department of Commerce, conduct the required public hearing on the draft ordinance, and provide time for final council action on the draft ordinance.