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

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<tr>
<th>Department/Staff Contact:</th>
<th>Council/Wrkshp Mtg Date:</th>
<th>Agenda Bill Number:</th>
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<tbody>
<tr>
<td>City Engineer – John Woodcock</td>
<td>12 June 2007</td>
<td>AB07-129</td>
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<tr>
<th>Ordinance Number:</th>
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**BUDGET INFORMATION**

<table>
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<tr>
<th>2007 Budget Amount</th>
<th>Required Expenditure</th>
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<tbody>
<tr>
<td>$528,189.00</td>
<td>$48,862.00</td>
<td></td>
<td>$479,327.00</td>
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</table>

**Explanation:**
301-012-595-30-065

**Agenda Subject:** Personal Services Agreement with Universal Field Services for 192nd Corridor Right of Way Acquisition and Relocation Services.

**Administrative Recommendation:**

**Background Summary:** Approve Personal Services Agreement with Universal Field Services for 192nd Corridor Right of Way Acquisition and Relocation Services.

- Universal Field Services will perform reviews of existing right of way and ownership information.
- Review special exceptions described in title report provide by Parametrix to determine the City’s acceptance of title at closing.

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<td>Public Safety Committee:</td>
<td>Civil Service Commission:</td>
<td>Hearing Examiner:</td>
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<td>Community Development &amp; Planning Committee: 6/4/07</td>
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<tr>
<td>Council Workshops:</td>
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</table>

**Council Action:**

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

**Signatures:**

- Director, Authorization: [Signature]  
- Mayor: [Signature]  
- Date City Attorney Reviewed: [Signature]
COMMUNITY DEVELOPMENT COMMITTEE

DATE: June 4, 2007

ORIGINATOR: John Woodcock  TITLE: City Engineer

SUBJECT/DISCUSSTION: Personal Services Agreement with Universal Field Services for 192nd Corridor Right of Way Acquisition and Relocation Services

ORDINANCE/RESOLUTION: 1700

REQUEST OR RECOMMENDATION BY ORIGINATOR: Approve Personal Services Agreement with Universal Field Services for 192nd Corridor Right of Way Acquisition and Relocation Services.

- Universal Field Services will perform reviews of existing right of way and ownership information.
- Review special exceptions described in title report provide by Parametric to determine the City's acceptance of title at closing.

ISSUE AND DOCUMENTS HAVE BEEN REVIEWED AND APPROVED BY THE

FINANCE DIRECTOR

CITY ATTORNEY

BUDGETED ITEM:

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301-012-595-30-065

COMMITTEE ACTION: RECOMMEND APPROVAL TO COUNCIL

DATE APPROVED DISAPPROVED
James Rackley, Chairperson 6-4-07  
Mark Hamilton 6-4-07 FONECON  
David Bowen 6-4-07  

COMMITTEE COMMENTS:

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

Please schedule for Council Meeting date of: June 12, 2007

Consent Agenda: ✓ Yes ☐ No
RESOLUTION NO. 1700

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A PERSONAL SERVICES AGREEMENT WITH UNIVERSAL FIELD SERVICES FOR 192ND CORRIDOR RIGHT OF WAY ACQUISITION AND RELOCATION SERVICES.

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 12th day of June, 2007.

______________________________
Neil Johnson Jr., Mayor

ATTEST:

______________________________
Harwood T. Edvalson, CMC
City Clerk

APPROVED AS TO FORM:

______________________________
James Dionne, City Attorney
PERSONAL SERVICES AGREEMENT

THIS PERSONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 12th day of June, 2007, by and between the City of Bonney Lake ("City") and Universal Field Services ("Consultant").

The parties hereby agree as follows:

1. **Scope of Work.** The Consultant shall perform all work and provide all materials described in the Scope of Work set out in Exhibit A attached hereto and incorporated herein by this reference. Such work shall be performed using facilities, equipment and staff provided by Consultant, and shall be performed in accordance with all applicable federal, state and local laws, ordinances and regulations. The Consultant shall exercise reasonable care and judgment in the performance of work pursuant to this Agreement. The Consultant shall make minor changes, amendments or revisions in the detail of the work as may be required by the City, such work not to constitute Extra Work under this Agreement.

2. **Ownership of Work Product.** Documents, presentations and any other work product produced by the Consultant in performance of work under this Agreement shall be tendered to the City upon completion of the work, and all such product shall become and remain the property of the City and may be used by the City without restriction; provided, that any such use by the City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

3. **Payment.** The Consultant shall be paid by the City for completed work and services rendered under this Agreement pursuant to the rates and charges set out in Exhibit B, attached hereto and incorporated herein by this reference. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. All billings for compensation for work performed under this Agreement shall list actual time and dates during which the work was performed and the compensation shall be figured using the rates set out in Exhibit B; provided, that payment for work within the Scope of Work (Exhibit A) shall not exceed the fee/hour estimate set out in Exhibit B without written amendment to this Agreement, agreed to and signed by both parties.

Acceptance of final payment by the Consultant shall constitute a release of all claims, related to payment under this Agreement, which the Consultant may have against the City unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to acceptance of final payment. Final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.
The Consultant and its subconsultants shall keep available for inspection, by the City, for a period of three years after final payment, the cost records and accounts pertaining to this Agreement and all items related to, or bearing upon, such records. If any litigation, claim or audit is started before the expiration of the three-year retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The three-year retention period shall commence when the Consultant receives final payment.

4. **Changes in Work.** The Consultant shall make all revisions and changes in the work completed under this Agreement as are necessary to correct errors, when required to do so by the City, without additional compensation.

5. **Extra Work.** The City may desire to have the Consultant perform work or render services in addition to or other than work provided for by the expressed intent of the Scope of Work. Such work will be considered Extra Work and will be specified in a written supplement which will set forth the nature and scope thereof. Work under a supplement shall not proceed until authorized in writing by the City. Any dispute as to whether work is Extra Work or work already covered by this Agreement shall be resolved before the work is undertaken. Performance of the work by the Consultant prior to resolution of any such dispute shall waive any claim by the Consultant for compensation as Extra Work.

6. **Employment.** Any and all employees of Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman’s Compensation Act on behalf of said employees, while so engaged; any and all taxes arising out of Consultant’s or Consultant’s employees’ work under this Agreement; and any and all claims made by a third party as a consequence of any acts, errors, or omissions on the part of the Consultant’s employees, while so engaged, shall be the sole obligation and responsibility of the Consultant, except as provided in Section 12 of this agreement. The Consultant’s relation to the City shall at all times be as an independent contractor.

7. **Nondiscrimination and Legal Compliance.** Consultant agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, gender, age or handicap except for a bona fide occupational qualification with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and rendition of services. The consultant represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including but not limited to the provisions of the Act prohibiting the hiring and continued employment of unauthorized aliens and requiring verification and record keeping with respect to the status of each of its employees’ eligibility for employment. The consultant shall include a provision
substantially the same as this section in any and all contracts with subconsultants performing work required of the contractor under this contract. The consultant agrees to indemnify and hold the City harmless from any and all liability, including liability for interest and penalties, the City may incur as a result of the consultant failing to comply with any provisions of the Immigration Reform and Control Act of 1986. Consultant understands and agrees that if it violates this section, this Agreement may be terminated by the City, and that Consultant shall be barred from performing any services for the City in the future unless and until a showing is made satisfactory to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

8. **Term.** This Agreement shall become effective upon the day of its execution by both parties, and shall terminate upon completion of the work and delivery of all materials described in Exhibit A.

9. **Termination by City.** The City may terminate this Agreement at any time upon not less than ten (10) days written notice to Consultant, subject to the City’s obligation to pay Consultant in accordance with subsections A and B below.

   A. In the event this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for actual cost of work complete at the time of termination of the Agreement. In addition, the Consultant shall be paid on the same basis as above for any authorized Extra Work completed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the termination notice. If the accumulated payment(s) made to the Consultant prior to the termination notice exceeds the total amount that would be due as set forth in this subsection, then no final payment shall be due and the Consultant shall immediately reimburse the City for any excess paid.

   B. In the event the services of the Consultant are terminated by the City for fault on the part of the Consultant, subsection A of this section shall not apply. In such event the amount to be paid shall be determined by the City with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or of a type which is usable by the City at the time of termination, the cost to the City of employing another person or firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the City of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made if subsection A of this section applied.

   C. In the event this Agreement is terminated prior to completion of the work, the original copies of all work products prepared by the Consultant prior to termination shall become the property of the City for its use without restriction; *provided*, that any such use by the City not directly related to the particular
purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

10. **Termination by Consultant.** Consultant may terminate this Agreement only in response to material breach of this Agreement by the City, or upon completion of the work set out in the Scope of Work and any Extra Work agreed upon by the parties.

11. **Applicable Law; Venue.** The law of the State of Washington shall apply in interpreting this Agreement. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Pierce County.

12. **Indemnification / Hold Harmless**

Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

**Insurance**

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**A. Minimum Scope of Insurance**

Consultant shall obtain insurance of the types described below:

1. **Automobile Liability** insurance covering all owned non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. **Commercial General Liability** insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant’s Commercial General Liability insurance policy with respect to the work performed for the City.

3. **Workers’ Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant’s profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than $1,000,000 per claim and $1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant’s insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant’s insurance and shall not contribute with it.

2. The Consultant’s insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
13. **Subletting or Assigning.** The Consultant shall not sublet or assign any of the work covered by this Agreement without the express written consent of the City.

14. **Entire Agreement.** This Agreement represents the entire Agreement between the parties. No change, termination or attempted waiver of any of the provisions of the Agreement shall be binding on any party unless executed in writing by authorized representatives of each party. The agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

15. **Waiver.** Failure by any party to this Agreement 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 performance of that or any other provision of this Agreement any time thereafter.

16. **Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder of the Agreement shall not be affected.

17. **Execution and Acceptance.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The Consultant hereby ratifies and adopts all statements, representations, warranties, covenants, and agreements contained in the supporting materials submitted by the Consultant, and does hereby accept the Agreement and agrees to all of the terms and conditions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF BONNEY LAKE

By: ________________________________
   Neil Johnson Jr., Mayor

CONSULTANT

By: ________________________________
   [Signature]
   NW Regional Manager
   5/31/07

Attachments:

Exhibit A: Scope of Work/Deliverables/fee
Exhibit B: Rates
EXHIBIT A: SCOPE OF WORK

The Consultant shall perform the following services as directed by the City:

See Universal's Scope of Work - Exhibit A
EXHIBIT A

City of Bonney Lake
192nd Corridor Improvements Project

Scope of Work
Advanced Right of Way Acquisition & Relocation Services

Right of Way Acquisition and Relocation Services shall be provided using procedures specified by the City of Bonney Lake. There are no federal funds participating in the project at this time, however, the federal Uniform Relocation Assistance & Real Property Acquisitions Policies Act process will be provided. Services described herein will be provided for the parcels identified in Table A below. In summary, this scope of work includes appraisal valuation, appraisal review, acquisition negotiations, and relocation assistance services. All property rights to be acquired are limited to Table A below. The property owners described below approached the City and are willing to sell. Acquisitions are considered voluntary advanced acquisitions and the City will not use rights of eminent domain to acquire through condemnation at this time. If agreements can not be reached within a reasonable period of time, the City may elect to withdraw all offers. Relocation assistance services will be limited to two (2) potential residential displacements plus a landlord for Parcel 1 (One LLC) described in Table A below. If relocation services are required for Parcel No. 2 (Barton), an amendment to this scope of work and fee estimate will be required. The City may allow displaced occupants to lease back the premises. If so, Universal will secure short term lease agreements between each displacee and the City.

This scope of work is based on the following: 1.) Review of Right of Way plans dated April 2007 provided by Parametrix; 2.) Discussion with City staff and Parametrix; 3.) Site visit on May 17, 2007.

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<td>One LLC</td>
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<td>2</td>
<td>051904-8-004</td>
<td>Barton</td>
<td>Partial</td>
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Right-of-Way Acquisition

Universal Field Services, Inc. will provide the following:

a. Title/Ownership Review
   • Perform reviews of existing right of way and ownership information.
   • Review special exceptions described in title report provided by Parametrix, to determine the City’s acceptance of title at closing.

b. Preparation and Administration
   • Discuss and strategize overall process with Right of Way Acquisition team.
   • Attend up to four (4) coordination/progress meetings. (City of Bonney Lake office)
   • Provide sample acquisition documents for the City’s approval and use (i.e. offer letters, escrow instructions, easements, deeds, etc.). The City’s current and existing forms will be used if available.
   • Prepare tracking and status report formats.
Upon receipt of approved Determinations of Value, prepare parcel files to include fair offer letters, documents, a standard diary form indicating all contacts with owner(s), and other items necessary for negotiations.

c. Project Funding Estimate
- Project Funding Estimate (PFE) will not be prepared under this scope of work for the following reasons: 1.) Acquisitions are voluntary advanced acquisitions; 2.) Appraisal reports to be completed for each parcel; 3.) No federal funds at this time. A True Cost Estimate will be provided if required per WSDOT LAG Manual – Section 25, and WSDOT’s Local Agency Coordinator.

d. Appraisal & Appraisal Review
- Universal will subcontract Appraisal and Appraisal Review services to one of our qualified and, state certified Appraisers. The Appraisal reports will be in accordance with the Uniform Standards of Professional Appraisal Practices, Washington State Department of Transportation (WSDOT) Local Agency Guidelines, the Federal Uniform Relocation Assistance and Real Property Acquisitions Policies Act. Appraiser(s) will be selected from WSDOT’s list of qualified Appraisers. Appraisal scope of work and expenses thereof for specialty studies of hazardous materials, septic costs, equipment appraisals, timber cruising, etc., are excluded. It is assumed properties to be appraised are clean of hazardous materials. Up to two (2) appraisal and appraisal review reports will be completed.

e. Acquisition Negotiation
- Acquire fee simple real property rights from up to two (2) separate tax parcels. See Table A herein for specific real property rights required.
- Acquisition of temporary construction or permanent easement rights are excluded from this scope of work.
- Negotiate with the property owner and/or their representative in accordance with statutory and regulatory requirements, to secure the required right-of-way for the project.
- Negotiate as necessary with lien holders, assisting escrow in the closing process.
- Maintain a current acquisition diary on each parcel.
- Negotiations shall not be deemed completed until at least three significant contacts have been made with each owner and/or their representative to secure the needed right-of-way.
- Out-of-area owner(s) will be contacted by telephone and by certified mail.
- If negotiations reach an impasse and agreements can not be reached within a reasonable period of time, the City may elect to withdraw all offers. Under this scope of work, the City will not exercise rights of eminent to acquire real property rights through condemnation.

f. Relocations
- UFS will provide Relocation Assistance and Advisory Services for two (2) residential occupants from a duplex plus one (1) landlord, owner of the duplex for a total of three (3) relocations, see Table A herein. As a landlord, the owner of the property is also entitled to relocation benefits and assistance. Relocation services shall be provided under the guidelines of the federal Uniform Relocation Assistance and Real Property Acquisitions Policies Act and the City’s Policies and Procedures as directed.

Relocation services are generally outlined as follows:
- Prepare a relocation plan resulting from personal assessment interviews, discussions with local real estate brokers, multiple listing service, local newspapers and publications. An amendment to the Relocation Plan will be required when the overall project is fully funded.
- Inform displaced occupants, in writing, of their potential displacement, eligibility, entitlements, and provide an explanation of their relocation benefits.
- Assist in search of replacement site(s).
• Assist displaced occupant(s) in filing relocation claims to the City for payment.
• Maintain a current relocation diary for each displacee.
• Create and maintain necessary records to support WSDOT audit of project.

g. Parcel Closeout – Escrow Closing
• Upon securing required acquisition agreements, UFS will submit the necessary documents and closing instructions to the designated Title/Escrow Company.
• UFS will work with the Title/Escrow company to obtain release documentation from the encumbrance(s) of public record that are not acceptable to the City in order to provide clear title to the property being acquired.
• The Escrow Company shall prepare and obtain the owner(s) signature on the necessary closing documents.
• UFS will coordinate signatures on closing documents for submittal to the City and payment(s) to the owner(s).
• Coordinate with the Escrow/Title Company in filing documents with Pierce County.
• UFS will deliver completed files to the City.

h. Right-of-Way Certification
• UFS will provide certification advisory review services. This will include being available to project auditor during file review. All files will be prepared and completed to the satisfaction of a WSDOT Right of Way Audit.

City will provide the following:

1. Title Reports for each parcel of property described in Table A. Approve and designate the Title / Escrow Company used for this project. The Title Company will bill the City directly for payment of each title report, any title updates, and escrow services performed.
2. Right of Way Plans and Drawings, Maps, Exhibits, Right of Way Staking, etc., as necessary.
3. Legal descriptions in electronic word format for all property rights to be acquired.
4. Form approval, in electronic word format, of all legal conveyance documents prior to use (i.e. offer letters, purchase and sale agreements, escrow instructions, easements, deeds, leases, etc.).
5. Review and approve all determinations of value, established by the project appraisers, and provide written authorization prior to making offers to property owners.
6. Payment of all legal services, escrow services, the recording of instruments, payments to all property owner(s) and relocation payments and any incidental costs which may arise to complete each transaction will be the responsibility of the City.
EXHIBIT B: RATES

The Consultant's work under this Agreement shall be compensated at the rate specified herein:

See Universal Fee Estimate - Exhibit A-1
EXHIBIT A-1  
Right of Way Acquisition and Relocation 
Fee Estimate

UNIVERSAL FIELD SERVICES, INC.  
City of Bonney Lake - 192nd Corridor Improvements Project  
Advanced Right of Way Acquisition & Relocation Services  
May 31, 2007

<table>
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<th>Direct Field Services</th>
<th>Direct Labor</th>
<th>Direct Labor</th>
<th>Direct Labor $</th>
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<tr>
<td>Labor Classification</td>
<td>Hours</td>
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<td>Project Mgr / QA</td>
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<td>Acquisition Agent</td>
<td>363</td>
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<td>$25,235.76</td>
</tr>
<tr>
<td>Sr Admin / Project Coordinator</td>
<td>56</td>
<td>$52.14</td>
<td>$2,919.84</td>
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**Direct Labor Subtotal**  
518
$36,336

**UFS Direct Costs**

- Miscellaneous (long dist telephone, cellular, parking, copies, etc) $500
- Mileage @ $0.485 / mile 3250 $1,576

**UFS Direct Costs Subtotal** $2,076

**UFS Subtotal** $38,412

**Subconsultant(s)**

- Appraisal - SHH (2 each) $8,000
- Appraisal Review - The Granger Company (2 each) $1,500
- Administrative Markup 10% $950

**Subconsultants Subtotal** $10,450

**Estimated Total** $48,862

Notes:

1. Universal reserves the right to re-negotiate estimate total if Notice to Proceed not provided within 180 days from the date of this estimate.
2. Total of up to two (2) separate tax parcels affected by acquisitions.
3. Includes preparation of up to two (2) Appraisal & Appraisal review reports.
4. Mileage to be billed at $0.485/mile or the approved IRS rate at the time mileage is incurred.
5. Estimate is based on review of ROW plans, site visit, and discussions with City staff.
6. Relocation services: 2 residential tenants / 1 landlord (Duplex).
7. Attend up to 4 progress / status meetings with City staff.

Parcel Information Breakdown - Real Property Rights to be Appraised & Acquired:

See Table A - Scope of Work
City of Bonney Lake, Washington
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**Explanation:** Unknown

**Agenda Subject:** Acquire Certain Downtown Properties by Negotiation or Eminent Domain

**Administrative Recommendation:** Approve.

**Background Summary:** The City’s Comprehensive Plan includes a downtown element and plan which envisions a retail center and new civic center to improve service delivery, build civic identity, and anchor the downtown. Before developing a new civic center it is necessary to acquire a number of remaining parcels of private property which encompass the planned civic center complex. This ordinance would authorize the Mayor to acquire three more of these properties by negotiation, or if necessary by eminent domain.

Alternative: Amend the ordinance to include only the first parcel listed (Tax Parcel No. 5640001582)

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**Signatures:**

[Signatures of City officials]
ORDINANCE NO. D07-138

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE ACQUISITION OF PROPERTY BY PURCHASE OR CONDEMNATION.

WHEREAS, the City's Comprehensive Plan includes a downtown element and plan; and

WHEREAS, the downtown plan includes a retail center and new civic center proposed for the area East of a new main street (184th) to improve service delivery, build civic identity, and anchor downtown; and

WHEREAS, before developing a new civic center it is necessary to acquire a number of remaining parcels of private property which encompass the planned civic center complex; and

WHEREAS, the City desires to acquire this property as soon as possible so that the civic center campus can be developed in a reasonable time period;

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

Section 1. The Mayor is hereby authorized to acquire, by negotiated purchase or condemnation pursuant to Ch. 8.12 RCW, those properties located at:

- 18401 89th Street East (Pierce County Parcel No. 5640001582)
- 18411 89th Street East (Pierce County Parcel No. 5640001575)
- 18413 89th Street East (Pierce County Parcel No. 5640001576)

If the Mayor is unable to effectuate a purchase of the property within a reasonable period, he is authorized at any time to direct the City Attorney to proceed with filing a petition to take the property by eminent domain.

PASSED by the City Council and approved by the Mayor this 12th day of June, 2007.

______________________________
Neil Johnson Jr., Mayor

ATTEST: APPROVED AS TO FORM:

______________________________
Harwood T. Edvalson, City Clerk

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

<table>
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<tr>
<th>Department/Staff Contact:</th>
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<tr>
<td>P&amp;CD/Heather Stinson / Vialle</td>
<td>June 12, 2007</td>
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**BUDGET INFORMATION**

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**Explanation:**

**Agenda Subject:** Final plat approval for Legacy Park Final Plat, at 17807 & 17813 70th Street East

**Administrative Recommendation:** Approve final plat.

**Background Summary:** The applicant is proposing to subdivide a 3.43 acre site in the R-2 zone (Medium Density Residential) into 10 residential lots that will accommodate duplexes. This proposal received preliminary plat approval from the Hearing Examiner on September 27, 2004.

The originally approved preliminary plat had a cul-de-sac street connecting to 70th Street E. through the middle of the plat, but when road designs were submitted to the city, sight distance issues prevented the city from approving the original configuration. The applicant redesigned the road and the plat to accommodate the sight distance issue. The number of lots remains the same as originally approved by the Hearing Examiner.

Access to lots 6 and 7 are now proposed to be off of the newly created 180th Avenue East through a private road easement that will not have direct access onto 70th Street East.

The final plat complies with the terms and conditions of preliminary approval and is brought forward for approval by Council. A suitable motion would be, "Moved to approve the final plat of Legacy Park based on the findings in the attached Staff Report dated 6/7/07."

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<td>Hearing Examiner: Public Hearing held August 30, 2004</td>
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**Signatures:**

Dept. Dir.  
Mayor  
Date City Attorney reviewed:
TO: CITY COUNCIL

FROM: Heather Stinson

IN RE: LEGACY PARK FINAL PLAT

DATE: June 7, 2007

PROJECT DESCRIPTION:
The applicant seeks final plat approval for Legacy Park Final Plat. The proposal is to develop two parcels, totaling approximately 3.4 acres in size and zoned R-2, into 10 residential lots. The minimum lot size for duplexes in the R-2 zone is 10,000 square feet. All of the lots in the Legacy Park proposal are larger than 10,000 square feet. Legacy Park received preliminary approval from the City of Bonney Lake Hearing Examiner on September 27, 2004. The site also contains a cul-de-sac to be dedicated as public right-of-way, and one stormdrainage tract, also to be dedicated to the city. The project will access off of 70th Street East.

APPLICANT:
Legacy Park, LLC
PO Box 7105
Bonney Lake, WA 98391

Owner:
Delbert Olmstead
17807 70th St. E.
Bonney Lake, WA 98391

SITE LOCATION:
The site is located approximately 320 feet east of Myers Road and 300 feet west of 181st Avenue East at 17801 and 17813 70th Street East. It is within the corporate limits of the City of Bonney Lake situated in the Northeast corner of Section 29, Township 20 North, Range 5 East, Willamette Meridian. Parcel Nos: 4065000220 and 4065000210.

DATE APPLICATION DEEMED COMPLETE:
The Department of Planning and Community Development deemed the final plat application complete on December 22, 2006.

ATTACHMENTS:
1. Final Plat Print

STAFF FINDINGS:

1. Process: The proposed final plat of Legacy Park satisfies the subdivision criteria set forth in Section 17.16 BLMC. The proposed plat makes appropriate provision for the public health, safety, and welfare for open spaces, drainage ways, streets, roads, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions.

2. Density: While the intent of the R-2 zone is to accommodate a density of 5 to 9 lots per acre, there is no density requirement built into the bulk regulations. The lots proposed in Legacy Park are large enough to accommodate duplexes but the lack of density regulations imply that the developer might also build single-family residences, which would not meet the intended densities of 5 to 9 lots per acre.

"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."
3. **Access:** All the lots in the subdivision will access off of the internal cul-de-sac road or access easement provided for lots 6 and 7. The proposed 180th Avenue East was reconfigured from the original plat proposal to better accommodate sight distance for on-coming traffic when exiting the development. Sidewalks have been required along the internal road as well as along 70th Street East for pedestrian access.

4. **Stormwater:** The applicant will collect storm drainage runoff and direct it to Tract A where it will flow through a biofiltration swale before entering an infiltration pond. All stormwater will infiltrate into the ground on site. The plat makes appropriate provision for drainage ways.

5. **Parks/Open Space:** The BLMC does not require open space but will require a park impact fee to be paid at building permit issuance.

6. **Transit:** Pierce Transit has not requested transit stops and the site is not located on a transit route.

7. **Water / Sewer:** The City will provide both potable water and sanitary waste to the site, and has water and sewer lines of sufficient size in 70th Street East to provide such services to each residential dwelling. The applicant will size the water and sewer lines to each lot in accordance with City standards.

8. **Schools:** A mitigating measure in the MDNS requires the applicant to make a per dwelling unit payment to the Sumner School District in accordance with the Pierce County School Impact Fee Ordinance which will be paid at time of building permit issuance.

**ADHERENCE WITH CONDITIONS OF APPROVAL:**

The following is based on the conditions of approval of the hearing examiner report dated September 27, 2004:

1. The proposal shall conform to the following City of Bonney Lake regulations and standards in effect on the date that the application was deemed complete, November 24, 2003.

   - BLMC Title 12 Streets, Sidewalks and Public Places
   - BLMC Title 15 Buildings and Construction
   - BLMC Title 16 Environmental Protection
   - BLMC Title 17 Subdivisions
   - BLMC Title 18 Zoning
   - BLMC Title 19 Concurrency Management
   - City of Bonney Lake Development Policies and Public Works Design Standards

   **Finding:** The preliminary plat application was deemed complete on November 24, 2003. The proposed final plat meets the requirements of the above mentioned portions of the Bonney Lake Municipal Code.


**Conditions of the Mitigated Determination of Non-significance:**

EARTH

"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."
1. Only clean fill should be used for the project and any other material, such as waste concrete and asphalt, are considered solid waste and would require a permit through the Tacoma-Pierce County Health Department before use.

2. The applicant shall submit an Erosion and Sedimentation Control Plan to the City Engineer for approval. Temporary erosion and sedimentation control measures shall include, but not be limited to, silt fencing or other Best Management Practices (BMPs). There shall be a designated construction entrance for all vehicles to limit tracking of mud onto the streets. If sediment is deposited, it shall be cleaned up at the end of every day during construction utilizing sweeping or shoveling. Water cleaning shall only be used after the area has been swept or shoveled.

3. Any discharge of sediment laden runoff or other pollutant to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington. All releases of oils, hydraulic fluids, fuels, other petroleum products, paints, solvents, and other deleterious materials during construction must be contained and removed in a manner that will prevent their discharge to waters and soils of the state. The cleanup of spills should take precedence over other work on the site.

4. Coverage under the National Pollution Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges associated with construction activities required for construction sites which disturb an area of five acres or more and which have or will have discharge of stormwater to surface water or a storm sewer is required.

SURFACE WATER

1. All storm drains within the development should be stenciled “Dump No Waste, Drains to ________”.

NOISE

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

HISTORIC AND CULTURAL PRESERVATION

1. The applicant did not identify any potential cultural or historical areas on this site. If during construction any artifacts are uncovered, the Muckleshoot Tribe and the Washington State Historic Preservation Office in Olympia shall be notified at (360) 407-0752.

TRANSPORTATION

To mitigate traffic impacts to off-site intersection and roadways associated with the subject proposal and pursuant to the City’s traffic consultant review letter dated March 15, 2004, the proponent shall provide the following improvements prior to issuance of a building permit:

1. **Site Access & Frontage Improvements**
   
   The following improvements will be required to facilitate the ingress and egress of project traffic on to 70th Street East and will be installed by the project developer:
   
   - Install complete frontage improvements along the property frontage on 70th Street East pursuant to City of Bonney Lake Development Policies and Public Works Standards, Section 6.07. All improvements shall be constructed per City of Bonney Lake standards.
   
   - A Road Approach Permit from the City of Bonney Lake Public Works Department for access to 70th Street East shall be secured prior to construction.
   
   - The project shall be required to meet minimum site distance requirements.

2. **Off-Site Improvements**

*"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."*
A City-wide traffic study, August 2002, identified system-wide impacts created as a direct result of new development. The applicant shall be responsible to mitigate off-site traffic impacts created by the new PM peak hour trips generated by the project. The proposed project generates approximately 16 new PM peak hour trips to the transportation system. The applicant shall pay the Multifamily Rate rate of $1,658 per residential dwelling unit, per the City of Bonney Lake Transportation Impact Fee Ordinance or the adopted fee at the time of building permit issuance.

PUBLIC SERVICES
1. The Sumner School District commented in regards to the impacts that the proposed development will have on the capital facilities of the Sumner School District per the District’s letter of March 17, 2004. The applicant shall pay a mitigation fee equal to the applicable fee under the Pierce County School Impact Fee Ordinance in effect at the time of application for a building permit within the City of Bonney Lake; provided, however, 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.

WATER
1. The applicant shall connect to the City of Bonney Lake water system. All water connection fees are due at time of building permit issuance.

SEWER
1. The applicant shall connect to the City sewer system. All sewer connection fees are due at the time of building permit issuance.

PARKING
1. Parking shall be provided as required by BLMC Chapter 18.31.

LANDSCAPING
1. Approval for land clearing and tree removal is required per BLMC Chapter 16.12, including adherence to all regulatory requirements of the Chapter.
2. The applicant shall submit a landscape and irrigation plan, pursuant to BLMC Chapter 16.12, to the Planning & Community Development Department for review and approval.
3. Landscaping shall be installed and approved by the Planning & Community Development Department prior to building occupancy.
4. The applicant shall submit a maintenance bond for all required landscaping areas and replacement trees for a period of one year after installation.

FIRE
1. Fire hydrants and mains capable of providing the required fire flow shall be provided in accordance with UFC Section 903.2 and the City of Bonney Lake, Public Works Design Standards. Fire hydrant location shall be approved by the Fire Marshal.

TACOMA-PIERCE COUNTY HEALTH DEPARTMENT
1. In accordance with the SEPA review letter received from the Tacoma-Pierce County Department of Health dated March 25, 2004:
   a. Materials containing asbestos must be removed prior to demolition of on-site structures. Disposal must be in accordance with state and local regulations.
   b. Tacoma-Pierce County Health Department requires that when an on-site sewage disposal system is abandoned a Decommissioning Application must be completed and all tanks must be pumped by a certified septic tank hauler and filled with soil.

"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."
c. All wells that will not be included in the public water system for this project must be properly “Decommissioned” per WAC 173-160 prior to final application approval. The TPCHD must be contacted 48 hours prior to any decommissioning activity on the site.

d. All wells must be properly decommissioned in accordance with Tacoma-Pierce County Health Department regulations.

**Finding: All the conditions of the MDNS have been satisfied.**

3. All roads within and providing access to the plat shall be designed and built to Bonney Lake Design Standards, except as otherwise approved by the City of Bonney Lake.

**Finding: All utility easements are provided for on the face of the final plat.**

4. All cul-de-sacs shall be constructed with a fifty foot radii with at least 45 feet paved.

**Finding: The cul-de-sac meets this requirement.**

5. 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. The affected purveyors shall be contacted prior to development of the final plat for their specific easement requirements.

**Finding: This requirement has been met.**

6. To ensure safe walking conditions for the public and students who walk to and from school or take the bus, concrete sidewalks shall be installed on both sides of the internal plat roadways and constructed to the Public Works Design Standards.

**Finding: Sidewalks were installed, inspected and approved on May 16, 2007.**

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

**Finding: This will occur concurrently with the recording of the final plat.**

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

**Finding: A final landscape plan has been approved by the City of Bonney Lake on September 13, 2006.**

9. Bulk and dimensional standards shall be noted on the final plat mylar as shown below:

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<th>Standard</th>
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<td>Minimum Lot Area</td>
<td>10,000 Square Feet</td>
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<tr>
<td>Minimum Lot Width</td>
<td>55 feet</td>
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<tr>
<td>Minimum Front Setback</td>
<td>20 feet</td>
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"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."
Minimum Rear Setback | 20 feet
Minimum Interior Setback | 5 feet minimum with a combined total of 15 feet
Maximum Height | 35 feet

Finding: This chart is included on page two of the plat maps.

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

Finding: The applicant has bonded for the street trees.

11. Tract A, containing storm drainage facilities, shall be dedicated to and maintained by the City of Bonney Lake.

Finding: This condition will be met concurrently with the recording of the final plat map.

12. 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.

Finding: These plans were approved by the City on November 10, 2005.

13. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to ________” (groundwater, wetlands, or lake, etc. as appropriate.)

Findings: All storm drains within the development are stenciled with the appropriate language as of May 16, 2007.

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

Findings: A Department of Ecology General Baseline Permit was not required.

15. 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 right-of-way and / or adjacent properties.

Findings: This condition was met with the approval of Plans on November 10, 2005.

16. 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 the 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.

Finding: This condition was monitored throughout the construction of the infrastructure and will apply during the construction of homes.

17. All work associated with stabilizing slopes and other disturbed areas shall be in accordance with Chapter 15.20.

Findings: Watering trucks were used to control fugitive dust during the grading of the site.

"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."
18. To mitigate noise impacts associated with the proposal, all construction shall occur between the hours of 7:00 am to 9:00 pm unless otherwise authorized by the Department of Planning and Community Development.

   **Findings:** This condition was satisfied during grading of the site and will be met during construction of homes as monitored by the City of Bonney Lake Planning and Community Development Department.

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

   **Findings:** No right-of-way was affected by this development.

20. 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.

   **Findings:** This condition will be met at building inspection time.

21. 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.

   **Findings:** This condition was met as evidenced by the issuance of a Grading permit on August 25, 2005.

22. 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, including contacting the Army Corps of Engineers and the Washington State Department of Ecology if required prior to commencing clearing and grading activities.

   **Finding:** Site development plans were approved on November 10, 2005 and a Grading permit was issued on August 25, 2005.

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

   **Findings:** Fire hydrants and mains were provided for this final plat as evidenced by the site inspection approval dated May 16, 2007.

24. 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.

   **Findings:** As-buils were approved as of May 16, 2007.

25. 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.

   “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.”
Findings: The applicant obtained water availability from the City of Bonney Lake. Water mains and hydrants have been installed to provide the required fire flow.

26. 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).

Findings: This condition was met as evidenced by an issued Demolition permit in September of 2005.

27. 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.

Findings: This condition was met and a demolition permit was issued in September of 2005.

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

Findings: There was no abandoned well on the property.

29. As part of the final plat process, the applicant shall provide the necessary instrument to ensure the perpetual maintenance of all non-dedicated access ways and all other areas used or available for use in common by the occupants of the PUD.

Findings: This condition will be met in conjunction with the filing of the final plat.

30. 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.

Findings: This condition will be met at time of building permit issuance.

31. 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.

Findings: Legacy Park is exempt from obtaining a Forest Practices permit.

32. The applicant shall pay a mitigation fee consistent with the Pierce County School Impact Fee Ordinance upon issuance of a building permit per the Summer School District’s letter of March 17, 2004. 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.

Finding: This condition will be met at building permit issuance.

33. Applicant shall provide half street frontage improvements to City standards for a local access street along 70th Street East. Extend improvements beyond the frontage as required to provide entering sight and stopping sight distance in conformance with the American Association of State Highway Transportation Officials (AASHTO)
criteria. Include improvements to the existing width of the opposite portion of the roadway along the construction limits. Applicant shall reconstruct existing utilities within 70th Street East impacted by the street improvements. Applicant shall secure construction and permanent easements from adjoining property owners as required to perform the work.

**Finding: This condition has been met and approved as of May 16, 2007.**

34. The site plan shall be amended to modify the side setbacks for Lot 5 and Lot 6 prior to final plat approval. Per 18.04.190, four-sided corner lots shall have two side setbacks, and one of the side setbacks shall be a minimum of 10 feet. The side setbacks for Lot 5 and Lot 6 are shown currently on the proposed preliminary plat map as 5-foot for both side setbacks.

**Finding: Lot 5 has been reconfigured since the original site plan was conditioned by the Hearing Examiner due to sight distance issues. The building footprint on Lot 6 has been adjusted to meet this condition.**

35. The site plan shall be revised to show the impacts of the wetland buffer of the wetland located on the adjacent property to the south to the proposed Lot 1.

**Finding: This condition is met on page two of the Final Plat maps.**

**ADHERENCE WITH BONNEY LAKE REQUIREMENTS FOR FINAL PLAT (BLMC 17.16):**

17.16.010 Time for filing
   A. Within five years after approval of the preliminary plat by the hearing examiner, a final plat shall be filed with the director of planning and community development.

**Finding:** The preliminary plat was approved on September 27, 2004. Therefore, the final plat application deemed complete on December 22, 2006 complies with the requirements of BLMC 17.16.020 – Time for filing.

17.16.020 Application requirements.
The person applying for final plat approval shall furnish the following when the final plat is submitted:
   A. Final plat drawings clearly and legibly drawn on 18- by 24-inch sheets of stable base mylar polyester film or equivalent approved material, which generally conform to the approved preliminary plat and include:
      1. All township, range, section lines and municipal boundaries lying within or adjacent to the subdivision;
      2. The location of survey monuments or other evidence used as ties to establish the subdivision’s boundaries;
      3. The location of all permanent control monuments found and established within and adjacent to the subdivision;
      4. The boundary of the subdivision, depicted in heavier lines than appear elsewhere on the plat, with complete bearings and lineal dimensions with ties to monumentation;
      5. The boundaries of all lots and blocks and rights-of-way, including the length and bearings of all straight lines and the radii, arc lengths, semitangents and delta angle of all curves, with radial bearings at the beginning and ending of all nontangent curves;
      6. The width, centerline, and name or number of all streets within and adjoining the subdivision;
      7. The width, disposition, and description of all easements with the location shown with broken lines;

"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."
Finding: The final plat document meets the requirements of BLMC Section 17.16.020.

NOTE ON RECORDING OF FINAL PLATS
1. The applicant shall record the final plat once signed by the Mayor.
2. The applicant shall transmit an original, signed copy of the Covenants, Conditions, and Restrictions (CC&Rs) for the plat for concurrent recording with the final plat.
3. The applicant shall submit one mylar copy and one paper copy of the recorded final plat to the Department of Planning and Community Development.

PROPOSED CONDITIONS OF FINAL PLAT APPROVAL RECOMMENDATION:
Staff recommends approval. A suitable motion would be: "Moved to approve the final plat of Legacy Park based on the findings in the attached Staff Report dated 6/7/07."

1. The applicant shall record the final plat once signed by the Mayor.
2. The applicant shall transmit an original, signed copy of the Covenants, Conditions, and Restrictions (CC&Rs) for the plat for concurrent recording with the final plat.
3. The applicant shall submit one mylar copy and one paper copy of the recorded final plat to the Department of Planning and Community Development.

Staff Report prepared by: Heather Stinson, Associate Planner

"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."
LEGACY PARK
CITY OF BONNEY LAKE
A PORTION OF THE SE 1/4 OF THE NE 1/4 OF SECTION 20 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON
A REPLIT OF LOTS 17 AND 18, GARDEN ACRES

NOTICE: A PORTION OF THIS SITE LIES WITHIN A WETLAND BUFFER, AS DEFINED WITHIN THE CITY OF BONNEY LAKE MUNICIPAL CODE. RESTRICTIONS ON USE OR ALTERATION OF THE SITE MAY EXIST DUE TO NATURAL CONDITIONS OF THE SITE AND RESULTING REGULATIONS.

ADDRESS TABLE

<table>
<thead>
<tr>
<th>LOT</th>
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<tbody>
<tr>
<td>LOT 1</td>
<td>7023 / 7025 180TH AVE. E.</td>
</tr>
<tr>
<td>LOT 2</td>
<td>7021 / 7023 180TH AVE. E.</td>
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<tr>
<td>LOT 3</td>
<td>7027 / 7029 180TH AVE. E.</td>
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<td>LOT 4</td>
<td>7029 / 7031 180TH AVE. E.</td>
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<td>LOT 6</td>
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<td>LOT 7</td>
<td>7007 / 7009 180TH AVE. E.</td>
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<td>LOT 8</td>
<td>7001 / 7003 180TH AVE. E.</td>
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September 27, 2004

Walter Sweatman
c/o Legacy Park LLC
P.O. Box 7015
Bonney Lake, WA 98390

RE: LEGACY PARK PRELIMINARY PLAT

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. CAUSSEAX, 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.: LEGACY PARK PRELIMINARY PLAT

APPLICANT: Walter Sweatman
c/o Legacy Park, LLC
P.O. Box 7015
Bonney Lake, WA 98390

OWNER: Legacy Park, LLC
P.O. Box 7105
Bonney Lake, WA 98390

SUMMARY OF REQUEST:

The applicant is requesting preliminary plat approval to subdivide a 3.43 acre site in the R2 zone into ten residential lots at 17807 & 17813 – 70th Street East.

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 August 30, 2004, at 9:00 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" - Aerial Photograph (large map)
EXHIBIT "3" - Wetland Area Study

ELIZABETH CHAMBERLAIN appeared, presented the Planning and Community Development Department Staff Report, and testified that the R2 zone classification allows duplexes with a minimum lot size of 10,000 square feet. The applicant submitted a completed application for preliminary plat approval when the site was located in the R1 designation of the city comprehensive plan. However, the site was located within the R2 zone classification, and subsequent to the filing of the application, the City amended the comprehensive plan to Medium Density Residential consistent with the zone. An off-site wetland affects the south portion of the site and development will not impact the buffer.

WALTER SWEATMAN, applicant, appeared and testified that they propose two-story, two bedroom units served by a public road and public utilities. Their drainage system will consist of a bioswale for cleaning water prior to discharge. They recognize a sight distance problem at the intersection and will reduce the grade on 70th.

JUDY HAMILTON appeared and testified that her main concern is traffic. People presently use 70th as a thoroughfare and SR-410 bypass. It has become harder to exit her driveway. The access road is located in a valley and the hills interfere with sight distance. Traffic moves fast and the development will create a lot more traffic on the road. They have no sidewalk and she anticipated 40 cars in and out of the site at peak periods.

KATHLEEN BOHM appeared and testified that she resides next door to the project and has lived there 42 years. She has trouble with duplex residences next door. People throw clippings and garbage onto their site. Standing water is on the site now and she believes it contains a wetland. Five school buses pass her house now and the development will create much more traffic.

EVAN TWOMBLY appeared and expressed concern about the infiltration pond as he felt it was not located at the lowest level of the plat. The wetland buffer will impact the structures as planned, and they should designate one lot for a playfield and open area as no playgrounds exist in the area. They could move the street access to either side and increase the sight distance. He questioned the water drainage from the street. He dug down and hit clay eight feet below the surface. He questioned whether they checked to see if the storm water would perc into the ground.

TIM JACOBSON appeared and testified that he lives across 70th from the site in the dip. His driveway is in the dip, and even though the hills are not tall, traffic comes over them quickly. Pedestrians immediately get off the road. The proposed driveway is directly between the two hills and access will be miserable from a traffic point of view. More structures will be located on this site than on the entire block. He estimates about two to 2.2 cars per family. His family bought his parcel in 1963, and he bought it on the death of
his parents. Large parcels in the area provide privacy and the area remains quite rural. All people who reside there bought for the same reason. Now, when someone sells, the purchaser will develop it. The area has no bus routes, sidewalks, or public transportation. Another application for this site was denied.

JOHN PEDRESO appeared and testified that he also resides in the area and has owned his parcel for 40 plus years. This project will negatively impact the community and the City as well. He has previously served on the City Council. Accidents will occur and people have died due to the hills. The hills are high enough to block views. No one can see in either direction at the bottom of the hill. Cars travel at a rapid rate and the police cannot enforce the speed limit. School buses pass the site every morning and evening. The project will also have a negative impact on the environment and will endanger a bird sanctuary and wetland. This project is not designed to help the community, but to make money quickly and then leave the area. Bringing down the hills would require cutting by ten feet and would include relocating a major phone line, sewer, and water lines. He encouraged preservation of the environment and the area.

ROY NISHIYORI appeared and testified that traffic is his main concern, and that 20 units will bring a considerable number of people to the area. While the project may be consistent with the zoning, it does impact the environment and existing residents. The streets have no sidewalks or shoulders and blind hills. He cannot see over the hill. He encourages planned, responsible growth as opposed to uncontrolled growth. The Police Department cannot fill a vacant position, and they need more fire and police protection.

DIANA LARSON appeared and testified that traffic is her major concern and that residents of the area must drive everywhere to include shopping and schools. It is dangerous exiting her driveway.

CAROL TWOMBLEY appeared and testified that the project will affect their quality of life. They own 2.5 acres which they purchased 15 years ago and built their dream home. They have 1.5 acres of woods and wetland and are concerned with the impacts of 20 families. Fox and owls reside in the area and trees keep the climate cool and mild. They have a special needs daughter who has no fear of people and therefore has a high risk of abuse. The project will create a transient neighborhood which may put her at risk.

MS. BOHM reappeared and testified that drivers pass school buses and her car as well.

BILL MOATS, professional engineer, appeared and testified that they recognized the hill right away. He knows of the utilities and took that into consideration. They will lower the utilities and will redo the road profile to meet City standards. The storm drainage pond will have positive drainage as they will raise the lots on the east side of the road.

MS. CHAMBERLAIN reappeared and testified that a Type 2 wetland requires a 50 foot
wide buffer and that the applicant will install sidewalks on 70th along the plat frontage. The access must meet required sight distance and the storm drainage must meet the 1999 Storm Manual. City ordinances do not require a recreational area, but when the homes are built, the applicant must pay park impact fees. The applicant must also comply with the traffic impact fee ordinance plus construct the road improvements. The Traffic Impact Analysis anticipates 16 additional peak hour trips generated by the project.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 9:46 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, viewed the property, heard testimony, and taken this matter under advisement.

2. Appropriate notice was provided.

3. Pursuant to the State Environmental Policy Act (SEPA) and the City of Bonney Lake

4. The applicant has a possessory ownership interest in a rectangular, 3.43 acre parcel of property abutting the south side of 70th St. E. approximately half way between its intersections with 181st Avenue E. and Meyers Road East within the City of Bonney Lake. The applicant requests preliminary plat approval to allow subdivision of the site into ten duplex residential lots. Improvements on the site include a single family residential dwelling, two mobile homes, and accessory structures, all of which the applicant will remove prior to development.

5. The parcel abuts 70th St. E. for 310 feet and measures 487 feet in depth. The northern portion of the site near 70th St. E. has been cleared, but the southern portion of the site remains heavily treed. Abutting uses include a residential duplex, and mobile home on the lot to the east, a mobile home and accessory structures on the lot to the west, a single family residential home on the lot to the south, and single family residential homes north of 70th St. E.

6. The preliminary plat map shows access provided by a single, internal plat road extending south from 70th St. E. near the center of the site and terminating in a cul-de-sac. All lots will access onto the internal plat road, and lot sizes vary between 11,059 square feet and 12,272 square feet. A 10,318 square foot storm drainage
facility which will include a biofiltration swale and infiltration pond extends between
the east property line of the parcel and the eastern edge of the cul-de-sac near the
southeast corner of the site. A Type 3 wetland located off site to the south requires
a 50 foot wide buffer. A portion of said buffer will extend onto Lot 1, but will not
interfere with development thereof. No wetlands exist on the site itself.

7. The applicant submitted a completed application for preliminary plat approval on
November 24, 2003. On said date the Bonney Lake Comprehensive Plan
designated the site as Low Density Residential (R1) which authorized single family
dwellings on platted lots with densities of three to five dwelling units per acre.
Subsequent to submittal of the application, the Bonney Lake City Council amended
the comprehensive plan to place the site and surrounding area within the Medium
Density Residential (R2) designation which authorizes duplex development with a
density of between five and nine dwelling units per acre.

8. The project satisfies the goals, objectives, and policies of the comprehensive plan
which discourage “typical sprawling, or low density development”, as the plan finds
such development very consumptive of land. The plan notes that the Growth
Management Act (GMA) encourages urban growth in urban areas where public
facilities and services are available. Development of parcels with urban densities
avoids converting undeveloped land into low density residential lots. Objective 2-2
of the plan encourages reduction of the consumption of land and discourages urban
sprawl within the City’s developed areas. The plan also provides that “New
developments must be more compact, mixed use should be encouraged…”. Policy
2-6(a) encourages compact development where urban services can be efficiently
provided. Policy 3-3(a) requires the continuation of zoning for apartments, duplexes,
and small lot development. The project generally complies with the goals,
objectives, and policies of the comprehensive plan although it does not propose the
maximum density allowed. The net developable acreage measures 2.62 acres
which, under the R2 classification and comprehensive plan designation, would allow
24 units or two additional duplexes on site. The density calculates to 7.6 dwelling
units per acre which is approximately half-way between the five to nine units per
acre authorized.

9. The site is located within the R2 zone classification of the Bonney Lake Municipal
Code (BLMC). Section 18.16.010 BLMC sets forth the general intent of the R2
classification which is to establish medium density residential neighborhoods at a
density of five to nine dwelling units per acre. Section 18.16.020 BLMC authorizes
duplexes as outright permitted uses. Section 18.16.050 BLMC requires a minimum
lot size of 10,000 square feet, a minimum lot width of 55 feet, and a maximum
height of 35 feet for duplex development. The preliminary plat map shows all lots
exceeding 10,000 square feet and 55 feet in width, and no structure may exceed
35 feet in height. The rectangular shape of the lots will ensure that builders can
10. Section 17.12.060 BLMC authorizes the Examiner to accept, modify, or reject applications for preliminary plats in accordance with the provisions of Section 2.18.150 BLMC. Section 2.18.090(A) BLMC authorizes the Examiner to issue decisions approving or disapproving preliminary plats. According to Section 14.40.031 BLMC, preliminary plats are considered under Type II review. Section 14.40.050 BLMC sets forth the criteria for Type II reviews. Findings on each criteria are hereby made as follows:

A. As previously found, the proposed subdivision is consistent with the comprehensive plan and will meet the intent and all requirements of the BLMC.

B. The project makes appropriate provision for open spaces, parks and recreation facilities, and playgrounds in accordance with adopted City standards. The ten lot subdivision will have a 10,318 square foot storm drainage tract and must also pay park impact fees to the City. The BLMC does not require open space for a ten lot subdivision.

C. The applicant will collect storm drainage runoff and direct it to Tract A where it will flow through a biofiltration swale before entering an infiltration pond. All stormwater will infiltrate into the ground on site. The plat makes appropriate provision for drainage ways.

D. The applicant will construct the internal plat road to City public road standards within a 50 foot wide right-of-way. The applicant must improve the sight distance at the intersection of the internal plat road and 70th St. E. to City standards. Such will likely require raising the road grade at the bottom of the dip and reducing the height of the hills on both sides. Furthermore, the applicant must pay traffic impact fees in accordance with the City Transportation Impact Fee Ordinance of $1,658 per residential dwelling unit. The plat makes appropriate provision for streets and other public ways.

E. Pierce Transit has not requested transit stops and the site is not located on a transit route. The City will provide both potable water and sanitary waste to the site, and has water and sewer lines of sufficient size in 70th St. E. to provide such services to each residential dwelling. The applicant will size the water and sewer lines to each lot in accordance with City standards. The plat makes appropriate provision for transit stops, water supplies, sanitary waste, and utility services and facilities.
F. A mitigating measures in the MDNS requires the applicant to make a per
dwelling unit payment to the Sumner School District in accordance with the
Pierce County School Impact Fee Ordinance to offset the impacts on the
district of school aged children residing in the plat. Compliance with said
ordinance will assure that the plat makes appropriate provision for schools.
The applicant must construct sidewalks on both sides of the internal plat road
and will also deed five feet of right-of-way to the City across the plat frontage
for 70th St. E. The applicant will also construct a sidewalk across the plat
frontage on the south side of 70th St. E. The plat therefore makes
appropriate provision for safe passage for students.

G. The applicant has adequately mitigated significant adverse environmental
impacts identified by the City environmental official during SEPA review. The
environmental official issued a Mitigated Determination of Nonsignificance
on July 21, 2004, and received no appeals. Thus, SEPA review is final.

H. The preliminary plat will benefit the public health, safety, and welfare and
serve the public interest by providing an attractive location for a duplex
residential subdivision in accordance with the goals and objectives of the
comprehensive plan and in accordance with the R2 zone classification.

I. The preliminary plat will not lower the level of service of existing City park
facilities, and mitigating measures will ensure the project does not lower the
transportation level of service requirements.

J. The area, location, and features of land proposed for dedication (five feet of
right-of-way) are a direct result of the development proposal, are reasonably
needed to mitigate the effects of the development, and are proportionate to
the impacts created by the development. The applicant will dedicate the
internal plat road and the storm drainage facilities to the City following their
construction to City standards.

11. Substantial and understandable concerns were raised by residents of the area
regarding the significant increase in density proposed by the plat as compared with
the surrounding area. Property owners assert that approval of dense subdivisions
will change the character of the area, adversely affect their lifestyles and property
values, and create the need for additional services. These concerns are akin to
those addressed by the Washington Supreme Court in the case of SORE v.
Snohomish County, 99 Wn. 2d 363 (1983). In SORE, Snohomish County adopted
a new comprehensive plan which identified appropriate land for industrial
development and business parks. At the time of plan adoption, an area identified
by the plan for industrial development consisted of agricultural land and houses on
substantial acreage. The applicant requested a zone reclassification to industrial
uses, approval of which would implement the newly adopted comprehensive plan. The Washington Supreme Court quoted favorably from the Snohomish County Hearing Examiner's decision as follows:

If such implementation [of the plan] were not allowed to occur until physical or developmental circumstances in the area have changed, a new comprehensive plan might never be fulfilled: If an area is presently undeveloped and a newly amended comprehensive plan calls for industrial development, no industrial development may occur until at least one industrial rezone has been granted. If the rezone itself cannot occur because land development patterns have not changed in the area then the industrial development will most likely never have the opportunity to occur. 99 Wn. 2d 363 at 370.

In the present case, the applicant does not request a zone reclassification, but approval of a subdivision in an urban growth area consistent with both the comprehensive plan and zoning regulations adopted by the Bonney Lake City Council. As in SORE, supra, this urban growth area cannot develop in accordance with the Council's determination unless subdivisions in accordance with R2 densities are approved. Even though the first subdivisions will be inconsistent with existing development, the City Council has determined that this area of the City is appropriate for densities of between five and nine dwelling units per acre. While all agree that the subdivision proposes much smaller lots and a higher density than abutting properties, the subdivision is consistent with the R2 zone classification and future development of the area as contemplated by the comprehensive plan.

12. RCW 36.70B.040 requires a local government to determine a proposed projects consistency with its development regulations adopted pursuant to Chapter 36.70A RCW, the Growth Management Act. Said section provides that in determining consistency of a particular project "the determinations made pursuant to RCW 36.70B.030(2) shall be controlling". One of the controlling determinations set forth in RCW 36.70B.030(2) is:

Density of residential development in urban growth areas.

Thus, since the applicant has established that the project satisfies the density authorized in the comprehensive plan and BLMC as properly adopted by the City Council, and since these densities are controlling when considering a project's consistency with the plan and code, the proposed plat must be considered consistent with adjacent and nearby densities. Construction of duplexes on smaller lot sizes than single family homes on abutting properties does not create an inconsistent or incompatible use or feature that would not allow orderly integration
or operation with other elements of the system. Smaller lot sizes and duplexes in and of themselves do not prohibit harmonious, agreeable, or friendly association with others.

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 of Legacy Park is consistent with the City of Bonney Lake Comprehensive Plan and the R2 zone classification of the Bonney Lake Municipal Code.

3. The applicant has also established that the request satisfies all criteria set forth in Section 14.40.050 BLMC for Type II reviews. Therefore, the proposed preliminary plat should be approved subject to the following conditions:

1. The proposal shall conform to the following City of Bonney Lake regulations and standards:
   - BLMC Title 12 – Streets, Sidewalks, and Public Places
   - BLMC Title 15 – Buildings and Construction
   - BLMC Title 16 – Environmental Protection
   - BLMC Title 17- Subdivisions
   - BLMC Title 18 – Zoning
   - BLMC Title 19 – Concurrency Management
   - City of Bonney Lake Development Policies and Public Works Design Standards


3. All roads within and providing access to the plat shall be designed and built to Bonney Lake Design Standards, except as otherwise approved by the City of Bonney Lake.

4. All cul-de-sacs shall be constructed with fifty-foot radii with at least 45-feet paved.

5. 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. The affected purveyors shall be contacted prior to development of the final plat for their specific easement
requirements.

6. To ensure safe walking conditions for the public and students who walk to and from school or take the bus, concrete sidewalks shall be installed on both sides of the internal plat roadways and constructed to Public Works Design Standards.

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

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

9. Bulk and dimensional standards shall be noted on the final plat mylar as shown below:

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<th>Standard</th>
<th>Approved</th>
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<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>10,000 square feet</td>
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<tr>
<td>Minimum Lot Width</td>
<td>55 feet</td>
</tr>
<tr>
<td>Minimum Front Setback</td>
<td>20 feet</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>20 feet</td>
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<tr>
<td>Minimum Interior Setback</td>
<td>5 feet minimum with a combined total of 15 feet</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35 feet</td>
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</table>

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

11. Tract A, containing storm drainage facilities, shall be dedicated to and maintained by the City of Bonney Lake.

12. 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.

13. All storm drains within the development shall be stenciled “Dump NO Waste, Drains to_____________” (groundwater, wetlands, or lake, etc. as
appropriate).

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

15. 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.

16. 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 use roads and associated areas as necessary to prevent the travel of dust.

17. All work associated with stabilizing slopes and other disturbed areas shall be in accordance with Chapter 15.20.

18. To mitigate noise impacts associated 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.

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

20. 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.

21. 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 Tacoma-Pierce County Health department prior to filling.

22. 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, including contacting the Army Corps of Engineers and the Washington State Department of Ecology prior to commencing clearing and
grading activities.

23. 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.

24. 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.

25. Prior to approval of the water supply for this development, a Certificate of Water Availability shall be required as per WAC 246-290 and 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.

26. 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).

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

28. 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.

29. As part of the final plat process, the applicant shall provide the necessary instrument to ensure the perpetual maintenance of all non-dedicated access ways and all other areas used or available for use in common by the occupants of the plat.

30. 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.

31. 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.

32. 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 March 17, 2004. 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.

33. Applicant shall provide half street frontage improvements to City standards for a local access street along 70th Street East. Extend improvements beyond the frontage as required to provide entering sight and stopping sight distance in conformance with the American Association of State Highway Transportation Officials (AASHTO) criteria. Include improvements to the existing width of the opposite portion of the roadway along the construction limits. Applicant shall reconstruct existing utilities within 70th Street East impacted by the street improvements. Applicant shall secure construction and permanent easements from adjoining property owners as required to perform the work.

34. The site plan shall be amended to modify the side setbacks for Lot 5 and Lot 6 prior to final plat approval. Per 18.04.190, four-sided corner lots shall have two side setbacks, and one of the side setbacks shall be a minimum of 10 feet. The side setbacks for Lot 5 and Lot 6 are shown currently on the proposed preliminary plat map as 5-feet for both side setbacks.

35. The site plan shall be revised to show the impacts of the wetland buffer of the wetland located on the adjacent property to the south to the proposed Lot 1.

DECISION:

The request for preliminary plat approval of Legacy Park is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 27th day of September, 2004.

[Signature]

STEPHEN K. CAUSSEAX, JR.
Hearing Examiner
TRANSMITTED this 27th day of September, 2004, to the following:

APPLICANT: Walter Sweatman
c/o Legacy Park, LLC
P.O. Box 7015
Bonney Lake, WA 98390

OWNER: Legacy Park, LLC
P.O. Box 7105
Bonney Lake, WA 98390

OTHERS:

<table>
<thead>
<tr>
<th>Diana Larson</th>
<th>John C. Pedreso</th>
</tr>
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<tr>
<td>18003 – 70th St. E.</td>
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<tr>
<td>Bonney Lake, WA 98390</td>
<td>Bonney Lake, WA 98390</td>
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<tr>
<td>Bill Moats</td>
<td>Tim Jacobson</td>
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<td>10704 SR 162</td>
<td>17814 – 70th St. E.</td>
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<tr>
<td>Puyallup, WA 98371</td>
<td>Bonney Lake, WA 98390</td>
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<tr>
<td>Roy Nishiyori</td>
<td>Judy Hamilton</td>
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<td>18008 – 70th St. E.</td>
<td>7016 181st East</td>
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<td>Bonney Lake, WA 98390</td>
<td>Sumner, WA 98390</td>
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<tr>
<td>Jerry and Donna Goings</td>
<td>Evan &amp; Carol Twombly</td>
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<tr>
<td>2519 – 41st St. SE</td>
<td>17808 Bonney Lake Blvd.</td>
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<tr>
<td>Puyallup, WA 98374</td>
<td>Bonney Lake, WA 98390</td>
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<tr>
<td>Kathleen Bohm</td>
<td></td>
</tr>
<tr>
<td>7015 – 181st Avenue E.</td>
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<td>Bonney Lake, WA 98390</td>
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CITY OF BONNEY LAKE
Planning and Community Development Department
Attn: Elizabeth Chamberlain
P.O. BOX 7380
19306 BONNEY LAKE BLVD.
BONNEY LAKE, WA 98390-0944
CASE NO.  LEGACY PARK PRELIMINARY PLAT

NOTICE

Pursuant to City of Bonney Lake, this decision becomes final and conclusive on October 15, 2004, 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 October 6, 2004, 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 October 15, 2004.

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

Department/Staff Contact: Admin Srvc/Edvalson
Council/Wrkshp Mtg Date: June 12, 2007
Agenda Bill Number: AB07-140
Ordinance Number: 1706
Resolution Number:

BUDGET INFORMATION

2007 Budget Amount Required Expenditure Impact Remaining Balance

Explanation: Costs of an appeal will be an expense to the General Fund.

Agenda Subject: A Resolution Authorizing An Appeal In The Matter Of Milestone Homes, Inc. V. City Of Bonney Lake, Cause No. 07-2-05050-2.

Administrative Recommendation: Authorize the City Attorney to pursue an appeal on behalf of the City of Bonney Lake to obtain a reversal in the case of Milestone Homes, Inc. v. City of Bonney Lake, Cause No. 07-2-05050-2.

Background Summary:

Milestone Homes, Inc. brought a legal action in Pierce County Superior Court under the Land Use Petition Act (LUPA), seeking reversal of the City Council’s January 16, 2007 denial of Milestone’s preliminary plat application for Orchard Grove II. Pierce County Superior Court Judge Thomas Larkin entered an order on June 8, 2007 reversing the City Council’s order. City staff and legal counsel believe the order of the Superior Court is erroneous, and could have a substantial negative impact on the City’s ability to enforce its zoning laws and subdivision density requirements.

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

Council Action:
Council Call for Hearing: Council Hearings Date:
Council Referred Back to: Workshop: Committee:
Council Tabled Until: Council Meeting Dates: June 12, 2007

Signatures:
Dir. Authorization Mayor Date City Attorney Reviewed:
06/08/07
RESOLUTION NO. 1706


WHEREAS, Milestone Homes, Inc. brought a legal action in Pierce County Superior Court under the Land Use Petition Act (LUPA), seeking reversal of the City Council’s January 16, 2007 denial of Milestone’s preliminary plat application for Orchard Grove II; and

WHEREAS, Pierce County Superior Court Judge Thomas Larkin entered an order on June 8, 2007 reversing the City Council’s order; and

WHEREAS, Council believes the order of the Superior Court is erroneous; and

WHEREAS, the Order of the Superior Court could have a substantial negative impact on the City’s ability to enforce its zoning laws and subdivision density requirements;

NOW THEREFORE, the City Council of the City of Bonney Lake, Washington, does hereby resolve that the City Attorney is authorized to appeal and take any and all other action necessary to obtain a reversal in the case of Milestone Homes, Inc. v. City of Bonney Lake, Cause No. 07-2-05050-2.

PASSED BY BONNEY LAKE CITY COUNCIL this 12th day of June, 2007.

______________________________
Neil Johnson, Mayor

ATTEST:

______________________________
Harwood T. Edvalson, CMC, City Clerk

APPROVED AS TO FORM:

______________________________
City Attorney Jim Dionne