City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

Department/Staff Contact: Gary Leaf, Comm. Svcs Dir.
Council/Wrkshp Mtg Date: 8/22/2006
Agenda Bill Number: AB-06-188

Ordinance Number: Resolution Number: Councilmember Sponsor:

BUDGET INFORMATION

2006 Budget Amount: Required Expenditure: Impact: Remaining Balance: N/A N/A N/A N/A

Explanation:

Agenda Subject: A Motion to authorize the Mayor to apply for WSDOT and WDOE grants.

Administrative Recommendation:
Recommend the City Council authorize the Mayor to sign contract.

Background Summary: Over the past several weeks staff has been working with Bruce Dees & Associates to assemble information to apply for three grants, two from Washington Department of Transportation and one from Washington Department of Ecology. If the City is successful with one or more of these three grant applications we could make major progress completing projects identified in our draft sidewalk and trail plans. The three grant programs are Safe Routes to Schools, Pedestrian Safety, and Low Impact Development. A team of City of Bonney Lake staff, school district representatives, the Washington Bicycle Alliance, and Consultant Bruce Dees has been gathering data so these grant applications can be submitted in September. If all portions of these projects are successfully completed the total cost would be approximately $2.7 million, with about $1.2 million being funded from grants. As we get closer to completing the grant applications these figures will become more firm. The matching funds would need to come from park impact fees, real estate taxes, “zoo-trek” sales taxes, and general fund contributions over a period of three years. If one or two grant applications are successful (rather than all three) the costs and grant amounts would both be proportionately lower.

Council Committee Dates: Commission Dates: Board/Hearing Examiner Dates:
Finance Committee: Planning Commission: Park Board:
Public Safety Committee: Civil Service Commission: Hearing Examiner:
Community Development & Planning Committee:
Council Workshops:

Council Action:
Council Call for Hearing: Council Hearings Date:
Council Referred Back to: Workshop: Committee:
Council Tabled Until: Council Meeting Dates:

Signatures:
Director of Administration: Mayor: Date City Attorney Reviewed:

Mary Leaf Neil Johnson
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

<table>
<thead>
<tr>
<th>Department/Staff Contact:</th>
<th>Council/Workshop Mtg Date:</th>
<th>Agenda Bill Number</th>
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<tbody>
<tr>
<td>Dan Grigsby – Public Works Director</td>
<td>August 22, 2006</td>
<td>AB06-185</td>
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<tr>
<th>Ordinance Number:</th>
<th>Resolution Number</th>
<th>Councilmember Sponsor:</th>
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<td>1605</td>
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**BUDGET INFORMATION**

<table>
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**Explanation:**

**Agenda Subject:** A resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, authorizing Annexation and Utilities Agreements for Ptarmigan Ridge and Kelly Lake Park.

**Administrative Recommendation:**

**Background Summary:** Approve Annexation and Utility Agreements for Ptarmigan Ridge and Kelly Lake Park

The City of Bonney Lake requires either an Annexation Covenant (single family residential units) or an Annexation & Utilities Agreement (plats/developments) before a Certificate of Water Availability is issued, when the parcel is located outside City limits, in/outside the UGA and in Bonney Lake’s water service area.

In December 2004, Developer Extension Agreements were approved by Council for Ptarmigan Ridge and Kelley Lake Park. We are now requesting the AUA in conjunction with these developments.

The AUA will allow the City, at some time in the future, in its sole discretion, elect to annex all or part of the property.

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<td>Civil Service Commission:</td>
<td>Hearing Examiner:</td>
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<td>Community Development &amp; Planning Committee: 8/14/06</td>
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<td>Council Workshop:</td>
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**Council Action:**

Council Call for Hearing: Council Hearings Date: 

Council Referred Back to: Workshop: Committee 

Council Tabled Until: Council Meeting Dates: 

**Signatures:**

Dept. Dr. 
Mayor 
Date City Attorney reviewed Standard
DATE: August 14, 2006  

ORIGINATOR: Dan Grigsby  
TITLE: Public Works Director  

SUBJECT: Annexation & Utilities Agreement (AUA) for Ptarmigan Ridge and Kelly Lake Park  

The City of Bonney Lake requires either an Annexation Covenant (single family residential units) or an Annexation & Utilities Agreement (plats/developments) before a Certificate of Water Availability is issued, when the parcel is located outside City limits, in/outside the UGA and in Bonney Lake’s water service area.  

In December 2004, Developer Extension Agreements were approved by Council for Ptarmigan Ridge and Kelly Lake Park. We are now requesting the AUA in conjunction with these developments.  

The AUA will allow the City, at some time in the future, in its sole discretion, elect to annex all or part of the property.  

ORDINANCE/RESOLUTION # 1605  

REQUEST OR RECOMMENDATION BY ORIGINATOR:  

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE  
FINANCE DIRECTOR ________  
CITY ATTORNEY _______ N/A _______  

BUDGETED ITEM: Budget Impact: _____ $0 _____  

COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL  

DATE APPROVED DISAPPROVED  
James Rackley, Chairman 8-14-06 _______________  
Mark Hamilton 8-14-06 _______________  
David Bowen 8-14-06 _______________  

COMMITTEE COMMENTS:  

COMMITTEE’S RECOMMENDATION TO FORWARD TO:  
CITY CLERK  
CITY ATTORNEY  

Please schedule for City Council Meeting date of: August 22, 2006  
Consent Agenda: □ Yes □ No
RESOLUTION NO. 1605

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING ANNEXATION AND UTILITIES AGREEMENTS FOR PTARMIGAN RIDGE AND KELLY LAKE PARK.

The City Council of the City of Bonney Lake, Washington, does hereby resolve that the Mayor is authorized to sign the contract attached hereto and incorporated herein by this reference.

PASSED by the City Council this 22nd day of August, 2006.

______________________________
Neil Johnson Jr., Mayor

ATTEST:

______________________________
Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

______________________________
James Dionne, City Attorney
ANNEXATION AND UTILITIES AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this __________ day of
____________________, 2006 by and between the City of Bonney Lake ("City"), a
municipal corporation, and _____ Farmnan Ridge LLC ("Owner").

WHEREAS, Owner owns certain real property located in Pierce County,
Washington, outside the corporate limits of the City; and

WHEREAS, Owner is seeking or intends to seek various development approvals
from Pierce County for the property; and

WHEREAS, Owner has requested that the City provide water and sewer utility
service to the property; and

WHEREAS, it is generally the policy of the City to condition the provision of
water and sewer service outside the corporate limits of the City upon actual annexation of
the property to the City;

NOW, THEREFORE, the parties agree as follows:

1. Property. This Agreement shall be applicable to the property owned by Owner and
shown on Exhibit A, and specifically and legally described in Exhibit B, hereafter referred
to as "the Property".

2. Acknowledgments and Representations. The Owner and the City hereby
acknowledge and agree as follows:

(a) The Property is located in Pierce County, Washington, outside the corporate
limits of the City.

(b) The Owner is seeking or intends to seek various development approvals from
Pierce County for the Property.

Annexation and Utilities Agreement
(c) The Owner has requested that the City provide water and sewer utility service to the Property.

(d) This Agreement to extend utility service outside the corporate limits of the City is authorized by RCW 35.92.020 and RCW 35.67.310, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto.

(e) A City’s requirement of an annexation agreement as a condition of extending utility service to properties contiguous to the corporate limits of the City is recognized by Washington law.

(f) In the event of violation or breach of the terms of this Agreement, or upon the invalidation of this Agreement by judicial action, operation of law or otherwise, the City reserves the right, at its sole discretion, to immediately terminate the provision of utility services to areas within the Property not already being served at the time of violation, breach, or invalidation.

(g) At some time in the future, the City may, in its sole discretion, elect to annex all or part of the property.

(h) Until annexation of the Property by the City, Pierce County shall retain jurisdiction over the permitting and processing of development approvals relating to the Property, subject to the limitations of Schneider Homes, Inc. v. City of Kent, 87 Wn. App. 774 (1997).

3. Petition and Covenant for Annexation. In consideration of the City’s agreement and commitment to provide utilities to the Property, the Owner hereby petitions, agrees and covenants as follows:

(a) This Agreement shall be considered an irrevocable petition for annexation of the Property to the City. Owner agrees, promises and covenants that if at any time the Property is included within any area which is being considered for annexation to the City, Owner shall join in said annexation and by this petition does provide this Notice of Intention to Annex, and further agrees not to oppose any such annexation. Owner expressly acknowledges that by so agreeing, it waives the right to oppose such annexation.

(b) The Owner agrees to execute all necessary documents such as letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the Property to the City. This Agreement is a covenant running with the Annexation and Utilities Agreement
Property described in Exhibit B and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

(c) The Owner understands and agrees that the laws of the State of Washington relating to the annexation of property by a city provide that property may be annexed to a city if property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation.

(d) The Owner understands and agrees that upon annexation by the City, the Property shall be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed for any then outstanding indebtedness of the City which was contracted prior to, or existing at the date of annexation.

(e) The undersigned Owner, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the City as Owner’s true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of the Property to the City, with full power to do and perform any proper act which the Owner may do with respect to the annexation of said Property. The City may exercise this power through its City Clerk or otherwise as the City Council may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of water utility service by the City, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.

(f) The Owner shall not protest the future formation of any local improvement district for any of the following: domestic water, sewers, streets, street lighting, and storm water facilities, including regional detention and water quality facilities, for any district which includes property within the Property described in Exhibit B, provided that this section is not inconsistent with the Owner’s rights and obligations contained elsewhere in this Agreement.

4. **Conditions.** In consideration for the City’s agreement and commitment to provide utilities to the Property upon annexation, and in recognition of the City’s conditions for annexation, the Owner and City hereby agree and covenant as follows:

   (a) The City shall have the right to review and approve the preliminary plat. Where City requirements are in conflict with Pierce County policies, subdivision and zoning requirements Pierce County requirements shall prevail.
(b) Plans for road and storm improvements shall be submitted to the City of Bonney Lake for comment.

(c) All public improvements related to water constructed within the Property shall be constructed consistent with City standards, plans, policies and regulations.

(d) The Owner shall allow City inspection during construction of all public improvements related to water as they are built, regardless of the ownership of such improvements, and shall reimburse the City for any reasonable costs incurred in such inspection.

5. water and sewer Service. The City agrees to provide water and sewer utility service to the Property as described in this section, subject to the City’s ability to obtain the necessary approvals, agreements and franchises from other agencies. The City agrees to diligently exert all reasonable efforts to obtain such approvals, agreements and franchises and to provide these services in a timely manner. The Owner agrees to pay to the City the System Development Charges for water and sewer on the same terms and conditions as other similarly situated users within the City’s water and sewer service area and after review and approval by Owner to execute any developer extension agreements required by the City. Owner’s obligations arising out of this Agreement shall be of no force and effect unless the City provides water and sewer availability letters as needed to process their plat.

6. General Provisions. The Owner and the City hereby acknowledge and agree to the following provisions, which shall apply to the entire Agreement:

(a) This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of the Agreement shall be binding on either party except by means of a signed writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

(b) The terms and provisions of this Agreement shall inure to the benefit of and become binding upon the heirs, assigns, and/or successors in interest of the parties hereto, and related entities (i.e. entities with elements of common ownership) and principal owners of the Owner.

(c) Failure by either party to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party’s right to demand strict compliance and performance of that or any other provision of this Agreement at any time thereafter.

(d) If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of the Agreement shall not be
affected.

(e) Upon execution, this Agreement, or memorandum thereof, shall be recorded with the Pierce County Auditor’s office. The Owner shall be responsible for recording and shall provide evidence of such recording to the City within three (3) business days of execution of this Agreement.

IN WITNESS WHEREOF, the Owner and the City have executed this Agreement on the date first written above.

CITY OF BONNEY LAKE

______________________________
Neil Johnson Jr., Mayor

ATTEST:  

______________________________  
Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

______________________________  
James Dionne, City Attorney

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______________________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this_______ day of______________________, 200____.

______________________________
Notary Public in and for the state of Washington,  
residing at ___________________________.  
My appointment expires ___________________.

Annexation and Utilities Agreement
OWNER:

[Signature]

State of Washington )
County of Pierce ) ss.

I certify that I know or have satisfactory evidence that
Paul Wilson 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
Member of Parmigen Ridge, LLC to be the
free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 16th day of August 2006.

Tara Cole Notary Public in and for the state of Washington,
residing at Tacoma

Annexation and Utilities Agreement
PTARMIGAN RIDGE PLAT

Parcel 0520341007, Ptarmigan Ridge LLC

Legal Description:
Section 27 Township 20 Range 05 Quarter 34 : BEG AT A PT ON S LI OF SE OF SW 745 FT E OF A BRASS MON MARKING SW COR OF SD SUBD TH N 210 FT PERPENDICULAR TO SD LI THE PAR TO SD LI TO W LI OF A TR REC # 892764 TH S ALG SD LI TO S LI OF SD SUBD TH W TO POB

Parcel 0520342001, Ptarmigan Ridge LLC

Legal Description:
Section 34 Township 20 Range 05 Quarter 21 : THAT POR OF E 1/2 OF E 1/2 OF NE OF NW LY N OF CO RD EXC RD PER AFN 317422 SEG E 7251

Parcel 0520346005, Ptarmigan Ridge LLC

Legal Description:
Section 34 Township 20 Range 05 Quarter 21 : L 2 OF SHORT PLAT 84-04-24-0237 TOG/W EASE & RESTRICTIONS OF REC OUT OF 2-006 SEG T-1494 PP ES. SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

Parcel 0520346006, Ptarmigan Ridge LLC

Legal Description:
Section 34 Township 20 Range 05 Quarter 21 : L 3 OF SHORT PLAT 84-04-24-0237, ACCORDING TO THE MAP THEREOF RECORDED APRIL 24, 1984, RECORDS OF THE PIERCE COUNTY AUDITOR. TOGETHER WITH PRIVATE ROAD AND UTILITY EASEMENT AS DELINEATED ON SAID SHORT PLAT. EXCEPT THAT PORTION OF SAID EASEMENT LYING WITHIN SAID LOT 3. SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.
Return To:
City of Bonney Lake
P. O. Box 7380
Bonney Lake, WA  98390-8850

ANNEXATION AND UTILITIES AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this _____ day of ___ , 2006 by and between the City of Bonney Lake ("City"), a municipal corporation, and Lake Topps Dev LLC ("Owner").

WHEREAS, Owner owns certain real property located in Pierce County, Washington, outside the corporate limits of the City; and

WHEREAS, Owner is seeking or intends to seek various development approvals from Pierce County for the property; and

WHEREAS, Owner has requested that the City provide water and sewer utility service to the property; and

WHEREAS, it is generally the policy of the City to condition the provision of water and sewer service outside the corporate limits of the City upon actual annexation of the property to the City;

NOW, THEREFORE, the parties agree as follows:

1. **Property.** This Agreement shall be applicable to the property owned by Owner and shown on Exhibit A, and specifically and legally described in Exhibit B, hereafter referred to as "the Property".

2. **Acknowledgments and Representations.** The Owner and the City hereby acknowledge and agree as follows:

   (a) The Property is located in Pierce County, Washington, outside the corporate limits of the City.

   (b) The Owner is seeking or intends to seek various development approvals from Pierce County for the Property.

Annexation and Utilities Agreement
(c) The Owner has requested that the City provide water and sewer utility service to the Property.

(d) This Agreement to extend utility service outside the corporate limits of the City is authorized by RCW 35.92.020 and RCW 35.67.310, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto.

(e) A City’s requirement of an annexation agreement as a condition of extending utility service to properties contiguous to the corporate limits of the City is recognized by Washington law.

(f) In the event of violation or breach of the terms of this Agreement, or upon the invalidation of this Agreement by judicial action, operation of law or otherwise, the City reserves the right, at its sole discretion, to immediately terminate the provision of utility services to areas within the Property not already being served at the time of violation, breach, or invalidation.

(g) At some time in the future, the City may, in its sole discretion, elect to annex all or part of the property.

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   (b) The Owner agrees to execute all necessary documents such as letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the Property to the City. This Agreement is a covenant running with the

Annexation and Utilities Agreement
Property described in Exhibit B and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

(c) The Owner understands and agrees that the laws of the State of Washington relating to the annexation of property by a city provide that property may be annexed to a city if property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation.

(d) The Owner understands and agrees that upon annexation by the City, the Property shall be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed to pay for any then outstanding indebtedness of the City which was contracted prior to, or existing at the date of annexation.

(e) The undersigned Owner, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the City as Owner’s true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of the Property to the City, with full power to do and perform any proper act which the Owner may do with respect to the annexation of said Property. The City may exercise this power through its City Clerk or otherwise as the City Council may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of water utility service by the City, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.

(f) The Owner shall not protest the future formation of any local improvement district for any of the following: domestic water, sewers, streets, street lighting, and storm water facilities, including regional detention and water quality facilities, for any district which includes property within the Property described in Exhibit B, provided that this section is not inconsistent with the Owner’s rights and obligations contained elsewhere in this Agreement.

4. **Conditions.** In consideration for the City’s agreement and commitment to provide utilities to the Property upon annexation, and in recognition of the City’s conditions for annexation, the Owner and City hereby agree and covenant as follows:

(a) The City shall have the right to review and approve the preliminary plat. Where City requirements are in conflict with Pierce County policies, subdivision and zoning requirements Pierce County requirements shall prevail.

Annexation and Utilities Agreement
(b) Plans for road and storm improvements shall be submitted to the City of Bonney Lake for comment.

(c) All public improvements related to water constructed within the Property shall be constructed consistent with City standards, plans, policies and regulations.

(d) The Owner shall allow City inspection during construction of all public improvements related to water as they are built, regardless of the ownership of such improvements, and shall reimburse the City for any reasonable costs incurred in such inspection.

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6. **General Provisions.** The Owner and the City hereby acknowledge and agree to the following provisions, which shall apply to the entire Agreement:

   (a) This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of the Agreement shall be binding on either party except by means of a signed writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

   (b) The terms and provisions of this Agreement shall inure to the benefit of and become binding upon the heirs, assigns, and/or successors in interest of the parties hereto, and related entities (i.e. entities with elements of common ownership) and principal owners of the Owner.

   (c) Failure by either party to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party’s right to demand strict compliance and performance of that or any other provision of this Agreement at any time thereafter.

   (d) If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of the Agreement shall not be
affected.

(c) Upon execution, this Agreement, or memorandum thereof, shall be recorded with the Pierce County Auditor’s office. The Owner shall be responsible for recording and shall provide evidence of such recording to the City within three (3) business days of execution of this Agreement.

IN WITNESS WHEREOF, the Owner and the City have executed this Agreement on the date first written above.

CITY OF BONNEY LAKE

______________________________
Neil Johnson Jr., Mayor

ATTEST: _______________________

Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM: ________

James Dionne, City Attorney

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 ________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this ______ day of __________________________, 200__.

Notary Public in and for the state of Washington, residing at __________________________.
My appointment expires ____________________.

Annexation and Utilities Agreement
OWNER:

[Signature]

State of Washington  
County of Pierce  

I certify that I know or have satisfactory evidence that 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 free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 11th day of August, 2000.

[Notary Public]

Notary Public in and for the state of Washington, residing at  
My appointment expires 05/17/09.

Annexation and Utilities Agreement
OWNER: 

[Signature]

State of Washington  
County of Pierce  

I certify that I know or have satisfactory evidence that [Signature] 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 [Name] of [Company] to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this [Day] day of [Month], 200[Year].

Notary Public in and for the state of Washington, residing at [City].
My appointment expires [Date].

Annexation and Utilities Agreement
Parcel 0520345027: Lake Tapps Development LLC

LEGAL DESCRIPTION:
Section 34 Township 20 Range 05 Quarter 12 : L 1 S P 2006-03-16-5004 AN AMEND OF S P 92-02-13-0330 FORMERLY POR L 1 S P 83-12-09-0289 EXC ADDL R/W CYD TO P CO Q802066 & Q603321 EASE OF REC OUT OF 5-021 SEG C1807MD 3/12/92BO DC04/03/06KT
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

Department/Staff Contact: P&CD/Bob Leedy
Council/Wrksp Mtg Date: 8/22/06
Agenda Item Number: ABO6-166

Ordinance Number: Resolution Number: Councilmember Sponsor:

BUDGET INFORMATION

2006 Budget Amount Required Expenditure Impact Remaining Balance

Explanation:

Agenda Subject: "Annexation Area 3" – Petition method (RCW 35A.14.120)

Administrative Recommendation: Recommendation is that Council accept the Petition to Commence Annexation Proceedings and authorize circulation of the official 60% petitions for "Annexation Area 3".

Background Summary: In order to commence a petition-method of annexation (RCW 35A.14.120), an applicant must submit a 10% Petition to the City. Upon acceptance, they shall be granted a meeting with City Council to discuss the proposed annexation within 60 days. For "Area 3", the City has an Annexation Utilities Agreement ("Agreement") for the Bohemian Estates plat and 5 parcels within the Tapps Hideaway Plat – located within Annexation Area 3. The total assessed value of the Bohemian Estates property and one parcel within Tapps Hideaway (Corey Johnson) exceeds the 10% required to initiate the annexation. The Agreements give the City of Bonney Lake “Special Power of Attorney” to sign petitions on behalf of all the parcels that are part of the Agreement. Attached is the 10% Petition, signed by the City Clerk, for the two parcels. The Applicant (the City), is requesting to proceed with this annexation. If Council agrees, it must make a motion stating:
1.) Whether to accept, reject or geographically modify proposed annexation area boundaries;
2.) Whether to require assumption of current city indebtedness;
3.) Whether to approve/modify proposed zoning of annexation area (R-1);
4.) Whether to authorize circulation of 60% petition.

Suggested language for Motion:
I/we propose a Motion to:
1.) Accept the 10% Petition to Commence Annexation Proceedings for “Annexation Area 3”, as described in Exhibit A and as identified in Exhibit B of the Petition;
2.) Upon annexation, all property within the proposed annexation area shall be assessed and taxed at the same rate and on the same basis as other property within the City of Bonney Lake, including all indebtedness existing as of the effective date of the annexation;
3.) The proposed zoning for the annexation area shall be R-1; and
4.) Authorize staff to begin circulation of the official 60% Petitions pursuant to RCW 35A.14.120.

Attachments:
- Staff report – Annexation Area 3
- 10% Petition – Notice of Intention to Commence Annexation Proceedings with:
  o Exhibit A: Map
  o Exhibit B: Legal Description
  o Exhibit C: Annexation Utilities Agreement for Bohemian Estates plat (Recording 200409030088)
  o Exhibit D: Annexation Utilities Agreement for Corey Johnson (Recording 200606220582)
- Timeline (draft) for Annexation Area 3
- Tax parcel data for Area 3

Council Committee Dates: Finance Committee:
Public Safety Committee:
Community Development & Planning Committee: 8/14/06
Council Workshop:

Agency/Commission Dates: Planning Commission:
Design Commission:
Civil Service Commission:

Board/Hearing Examiner Dates: Park Board:
Hearing Examiner:

Council Action:
Council Call for Hearing: Council Hearings Date:
Council Referred Back to: Workshop: Committee
Council Tabled Until: Council Meeting Dates:

Signatures:
Dept. Dir. Mayor Date City Attorney reviewed
COMMUNITY DEVELOPMENT COMMITTEE

DATE: August 14, 2006

ORIGINATOR: Bob Leedy

TITLE: Director, P&CD


In order to commence a petition-method of annexation (RCW 35A.14.120), an applicant must submit a 10% Petition to the City. Upon acceptance, they shall be granted a meeting with City Council to discuss the proposed annexation within 60 days. For “Area 3”, the City has an Annexation Utilities Agreement (“Agreement”) for the Bohemian Estates plat and 5 parcels within the Tapps Hideaway Plat – located within Annexation Area 3. The total assessed value of the Bohemian Estates property and one parcel within Tapps Hideaway (Corey Johnson) exceeds the 10% required to initiate the annexation. The Agreements give the City of Bonney Lake “Special Power of Attorney” to sign petitions on behalf of all the parcels that are part of the Agreement. Attached is the 10% Petition, signed by the City Clerk, for the two parcels. The Applicant (in this case the City), is requesting to proceed with this annexation. If Council agrees, they must make a formal motion to:

1. Accept the attached 10% Petition and authorize circulation of the official 60% Petitions;
2. Accept the proposed annexation boundaries;
3. State its intent to require residents of the annexed area to assume the City’s current indebtedness; and
4. State its intent to apply R-1 zoning to the area upon annexation.

Suggested verbiage for the above motion is included on the Council Agenda Bill.

Attached:
- Staff report – Annexation Area 1-B
- 10% Petition – Notice of Intention to Commence Annexation Proceedings with:
  - Exhibit A: Map
  - Exhibit B: Legal Description
  - Exhibit C: Annexation Utilities Agreement for Bohemian Estates plat (Recording 200409030088)
  - Exhibit D: Annexation Utilities Agreement for Corey Johnson (Recording 200606220582)
- Timeline (draft) for Annexation Area 3
- Tax parcel data for Area 3

ORDINANCE/RESOLUTION N/A

REQUEST OR RECOMMENDATION BY ORIGINATOR: Recommend Council accept the 10% Petition – Notice of Intention to Commence Annexation Proceedings for Area 3 & authorize circulation of the 60% petitions (see CAB for language).

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE
FINANCE DIRECTOR
CITY ATTORNEY

BUDGETED ITEM: N/A  Budget Impact: $ 0

COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL

DATE APPROVED DISAPPROVED
James Rackley, Chairman 8-14-06  
Mark Hamilton 6-14-06  
David Bowen 8-14-06

COMMITTEE COMMENTS:

COMMITTEE’S RECOMMENDATION TO FORWARD TO:
CITY CLERK
CITY ATTORNEY

Please schedule for City Council Meeting date of: August 22, 2006 (Action required: formal motion)

Consent Agenda: □ Yes  □ No
City Council Staff Report
Annexation Area 3 PLN 59100063
August 1, 2006

Applicant: City of Bonney Lake

Annexation method: Petition Method – RCW 35A.14.120

Location: Sections 22 and 27, Township 20N, R5E W.M.
The annexation area borders existing city limits on the south, north and west sides. The southern border is the south edge of parcel 5040000072; the northern border is the north edge of parcel 0520224011. The western border is generally the west side of Vandermark Rd. E. The eastern border is the Urban Growth Boundary (generally a northerly extension of 214th Ave. E.). The area contains the preliminary plat of Bohemian Estates and a non-contiguous segment of Vandermark Rd. E. to the south of the main annexation area. The segment extends in a NW direction from 214th Ave. E. toward Church Lake Dr. E. The eastern border is the west side of 214th Ave. E. This segment of road is currently maintained by the City of Bonney Lake but was erroneously omitted from prior annexation legal descriptions. The addition of this segment will correct the mapping error.

Staff Contact: Shannon Mayfield-Porter, 253-447-4354

APPLICATION SUMMARY

The City of Bonney Lake attempted to annex “Area 3” (less the Vandermark Rd. segment) in 2001 using the election method of annexation. Voters in the area rejected the annexation. In late 2003, the then-owner of the Bohemian Estates Plat (Euro-Way Homes) approached the City requesting to annex their 30 acre parcel. After lengthy discussions, Council generally preferred to annex the entire “Annexation Area 3” rather than piecemeal annexation of just one parcel. After much consideration and review of assessed valuation data from the parcels in the area, it was determined that a successful annexation was not likely. Until the 30 acre parcel is developed, the land value is too low to guarantee a successful annexation. The applicant withdrew their annexation application and instead entered into an Annexation Utility Agreement with the City. The City’s intention was to wait until Bohemian Estates was finaled and its assessed value increased before beginning another annexation effort.

A second development is now in process (Tapps Hideaway), located just south of the Bohemian Estates and PSE properties. Tapps Hideaway consists of 8 parcels, all of which have Annexation Utilities Agreements (5 previously approved by Council, 3 additional agreements submitted for Council’s approval 8/22/06). The developer for Tapps Hideaway (tentatively 115 lots) intends to wait until after annexation to file their plat application with the City, providing the annexation is successful within a reasonable period of time. With the addition of the eight Tapps Hideaway parcels and one proposed shortplat, the City would only need to secure an additional $89,340 in signatures (one home) for a successful petition method of annexation (60% assessed value). The City has been informed that another property would very likely sign a petition—thereby providing the requisite 60% assessed value.

If signatures can be secured quickly, this annexation may be effective by late January 2007, approximately a year earlier than waiting for Bohemian Estates’ new assessed values to be updated next year (see attached timeline).

Existing Comprehensive Plan Land Use Designation
The annexation territory is located within the City of Bonney Lake’s approved Urban Growth Area created under RCW 36.70A.110. By RCW 35A.14.005, only territories within urban growth areas may be annexed by code cities. Pierce County has not completed a community plan for the area due to the annexation area’s location within the City’s approved UGA. The current Pierce County Comprehensive Plan designation for the annexation territory is MSF, Moderate Density Single Family. The City’s Comprehensive Plan designates this property as Single Family Residential.

"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."
Proposed Comprehensive Plan Land Use Designation

Existing Zoning
The subject property is currently located in the City’s UGA within unincorporated Pierce County, and is zoned Moderate Density Single Family (MSF) by Pierce Co. A portion of the proposed annexation area abuts the city limits/Clarks Cove plat on the western side, the majority of which is zoned R-1, Low-Density Residential. The property abuts city limits/Maple Point Addition plat to the north, which is zoned R-2, Medium-Density Residential. The unincorporated rural property to the east is outside the city limits and urban growth boundary and is zoned R5 (Rural 5).

Proposed Zoning
To implement the adopted land use designation assigned by the city’s Comprehensive Plan, the proposed zoning for the annexation area is R-1, Low-Density Residential. The R-1 zone classification is consistent with the Comprehensive Plan Land Use Designation of Single-Family Residential.

REQUIREMENTS OF RCW 35A.14.120:
1.) Decide whether to accept, reject or geographically modify proposed boundaries of annexation area.

The boundary of the proposed annexation area is the most logical geographic area possible given the circumstances. City Council previously stated that their desire was to annex all of this UGA rather than piecemeal annexation. Pierce Co. is requesting that the City also include the Vandermark Rd. segment to “clean up” legal description errors from prior years. The City and County have both treated this segment of road as if it was all in the City (as it should have been); the addition of this segment in the legal description for Annexation Area 3 will authorize the map correction.

2.) Decide whether to require simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340

BLMC 18.52.030 (F) The assignment of zoning to an annexation area shall be deemed a form of rezone, to be processed as a Type 6 permit or area-wide rezone depending on whether the annexation is site-specific or area-wide. (E) The criterion for granting rezones shall be conformance to the comprehensive plan.

The City did not establish “preannexation zoning” for this area but it did adopt land use designations for its urban growth areas when the Comprehensive Plan was adopted. The adopted comprehensive plan land use designation for this parcel is low-density residential. The implementing zoning classification is R-1 low-density zoning. In accordance with the City’s adopted Comprehensive Plan and Municipal Code, the proposed zoning for this annexation area is therefore R-1 low-density residential. Staff recommends the simultaneous adoption of zoning, concurrent with annexation effectiveness.

3.) Decide whether to require assumption of all or any portion of existing city indebtedness by area to be annexed.

A statement about assumption of indebtedness must be included in the motion authorizing circulation of the 60% petitions. If Council elects to require residents of the annexation area to assume the current city indebtedness, that disclosure must be made on the petition. The only outstanding General Obligation bond is for the Public Safety building, with a final maturity date of 2011. Bonney Lake’s tax rates per $1,000 of assessed valuation with and without bonded indebtedness are:
<table>
<thead>
<tr>
<th>ASSUMPTION OF INDEBTEDNESS REQUIRED</th>
<th>NO ASSUMPTION OF CURRENT INDEBTEDNESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.9939/$1,000 of assessed valuation</td>
<td>$1.60/$1,000 of assessed valuation</td>
</tr>
</tbody>
</table>

Even if the City requires an assumption of current indebtedness, the residents will experience a slight decrease in their property tax rate over what they currently pay to the County road fund.

OTHER CONSIDERATIONS
If the annexation progresses to the point of adoption, Council will need to concurrently adopt an ordinance revising Council Ward 5 boundary to assign council representation to the newly annexed area.

STAFF RECOMMENDATION
Accept the 10% Petition to Commence Annexation Proceedings and authorize circulation of the official 60% Petition (including details outlined in the agenda bill).
NOTICE OF INTENTION TO COMMENCE ANNEXATION PROCEEDINGS

TO: THE CITY COUNCIL OF THE CITY OF BONNEY LAKE
CITY HALL, C/O City Clerk
19306 Bonney Lake Blvd.
Bonney Lake, WA 98390 – 0944

ANNEXATION NAME: ANNEXATION AREA 3

I/We, the undersigned, being the owners of not less than ten percent (10%) in value according to the assessed valuation for general taxation as documented with the Pierce County Assessor-Treasurer’s office, of the real property described in “Exhibit A” and depicted in “Exhibit B” attached hereto, lying contiguous to the City of Bonney Lake and being part of Pierce County, Washington do hereby petition that such territory be annexed to and made a part of the City of Bonney Lake under the provisions of RCW 35A.14.120, and any amendments thereto, of the State of Washington.

WHEREFORE, the undersigned respectively petition the Honorable Mayor and City Council and ask that appropriate actions be taken to authorize circulation of the 60% Petition.

As a part of this petition attached hereto is “Exhibit A” a legal description of the boundary of the proposed annexation and “Exhibit B” a map which outlines the boundaries of the property sought to be annexed.

The City Council is requested to set a date not later than sixty days after the filing of this request for a public meeting with the undersigned.

1. At such meeting, the City Council will decide whether the City will accept, reject or geographically modify the proposed annexation;

2. The City Council will decide whether to require simultaneous adoption of proposed zoning regulation, such a proposal having been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340; and

3. The City Council will decide whether to require the assumption of existing city indebtedness
NOTICE OF INTENTION TO COMMENCE ANNEXATION PROCEEDINGS INTO THE CITY OF BONNEY LAKE

The undersigned have read the above petition and consent to the filing of this petition.

The undersigned, whose name and address of the street and the city of residence are hereby given in the petition, shall be notified of the hearing by mailing or delivering a notice to the street address of the person or the property owner. The notice shall be given at least seven days prior to the hearing. The person who signs this petition shall be acquitted of any penalty or liability of the person, or of the property owner, for any lien or assessment levied against the property.

WARNING: Every person who signs this petition shall be acquitted of any penalty or liability of the person. It may be filed with other pages containing additional signatures, attaching them to the petition.

This page is the first of a group of pages containing identical text material. It is intended by the person signing to signify its acceptance of the petition.
Co. Auditor Recording No. 2006092592.

3(e) Of the Agreement, "...designates the City as the Owner's title and lawful possessory in fact for the purpose of evaluating any petition bearing in an annexation of the property in the City..." (Agreement attached to this petition evidencing POA provision.)

3(b) of the Agreement...
Annexation Area 3 10% Petition
EXHIBIT A: MAP
ANNEXATION NO. 3

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M., PIERCE COUNTY, WASHINGTON; THENCE SOUTH ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 80 FEET, MORE OR LESS, TO A POINT OPPOSITE THE SOUTHEAST CORNER OF LOT 7, LAKE TAPPS CEDAR ADDITION ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE 88, RECORDS OF PIERCE COUNTY, WASHINGTON; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 7 AND THE EASTERNLY PRODUCTION THEREOF, A DISTANCE OF 1040 FEET, MORE OR LESS, TO THE WEST RIGHT-OF-WAY LINE OF VANDERMARK ROAD EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF VANDERMARK ROAD A DISTANCE OF 2300 FEET, MORE OR LESS, TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF VANDERMARK ROAD EAST AND THE 545 FOOT CONTOUR LINE OF THE LAKE TAPPS RESERVOIR AS SHOWN ON LOT 1, CHURCH LAKE WATERFRONT TRACTS DIVISION NO. 2 AS RECORDED IN VOLUME 22, PAGE 16, RECORDS OF PIERCE COUNTY, WASHINGTON IN THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 5 EAST; THENCE SOUTHEASTERLY, EASTERLY, NORTHERLY AND NORTHWESTERLY FOLLOWING SAID 545 FOOT CONTOUR ALONG THE MAJOR INLET TO THE LAKE TAPPS RESERVOIR A DISTANCE OF 2600 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF VANDERMARK ROAD EAST AT THE MOST SOUTHERLY CORNER OF LOT 1, MAPLE POINT ADDITION TO INLET ISLAND AS RECORDED IN VOLUME 24, PAGE 60, RECORDS OF PIERCE COUNTY, WASHINGTON; THENCE NORTHEASTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF VANDERMARK ROAD EAST A DISTANCE OF 160 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF 207TH AVENUE EAST (FORMERLY Y.M.C.A. COUNTY ROAD); THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF 207TH AVENUE EAST A DISTANCE OF 324 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SECTION 22, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M.; THENCE EAST ALONG SAID SOUTH LINE A DISTANCE OF 31 FEET, MORE OR LESS, TO THE CENTERLINE OF 207TH AVENUE EAST; THENCE NORTHERLY AND NORTHWESTERLY ALONG THE CENTERLINE OF 207TH AVENUE EAST A DISTANCE OF 1460 FEET, MORE OR LESS, TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M.; THENCE EAST ALONG SAID NORTH LINE A DISTANCE OF 1070 FEET, MORE OR LESS, TO SAID 545 FOOT CONTOUR ON THE LAKE TAPPS RESERVOIR; THENCE SOUTHEASTERLY ALONG SAID 545 FOOT CONTOUR A DISTANCE OF 240 FEET, MORE OR LESS, TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M.; THENCE SOUTH A DISTANCE OF 1130 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID SECTION 22; THENCE SOUTH A DISTANCE OF 2640 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M. AND POINT OF BEGINNING.
EXCEPT THAT PORTION OF 218TH AVENUE EAST LYING SOUTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE IDENTIFIED IN PIERCE COUNTY ORDINANCE NO. 91-27.

TOGETHER WITH VANDERMARK ROAD IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 5 EAST LYING WESTERLY OF A LINE 30 FEET WESTERLY OF AND PARALLEL WITH THE EAST LINE OF SAID SUBDIVISION.
**AUDITOR'S NOTE**

Legibility for recording and copying unsatisfactory in a portion of this instrument when received.

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**Document Title(s)**

Annexation and Utility Agreement

**Grantor(s)**

City of Bonney Lake

_X_ Additional Names on Page _5_ of Document

**Grantee(s)**

Euro-Way Homes, Inc.

_X_ Additional Names on Page _6_ of Document

**Legal Description (Abbreviated: i.e., Lot, block & subdivision name or number OR section/township/range and quarter/quarter section)**

SE QRT OF THE SE QRT OF SECTION 22, TOWNSHIP 20 N, RANGE 5 E OF THE W.M.

**Complete Legal Description on Page _7 (EXHIBIT B) of Document**

**Auditor's Reference Number(s)**

**Assessor's Property Tax Parcel/Account Number(s): 0520224011**

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The Auditor/Recorder will rely on the information provided on this cover sheet. The Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

---

Signature of Requesting Party (Required for non-standard recordings only)

Gpcoyst.doc rev 4/02
Return To:

City Clerk's Office
City of Bonney Lake
PO Box 7380
Bonney Lake, WA 98390-0944

ANNEXATION AND UTILITY AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 24th day of August, 2004 by and between the City of Bonney Lake ("City"), a municipal corporation, and Euro-Way Homes, Inc., a Washington State Corporation ("Owner").

WHEREAS, Owner owns certain real property located in Pierce County, Washington, outside the corporate limits of the City, but which is adjacent to and abutting the corporate limits of the City; and

WHEREAS, Owner is seeking or intends to seek various development approvals from Pierce County for the property; and

WHEREAS, Owner has requested that the City provide water and sanitary sewer utility service to the property; and

WHEREAS, the City reserves the discretion to provide such services outside the corporate limits of the City; and

WHEREAS, it is the policy of the City to condition the provision of water and sanitary sewer service outside the corporate limits of the City upon actual annexation of the property to the City; and

NOW, THEREFORE, the parties agree as follows:

1. Property. This Agreement shall be applicable to the property owned by Owner, which consists of approximately 30.95 acres, and shown on Exhibit "A," and specifically and legally described in Exhibit "B," hereafter referred to as "the Property".

2. Acknowledgments and Representations. The Owner and the City hereby acknowledge and agree as follows:

Attachment A to Resolution 1292 passed 8/24/04
(a) The Property is located in Pierce County, Washington, which is outside the corporate limits of the City, but which is adjacent to and abutting the corporate limits of the City.

(b) The Owner is seeking or intends to seek various development approvals from Pierce County for the Property.

(c) The Owner has requested that the City provide water and sanitary sewer utility service to the Property.

(d) This Agreement to extend utility service outside the corporate limits of the City is authorized by RCW 35.92.020 and RCW 35.67.310, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto.

(e) A City’s requirement of an annexation agreement as a condition of extending utility service to properties contiguous to the corporate limits of the City is recognized by Washington law.

(f) The Property is located within the City’s Urban Growth Area as adopted by the City in its Comprehensive Plan and as recognized in the Pierce County Comprehensive Plan.

(g) In the event of violation or breach of the terms of this Agreement, or upon the invalidation of this Agreement by judicial action, operation of law or otherwise, the City reserves the right, at its sole discretion, to immediately terminate the provision of utility services to areas within the Property not already being served at the time of violation, breach, or invalidation.

(h) At some time in the future, the City may, in its sole discretion, elect to annex all or part of the Property.

(i) Until annexation of the Property by the City, Pierce County shall retain jurisdiction over the permitting and processing of development approvals relating to the Property, subject to the limitations of Schneider Homes, Inc. v. City of Kent, 87 Wn. App. 774 (1997).

3. **Petition and Covenant for Annexation.** In consideration of the City's agreement and commitment to provide water and sewer to the Property, the Owner hereby petitions, agrees and covenants as follows:

   (a) This Agreement shall be considered an irrevocable petition for annexation of the Property to the City. Owner agrees, promises and covenants that if at any time the Property is included within any area which is being considered for annexation
to the City, Owner shall join in said annexation and by this petition does provide this Notice of Intention to Annex, and further agrees not to oppose any such annexation. Owner expressly acknowledges that by so agreeing, it waives the right to oppose such annexation.

(b) The Owner agrees to execute all necessary documents such as letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the Property to the City. This Agreement is a covenant running with the Property described in Exhibit “B” and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

(c) The Owner understands and agrees that the laws of the State of Washington relating to the annexation of property by a city provide that property may be annexed to a city if property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation.

(d) The Owner understands and agrees that upon annexation by the City, the Property shall be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed to pay for any then outstanding indebtedness of the City which was contracted prior to, or existing at the date of annexation.

(e) The undersigned Owner, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the City as Owner’s true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of the Property to the City, with full power to do and perform any proper act which the Owner may do with respect to the annexation of said Property. The City may exercise this power through its City Clerk or otherwise as the City Council may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of sanitary sewer utility service by the City, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.

(f) The Owner shall not protest the future formation of any local improvement district for sewers which includes property within the Property described in Exhibit “B,” provided that this section is not inconsistent with the Owner’s rights and obligations contained elsewhere in this Agreement.

4. **Conditions.** In consideration for the City’s agreement and commitment to provide water and sewer to the Property, and in recognition of the City’s conditions for annexation, the Owner and City hereby agree and covenant as follows:
(a) The proposed preliminary design of the subdivision of the Property is attached as Exhibit "C", which is incorporated and made a part hereof by this reference (the "Proposed Preliminary Plat"). The City acknowledges that the attached Proposed Preliminary Plat is a schematic design that will be altered through the permitting process at Pierce County.

(b) All public improvements related to water and sanitary sewer constructed within the Property shall be constructed consistent with City standards, plans, policies and regulations.

(c) The Owner shall allow City inspection during construction of all public improvements related to sanitary sewer and water as they are built, regardless of the ownership of such improvements, and shall reimburse the City for any reasonable costs incurred in such inspection.

(d) The Owner shall construct a private road system with a 50-foot easement, along with private entrance gates. The project will get direct access to 64th Street East and 207th Ave. E. The in-plat street improvements will be vertical curb with 28 feet of asphalt and 5-foot sidewalks on both sides.

(e) The Owner shall provide street trees within the public right-of-way on the back of the walk in accordance with Pierce County standards.

(f) The Owner shall provide streetlights within the project based on Puget Sound Energy (Intolight) standards. The luminaire design and style will be the developer’s option.

(g) The Owner shall design a private storm drainage system built to the 1999 Pierce County Storm Manual.

(h) Lots 22 through 33 will be subject to the Pierce County Shoreline Development Permit process, if applicable.

(i) The on-site wetland (Wetland G) is a Type 2 Wetland and is required, by both Pierce County and the City of Bonney Lake, to have a 100-foot buffer. However, the Owner shall provide a 150-foot buffer on the west side of Wetland G (referred to as Tract A).

5. **Water and Sanitary Sewer Service.** The City agrees to provide water and sanitary sewer utility service to the Property as described in “Exhibit B”, subject to the City’s ability to obtain the necessary approvals, agreements and franchises from other agencies. The City agrees to diligently exert all reasonable efforts to obtain such approvals, agreements and franchises and to provide these services in a timely manner. The Owner agrees to pay to the City the System Development Charges for water and sanitary sewer service on the same terms and conditions as
other similarly situated users within the City’s water and sanitary service areas and after review and approval by Owner to execute any developer extension agreement required by the City. Notwithstanding any other provision(s) included in this Agreement, Owner’s obligations arising out of this Agreement shall be of no force and effect unless the City provides water and sanitary sewer availability letters and developer extension agreements as needed to process their plat.

6. General Provisions. The Owner and the City hereby acknowledge and agree to the following provisions, which shall apply to the entire Agreement:

(a) This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of the Agreement shall be binding on either party except by means of a signed writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

(b) The terms and provisions of this Agreement shall inure to the benefit of and become binding upon the heirs, assigns, and/or successors in interest of the parties hereto, and related entities (i.e. entities with elements of common ownership) and principal owners of the Owner.

(c) Failure by either party to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party’s right to demand strict compliance and performance of that or any other provision of this Agreement at any time thereafter.

(d) If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of the Agreement shall not be affected.

(e) Upon execution, this Agreement, or memorandum thereof, shall be recorded with the Pierce County Auditor’s office. The Owner shall be responsible for recording and shall provide evidence of such recording to the City.

IN WITNESS WHEREOF, the Owner and the City have executed this Agreement on the date first written above.

CITY OF BONNEY LAKE

Robert L. Young, Mayor
ATTEST:

Harwood T. Edvalson, City Clerk

State of Washington )
) ss.
County of Pierce )

I certify that I know or have satisfactory evidence that Robert L. Young 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 acknowledge it as the Mayor of the City of Bonney Lake to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 24th day of August, 2004.

Print or Type Name: Harwood T. Edvalson
Notary Public in and for the State of Washington, residing at NORTHEAST, WA.
My appointment expires: 10-19-97

OWNER: EURO-WAY HOMES, INC.,
Its President

BY:

Ludvik Stribny, President

State of Washington )
) ss.
County of Pierce )

I certify that I know or have satisfactory evidence that Ludvik Stribny 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 acknowledge it as the President of Euro-Way Homes, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 23 day of July, 2004.

Print or Type Name: Tamra J. Gregg
Notary Public in and for the State of Washington, residing at Buckely WA 98321.
My appointment expires: 2.14.06
EXHIBIT A - Map of Property
Euro-Way Homes Annexation
PORTIONS of the SE.1/4 of the SE.1/4 of SECTION 22,
Township 20 North, Range 5 East, Willamette Meridian
Lake Tapps    PIERCE County    State of WASHINGTON

TAX ACCOUNT NUMBER
052022-4-011
CALCULATED LAND AREA
1,391.930 ± sq. ft. [or 31.95 ± Acres]
EXHIBIT B

Euro-Way Homes Annexation

LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22,
TOWNSHIP 20 NORTH, RANGE 5 EAST OF THE W.M.;
EXCEPTING THEREFROM 64th STREET EAST (VANDERMARK ROAD) ON THE SOUTH;
AND EXCEPT THAT PORTION THEREOF, WHICH LIES AT OR BELOW THE ELEVATION OF 545 FEET
ABOVE SEA LEVEL, AS CONVEYED TO PUGET SOUND POWER AND LIGHT COMPANY,
A WASHINGTON CORPORATION, BY DEED RECORDED JUNE 14, 1957, UNDER RECORDING No. 1789634;
AND EXCEPT THAT PORTION THEREOF LYING WESTERLY OF THE EASTERLY BOUNDARY OF
SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

TAX ACCOUNT NUMBER
052022-4-011

CALCULATED LAND AREA
1,391,930 ± sq. ft. [or 31.95± Acres]

CURRENT OWNER
EURO-WAY HOMES, INC.
Return To:
City of Bonney Lake
P. O. Box 7380
Bonney Lake, WA 98391-8850

ANNEXATION AND UTILITIES AGREEMENT

THIS AGREEMENT ("Agreement") is entered into this 12th day of January 2006, by and between the City of Bonney Lake ("City"), a municipal corporation, and Corey Johnson ("Owner").

WHEREAS, Owner owns certain real property located in Pierce County, Washington, outside the corporate limits of the City; and

WHEREAS, Owner is seeking or intends to seek various development approvals from Pierce County for the property; and

WHEREAS, Owner has requested that the City provide water utility service to the property; and

WHEREAS, it is generally the policy of the City to condition the provision of water service outside the corporate limits of the City upon actual annexation of the property to the City;

NOW, THEREFORE, the parties agree as follows:

1. Property. This Agreement shall be applicable to the property owned by Owner and shown on Exhibit A, and specifically and legally described in Exhibit B, hereafter referred to as "the Property".

2. Acknowledgments and Representations. The Owner and the City hereby acknowledge and agree as follows:

(a) The Property is located in Pierce County, Washington, outside the corporate limits of the City.

(b) The Owner is seeking or intends to seek various development approvals from Pierce County for the Property.

Annexation and Utilities Agreement
(c) The Owner has requested that the City provide water utility service to the Property.

(d) This Agreement to extend utility service outside the corporate limits of the City is authorized by RCW 35.92.020 and RCW 35.67.310, and shall not be construed as a voluntary agreement pursuant to RCW 82.02.020 and therefore the provisions of RCW 82.02.020 shall not be applied hereto.

(e) A City's requirement of an annexation agreement as a condition of extending utility service to properties contiguous to the corporate limits of the City is recognized by Washington law.

(f) In the event of violation or breach of the terms of this Agreement, or upon the invalidation of this Agreement by judicial action, operation of law or otherwise, the City reserves the right, at its sole discretion, to immediately terminate the provision of utility services to areas within the Property not already being served at the time of violation, breach, or invalidation.

(g) At some time in the future, the City may, in its sole discretion, elect to annex all or part of the property.

(h) Until annexation of the Property by the City, Pierce County shall retain jurisdiction over the permitting and processing of development approvals relating to the Property, subject to the limitations of Schneider Homes, Inc. v. City of Kent, 87 Wn. App. 774 (1997).

3. Petition and Covenant for Annexation. In consideration of the City's agreement and commitment to provide utilities to the Property, the Owner hereby petitions, agrees and covenants as follows:

(a) This Agreement shall be considered an irrevocable petition for annexation of the Property to the City. Owner agrees, promises and covenants that if at any time the Property is included within any area which is being considered for annexation to the City, Owner shall join in said annexation and by this petition does provide this Notice of Intention to Annex, and further agrees not to oppose any such annexation. Owner expressly acknowledges that by so agreeing, it waives the right to oppose such annexation.

(b) The Owner agrees to execute all necessary documents such as letters, notices, petitions or other instruments initiating, furthering or accomplishing the annexation of the Property to the City. This Agreement is a covenant running with the
Property described in Exhibit B and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

(c) The Owner understands and agrees that the laws of the State of Washington relating to the annexation of property by a city provide that property may be annexed to a city. If property owners, equal to sixty percent of the assessed value of property within the area proposed to be annexed, sign a petition for such an annexation, the City shall proceed with the annexation.

(d) The Owner understands and agrees that upon annexation by the City, the Property shall be assessed and taxed at the same rate and on the same basis as property within the City is assessed and taxed to pay for any then outstanding indebtedness of the City which was contracted prior to, or existing at the date of annexation.

(e) The undersigned Owner, on behalf of himself/herself/themselves, his/her/their heirs, successors and assigns, hereby designate(s) the City as Owner's true and lawful attorney-in-fact for the purpose of signing any petition leading to the annexation of the Property to the City, with full power to do and perform any proper act which the Owner may do with respect to the annexation of said Property. The City may exercise this power through its City Clerk or otherwise as the City Council may direct. This Special Power of Attorney is given for the valuable consideration of the furnishing of water utility service by the City, and this Special Power of Attorney is further given as security for performance of the annexation covenant obligation set forth herein. This Special Power of Attorney is not revocable and shall not be affected by the disability of the principal.

(f) The Owner shall not protest the future formation of any local improvement district for any of the following: domestic water, sewers, streets, street lighting, and storm water facilities, including regional detention and water quality facilities, for any district which includes property within the Property described in Exhibit B, provided that this section is not inconsistent with the Owner's rights and obligations contained elsewhere in this Agreement.

4. Conditions. In consideration for the City's agreement and commitment to provide utilities to the Property upon annexation, and in recognition of the City's conditions for annexation, the Owner and City hereby agree and covenant as follows:

(a) The City shall have the right to review and approve the preliminary plan. Where City requirements are in conflict with Pierce County policies, subdivision and zoning requirements Pierce County requirements shall prevail.
(b) Plans for road and storm improvements shall be submitted to the City of Bonney Lake for comment.

(c) All public improvements related to water constructed within the Property shall be constructed consistent with City standards, plans, policies and regulations.

(d) The Owner shall allow City inspection during construction of all public improvements related to water as they are built, regardless of the ownership of such improvements, and shall reimburse the City for any reasonable costs incurred in such inspection.

5. **water Service.** The City agrees to provide water utility service to the Property as described in this section, subject to the City's ability to obtain the necessary approvals, agreements and franchises from other agencies. The City agrees to diligently exert all reasonable efforts to obtain such approvals, agreements and franchises and to provide these services in a timely manner. The Owner agrees to pay to the City the System Development Charges for water on the same terms and conditions as other similarly situated users within the City's water service area and after review and approval by Owner to execute any developer extension agreements required by the City. Owner's obligations arising out of this Agreement shall be of no force and effect unless the City provides water availability letters as needed to process their plat.

6. **General Provisions.** The Owner and the City hereby acknowledge and agree to the following provisions, which shall apply to the entire Agreement:

(a) This Agreement represents the entire agreement between the parties. No change, modification, termination or attempted waiver of any of the provisions of the Agreement shall be binding on either party except by means of a signed writing by authorized representatives of each party. This Agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

(b) The terms and provisions of this Agreement shall inure to the benefit of and become binding upon the heirs, assigns, and/or successors in interest of the parties hereto, and related entities (i.e. entities with elements of common ownership) and principal owners of the Owner.

(c) Failure by either party to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party's right to demand strict compliance and performance of that or any other provision of this Agreement at any time thereafter.

(d) If any provision of this Agreement or its application is held invalid, the remainder of this Agreement or the application of the remainder of the Agreement shall not be
affected.

(e) Upon execution, this Agreement, or memorandum thereof, shall be recorded with the Pierce County Auditor’s office. The Owner shall be responsible for recording and shall provide evidence of such recording to the City within three (3) business days of execution of this Agreement.

IN WITNESS WHEREOF, the Owner and the City have executed this Agreement on the date first written above.

CITY OF BONNEY LAKE

Neil Johnson, Mayor

ATTEST: 

Harwood T. Edvalson, City Clerk

State of Washington 

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 Mayor of Bonney Lake, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 13th day of June, 2006.

Harwood T. Edvalson

Notary Public in and for the state of Washington, residing at ABN. Bc.

Annexation and Utilities Agreement
OWNER:

[Signature]

State of Washington

County of

I certify that I know or have satisfactory evidence that 

[Signature] 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 

[Signature] to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 13th day of January, 2006.

[Signature]

Notary Public in and for the state of Washington, residing at


Annexation and Utilities Agreement
Identify Results

Date: Tuesday January 24, 2006
Time: 10:55:25 AM
View: VIEW1

Theme: Tax Parcels - JOHNSON
SHAPE: Polygon
TAX_PARCEL_NUM: 50400000014
TAX_PAYER_NAME: JOHNSON COREY L
DELIVERY_ADDRESS: 21017 68TH STREET CT E
CITY_ST: SUMNER WA
ZIPCODE: 98391-8637
SITE_ADDRESS: 21017 68TH ST CT E
BUSINESS_NAME:
LAST_NAME: JOHNSON
LAND_ACRES: 4.6800
LAND_VALUE: 136300
IMPR_VALUE: 163500.0000000000
TAXABLE_VALUE: 299800
USE_CD: 1101
TAX_AREA_CD: 375
LANDUSE_DESCRIPTION: SINGLE FAMILY DWELLING
AREA: 202115.16781
MULT_PARCEL_CD: N
TAX_SR_EXEMPTION:
REF_PARCEL_NUM: N
RTSQQ: 05202714
LEGAL_DESCRIPTION: Section 27-Township 20 Range D5 Quarter 14 LAKE TAPPS CEDAR ADD:
LAKE TAPPS CEDAR ADD L 4 OF SHORT PLAT 86-06-17-0166 TOG/W EASE & RESTRICTIONS OF
REC SE OF NE 27-20-05E TOG/W E 30 FT AS VAC P CO ORD 91-27 OUT OF 001-0 SEG X-0685
PP ES DCE439M04/21/9280
COUNT: 2.000000000
PERIMETER: 2416.74540
Y_COORD: 683311.87884
X_COORD: 1231211.29397
LONG: -122.14610
LAT: 47.19537
EXEMPT_CD:
Exhibit B: Legal Description

LEGAL DESCRIPTION: Section 27 Township 20 Range 05 Quarter 14 LAKE TAPPS CEDAR ADD L 4 OF SHORT PLAT 86-06-17-0166 TOG/W EASE & RESTRICTIONS OF REC SE OF NE 27-20-05E TOG/W E 30 FT AS VAC P CO ORD 91-27 OUT OF 001-0 SEG X-0685 PP ES DC6439MD4/21/92BO
**PLANNING COMMISSION MEETING:** Set public hearing date (zoning) for annexation area per BLWC 1.4.070.

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<thead>
<tr>
<th>Task</th>
<th>Date Due</th>
</tr>
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<tbody>
<tr>
<td>P.F. with Place C.O. and last version of revised legal map and 1/4 section assessor maps to Place C.O.</td>
<td>July 27</td>
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<tr>
<td>Re-submittal 7/24/06</td>
<td>July 20</td>
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<tr>
<td>10% Position Survey 7/20/06</td>
<td>July 20</td>
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<td>Compelled</td>
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**PROPOSED ANNEXATION AREA**

**DATE:** 7/18/06

**ZONE:** RCD 35A/14.330 - Residential

**PROJECT TIMELINE**

**ANNEXATION PROCESSED UNDER BLWC 1.4.070 - Proposed Method**

**SOURCE:** RCD 35A/14.070 (e) - Annexation of Vacant Property

**ANNEXATION PROCESSED UNDER BLWC 1.4.070 - Proposed Method**

**PROPOSED ANNEXATION AREA**

**DATE:** 7/18/06
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<tbody>
<tr>
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<td>7/18/06</td>
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</tbody>
</table>

**NOTES - AFR (RCW 35A.140) of annexation to a city or to the county, or to the City of Vancouver:**

- **NOTIFY AFR (RCW 35A.140)** of annexation to the City of Vancouver.
- **Notices required:**
  - Within 30 days of adoption, by the Board of Appeals (within 30 days).

**RCP 35A.14.180:**

- **Public hearing:**
  - Within 30 days of adoption.
  - **Public meeting:** Not required.

**CITY COUNCIL WORKSHOP:**

- **Review of Professional Services Agreement for consultant to RCP 35A.14.180**

**FINANCE COMMITTEE/CITY COUNCIL MEETING:**

- **Review of Professional Services Agreement for consultant to RCP 35A.14.180**

**JOINT CFC WORKSHOP:**

- **Joint public hearing on proposed annexation (if any)**
- **Mail/Post Joint SEA/HA notification notices:**
  - Postcard to in-city residents.
  - Mail/Post to in-city residents.
  - Postcard to out-of-city residents.
  - Mail/Post to out-of-city residents.

**CITY COUNCIL MEETING:**

- **Final adoption:**
  - **PUBLIC HEARING:**
    - After public hearing, the RCP 35A.14.180 is adopted.

**DATE:**

- **First reading:** 12/2/19
- **Final reading:** 12/3/19
- **First reading:** 10/27/06
- **Final reading:** 11/2/06

**DRAFT:** 7/18/06
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</thead>
<tbody>
<tr>
<td>COMPLETED</td>
<td>7/18/06</td>
</tr>
</tbody>
</table>

NOTE: This document is for internal use only. Confidential and proprietary information contained herein is protected by federal laws. Any unauthorized use, reproduction, or disclosure of this information is prohibited.
<table>
<thead>
<tr>
<th>Tax Parcel</th>
<th>Tax Area</th>
<th>Tax Area</th>
<th>Description</th>
<th>Address</th>
<th>City</th>
<th>County</th>
<th>State</th>
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</thead>
<tbody>
<tr>
<td>001-0101</td>
<td>002-0101</td>
<td>003-0101</td>
<td>Parcel Area</td>
<td>123 Lake Rd, Bonny Lake, WA</td>
<td>Bonny Lake</td>
<td>King</td>
<td>WA</td>
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</table>

**Note:** The above information is a sample and may not reflect the actual data for the specific tax parcel or area referenced in the image.
City of Bonney Lake, Washington
Council Agenda Bill (C.A.B.) Approval Form

**Department/Staff Contact:** Planning (Leedy / Ladd)

**Council Meeting Date:** August 22, 2006

**Agenda Item Number** AB06-180

**Ordinance Numbers:** D 06-180A

**Resolution Number:**

**Councilmember Sponsor:**

**BUDGET INFORMATION**

<table>
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<tr>
<th>2006 Budget Amount</th>
<th>Required Expenditure</th>
<th>Impact</th>
<th>Remaining Balance</th>
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</thead>
<tbody>
<tr>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>n/a</td>
</tr>
</tbody>
</table>

**Explanation:**
The increased traffic impact fees will increase revenues.

**Agenda Subject:**
Increased traffic impact fees.

**Administrative Recommendation:**
Adopt Ordinances D 06-180A & D 06-180B.

**Background Summary:**
On August 15 the Council tentatively agreed to adopt the ordinances increasing the traffic impact fee. The City will study other flaws in the traffic impact fee later.

D 06-180A needed a change, adopting a Attachment B which has been revised in accordance with the Construction Cost Index for 2006 (it was prepared based on 2006 cost data). The attached ordinance differs only in that respect.

D 06-180B remains unchanged, so it is not attached.

**Council Committee Dates:**
Finance Committee:  
Public Safety Committee:  
Comm. Dev. & Planning Committee:  
Council Workshop:  

**Commission Dates:**
Planning Commission:  
Civil Service Commission:  

**Board/Hearing Examiner Dates:**
Park Board:  
Hearing Examiner:  

**Council Action:**
Council Call for Hearing:  
Council Referred Back to:  
Council Tabled Until:  

**Signatures:**
Dept. Dir.  
Mayor City Administrator  
Date City Attorney reviewed
ORDINANCE NO. 06-180A

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ADOPTING AN UPDATED SCHEDULE OF TRANSPORTATION IMPACT FEES

WHEREAS, Bonney Lake Municipal Code § 19.04.050 states that the schedule of transportation impact fees is set forth in “Attachment B,” which the Code incorporates by reference; and

WHEREAS, the transportation impact fees contained in Attachment B was updated on August 8, 2006.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The updated schedule of transportation impact fees, as shown in the new Attachment B, shall be adopted. The new Attachment B, dated August 8, 2006, is hereby incorporated by reference.

Section 2. This Ordinance shall take effect thirty (30) days after its passage, approval and publication as required by law.

PASSED by the City Council and approved by the Mayor this ______ day of _______________________, 2006.

____________________
Neil Johnson, Jr., Mayor

ATTEST:

____________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

____________________
James J. Dionne, City Attorney
### Schedule of Transportation Impact Fees

<table>
<thead>
<tr>
<th>Land Use Category - ITE 7th Edition</th>
<th>Notes</th>
<th>ITE Land Use Code</th>
<th>ITE Average PM Peak Hour Trip Rate (1)</th>
<th>Unit*</th>
<th>Pass-By Trip Reduction Factor ** (2)</th>
<th>Net New Trip Rate (4)</th>
<th>Impact Fee Per Unit (5)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESIDENTIAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Single-Family Detached Housing</td>
<td>3</td>
<td>210</td>
<td>1.01</td>
<td>Dwelling Unit</td>
<td>1.00</td>
<td>1.01</td>
<td>$4,043</td>
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<tr>
<td>Apartment</td>
<td>3</td>
<td>220</td>
<td>0.62</td>
<td>Dwelling Unit</td>
<td>1.00</td>
<td>0.62</td>
<td>$2,482</td>
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<tr>
<td>Low-Rise Apartment (1-2 Floors)</td>
<td>3</td>
<td>221</td>
<td>0.56</td>
<td>Occupied Dwelling Unit</td>
<td>1.00</td>
<td>0.56</td>
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<td>Residential Condominium/Townhouse</td>
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<td>Dwelling Unit</td>
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<td>Occupied Dwelling Unit</td>
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<td>261</td>
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<td>0.26</td>
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<td>Recreational Homes</td>
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<td>0.26</td>
<td>$1,041</td>
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<td>Residential Planned Unit Development (PUD)</td>
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<td>$2,482</td>
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### INSTITUTIONAL

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<th>ITE Land Use Code</th>
<th>ITE Average PM Peak Hour Trip Rate (1)</th>
<th>Unit*</th>
<th>Pass-By Trip Reduction Factor ** (2)</th>
<th>Net New Trip Rate (4)</th>
<th>Impact Fee Per Unit (5)</th>
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### BUSINESS & COMMERCIAL

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<th>ITE Land Use Code</th>
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<th>Unit*</th>
<th>Pass-By Trip Reduction Factor ** (2)</th>
<th>Net New Trip Rate (4)</th>
<th>Impact Fee Per Unit (5)</th>
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</table>
# Schedule of Transportation Impact Fees

<table>
<thead>
<tr>
<th>Land Use Category - ITE 7th Edition</th>
<th>Notes</th>
<th>ITE Land Use Code</th>
<th>ITE Average PM Peak Hour Trip Rate (1)</th>
<th>Unit*</th>
<th>Pass-By Trip Reduction Factor **</th>
<th>Net New Trip Rate (4)</th>
<th>Impact Fee Per Unit of Development (5)</th>
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<tbody>
<tr>
<td><strong>OFFICE</strong></td>
<td></td>
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<tr>
<td>Clinic</td>
<td>1</td>
<td>630</td>
<td>1.23</td>
<td>Employee</td>
<td>1.00</td>
<td>1.23</td>
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<tr>
<td>General Office Building</td>
<td>3</td>
<td>710</td>
<td>1.49</td>
<td>1,000 sf GFA</td>
<td>1.00</td>
<td>1.40</td>
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<td>Corporate Headquarters Building</td>
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<td>714</td>
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<td>Single Tenant Office Building</td>
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<td>715</td>
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<td>1,000 sf GFA</td>
<td>1.00</td>
<td>1.73</td>
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<td>Medical-Dental Office Building</td>
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<td>720</td>
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<td>1,000 sf GFA</td>
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<td>United States Post Office</td>
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<td>Office Park</td>
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<td>1,000 sf GFA</td>
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<tr>
<td>Research and Development Center</td>
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<td>Business Park</td>
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<td>General Light Industrial</td>
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<td>1,000 sf GFA</td>
<td>1.00</td>
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* Abbreviations include: GFA = Gross Floor Area, sf = square feet, and GLA = Gross Leasable Area.


### NET NEW TRIP RATE CALCULATION:

\[
\text{ITE Trip Rate} \times \text{Pass-By Reduction Factor} = \text{Net New Trip Rate}
\]

### IMPACT FEE CALCULATION:

\[
\text{Net New Trip Rate} \times \frac{$4,003}{\text{Per New PM Peak Hour Trip}} = \text{Impact Fee per Unit of Development}
\]

### NOTES:

1. Trip Generation (7th Edition, 2003) has less than 6 studies supporting this average rate. Applicants are strongly encouraged to conduct, at their own expense, independent trip generation studies in support of their application.

2. No pass-by rates are available. Pass-by rates were estimated from other similar uses.

3. Alternatively, the PM peak hour trip regression equation in Trip Generation can be used instead of the average trip rate identified in the table. However, the equation must be used according to the instructions in Trip Generation.

4. No Average PM peak hour trip rate available. Need to perform own PM peak hour traffic count for the identified land use to calculate impact fee.


### SOURCE:

The Transpo Group (2006). Intended for the sole use by the City of Bonney Lake.
City of Bonney Lake, Washington  
Council Agenda Bill (C.A.B.) Approval Form

| Department/Staff Contact: Planning (Leedy / Ladd) | Council Meeting Date: August 22, 2006 | Agenda Item Number AB06-180 |
| Ordinance Numbers: D 06-180B | Resolution Number: | Councilmember Sponsor: |

**BUDGET INFORMATION**

| 2006 Budget Amount | Required Expenditure | Impact | Remaining Balance |
| $0 | $0 | $0 | n/a |

**Explanation:**
The increased traffic impact fees will increase revenues.

**Agenda Subject:**
Increased traffic impact fees.

**Administrative Recommendation:**
Adopt Ordinances D 06-180A & D 06-180B.

**Background Summary:**
On August 15 the Council tentatively agreed to adopt the ordinances increasing the traffic impact fee. The City will study other flaws in the traffic impact fee later.

D 06-180A needed a change, adopting a Attachment B which has been revised in accordance with the Construction Cost Index for 2006 (it was prepared based on 2006 cost data). The attached ordinance differs only in that respect.

D 06-180B remains unchanged, so it is not attached.

| Council Committee Dates: | Commission Dates: | Board/Hearing Examiner Dates: |
| Finance Committee: | Planning Commission: | Park Board: |
| Public Safety Committee: | Civil Service Commission: | Hearing Examiner: |
| Comm. Dev. & Planning Committee: | | |
| Council Workshop: | | |

**Council Action:**
Council Call for Hearing:  
Council Hearings Date:  
Council Referred Back to: Workshop: Committee  
Council Tabled Until:  

**Signatures:**  
Date City Attorney reviewed
ORDINANCE NO. D 06-180B

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, ADOPTING AN UPDATED LIST OF TRAFFIC IMPACT FEE ELIGIBLE IMPROVEMENT PROJECTS

WHEREAS, Bonney Lake Municipal Code § 19.04.080 states that a list of projects eligible for funding through transportation impact fees shall be set forth in “Attachment A,” which the Code incorporates by reference; and

WHEREAS, the Code requires that the list, along with the Comprehensive Plan, be reviewed annually and amended if necessary, and be adopted annually by Council; and

WHEREAS, Attachment A, which contains the list, has been reviewed, amended, and updated on August 8, 2006.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The amended project list, August 8, 2006, attached and incorporated by reference as Attachment A, shall be adopted.

Section 2. This Ordinance shall take effect thirty (30) days after its passage, approval and publication as required by law.

PASSED by the City Council and approved by the Mayor this ______ day of ______________________, 2006.

__________________________
Neil Johnson, Jr., Mayor

ATTEST:

______________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

______________________________
James J. Dionne, City Attorney
**City of Bonney Lake, Washington**  
**Council Agenda Bill (C.A.B.) Approval Form**

| Department/Staff Contact: Planning (Leedy / Ladd) | Council Meeting Date: August 22, 2006 | Agenda Item Number: AB06-181 |
| Ordinance Number: D 06-181 | Resolution Number: | Councilmember Sponsor: |

**BUDGET INFORMATION**

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<tbody>
<tr>
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**Explanation:**

**Agenda Subject:**
Mapped street ordinance.

**Administrative Recommendation:**
Adopt Ordinances D 06-181 which require developers to build new streets in accordance with the Comprehensive Plan.

**Background Summary:**
On August 15 the Council tentatively agreed to adopt Ordinance D 06-181, which will require that developers build any new streets in accordance with the Comprehensive Plan. Ordinance D 06-181 is again attached because an error was corrected in proposed BLMC 12.30.010(C). The correct reference is simply to the Comprehensive Plan, since other elements of the Comprehensive Plan in addition to the Transportation Element contain directives regarding new streets. Also, at the Mayor’s request, BLMC 12.30.070 was inserted clarifying the maintenance responsibility of the landowner in the case of private streets.

**Council Committee Dates:**  
Finance Committee:  
Public Safety Committee:  
Comm. Dev. & Planning Committee:  
Council Workshop:

**Commission Dates:**  
Planning Commission:  
Civil Service Commission:

**Board/Hearing Examiner Dates:**  
Park Board:  
Hearing Examiner:

**Council Action:**  
Council Call for Hearing:  
Council Referred Back to: Workshop: Committee  
Council Tabled Until:

**Signatures:**  
Dept. Dir.:  
Mayor:  
Date City Attorney reviewed:
ORDINANCE NO. D 06-181

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON ADDING A NEW CHAPTER TO THE BONNEY LAKE MUNICIPAL CODE RELATING TO THE CONSTRUCTION OF MAPPED STREETS

WHEREAS, a substantial amount of future development is expected to take place in the City of Bonney Lake, and additional streets, frontage roads, and connecting roads will need to be constructed to serve the development and the general public; and

WHEREAS, the 2006 Bonney Lake Transportation Plan contemplates that developers will contribute to the construction of highway frontage roads and connecting roads, especially in the State Route 410 corridor, as part of mitigation for the impacts of their projects; and

WHEREAS, increased commercial and residential development along State Route 410 will need to be tempered with the provision of appropriate circulation roadways to allow alternate access routes and maintain acceptable levels of roadway system performance; and

WHEREAS, the City has police power to regulate access to public rights-of-way in order to maintain traffic flow and protect the safety of the motoring public; and

WHEREAS, required rights-of-way for existing and planned streets and roadways and intersections must be protected and preserved from encroachment by land use development or modifications.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter is added to the Bonney Lake Municipal Code, to read as follows:

CHAPTER 12.30
MAPPED STREETS

12.30.010 Definitions. The following are definitions provided for use in administering this Chapter. The Public Works Director shall have the authority to resolve questions of interpretation or conflicts between definitions.

A. "Development" means any construction or expansion of a building, structure, or use, or any changes in the use of land governed by any part of the Bonney Lake Development Code (BLMC Titles 14, 15, 16, 17, 18, and 19).

B. "Latecomer agreement" means an agreement authorized by RCW 35.72.010-040.
C. A "mapped street" is a future public or private road or street as designated in the Bonney Lake Comprehensive Plan.

12.30.020 Dedication of right-of-way for mapped streets
Where a mapped street is within the boundaries of, adjacent to, or abutting a development, the developer may be required to dedicate the entire right-of-way for the construction of the mapped street.

12.30.030 Construction of mapped streets
A developer may be required, as a condition of development approval, to construct a mapped street across his or her property. Property owners shall extend the mapped street across their property at the time development of the structure(s) occurs or when a public or private road or street, including frontage roads, is extended to the boundary of their property, whichever occurs first. Construction of the mapped street will be subject to the terms of BLMC § 12.04.020 and governed by then-current Bonney Lake design standards.

12.30.040 Latecomer agreements
A developer whose development has been conditioned upon the construction of a mapped street may request the City to enter into a latecomer agreement.

12.30.050 Restriction of access to State Route 410
To achieve traffic safety objectives and maintain traffic flow, the Public Works Director or designee may restrict or prohibit the construction of driveways or other means of vehicular ingress and egress on State Route 410 to and from abutting development, and require as a condition of development approval that the developer construct a mapped street that provides indirect access to State Route 410 via a signalized intersection.

12.30.060 Temporary access allowed
A developer may be granted temporary approval to use an alternative means of access from the property until a mapped street can be built, so that the developer can make reasonable use of the property. The alternative means of access must cease once the mapped street has been constructed.

12.30.070 Maintenance responsibility after construction of mapped streets
In cases where a mapped street is not dedicated to, and accepted by, the City as a public street, but remains a private frontage road, the private property owners retain sole responsibility for maintenance and repair of the mapped street.

12.30.080 Appeals
Any decision to approve, condition or deny a development proposal based on the requirements of this Chapter may be appealed pursuant to the provisions of BLMC Title 14 with respect to the underlying development approval.
Section 2. This ordinance shall take effect thirty (30) days after its passage, approval and publication as required by law.

PASSED by the City Council and approved by the Mayor this ____ day of August, 2006.

________________________
Neil Johnson, Jr., Mayor

ATTEST:

________________________
Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

________________________
James J. Dionne, City Attorney

Passed:
Valid:
Published:
Effective Date:
City of Bonney Lake, Washington  
Council Agenda Bill (C.A.B.) Approval Form

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**BUDGET INFORMATION**

**Explanation:**

**Agenda Subject:** Ashton Village Preliminary Plat Approval.  **Note that this is a closed record meeting item**

**Administrative Recommendation:** Approval with Conditions. **Suggested Motion:** Move approval subject to conditions recommended by the Hearing Examiner.

**Background Summary:** Ashton Village is a proposal to develop a subdivision consisting of 35 single-family lots and 1 storm water tract on 9.95 acres located at 17501 115th St. E. It’s located west of Ashton Woods, and east of Naches Terrace. Accompanying this application was a request for a variance to extend the cul-de-sac from the 600 foot maximum requirement to 650 feet. Copies of the Staff Report to the Examiner, and the Examiner’s Report and Decision are attached.

The Hearing Examiner action shows approval of the variance and the subdivision with conditions. In fact, the Examiner’s action on the plat is a recommendation to City Council, not an action of approval. The Examiner’s action on the variance is proper. One other note: the report & action shows School Impact consideration per Pierce County. We do of course have fees in effect, and Bonney Lake fees will be assessed.

<table>
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<tr>
<th>Council Committee Dates:</th>
<th>Commission Dates:</th>
<th>Board/Hearing Examiner Dates:</th>
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**Council Action:**

**Council Call for Hearing:**

**Council Hearings Date:**

**Council Referred Back to:**

**Workshop:**

**Committee**

**Council Tabled Until:**

**Council Meeting Dates:**

**Signatures:**

Dept Dir: [Signature]  Mayor: [Signature]  Date City Attorney reviewed: [Date]
I. INTRODUCTION

The applicant is proposing the development of a residential subdivision consisting of 35 single family residential lots on approximately 9.94 acres at 17501xxx 115th St. E., Bonney Lake, Washington. The site is currently zoned R-1 Low-Density Residential District (BLMC Chapter 18.14). The proposal includes a variance for the construction of a cul-de-sac road for access to the proposed lots.

Location:
The project is located at 17501 115th St. E., located within the NE 1/4 of the NE1/4 Section 8, Township 19 North, Range 5 East, Willamette Meridian, Pierce County, Washington. Parcel Number: 7001492070 and 7001811340.

The site is located in Bonney Lake, Washington. A complete legal description is attached to this report as Attachment 1.

II. STAFF RECOMMENDATION

Based on the evaluation of the proposal contained in this staff report, the proposal meets the intent and purpose of the Bonney Lake Comprehensive Plan and the Bonney Lake Municipal Code. Staff recommends approval with conditions of the proposed preliminary plat and approval of the variance request.

III. GENERAL INFORMATION

OWNER/APPLICANT: Steve Dorenbusch and Dick Dorenbusch
1416 East Main, Suite A
Puyallup, WA 98372
(253) 770-8080

AGENT: Paul Green, LeRoy Surveyors and Engineers, Inc.
1103 Shaw Road
Puyallup, WA 98372
(253) 848-6608

Project Name: Ashton Village
Location: 17501 115th St. E., located within the NE 1/4 of the NE1/4 Section 8, Township 19 North, Range 5 East, Willamette Meridian, Pierce County, Washington. Parcel Number: 7001492070 and 7001811340.

Current Zoning: Low-Density Residential (R-1)

Comprehensive Plan Land Use: Low Density Residential (R-1)

Site Acreage: 9.94 acres

Environmentally Sensitive Areas: A wetland buffer exists at the northern end of the proposed plat.

Date of Application: October 5, 2005 (Attachment 6)

Date Determined Complete: November 4, 2005

Public Notice of Application: November 15, 2005 (Attachment 8)
IV. PROJECT BACKGROUND

A concomitant agreement dated September 27, 2005 provided that the applicant shall design and construct storm drainage facilities for Ashton Village sufficient to accommodate both Ashton Village and the replacement of the existing storm water facilities on the Tract “D” Property. A new public road would be constructed through the existing Tract “D” Property in the adjoining Ashton Woods subdivision. Net density for the proposed site is 5.00 lots per acre. The residential lots have a minimum lot size of 5,272 square feet and an average size of 8,609 square feet. Project construction will also include a new cul-de-sac road that will be the access for the new lots. This cul-de-sac will require a variance from BLMC 17.20.040.

Surrounding properties are single family residential in all directions. The proposed storm water facility to the west abuts Rhodes Lake Rd. To the north are steep slopes and drainage properties. Surrounding zoning is Low Density Residential (R-1).

V. SEPA THRESHOLD DETERMINATION

Pursuant to the State Environmental Policy Act (SEPA) and City of Bonney Lake Environmental Regulations, as codified in BLMC Title 16-Environmental Protection, the SEPA Responsible Official has reviewed this project and issued a Determination of Nonsignificance on June 9, 2006. The comment period will end July 10, 2006, making the determination final. The appeal deadline will be July 24, 2006.

V. COMMENTS FROM OTHER AGENCIES

The following agencies have reviewed the project as part of the Notice of Application/SEPA process. The full comments are contained in Attachment 9.

- Sumner School District
- Tacoma-Pierce County Health Department
- Department of Ecology
- Parametrix
- Department of Natural Resources
- Pierce Transit
- Pierce County Public Works and Utilities

VI. PUBLIC COMMENT ON APPLICATION

The City received one set of public comments during the Notice of Application period from surrounding property owners that consisted of questions about the project. This document is enclosed as attachment 10.
VII. STAFF ANALYSIS

A. Current and Planned Uses of the Site

The current zoning designation is R-1 Low Density Residential District. The Bonney Lake Comprehensive Plat Future Land Use Map designates this site as Medium Density Residential. The property is currently vacant. The site is adjacent to single-family residential uses and low density (R-1) residential zoning.

<table>
<thead>
<tr>
<th>Direction from Site</th>
<th>Existing Zoning</th>
<th>Comprehensive Plan Designation (Zoning)</th>
<th>Existing Land Use</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>R-1</td>
<td>Low Density Residential</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>South</td>
<td>R-1</td>
<td>Low Density Residential</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>East</td>
<td>R-1</td>
<td>Low Density Residential</td>
<td>Single-Family Residential</td>
</tr>
<tr>
<td>West</td>
<td>R-1</td>
<td>Low Density Residential</td>
<td>Single-Family Residential</td>
</tr>
</tbody>
</table>

Proposed Land Use: Single-family residential.

Lot Size: Proposed lot sizes range from 5,272 sq. ft. to 8,609 sq. ft. A stormwater tract is also proposed to the southwest of the project. The minimum density for single-family homes within the R-1 Low Density Residential zone is 4-5 units per net acre.

Circulation and Access: Access to the plat will be provided by a westerly extension of 115th Street Court East. The proposed entrance to the plat is approximately 1,200 feet west of the intersection of 115th St Ct E and Angeline Rd.

Utilities:
- Water: City of Bonney Lake
- Sewage: City of Bonney Lake
- Power / Gas: Puget Sound Energy
- Telephone: Qwest Communications
- School District: Sumner School District
- Fire District: East Pierce Fire and Rescue, District No.22

B. BONNEY LAKE COMPREHENSIVE PLAN

C-1. Proposed Land Use

Land use designations were applied with consideration for existing land use and zoning, comprehensive plan designations and physical constraints.

Comment
The City of Bonney Lake Comprehensive Plan Land Use Designation map depicts the site as Low Density Residential. The intent of this designation is preserve single-family neighborhoods with four to five dwelling units per net acre.
Objective 2-6: Ensure that residential development takes place in an orderly and cost efficient manner in order to best utilize available land, public services, preserve open space and reduce sprawl.

Policy 2-6b: Ensure that adequate public services, facilities and utilities are available to proposed and existing development.

Comment
City water and sewer are available to the site. The applicant will be required to extend water and sewer to serve each lot. These extensions require developer extension agreements that are approved by City Council.

The proposed development is consistent with the R-1 zone and the surrounding neighborhood character. The net density of the development is 5 dwelling units per acre.

Future Land Use Map
The future land use map designates this site as Low Density Residential.

The proposed subdivision is consistent with the surrounding uses. Low Density Residential zoning exists on all sides of the project

C. BONNEY LAKE MUNICIPAL CODE: TITLE 18 ZONING

18.14 R-1 Low-Density Residential District
The zoning and comprehensive plan designation of the site is Low-Density Residential (R-1). The purpose of this district is to establish and preserve low-density single-family neighborhoods in a large lot setting at a density of four to five units per acre, to create a stable environment for family life and to prevent intrusion by incompatible land uses. Single family residences are a permitted use.

Comment: This proposal, for 35 single family lots on a net acreage of 7 acres (after deducting for the critical areas, right-of-way, and storm facilities) calculates to be 5 lots per acre. Pursuant to the Growth Management Act, a city is required to develop at a net density of 4 to 5 dwelling units per acre. This development has a net density of 5 units per acre which meets this requirement and is consistent with the R-1 zoning designation. The proposal meets or can be made to meet all setbacks and bulk requirements of BLMC 18.14.060.

BLMC 18.22.100(A) Off-Street Parking and Loading Requirements
Each single family dwelling unit requires two parking spaces.

Comment: The applicant will provide two paved off-street parking spaces for each dwelling unit.

BLMC 16.14.030 Landscaping Plan Requirements
A final landscape plan meeting all requirements of BLMC Chapter 16.14 must be submitted and approved by the City of Bonney Lake.

Comment: Street trees and Type III landscaping buffers are required along all street frontages of this subdivision pursuant to BLMC 16.14.090.
D. BONNEY LAKE MUNICIPAL CODE: TITLES 14-19

1. Pursuant to RCW 58.17.110 (1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

Comment:
With the implementation of the recommended conditions of approval, the preliminary plat makes appropriate provisions for the public health, safety and general welfare.

2. Pursuant to Chapter 18.14 BLMC, Low Density Residential (R-1) District, the purpose of the district is to protect single-family residential neighborhoods from incompatible land uses and create new compatible housing at a density of four to five units per net acre.

Comment:
The proposal meets the purpose of the R-1 zoning district as stated in section BLMC 18.14.010. The proposed net density of 5 dwelling units/acre is consistent with the density proposed for the R-1 zone.

3. Uses Permitted Outright, BLMC 18.14.020 are noted in this section of the code, subject to off-street parking requirements, bulk regulations and other provisions and exceptions set forth in the code.

Comment:
The proposed use is permitted outright within this zone and meets or can be made to meet the bulk and dimensional regulations set forth in the code.

4. Setback and bulk regulations are noted in BLMC 18.14.060. These bulk regulations are permitted in the district subject to the provisions for yard projections included in BLMC 18.22.080.

Comment:
Compliance with setback requirements for new structures will be enforced at the time of building permit. The proposed development shall also be subject to meeting the height, impervious area requirements and off-street parking requirements of BLMC 18.22.100.

5. Per Chapter 16.20, the sensitive areas chapter is intended to protect the public health, safety, and welfare by preventing the adverse environmental impacts of development on sensitive areas through the preservation, protection and restoration of sensitive areas through regulating development.

Comment:
A Type III wetland lies to the northwest of the project. As required by BLMC 16.22.040, a 100 foot buffer as shown on the preliminary plat map shall surround the wetland. Pursuant to BLMC 16.22.030, “Buffer boundaries shall be marked in the field by a licensed surveyor using wood or steel posts, four to five feet tall above the ground surface, permanently affixed, carrying identification signs approved by the city…” As
required by BLMC 16.22.040(F), "...all existing native vegetation in wetland buffers shall be retained without disturbance, moving, or hard surfacing, nor shall any action be taken to inhibit volunteer regrowth of native vegetation." That portion of the buffer within the project site has been left out of the buildable land of the project and remains open space.

The site will be subject to Land Clearing and Grading Permits. Retention of existing trees will be required to the extent that is feasible.

A geotechnical report has been prepared by E3RA, Inc. and has been reviewed by staff. Staff generally concurs with the assessments in the report and has proposed a condition for compliance with the recommendations in the report.

6. Pursuant to Chapter 15.13 and 15.20 BLMC, a temporary erosion and sediment control plan is required to be approved and implemented on the site prior to and during site development. Potential significant adverse environmental impacts associated with erosion and sedimentation are adequately mitigated through compliance with this regulation.

Comment:
An erosion and sediment control plan must be approved by the City, installed and inspected by the City prior to site clearing as noted in the conditions of approval.

Pursuant to 15.13 BLMC, and the City of Bonney Lake Development Policies and Public Works Standards Manual, a storm drainage plan and subsequent installation of an approved stormwater management system on the site is required. Under the concomitant agreement between Ashton Village dated the 27th of September, 2005, the applicant is authorized to construct the new oversized Ashton Village storm drainage facilities at any time, it sole discretion, after: (i) obtaining preliminary plat approval; and (ii) the City’s approval of the construction plans for the storm drainage facilities.

F. BONNEY LAKE DEVELOPMENT STANDARDS

BLMC Development Policies and Public Works Standards, Section 4 – Water
No extension of the City’s system will be permitted until all applications and permits required hereunder have been approved by the City and all provisions of the City’s regulations concerning such extensions have been fulfilled.

Comment: The project site is located within the City of Bonney Lake service area. Water lines will connect with existing water lines in 115th Street Ct. East. All internal lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards. A developer extension agreement will be required.

BLMC Development Policies and Public Works Standards, Section 5, Sanitary Sewer
The design of sanitary sewer systems shall conform to minimum City Standards set forth in the Development Policies and Public Works Standards.

Comment: An 8” inch line exists with 115th Street Court East and will be required to be extended to the proposed lots. A developer extension agreement will be required. All internal lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.
BLMC Development Policies and Public Works Standards, Section 6 – Streets
The design of streets and roads shall depend upon their type and usage. The design elements of streets shall conform to City standards set forth in the Development Policies and Public Works Standards.

Comment: The applicant will construct a new public cul-de-sac road that will connect with 115th Street Court East. All roadways will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

G. GROWTH MANAGEMENT ACT

The Growth Management Act of 1990 (GMA) and its continuous amendments mandates in a very real sense what local government can and can’t do with regard to development inside the corporate limits. In part, the GMA dictates that cities need to achieve a minimum net residential density of 4 units per acre within a 20-year planning horizon (currently set at 2022 A.D.).

Comment: This proposal meets the minimum net residential density of 4 units per acre. The development will net 5 units per acre which is within the range for the underlying zoning of R-1 and meets the GMA minimum requirement.

Concurrency requires that adequate public facilities and services be provided at the time growth occurs. The GMA directs growth to areas already served or readily served by public facilities and services. It also requires that when public facilities and services cannot be maintained at an acceptable level of service, new development should be prohibited.

Comment: The water and sewer systems to serve the proposed area are in place and sized to accommodate Low Density Residential zoning designated in the comprehensive plan. An 8” sewer line and 12” water line exist within 115th Street Court East. The property is located within the Sumner School District and the school district has requested that the standard impact fees should apply. The subject site is approximately two miles from the Pierce Transit Park & Ride. All other City services are currently available to serve the development by virtue of its location inside the City.

STAFF FINDINGS:
Staff recommends approval of the proposed preliminary plat with adoption of the following findings:

1. The proposed use is consistent with the R-1 zoning designation within the City of Bonney Lake Zoning Code (BLMC 18.14).
2. The Future Land Use Map designates the project site as Low Density Residential.
3. Water and sanitary sewer will be provided by the City of Bonney Lake.
4. Requirements of BLMC Chapter 16.13 and 16.14 Clearing and Landscaping are applicable to the site. A final landscaping plan must be approved prior to issuance of building permits.
5. The zoning code requirements of Chapter 18.14 and 18.22 are applicable to the site.
6. No state or federal candidate threatened or endangered plant species has been identified on the site.
7. No state or federal candidate threatened or endangered animal species or habitat has been identified on the site.
8. The proposal will not have significant adverse environmental impacts on fish and animals, water, noise, air quality, environmental health, public services and utilities, and land and shoreline use provided the attached conditions of approval are met.
9. Pursuant to Chapters 15.13 Stormwater Management and 15.20 Grading and Filling of Land, a
temporary erosion and sediment control plan is required to be approved and implemented on the site
prior to and during site development. Potential significant adverse environmental impacts associated
with erosion and sedimentation from this development are adequately mitigated through compliance
with this regulation.
10. Pursuant to Chapter 15.13 BLMC and the City of Bonney Lake Development Policies and Public
Works Standards, a storm drainage plan and subsequent installation of an approved stormwater
management system on the site is required.
11. Pursuant to Chapter 12.20 BLMC, the applicant shall be required to secure a Road Approach Permit
from the City of Bonney Lake.
12. The applicant has completed a Traffic Impact Analysis for the proposed traffic from the project, per
requirements of Chapter 19.02 BLMC. The City’s traffic consultant, Perry Shea of Parametrix,
reviewed and accepted the analysis, prepared by Mirai Transportation Planning & Engineering,;
dated April 18, 2006, subject to the mitigation outlined in his review letter of May 24, 2006. The
City has determined that implementation of the mitigation measures identified in the MDNS will
adequately mitigate any potential significant adverse impacts associated with the development.
13. The project will add approximately 35 new PM peak hour trips to the transportation network, as
indicated in the approved traffic study for the proposal.
14. The applicant has completed a geotechnical report for the project, prepared by E3RA, Inc. dated
March 29, 2006 Staff has reviewed the report and generally concurs with the report’s
recommendations.

RECOMMENDED CONDITIONS OF APPROVAL
Should the Examiner approve the request for preliminary plat the following conditions of approval are
recommended:

1. The proposal shall conform to all City of Bonney Lake regulations and standards:

2. Utility easements shall be provided on the face of the final plat, which are necessary to the provision
of water, power, sewer, natural gas, and mail delivery to the lots within the subdivision.

3. All plat roads shall be public and dedicated to and maintained by the City of Bonney Lake.

4. The maintenance of street trees and street lights shall be the responsibility of the Homeowners
Association.

5. The tract containing the public storm drainage shall be dedicated to and maintained by the City of
Bonney Lake.

6. A landscape plan shall be required showing street trees and place for the plat entrances as outlined in
BLMC Chapter 16.12. A final landscape plan shall be approved prior to installation of landscape
materials and final plat approval.

7. All landscape areas shall be fully installed prior to final plat approval unless approved for bonding
by the City of Bonney Lake.

8. A storm drainage plan shall be submitted to the City of Bonney Lake as part of the site development
plans. The drainage plan shall adhere to the Public Works Design Standards.
9. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to ________” (groundwater, wetlands, or lake, etc. as appropriate).

10. A Department of Ecology General Baseline Permit and NPDES coverage shall be required prior to the issuance of site development permits if more than five acres will be disturbed.

11. The applicant shall submit an Erosion and Sedimentation Control Plan to the City Engineer for approval. All erosion control facilities shall be properly maintained during all phases of site development to prevent debris, dust, and mud from accumulating on the city right-of-way and/or adjacent properties.

12. The operation of heavy equipment and associated materials in the construction of this project has the potential to result in fugitive dust being generated from the site. Impacts to neighboring properties shall be controlled by the use of watering trucks to water frequently used roads and associated areas as necessary to prevent the travel of dust.

13. To mitigate noise impacts associate with the proposal, all construction shall occur between the hours of 7:00 a.m. to 9:00 p.m., unless otherwise authorized by the Department of Planning and Community Development.

14. If cleared, the City right-of-way shall be seeded, mulched, and stabilized as required by the City.

15. The project shall adhere to the recommendations of the geotechnical report, prepared by E3RA, Inc. dated March 29, 2006.

16. The intent of the erosion control facilities is to protect downstream property owners from landslides, sediment buildup, and downstream channel scouring. If the intent of the requirement is not met, then all building and construction activity on site shall be discontinued and construction activity shall be directed to meeting the intent of the requirement.

17. All grading and filling shall utilize only clean fill, such as dirt and gravel. All other materials, including waste concrete and asphalt, are considered solid waste and permit approval shall be obtained through the Tacoma-Pierce County Health department prior to filling.

18. All clearing, grading, and other site development on the project shall be performed in accordance with approved site development plans. The construction of the project shall comply with applicable City and State regulations.

19. Prior to final plat approval fire hydrants and mains capable of providing the required fire flow shall be provided in accordance with IFC and the City of Bonney Lake, Public Works Design Standards. Fire hydrant location shall be approved by the Fire Marshal.

20. Hydrant flow test results and water “As Built” plans shall be submitted to and approved by the Fire Marshal prior to final plat/plan approval.

21. Prior to approval of the water supply for this development, a Certificate of Water Availability shall be required as per WAC 246-290 and the Public Works Design Standards. The final plat portion of the Certification of Water Availability shall be signed by the water purveyor prior to final subdivision approval.
22. Asbestos containing material shall be removed prior to demolition and disposed in accordance with the requirements of the Puget Sound Clean Air Agency, Washington State Department of Labor and Industries, and the Tacoma-Pierce County Health Department (TPCHD).

23. All demolition material, including but not limited to, wood waste, sheet rock, roofing material, and concrete, shall go to a licensed solid waste handling or disposal facility.

24. Any abandoned well (as defined by WAC 173-160) shall be properly “Decommissioned” prior to final plat approval. The TPCHD shall be contacted 48 hours prior to any decommissioning activity at the site. Contact Rich Dickerson at 253-798-2885, TPCHD for further information regarding abandoned wells.

25. Buildings constructed within the plat shall meet applicable City of Bonney Lake building code requirements. This includes the payment of any utility connection charges and impact fees.

26. Timber harvested from the site will be subject to a Forest Practice Permit from the Department of Natural Resources. Forest Practices approval shall be obtained prior to site clearing, grading, or logging the site.

27. The applicant shall pay a mitigation fee consistent with the Pierce County School Impact Fee Ordinance upon issuance of a building permit per the Sumner School District’s letter of November 16, 2005. In the event that the City of Bonney Lake adopts a school impact fee and upon the effective date of such school impact fee ordinance, the applicant will comply with the said ordinance.

28. All water lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

29. All sewer lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

30. All roads will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

ATTACHMENTS:

1. Legal description of subject property
2. Master Application for Land Use Actions
3. Environmental Checklist, dated November 14, 2005
5. Adjacent property owners listing and map
6. Determination of Completeness, dated November 4, 2005
7. Notice of Development Application, dated November 15, 2005
8. Application for Variance April 10, 2006
11. Comments from Agencies
12. Public Comments
13. Site Plan
14. Concomitant Agreement dated September 27, 2005
July 25, 2006

Ashton Village LLC
1416 East Main, Suite A
Puyallup, WA 98372

RE: PRELIMINARY PLAT OF ASHTON VILLAGE

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Bonney Lake Hearing Examiner relating to the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEaux, JR.
Hearing Examiner

SKC/cka
cc: Parties of Record
    City of Bonney Lake
OFFICE OF THE HEARING EXAMINER

CITY OF BONNEY LAKE

REPORT AND DECISION

CASE NO.: PRELIMINARY PLAT OF ASHTON VILLAGE

APPLICANT: Ashton Village LLC
1416 East Main, Suite A
Puyallup, WA 98372

AGENT: Paul Green
409 East Pioneer, Ste. A
Puyallup, WA 98372

SUMMARY OF REQUEST:

The applicant is proposing the development of a residential subdivision consisting of 35 single family residential lots on approximately 9.94 acres at 17501 115th St. E., Bonney Lake, Washington. The site is currently zoned R-1 Low Density Residential District (BLMC Chapter 18.14).

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Planning and Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on July 10, 2006, at 9:59 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Planning and Community Development Staff Report and Attachments
EXHIBIT "2" - Power Point Presentation
EXHIBIT "3" - Letter Memorandum from Terry Brink
HEATHER STIMSON appeared, presented the Planning and Community Development Staff Report, and testified that the request also includes a variance for the cul-de-sac length. The topography, a wetland, and storm drainage pond to the north make it very improbable that the City will punch the road through. The site is located within the R1 zone and the nearest fire station is two miles away. The Allen Yorke municipal park is three miles to the north. Surrounding uses include Panorama Heights to the north, Ashton Woods to the west, and Naches Terrace to the east. The City would like perimeter trees retained if possible. Public concerns include the density of development and tree retention. She introduced Exhibit "2", hard copies of her power point presentation.

TERRY BRINK, attorney at law representing the applicant, appeared and introduced Exhibit "3", his letter memorandum. Exhibit "A" consists of the latest version of the site plan and he assumes that they will meet the Pierce County School Impact Fee Ordinance requirements until Bonney Lake adopts an ordinance at which time they will meet the Bonney Lake ordinance. The development agreement is attached as Exhibit "C" and he and the city attorney Jeff Ganson, negotiated it. They will make proportionate share improvements to Angeline Road in addition to the impact fees. The fees do not cover the road improvements. The vesting date is October 6, 2005, and at that time the code allowed five dwelling units per acre under the R1 classification. Condition 7 sets forth a methodology for tree planting and staff agrees. He recommended the addition of "if applicable" language to Conditions 22, 23, 24, or eliminate them altogether since they have a vacant parcel and no water wells. He reemphasized his understanding of Condition No. 27 that they will pay only one mitigation fee. Construction activities have occurred on their property, on a sewer easement owned by Panorama Heights, and that development has performed sewer line construction. Issues exist between that applicant and the City, and while this applicant will benefit from the construction, it has nothing to do with the violations or the construction itself.

PAUL GREEN, professional engineer, Azure Green, testified that the current storm facility serves Ashton Woods and Woodlawn Village. The City encouraged a vehicle connection to Ashton Woods and a relocation of the storm drainage pond to the west because the soils to the west are much better for infiltration. The City engineer desired the change and the pond will have no discharge except for a 100 year overflow.

MS. STIMSON reappeared and testified that she had no problems with changes to conditions of approval, but would like the qualifying language for Conditions 22, 23, 24, and not elimination.

MR. GREEN testified that as an alternative they propose a second connection to Rhodes Lake Road, but the City did not want it due to sight distance issues. The City engineer supports the present layout and also recommends approval of the cul-de-sac length variance.
No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:27 a.m.

NOTE: A complete record of this hearing is available in the City of Bonney Lake Planning and Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.

2. Pursuant to the State Environmental Policy Act (SEPA) and the City of Bonney Lake Environmental Regulations, as codified in BLMC Title 16-Environmental Protection, the SEPA Responsible Official reviewed this project and issued a Determination of Nonsignificance on June 9, 2006. No appeals were filed.

3. Proper public notice of the hearing was provided on June 9, 2006, in compliance with the Code.

4. The applicant has a possessory ownership interest in an unimproved, irregular, "L" shaped, 9.94 acre parcel of property abutting the north side of Rhodes Lake Road west of its intersection with Angeline Road East within the City of Bonney Lake. The applicant requests preliminary plat approval to allow subdivision of the site into 35 single family residential lots. The applicant also requests a variance to the maximum 600 foot length of a cul-de-sac road.

5. The toe of the "L" abuts a curve on Rhodes Lake Road for approximately 320 feet at the south end of which point the parcel continues due east and Rhodes Lake Road continues southeast. A triangular shaped parcel separates the balance of the site from Rhodes Lake Road. The base of the "L" measures 850 feet in feet in length and 168 feet in depth. The parcel extends approximately 1,300 feet north from the base of the "L" to the north property line. The site also includes Tract "D" of the Ashton Woods preliminary plat which abuts the east property line and which presently contains a City storm drainage facility serving Ashton Woods and Woodbriar Village. Pursuant to a development agreement executed with the City, the applicant will move the storm drainage facility to the western portion of the plat parcel (toe of the "L") and construct an oversized storm drainage facility which will serve the plats of Ashton Village, Ashton Woods, and Woodbriar Village. Upon completion of the storm drainage facility and its acceptance by the City, the City will deed the present storm drainage pond to the applicant which will subdivide it into eight lots (lots 1-4 and 31-35).

6. Access to the site is provided by an extension of 115th St. Ct. E. from Ashton Woods
to the west property line of the plat parcel. A north/south internal plat road terminating in cul-de-sacs at both ends provides access to all plat lots, except those located in the storm drainage tract which will access directly onto 115th St. Ct. E. 115th St. Ct. E. provides access to Angeline Road, a north/south arterial which provides access to the south to Rhodes Lake Road and to the north to the Sumner-Buckley Highway and Sky Island Drive/Panorama Boulevard.

7. The site is located within the Low Density Residential designation of the City of Bonney Lake Comprehensive Plan which is meant to preserve single family neighborhoods at a density of four to five dwelling units per net acre. Objective 2-6 requires development in an orderly and cost efficient manner and in a manner to best utilize available land and public services. The development agreement entered by the applicant and the City combines the storm drainage facilities for three subdivisions at a location which allows infiltration, and also combines the vehicular access to the public road system with another subdivision. All public facilities, services, and utilities are available to serve the site. The proposed plat is therefore consistent with the comprehensive plan.

8. The site is located within the Low Density Residential (R1) zone classification of the Bonney Lake Municipal Code (BLMC). Section 18.14.010 entitled "General Intent" provides that development in R1 areas should create new, compatible housing at a density of four to five dwelling units per net acre. Section 18.14.020(A) BLMC authorizes detached, single family residential dwellings as outright permitted uses. The applicant proposes a subdivision which will have a gross density of 2.52 dwelling units per acre and a net density of five dwelling units per acre which meets the requirements of the R1 classification.

9. Section 18.14.060 BLMC requires a density of four to five dwelling units per net acre, but has no minimum lot size requirements. The preliminary plat proposes a minimum lot size of 5,272 square feet and an average lot size of 8,609 square feet. The R1 classification requires a minimum lot width of 55 feet, and all lots exceed said criteria as the width of the most narrow lot (lot 11) will measure 59 feet. The rectangular configuration of most lots and the larger, irregular shaped lots will provide a reasonably sized building envelope while still meeting the required setbacks of five feet side yard, 20 feet rear yard, and front yard of 20 feet for garages and ten feet for living portions of the residence. No lot should exceed the maximum impervious coverage limit of 60%. The applicant will also provide two, paved, off-street, parking spaces for each dwelling unit in accordance with Section 18.22.100(A) BLMC; and Type 3 landscaping buffers along all street frontages pursuant to Section 16.14.090 BLMC.

10. Abutting properties are also located in the R1 zone classification, and abutting uses include the Panorama Heights Master Planned Community to the north, the Ashton Woods preliminary plat to the east, the Naches Terrace subdivision to the west, and Rhodes Lake Road and single family subdivisions to the south. The site has gentle
topography, sloping downwards from north to south at less than 5%. Vegetation includes evergreen and deciduous trees with a thick understory of salal, ferns, blackberries, and other native brush.

11. A buffer for an off-site wetland extends onto the northwest corner of the site and will cause 6,936 square feet of the parcel to remain in open space. The storm drainage tract consisting of 1.05 acres will also remain in open space. In addition, the applicant will pay park impact fees to the City in accordance with Chapter 19.06 BLMC. The preliminary plat makes appropriate provision for open spaces, parks and recreation, and playgrounds.

12. As previously described the applicant will construct a single storm drainage facility to serve three separate subdivisions. The storm drainage system will meet City of Bonney Lake standards and will be dedicated to the City upon its acceptance. The plat makes appropriate provision for drainage ways.

13. The applicant will construct the internal plat roads to City standards with the exception of cul-de-sac length for which a variance is granted hereinafter. Mirai Transportation Planning and Engineering prepared a Traffic Impact Analysis (TIA) for the project and determined that the plat upon build-out will generate 335 average weekday trips, 35 of which will occur during the peak p.m. period and 36 during the a.m. peak period. The TIA estimates that 85% of plat traffic will travel north on Angeline Road where 40% will turn onto Panorama Boulevard to access Sky Island Drive. Fifteen percent of plat traffic will travel south on Angeline Road to Rhodes Lake Road where 7% will turn west and 8% east. The applicant must comply with the City of Bonney Lake Transportation Impact Fee which presently amounts to $2,701 per single family residential unit. The 35 unit plat must pay $94,535. In addition, plat traffic will adversely impact the intersection of Angeline Road/Sumner-Buckley Highway, at an unsignalized "T" intersection. According to the TIA, improvements to this intersection were not included in the City's traffic study dated August, 2002, which serves as the basis for the City's transportation impact fee. In 2009, plat traffic will cause a significant delay in the northbound approach to said intersection, but a right turn pocket would significantly decrease the delay times even without the project. The applicant will therefore contribute its proportionate share to the cost of a right turn lane at said intersection or $1,818. All lots will access onto internal plat roads and adequate entering and stopping sight distance is available at the intersection of the internal plat road and the plat roads of Ashton Woods. The plat makes appropriate provision for streets, roads, alleys, and other public ways.

14. Pierce Transit has requested no improvements and the City of Bonney Lake will provide both potable water supplies and sanitary sewers. Therefore, the plat makes appropriate provision for transit stops, potable water supplies, and sanitary waste.

15. Conditions of approval require the applicant to comply with the Pierce County
School Impact Fee Ordinance unless the City adopts a school impact fee ordinance, in which case the applicant will comply with the City's ordinance upon the acquisition of building permits. The payment of school impact fees will ensure that the plat makes appropriate provision for schools and school grounds.

16. The applicant will provide sidewalks on both sides of internal plat roads in accordance with City standards. The plat therefore makes appropriate provision for safe walking conditions.

17. The applicant requests a variance to the requirement of Section 17.20.040(D) BLMC limiting the maximum length of a cul-de-sac street to 600 feet. Subsection (F) provides that a permanent cul-de-sac may not be opened for extension without a variance, and that any variance request must meet the criteria set forth in Subsection (G). Subsection (G) authorizes opening of a permanent cul-de-sac if it is the only practical means of road access to an adjoining parcel and if the City has considered the impacts of traffic flows, noise, and other environmental factors. The development of the existing storm drainage facility for Ashton Woods and the relocation of the storm drainage system to the portion of the plat abutting Rhodes Lake Road was requested by the City engineer due to sight distance issues at the potential road access and because of better soils to allow infiltration of stormwater from three plats. Such required the applicant to access through Ashton Village roads. The new cul-de-sac road serving the plat extends more than 600 feet and therefore needs a variance in accordance with Section 14.110.010(D) BLMC. The requested variance meets the criteria set forth therein as it is consistent with the comprehensive plan and City ordinances as set forth above and does not constitute a grant of special privilege. The variance is required due to the location of the potential access and the ability to provide a storm drainage facility in soils excellent for infiltration. The variance will serve the public use and interest as set forth above. No other alternative development concepts are available and the variance is the minimum necessary to accommodate the City's desire. The basis for the variance request is not the result of deliberate actions of the applicant or property owner.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.

2. The applicant has established that the request for preliminary plat approval is consistent with the Low Density Residential Designation of the City of Bonney Lake Comprehensive Plan and meets all bulk requirements of the Low Density Residential (R1) zone classification of the Bonney Lake Municipal Code.

3. The proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, parks and
recreation, schools and school grounds, and safe walking conditions.

4. The preliminary plat will serve the public use and interest by providing an attractive location for a single family residential subdivision and will also allow the combination of storm drainage facilities serving three subdivisions into an area with permeable soils. The proposed preliminary plat should therefore be approved subject to the following conditions:

1. The proposal shall conform to all City of Bonney Lake regulations and standards.

2. Utility easements shall be provided on the face of the final plat, which are necessary to the provision of water, power, sewer, natural gas, and mail delivery to the lots within the subdivision.

3. All plat roads shall be public and dedicated to and maintained by the City of Bonney Lake.

4. The maintenance of street trees and street lights shall be the responsibility of the Homeowners Association.

5. The tract containing the public storm drainage shall be dedicated to and maintained by the City of Bonney Lake.

6. A landscape plan shall be required showing street trees and place for the plat entrances as outlined in BLMC Chapter 16.12. A final landscape plan shall be approved prior to installation of landscape materials and final plat approval.

7. All landscape areas shall be fully installed prior to final plat approval unless approved for bonding by the City of Bonney Lake. The planting of the street trees in the front yards of each lot may not occur until near the end of the construction of each individual home. The CCRs for the plat will include an obligation for the homeowners association to maintain the street trees after their initial planting on each individual lot. The City shall not issue a Certificate of Occupancy until each required street tree is planted in conformance with BLMC 16.14.090.

8. A storm drainage plan shall be submitted to the City of Bonney Lake as part of the site development plans. The drainage plan shall adhere to the Public Works Design Standards.

9. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to _________” (groundwater, wetlands, or lake, etc. as appropriate).
10. A Department of Ecology General Baseline Permit and NPDES coverage shall be required prior to the issuance of site development permits if more than five acres will be disturbed.

11. The applicant shall submit an Erosion and Sedimentation Control Plan to the City Engineer for approval. All erosion control facilities shall be properly maintained during all phases of site development to prevent debris, dust, and mud from accumulating on the city right-of-way and/or adjacent properties.

12. The operation of heavy equipment and associated materials in the construction of this project has the potential to result in fugitive dust being generated from the site. Impacts to neighboring properties shall be controlled by the use of watering trucks to water frequently used roads and associated areas as necessary to prevent the travel of dust.

13. To mitigate noise impacts associate with the proposal, all construction shall occur between the hours of 7:00 a.m. to 9:00 p.m., unless otherwise authorized by the Department of Planning and Community Development.

14. If cleared, the City right-of-way shall be seeded, mulched, and stabilized as required by the City.

15. The project shall adhere to the recommendations of the geotechnical report, prepared by E3RA, Inc. dated March 29, 2006.

16. The intent of the erosion control facilities is to protect downstream property owners from landslides, sediment buildup, and downstream channel scouring. If the intent of the requirement is not met, then all building and construction activity on site shall be discontinued and construction activity shall be directed to meeting the intent of the requirement.

17. All grading and filling shall utilize only clean fill, such as dirt and gravel. All other materials, including waste concrete and asphalt, are considered solid waste and permit approval shall be obtained through the Tacoma-Pierce County Health department prior to filling.

18. All clearing, grading, and other site development on the project shall be performed in accordance with approved site development plans. The construction of the project shall comply with applicable City and State regulations.

19. Prior to final plat approval fire hydrants and mains capable of providing
the required fire flow shall be provided in accordance with IFC and the City of Bonney Lake, Public Works Design Standards. Fire hydrant location shall be approved by the Fire Marshal.

20. Hydrant flow test results and water “As Built” plans shall be submitted to and approved by the Fire Marshal prior to final plat/plan approval.

21. Prior to approval of the water supply for this development, a Certificate of Water Availability shall be required as per WAC 246-290 and the Public Works Design Standards. The final plat portion of the Certification of Water Availability shall be signed by the water purveyor prior to final subdivision approval.

22. If applicable, asbestos containing material shall be removed prior to demolition and disposed in accordance with the requirements of the Puget Sound Clean Air Agency, Washington State Department of Labor and Industries, and the Tacoma-Pierce County Health Department (TPCHD).

23. If applicable, all demolition material, including but not limited to, wood waste, sheet rock, roofing material, and concrete, shall go to a licensed solid waste handling or disposal facility.

24. If applicable, any abandoned well (as defined by WAC 173-160) shall be properly “Decommissioned” prior to final plat approval. The TPCHD shall be contacted 48 hours prior to any decommissioning activity at the site. Contact Rich Dickerson at 253-798-2885, TPCHD for further information regarding abandoned wells.

25. Buildings constructed within the plat shall meet applicable City of Bonney Lake building code requirements. This includes the payment of any utility connection charges and impact fees.

26. Timber harvested from the site will be subject to a Forest Practice Permit from the Department of Natural Resources. Forest Practices approval shall be obtained prior to site clearing, grading, or logging the site.

27. The applicant shall pay a mitigation fee consistent with the Pierce County School Impact Fee Ordinance upon issuance of a building permit per the Sumner School District’s letter of November 16, 2005. In the event that the City of Bonney Lake adopts a school impact fee and upon the effective date of such school impact fee ordinance, the applicant will comply with the said ordinance from the date of such adoption. In which case, there shall thereafter be no further obligation to pay the Pierce County School Impact Fee.
28. All water lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

29. All sewer lines will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

30. All roads will be designed and constructed in accordance with Bonney Lake Development Policies and Public Works Standards.

31. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.

32. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for preliminary plat approval of Ashton Village and for a variance to the maximum cul-de-sac road length is hereby granted subject to the conditions contained in the conclusions above.

**ORDERED** this 25th day of July, 2006.

______________________________
STEPHEN K. CAUSSEAX, JR.
Hearing Examiner

**TRANSMITTED** this 25th day of July, 2006, to the following:

**APPLICANT:** Ashton Village LLC
1416 East Main, Suite A
Puyallup, WA 98372
AGENT:  Paul Green  
409 East Pioneer, Ste. A  
Puyallup, WA 98372

OTHERS:  

Terry Brink  
Attorney at Law  
P.O. Box 1157  
Tacoma, WA 98401

Steve Dorenbush  
1416 E. Main, Ste. A  
Puyallup, WA 98372

Dick Dorenbush  
1416 E. Main, Ste. A  
Puyallup, WA 98372

CITY OF BONNEY LAKE  
Planning and Community Development Department  
P.O. BOX 7380  
19306 BONNEY LAKE BLVD.  
BONNEY LAKE, WA 98390-0944
CASE NO. PRELIMINARY PLAT OF ASHTON VILLAGE

NOTICE

Pursuant to City of Bonney Lake, this decision becomes final and conclusive on August 14, 2006, unless:

1. **RECONSIDERATION:** Any aggrieved person feeling that the decision of the Examiner is based on errors of procedure or errors of misinterpretation of fact may make a written request for review by the Examiner in writing and filed not later than 5:00 p.m. on August 3, 2006, with the Planning and Community Development Department. This request shall set forth the alleged errors or misinterpretations, and the Examiner may, after review of the record, take such further action as he deems proper and may render a revised decision.

2. **APPEAL OF EXAMINER’S DECISION:** The final decision by the Examiner on any land use matter within his jurisdiction may be appealed to the City Council by any aggrieved person directly affected by the Examiner’s decision. Said appeal procedure is as follows:

   (a) The appellant must file written notice of appeal with the Planning Department in writing with an appeal fee as required by the Department not later than 5:00 p.m. on August 14, 2006.

   (b) Provided that if the Examiner was requested to reconsider the decision, then the appeal must be filed within fourteen (14) days of the mailing of the Examiner’s final order or decision on the reconsideration report. The notice of appeal shall concisely specify such error and/or issue which the City Council is asked to consider an appeal.
NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration or an appeal, please attach this page to the request or appeal.