

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed:
FROM: Becky Rogers	Ext. 380
DEPARTMENT: Central Operations	Consent Agenda_____
DATE: 4/2/2013	No.

ITEM: Concurrence of appointment of Regina King and Hal Blanton to the Timberland Regional Library Board of Trustees, representing Lewis County, for a term ending December 31, 2015 and December 31, 2019 respectively.

Planning Commission: N/A

Background: Timberland Regional Library sent a letter dated March 11, 2013 requesting consideration of concurrence of the appointment of Regina King and Hal Blanton to fill positions that were held by Edna Fund and John Braun who resigned effective December 31, 2012. The appointments are to complete the unexpired seven-year terms.

Recommended Action: **Move to concur with the appointment of Regina King and Hal Blanton to the Timberland Regional Library Board of Trustees, representing Lewis County, for a term ending December 31, 2015 and December 31, 2019 respectively.**

Attachments: Letter of Appointment to TRL

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed:
FROM: Shannon Goudy	Ext. 419
DEPARTMENT: Central Operations	Consent Agenda _____
DATE: April 2, 2013	No. 8.

Comment [D1]: If there are legal notification requirements please discuss with Diane, ext. 419.

ITEM: Approval of Lodging Tax Fund Application for: Mason Area Fair in the amount of \$15,000, as recommended by the Lodging Tax Advisory Committee.

Background: The Lodging Tax Advisory Committee has reviewed and recommended approval of the following applications.

Recommended Action: Approval of Lodging Tax Fund Application for: Mason Area Fair in the amount of \$15,000, as recommended by the Lodging Tax Advisory Committee.

Attachments: Grant application

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed:
FROM: Barbara A. Adkins	Ext. 286
DEPARTMENT: Community Development	Public Hearing
DATE: April 2, 2013	No.

Item: A public hearing to consider adoption of amendments to Title 17 of the Mason County Code pertaining to the zoning of Collective Gardens (medical cannabis) or extend the current Moratorium for six months and to expire on May 8, 2013.

Background: RCW 69.51A Medical Cannabis allows, in part, qualifying patients to create and participate in “collective gardens” (RCW 69.51A.085). Collective gardens “means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants. Amendments to RCW 69.51A also provide that Counties can adopt and enforce zoning regulations pertaining to the dispensing of cannabis in their jurisdiction (RCW 69.51A.140). Mason County is currently under a Moratorium to expire on May 8, 2013 while zoning regulations are considered. Amendments to Title 17 regulating the location of collective gardens are ready for consideration by the Board of County Commissioners. The Moratorium will expire on May 8, 2013 unless extended by the Board.

Recommended Action:

Board of County Commissioners hereby adopts amendments to Title 17 regulating collective gardens.

Board of County Commissioners table/deny the proposed amendments to Title 17 regulating collective gardens and extend the current Moratorium until October 2, 2013.

Board of County Commissioners hereby denies the proposed amendments to Title 17, and allows the current Moratorium to expire on May 16, 2012.

Attachments:

Ordinances



AMENDMENTS TO TITLE 17, ZONING COLLECTIVE GARDENS (MEDICAL CANNABIS)

STAFF CONTACT

Barbara A. Adkins, AICP, Director
Department of Community Development
426 W. Cedar Street
Shelton, WA 98584
(360) 427-9670, ext. 286

SUMMARY/CHRONOLOGY:

In April 29, 2011, Governor Gregoire approved Engrossed Second Substitute Senate Bill 5073 (ESSSB 5073), relating to the medical use of cannabis as it amends RCW 69.51A Medical Cannabis and allows, in part, qualifying patients to create and participate in “collective gardens”. Collective gardens:

means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

(RCW 69.51A.085)

Amendments to RCW 69.51A also provide that Counties can adopt and enforce zoning regulations pertaining to the dispensing of cannabis in their jurisdiction (RCW 69.51A.140). Mason County does not currently have in place any such regulations or requirements regarding collective gardens and has imposed a Moratorium on the establishment of new collectives until May 8, 2013.

During a public hearing held May 8, 2012, amendments to Title 17 were considered and denied by the Board of County Commissioners. Subsequently, the Moratorium was extended until November 8, 2012. The County is currently under a Moratorium until May 8, 2013.

The Commissioners continue to express interest in regulating collective gardens as allowed under state law. Therefore, amendments similar to those brought forward in the May 2012 are again being submitted for consideration in a public hearing on April 2, 2013 (Attachment A). The regulations now being proposed remain contextually consistent with the Planning Advisory Commission’s original recommendations. Formatting changes have been made along with the



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renumbering of some sections. A definition section has been added for easy reference, and a new section relating to violations has included for enforcement.

DISCUSSION/CONCERNS

The Mason County Board of Commissioners has approved a series of Moratoriums on collective gardens since state laws changed in 2011. A proposal for code amendments as allowed under the new state law was considered by the Board in May of 2012. At that time, the amendments were not adopted due to some apprehension and concern over the implications and, perhaps, the anticipation of additional change at the state level. As the current Moratorium nears its expiration, the Board has decided to review the code amendments again. This Staff Report and Attachments are provided for their consideration at this time. Revisions to the original amendments have been made for clarification and effectiveness. However, there remain unanswered questions and areas of concern putting the approval of any amendments under a cautious light.

The regulations presented with this report limit the location of collectives to some commercial and industrial areas of the County only. They are a permitted use within the noted zoning districts, and not required to obtain a special use permit. The attached proposed amendments include a new Section in the zoning code titled "Collective Gardens", along with amendments to other portions of the zoning code specific to those zoning districts where the gardens are allowed. While the zoning districts proposed as acceptable collective locations is not limited by the state law, the County is prohibiting from precluding such collectives within the jurisdiction.

PLANNING ADVISORY COMMISSION

The Planning Commission held two public hearings - March 19, 2012 and April 16, 2012. The amendments in Attachment A reflect the recommendations from that Commission.

RESEARCH

Efforts to put forth legislation that makes sense for Mason County included review of state, federal and local laws, as well as other materials as available. A poll conducted last year by the Washington Association of Counties shows that at the time, 86% of counties had either taken no action at the time or chosen to take no action at all. Lewis County has adopted regulations that were a coordinated effort between the Offices of Community Development, Health, and the Sheriff. Since Lewis County issues business licenses, many regulations within their Ordinance were not applicable or appropriate for Mason County. Further, the involvement of their Sheriff reflected a number of public safety requirements (e.g., video surveillance cameras, security officers, razor fencing, sign in logs, etc.) that have not been included as they are not practically enforceable by Community Development.

Requests for legal opinions on the crafting of these regulations, together with other tangential issues, has been made to Municipal Research and Services Center (MRSC) and to the Prosecuting Attorney's Office. Aside from the regulations themselves, two additional questions have arisen that

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are in need for further clarification or legal interpretation. The first is whether or not dispensaries are considered part of, or an extension of, a collective garden. That is to say that if the participants of a garden do not receive their cannabis at the actual location of the garden but at a separate facility, is that facility a dispensary or is it part of the garden. And, are dispensaries allowed to exist? Considering Mason County has several currently open that clearly do not grow plants on site, it is my opinion they do not meet the definition of gardens. If they are considered to be part of the collective "operation" then the current moratorium and proposed regulations would apply to them. If they are, in fact, dispensaries and not part of the gardens then they would not fall under the authority of the moratorium would need to be addressed by law enforcement. A memorandum from the Chief Deputy Prosecuting Attorney concurs that the distinction is unclear as Counties are permitted to the "delivery" of cannabis which could imply that it involves more than place. In the absence of anything more specific in the state law, the County could adjust its zoning code to address this issue. No specific language with respect to dispensaries has been added to the proposed amendments. Since the RCW does not define them or give local jurisdictions the ability to specifically regulate them through zoning, they have not been included. During the Planning Commissioner's meeting, they have requested the Board address dispensaries and our ability to regulate them.

A second issue associated with the argument of garden versus dispensary is our roll in the ones that currently exist. It is the practice of our department to require a Change in Tenant application for all businesses that move to a new location. This is a requirement of Title 14 of the Mason County Code that adopts by reference the International Building Code. The question now becomes whether or not we proceed with the Change in Tenant review and approval process. Since dispensaries are not defined under state law or county code, under what regulations would they be reviewed? If they are, in fact, not allowed under state law, would our approval of their Change in Tenant place the County in a position of permitting an illegal business? It is important that we place the community's interests first and ensure that buildings are safe for occupation and are properly equipped to deal with fires. But in doing so, in the interest of safety, are we permitting the continued operation of an illegal business?

A response to this question from Municipal Research and Services Center states:

I looked up this "Change of Tenant" permit in the county code, and it is not clear to me what that involves, what the building official looks at in order to issue the permit. But, regardless, the issuance of this permit does not relieve the tenant or building owner from complying with other county ordinances, such as that relating to zoning. Nor does issuance of the permit legally indicate county approval of that particular use at that particular location. Note Section 105.4 of the International Building Code (IBC), which is in effect in the county and which states in part: "The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction." And the courts in this state have emphasized that "a municipality is not precluded from enforcing zoning



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regulations if its officers have issued building permits allowing construction contrary to such regulations, have given general approval to violations of the regulations, or have remained inactive in the face of such violations." City of Mercer Island v. Steinman, 9 Wn. App. 479, 483 (1973).

So, the county could issue this change of tenant approval to make sure that there is building code compliance, without necessarily legally approving this use under the zoning code. But, it would seem to be advisable to specifically inform the tenant of that fact. And, it would be nice if the county commissioners provided some guidance as to how the county should approach dispensaries.

Considering the input from MRSC and the Prosecutor's Office, leads us to believe that we could go ahead with the Change in Tenant and/or change the zoning. However, knowing the Commissioners' official position on this would be most appropriate prior to placing any sort of approval considering the sensitive nature of all the issues being presently considered.

STATE ENVIRONMENT PROTECTION ACT (SEPA)

SEPA checklist was prepared for this request. Checklists for comprehensive plan amendments are typically considered "non-project" SEPA's since they are not project specific, but instead impact the county as a whole. A formal SEPA determination of non-significance was made on March 2, 2012. A copy of the checklist is not attached to this Staff Report but can be provided if requested.

PUBLIC NOTIFICATION

Public notice of this hearing was made in compliance with MCC 15.07.030. This Staff Report along with all supporting documents was also made available on the Mason County website at least fourteen (14) days prior to the hearing.

SUMMARY

Mason County has enacted a moratorium on the establishment of collective gardens in order to consider adoption of regulations. Regulations have been drafted with respect to the allowance of gardens with specific zoning districts. Under state law, it is within the County's authority to adopt such regulations; however, it is not mandated. Local jurisdictions may choose to restrict the location of collective gardens, but they may not choose to preclude them. It is now for the County to consider the proposed amendments. It is also within the County's ability to not adopt regulations at this time and either continue the moratorium or let it expire without amending the regulations.



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RECOMMENDATIONS

Staff is asking the Board of County Commissioners to consider the proposed amendments and to make one of the following determinations:

- 1) Adopt amendments as written
- 2) Adopt amendments with suggested edits
- 3) Table Amendments and continue the Moratorium
- 4) Deny Amendments and let the Moratorium expire

ORDINANCE NUMBER _____

AN ORDINANCE REPEALING THE MORATORIUM ON COLLECTIVE GARDENS, AND AMENDING TITLE 17, SECTIONS 17.04, 17.07, 17.23 AND 17.24, AND ADDING SECTION 17.09 TO THE MASON COUNTY CODE TO REGULATE COLLECTIVE GARDENS

AN ORDINANCE amending Title 17 (Zoning), Sections 17.04, 17.07, 17.23 and 17.24, and adding Section 17.09 of the Mason County Code under the authority of Chapter 36.70 and 36.70A RCW.

WHEREAS, on July 19 the Board of County Commissioners (“Board”) imposed a moratorium on collective gardens as defined in E2SSB 5073 for a period of ninety days; and

WHEREAS, the Board did adopt Findings in support of continued moratoriums, each for a six month period, ending on May 8, 2013; and

WHEREAS, the Board’s imposed a moratorium on medical marijuana because it was predicted that the Washington State Legislature would address the subject during the 2012 Legislative Session; and

WHEREAS, during the month of February 2012, it was learned that the Washington State Legislature would not be adopting any new regulations on medical marijuana; and

WHEREAS, the Board believes that the Governor’s veto of the provisions in ESSSB 5073 on the subject of medical marijuana dispensaries should be interpreted to mean that this use is prohibited by state law, and it is already prohibited under federal law; and

WHEREAS, the Board has considered the land use and other secondary impacts of cultivation of cannabis for medical use by individuals and in collective gardens, and has now drafted a zoning ordinance to address these impacts; and

WHEREAS, amendments to the Title 17 of the Mason County Code now include regulations with respect to planning and building for collective gardens within Mason County; and

WHEREAS, by adoption of new zoning regulations, the Board repeals the current Moratorium established under Ordinance #77-12, and

WHEREAS, the Mason County Planning Advisory Commission conducted public hearings on March 19, 2012 and April 16, 2012 and recommend adoption of amendments by the Board; and

NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby amends Title 17 (Zoning), Sections 17.04, 17.07, 17.23 and 17.24, and adding 17.09 to the Mason County Code. (See Attachment A)

DATED this ____ day of April 2013.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Shannon Goudy, Clerk of the Board

Randy Neatherlin, Chair

APPROVED AS TO FORM:

Tim Sheldon, Commissioner

Tim Whitehead, Chief DPA

Terri Jeffreys, Commissioner

ATTACHMENT A

COLLECTIVE GARDENS – PROPOSED REGULATIONS Moratorium in Effective until May 8, 2013

Title 17 – Zoning

****[new section]****

Section 17.09 Collective Gardens

17.09.001 Definitions. For purposes of this chapter, the following definitions apply:

"Cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

"Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

"Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows qualifying patients to assume responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants (as limited below). Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to the following conditions:

- 1) No more than ten (10) qualifying patients may participate in a single collective garden at any time;
- 2) A collective garden may contain no more than fifteen (15) plants per patient up to a total of forty-five (45) plants;
- 3) A collective garden may contain no more than twenty-four (24) ounces of usable cannabis per patient up to a total of seventy-two (72) ounces of usable cannabis; and
- 4) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and

- 5) No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

“Cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

"Designated care provider" means a person who:

- 1) Is eighteen (18) years of age or older;
- 2) Has been designated in a written document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A; and
- 3) Is in compliance with the terms and conditions set forth in RCW 69.51A.040. A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

“Indoors” means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by Mason County, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2” by 4” or thicker studs overlain with 3/8” or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

“Legal parcel” means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

"Medical (or medicinal) use of cannabis" means the manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

"Person" means an individual or an entity.

"Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

"Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

"Process" means to handle or process cannabis in preparation for medical use.

"Produce" means to plant, grow, or harvest cannabis for medical use.

"Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

"Qualifying patient" means a person who:

- 1) Is a patient of a health care professional;
- 2) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
- 3) Is a resident of the state of Washington at the time of such diagnosis;
- 4) Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;
- 5) Has been advised by that health care professional that he or she may benefit from the medical use of cannabis; and
- 6) Is otherwise in compliance with the terms and conditions established in chapter RCW 69.51A.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

"Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

"School" means an institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

"Terminal or debilitating medical condition" means:

- 1) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
- 2) Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or
- 3) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
- 4) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
- 5) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

- 6) Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
- 7) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

"THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

"Useable cannabis" means dried flowers of the *Cannabis* plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

"Valid documentation" means:

- 1) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;
- 2) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and
- 3) In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.

"Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

17.09.002 Applicability. No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.

17.09.003. Collective Gardens.

A. Collective gardens as a permitted use shall meet the following criteria:

- 1) There shall be no more than one (1) collective garden permitted on a legal parcel within any permitted commercial or industrial district.
- 2) They may only be allowed in some commercial and industrial zoning districts.
- 3) They may not be located within one thousand (1,000) feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or licensed daycare, public park, or residential treatment facility, or within one thousand (1,000) feet of a public or private youth-oriented facility, public swimming pool, or video arcade facility (21 USC 860).

- B. A collective garden must be fully contained inside a building in compliance with the current, adopted edition of the Washington State Building Code provisions regarding natural ventilation or mechanical ventilation (or its equivalents).
- C. The medical cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
- D. The building shall be equipped with an air filtration system that prevents the release of cannabis pollen, fumes, and odors to the outside.
- E. If the building is equipped with a “roll-up” or garage-type door, barricades shall be installed to prevent a vehicle from driving through the doors.
- F. The building shall be surrounded by a fence of at least ten (10) feet in height with a self-closing/self-locking gate at each entrance.
- G. Each fence surrounding a building shall be placed at least ten (10) feet from the inside perimeter of the fence to the outside perimeter of the garden building and a permit shall be obtained for each such fence as required under county code.
- H. An approved key box (knox box), obtained from the local fire district, shall be installed and maintained in accordance with the International Fire Code.
- I. The building shall be equipped with an automatic fire extinguishing system installed in accordance with NFPA 13 and an automatic fire alarm system installed in accordance with NFPA 72, separately permitted, and approved by the county building official or designee.
- J. The building shall be equipped with Type 2A 10 B-C portable fire extinguishers permanently and located in accordance with the International Fire Code.
- K. *Accessory Uses.* Collective Gardens shall not be allowed as an accessory use.
- L. *Home Occupation Use Prohibited.* Collective Gardens are prohibited as Home Occupations.

17.09.004 Violations.

- A. It is a violation of this Chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of Mason County to cause or allow such parcel of land to be used for the indoor or outdoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations set forth herein.
- B. Any violations of this Chapter may be enforced as set forth in Chapter 15.13 (Enforcement), or as applicable, the Uniform Controlled Substances Act, chapter 69.58 RCW. In addition, violations of subsections A and b of this Section are deemed to be a public nuisance and may be abated by Mason County under the procedures set forth in state law for the abatement of public nuisances.

****[updates to existing sections]****

Section 17.04 Rural Development Lands Standards

17.04 Article III Rural Commercial 3 (RC 3)

17.04.342 - Uses permitted.

- (a) Uses. Convenience/general store, retail, restaurant, small office, laundry, professional services, personal services, public meeting space, nursery, public facilities - post office/fire station/fish hatchery/library/ranger station, church, local community and recreation centers, lodging facilities, including motels, RV parks, campgrounds and bed and breakfast, marina - sales, service and storage, auto service and repair, medical/dental clinic, animal clinic, winery, commercial/government operated day care, single-family residential accessory use or apartment, and collective gardens (see MCC 17.09).

- (b) Uses Permitted with Special Use Permit. Gas, self-storage.
- (c) Other Uses. Uses not explicitly enumerated in this section, but closely similar thereto, are determined by the administrator.

17.04 Article IV Rural Commercial 4 (RC 4)

17.04.352 - Uses permitted.

- (a) Uses. Convenience/general store, retail, restaurant, small office, laundry, professional services, personal services, public meeting space, nursery, public facilities - post office/fire station/fish hatchery/library/ranger station, church, local community and recreation centers, lodging facilities, including motels, RV parks, campgrounds and bed and breakfast, marina - sales, service and storage, auto service and repair, medical/dental clinic, animal clinic, winery, commercial/government operated day care, single-family residential accessory use or apartment, and collective gardens (see MCC 17.09).
- (b) Uses Permitted by Special Use Permit. Gas, self-storage.
- (c) Other Uses. Uses not explicitly enumerated in this section, but closely similar thereto, are determined by the administrator.

17.04 Article V Rural Commercial 5 (RC 5)

17.04.362 - Uses permitted.

- (a) Uses. Sales and service of automobiles and trucks, recreational vehicles, watercraft, and manufactured homes: retail sales; single-family residential accessory use or apartment, and collective gardens (see MCC 17.09).
- (b) Uses Permitted with Special Use Permit. Self-storage.
- (c) Other Uses. Uses not explicitly enumerated in this section, but closely similar thereto, are determined by the administrator.

Division III. - Rural Industrial (RI)

17.04.402 - Uses permitted.

- (a) Uses. Manufacturing, warehousing, truck yards, contractor yards, and collective gardens (see MCC 17.09).
- (b) Accessory Uses. Retail space not to exceed ten percent of the floor area.
- (c) Special Permit Required Uses. Accessory air transportation.

Section 17.07 Development Regulations

17.07 Article 3 General Commercial (GC)

17.07.320 - Permitted uses.

- A. Permitted uses listed below are intended as a guide to types of uses that are allowed in the general commercial district. The community development director or his/her designee will make the determination as to whether a proposed use is permitted. Permitted uses include but are not limited to the following:
 1. Automobile/RV/boat sales;
 2. Bakery;
 3. Banks, other financial institutions;
 4. Barber/beauty shop;
 5. Brewery, distillery, winery, on-site retail;
 6. Business and professional offices;
 7. Convenience stores;

8. Eating and drinking places, with or without drive-ins/thrus;
 9. Enterprises providing indoor entertainment and recreation;
 10. Gas stations and associated convenience stores;
 11. Grocery Stores;
 12. Health club, gym;
 13. Hotel and lodging;
 14. Instruction studio;
 15. Medical and dental offices;
 16. Personal services;
 17. Repair services;
 18. Retail;
 19. Self-storage facilities;
 20. Social services;
 21. Veterinary clinics; and
 22. Collective gardens (see MCC 17.09)
- B. Similar or related uses permitted:
1. Uses similar to, or related to, or compatible with those listed or described in Section 17.07.320 are permitted upon a finding by the community development director or his/her designee that a proposed use does not conflict with:
 - a. The intent of this chapter, or
 - b. The policies of the Shelton Urban Growth Area Plan.

The criteria for such a finding of similarity for uses other than those listed herein shall include, but not be limited to, the following:

- a. The proposed use is appropriate in this area;
- b. The development standards for permitted uses can be met by the proposed use.

17.07 Article 4. - Commercial-Industrial (CI)

17.07.420 - Permitted uses.

Permitted uses listed below are intended as a guide to types of light industrial and commercial uses that are allowed. The community development director or his/her designee will make the determination as to whether a proposed use is permitted. Examples of permitted uses include, but are not limited to the following:

- A.** Auto repair and service, with towing impound yard up to one acre in size;
- B.** Auto, RV and boat sales;
- C.** Brewery, distillery, winery;
- D.** Contractors', loggers' or agricultural equipment storage yard, plant, repair, or rental and sales;
- E.** Eating and drinking places with drive-thru/in;
- F.** Furniture and home furnishings, manufacture and assembly;
- G.** Gas stations and associated convenience stores;
- H.** Hardware stores and lumber yards;
- I.** Heavy machinery, repair, storage and sales;
- J.** Kennels;
- K.** Manufacture and assembly;
- L.** Research and development;
- M.** Retail nurseries and garden stores;
- N.** Services to buildings such as janitorial, landscaping, carpet/upholstery cleaning, pest control;

- O. Storage or sales yards, no salvage or junk;
- P. Warehouse and wholesale establishments, excluding the storage of explosive and other dangerous or toxic substances as defined in RCW 70.105.
- Q. Data centers, server farms;
- R. Self-storage facilities;
- S. Collective gardens (see MCC 17.09)
- T. Similar or related uses permitted:
 1. Uses similar to, or related to, or compatible with those listed or described in Section 17.07.420 are permitted upon a finding by the community development director or his/her designee that a proposed use does not conflict with:
 - a. The intent of this chapter, or
 - b. The policies of the Shelton Urban Growth Area Plan.
 2. Criteria for such a finding of similarity for uses other than those listed herein shall include, but not be limited to, the following:
 - a. The proposed use is appropriate in this area;
 - b. The development standards for permitted uses can be met by the proposed use.

17.07 Article 6. - Industrial (I)

17.07.630 - Permitted uses.

A. Specific types of uses permitted are those types of industrial activities, which can be accomplished within the performance standards established by this title. Any industrial activity for which performance standards are not included in this title shall comply with the standards established by recognized public or quasi-public agencies with jurisdiction over the activity for the protection of industrial or environmental health. The standards shall be those in effect at the time of a complete building permit application.

The industrial zone allows those uses that are traditionally considered to be industrial in nature. Uses listed below are intended as a guide to types of uses that are allowed, but the list is not all-inclusive. As technologies and industries change new business types emerge, and to the extent they are industrial in nature, are encouraged in this zone. The community development director or his/her designee will make the determination as to whether a proposed use is permitted.

Examples of permitted uses include, but are not limited to the following:

1. Industrial activities involving the manufacture, assembly, processing, repair, or servicing;
2. The production, sale or bulk storage of materials or products;
3. Warehousing, distribution and open storage;
4. Food processing, including shellfish;
5. Fabrication;
6. Value-added forest products;
7. Data centers;
8. Public utilities and facilities (buildings);
9. Advanced materials;
10. Research and development;
11. Commercial mail processing;
12. Sale of goods or products that serve industrial property;
13. Junk yard, car wreckage, salvage;
14. Enameling or metal coating, galvanizing, electroplating;
15. Mineral extraction.

- 16.** Collective gardens (see MCC 17.09)
- B.** Similar or related uses permitted:
- 1.** Uses similar to, or related to, or compatible with those listed or described in Section 17.07.630 of the Mason County Code (MCC) are permitted upon a finding by the community development director or his/her designee that a proposed use does not conflict with:
 - a.** The intent of this chapter; or
 - b.** The policies of the Shelton Urban Growth Area Plan.

The criteria for such a finding of similarity for uses other than those listed herein shall include, but not be limited to, the following:

 - a.** The proposed use is appropriate in this area;
 - b.** The development standards for permitted uses can be met by the proposed use.
 - 2.** Eating and drinking places within an industrial building or as an accessory use, and catering primarily to the people working in the area;
 - 3.** Living or residential quarters such as guards' quarters in large establishments where such quarters are customarily provided for security and/or insurability of the premises; and other residential uses directly related to the operation of the primary permitted use;
 - 4.** Storage, processing, or use of hazardous substances incidental to a permitted use in compliance with applicable, county and state regulations;
 - 5.** Hazardous waste treatment and storage facilities incidental to the operation of a permitted use in compliance with applicable county and state regulations.

17.23 Mixed Use Districts in Belfair

17.23.130 - Allowed uses.

Uses allowed in the MU district shall be as follows:

- (1) Alcoholic beverage sales: package stores and wine shops;
- (2) Antique shops;
- (3) Appliance and communication equipment repair shop and/or sales;
- (4) Art galleries and artist studios;
- (5) Art and craft supplies, retail;
- (6) Bakeries, with on-site sales;
- (7) Bars and taverns, other than those associated with full menu food service;
- (8) Bicycle shops;
- (9) Book stores;
- (10) Banks and financial institutions;
- (11) Barber and beauty shops;
- (12) Building material sales;
- (13) Churches;
- (14) Commercial child care centers;
- (15) Community centers;
- (16) Clinics, including veterinary;
- (17) Clothing sales and rentals and shoe stores;
- (18) Delicatessens;
- (19) Detached dwelling per lot (one);
- (20) Dry cleaners and laundries, not including Laundromats;
- (21) Duplexes;

- (22) Fabric and yard goods stores;
- (23) Florists;
- (24) Food specialty shops, including: baked goods, meats, health foods, candies;
- (25) Funeral parlors, cremation and mortuary services;
- (26) Furniture stores;
- (27) Grocery stores;
- (28) Gyms, fitness and aerobic studios;
- (29) Hotels/motels;
- (30) Household specialty shops, including: plumbing, lighting, heating/cooling;
- (31) Hardware stores;
- (32) Hobby shops;
- (33) Jewelry stores;
- (34) Laundromats;
- (35) Light manufacturing of stone, clay, and glass products including: glass, pottery and china ceramic, stone cutting and engraving;
- (36) Light manufacturing of handcrafted products;
- (37) Light manufacturing of computers, office machines and equipment manufacturing;
- (38) Local utility system transmission lines and structures;
- (39) Locksmiths;
- (40) Lumber and other building materials including pre-assembled products;
- (41) Medical offices;
- (42) Multi-family dwelling units;
- (43) Museums, libraries, and educational facilities (other than public schools);
- (44) Music stores, recordings and instruments;
- (45) Outside storage and display;
- (46) Paint and glass shops;
- (47) Parks;
- (48) Pharmacies, dispensing;
- (49) Photographic studios;
- (50) Printing, publishing and reproduction services;
- (51) Professional offices;
- (52) Public transportation: bus terminals, park and ride lots;
- (53) Radio and Television broadcasting stations;
- (54) Recycling centers;
- (55) Rental and Leasing Services: vehicles, furniture and tools;
- (56) Research, development and testing services;
- (57) Restaurants, cafes and food stands;
- (58) Retail shops not otherwise named which are under ten thousand square feet;
- (59) Second hand stores and pawn shops;
- (60) Service and repair shops for appliances, small equipment, and automobiles;
- (61) Sporting goods stores;
- (62) Stationary and office supply stores;
- (63) Theaters, live stage;
- (64) Theaters, motion picture;
- (65) Townhouses;
- (66) Triplexes;
- (67) Vehicle parts stores;
- (68) Wholesale trade uses; and

- (69) Collective gardens (see MCC 17.09]

17.24 Commercial and Industrial Districts in the Belfair UGA

17.24.010 - "GC" General commercial district—Purpose.

17.24.020 - Allowed uses.

Uses with a total building size under fifty thousand square feet shall be allowed in the GC [General Commercial] district as follows:

- (1) Alcoholic beverage sales: package stores and wine shops;
- (2) Antique shops;
- (3) Appliance and communication equipment repair shops and/or sales;
- (4) Art galleries and artist studios;
- (5) Art and craft supplies, retail;
- (6) Bakeries, with on site sales;
- (7) Bars and taverns other than those associated with full menu food service;
- (8) Bicycle shops;
- (9) Book stores;
- (10) Banks and financial institutions;
- (11) Barber and beauty shops;
- (12) Building material sales;
- (13) Churches;
- (14) Commercial child care centers;
- (15) Clinics including veterinary;
- (16) Clothing sales and rentals and shoe stores;
- (17) Delicatessens;
- (18) Dry cleaners and laundries not including laundromats;
- (19) Fabric and yard goods stores;
- (20) Florists;
- (21) Food specialty shops, including: baked goods, meats, health foods, candies;
- (22) Funeral parlors, cremation and mortuary services;
- (23) Furniture stores;
- (24) Grocery stores;
- (25) Gyms, fitness and aerobic studios;
- (26) Hotels/motels;
- (27) Household specialty shops, including: plumbing, lighting, heating/cooling;
- (28) Hardware stores;
- (29) Hobby shops;
- (30) Jewelry stores;
- (31) Laundromats;
- (32) Light manufacturing of stone, clay, and glass products including: glass, pottery and china ceramic, stone cutting and engraving;
- (33) Light manufacturing of handcrafted products;
- (34) Light manufacturing of computers, office machines and equipment manufacturing;
- (35) Local utility system transmission lines and structures;
- (36) Locksmiths;
- (37) Lumber and other building materials including pre-assembled products;
- (38) Medical offices;
- (39) Music stores, recordings and instruments;
- (40) Outside storage and display;

- (41) Paint and glass shops;
- (42) Pharmacies, dispensing;
- (43) Photographic studios;
- (44) Printing, publishing and reproduction services;
- (45) Professional offices;
- (46) Public transportation: bus terminals, park and ride lots;
- (47) Radio and television broadcasting stations;
- (48) Recycling centers;
- (49) Rental and leasing services: vehicles, furniture and tools;
- (50) Research, development and testing services;
- (51) Restaurants, cafes and food stands;
- (52) Retail uses not otherwise named;
- (53) Service and repair shops for appliances, small equipment and automobiles;
- (54) Second hand stores and pawn shops;
- (55) Sporting goods stores;
- (56) Stationary and office supply stores;
- (57) Theaters, live stage;
- (58) Theaters, motion picture;
- (59) Vehicle parts stores;
- (60) Wholesale trade uses; and
- (61) Collective gardens (see MCC 17.09)

17.24.070 - "BI" Business industrial district—Purpose.

17.24.080 - Allowed uses.

Uses allowed in the BI district shall be as follows:

- (1) Automobile, appliance and equipment repair services;
- (2) Dry cleaning plants;
- (3) Veterinary clinics;
- (4) Vocational schools;
- (5) Institutional uses;
- (6) Business service uses;
- (7) Truck dealers;
- (8) Auto parts yards;
- (9) Manufacturing uses;
- (10) Resource land uses;
- (11) Professional office uses;
- (12) Impound yard;
- (13) Towing services;
- (14) Fuel depot;
- (15) Collective gardens (see MCC 17.09)

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed: March 25, 2013
FROM: Barbara Adkins	Ext. 286
DEPARTMENT: Community Development	Action Agenda
DATE: April 2, 2013	No.

Item: Appointment of Robert Drexler (District #1) and Vicki Wilson (District #3) as members of the Mason County Planning Advisory Commission under RCW 36.70.100.

Background: As a result of recent vacancies on the Planning Advisory Commission, the Department of Community Development made advertisement for applications. The applicants would be required to represent Commissioner Districts #1 and #3 and serve a four-year term expiring March 31, July 31, 2017.

Recommended Action: Appoint Robert Drexler (District #1) and Vicki Wilson (District #3) as members of the Mason County Planning Advisory Commission under RCW 36.70.100.

Attachments

PROCLAMATION OF THE BOARD OF MASON COUNTY COMMISSIONERS RECOGNIZING THE 100 YEAR ANNIVERSARY OF WASHINGTON STATE PARKS AND RECREATION COMMISSION

WHEREAS, The Washington State Parks and Recreation Commission celebrated their 100 year anniversary on March 19, 2013; and

WHEREAS, Washington State Parks supplement City Parks, County Parks, National Parks, and Parks operated by Port Districts to provide a great diversity in park land for the public in Mason County; and

WHEREAS, State Parks in Mason County include Schafer State Park, Potlach State Park, McMicken Island State Park, Twanoh State Park, Belfair State Park, Jarrell Cove State Park, Harstine Island State Park, and Lake Isabella State Park; and

WHEREAS, the state parks provide citizens numerous recreation opportunities including water access, camping, picnicking, trails, passive recreation, open space and more;

NOW, THEREFORE BE IT PROCLAIMED by the Board of Mason County Commissioners to wish the Washington State Parks and Recreation Commission a Happy 100th Anniversary; and

BE IT FURTHER PROCLAIMED to extend a special thank you to the park rangers, support staff and volunteers at all the state parks in Mason County for your contributions the parks have contributed to the citizens, visitors, community, commerce, and the enhanced quality of life in Mason County.

ADOPTED this 2nd day of April, 2013.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Randy Neatherlin, Chairperson

Tim Sheldon, Commissioner

ATTEST:

Shannon Goudy, Clerk of the Board

Terri Jeffreys, Commissioner

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed:
FROM: Brian Matthews	Ext. 450
DEPARTMENT: Public Works	Action Agenda
DATE: April 2, 2013	

ITEM: Supplemental Agreement No. 2 to Consultant Agreement with BergerABAM, the design consultant, for the Lower Elfendahl Pass Road Bridge Project (CRP 1963)

Background: On November 22, 2011, Public Works was authorized to use the Professional Services Roster to select a consultant and enter into an agreement for design services for the Lower Elfendahl Pass Road Bridge project.

Public Works selected BergerABAM and enter into agreement with a maximum amount payable not to exceed \$158,895.00

At this time, Public Works would like authorization for the County Engineer to execute Supplement Agreement Number 2 that allows BergerABAM to assist the County in obtaining an HPA Permit for the project through consultation and participate in a Dispute Resolution process with Washington Department of Fish & Wildlife (WDFW).

The maximum amount of Supplemental Agreement No. 2 is not to exceed \$15,000, bringing the maximum payable amount to \$173,895.00. (Supplemental Agreement 1 was a time extension).

Recommended Action: I recommend the Board authorize the County Engineer to execute Supplemental Agreement No. 2 to the Agreement with BergerABAM, for additional task in assisting the County in obtaining an HPA permit for the project through consultation and participate in a Dispute Resolution process with Washington Department of Fish & Wildlife (WDFW), not to exceed \$15,000.

Attachment: None

MASON COUNTY

TO: BOARD OF MASON COUNTY COMMISSIONERS	Reviewed:
FROM: Brian Matthews	Ext. 450
DEPARTMENT: Public Works	Action Item
DATE: April 2, 2013	

ITEM: Interlocal Contract Agreement between Mason County and Houston-Galveston Area Council (HGACBuy)

Background: The HGAC is a regional council of governments operating under the laws of the State of Texas and governed by a board comprised of 35 elected officials from the 13 county regions. The HGAC Board awards all contracts, which can then be made available to local governments nationwide thru HGACBuy.

The HGACBuy Program is over 30 years old and specializes in high ticket, capital intensive products and services that require technical, detailed specifications and extensive professional skills to evaluate bid responses. All products offered through HGACBuy have been awarded by virtue of a public competitive process.

Primarily, products that are utilized in Public Safety, Public Works, and Communications, in addition to professional consulting, personnel and financing services. A wide variety of capital equipment is under contract, and thru a unique feature of HGACBuy it can be customized through the use of published and unpublished options to fit your specifications and requirements.

There no annual membership dues required to purchase thru HGACBuy.

Recommended Action: I move the Board authorize the Chair to execute the Interlocal Contract for Cooperative Purchasing Agreement, as presented, between Mason County and the Houston-Galveston Area Council (HGAC), to purchase competitively awarded products in a cost saving and expedited procurement process.

Attachment: Agreement