



# MEMORANDUM

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DATE: May 18, 2015  
TO: Mayor Balducci and Council Members  
FROM: Lori Riordan, City Attorney  
SUBJECT: Energize Eastside EIS Scoping

Mayor Balducci and Councilmembers:

Recently the question has been raised by a number of concerned citizens regarding the amount of time set aside for gathering public comment to determine the scoping for the Energize Eastside EIS. As you may recall, the noticing document for the Determination of Significance (“DS”) indicates that the comment period for this project is 45 days, commencing with the issuance of the DS on April 30 and concluding on June 15, 2015. Citizens have requested that the City extend the comment period beyond the 45 days indicated in the DS notice.

The short answer to the request that the City extend the comment period, is that we do not have the authority to do so unilaterally. The current comment period is 15 days longer than that called for under the applicable regulations and required agreement from PSE to have a 45 day comment period. Any other extension would again require the agreement of the applicant.

## **BACKGROUND**

The comment period for EIS scoping is governed by both city and state law. As required by the State Environmental Policy Act (“SEPA”) the City has adopted a SEPA program codified at BCC Chapter 22.02. Additionally, Bellevue is a city required to plan under the later-adopted state Growth Management Act (“GMA”), RCW Chapter 36.70B. As a result of the application of the GMA, Bellevue is required to provide a consolidated pathway for applicants to process permits and issue land use decisions, including environmental review. GMA jurisdictions are required to not only establish timelines, but are required to carefully follow those timelines in order to achieve the goal of providing predictability for both applicants and members of the public wishing to comment on the land use proposals.

Bellevue has adopted regulations, including timelines for permitting milestones involving specific land use proposals. BCC 22.02.036 sets forth the timelines where the City’s

Environmental Coordinator has determined that it is necessary to conduct full environmental review due to probable significant adverse environmental impacts from a land use proposal. BCC 22.02.036.D. sets the time period for comment periods, which can be as minimal as 14 days. The Washington Administrative Code provisions governing scoping of EIS allows for a determination that an extended scoping process be employed. WAC 197-11-410 provides that where the extended scoping process is utilized, the applicant may request the lead agency responsible for scoping to set a date by which the scope of the EIS is determined, and that “the date shall occur 30 days or less after the DS is issued, unless the lead agency and applicant agree upon a later date.” Consistent with this WAC provision, Bellevue’s code also allows for a 30 day period for extended scoping:

“The public and agency consultation process regarding the scope of the EIS shall normally occur within 30 days after the determination of significance is issued, unless the environmental coordinator and the proponent agree on a later date.”  
BCC 22.02.036.D.3.

In this instance, PSE sought a 30 day review and comment period, however the City was able to secure the applicant’s agreement to a 45 day period.

cc: Brad Miyake, City Manager  
Kate Berens, Deputy City Manager  
Pam Bissonnette, Interim Deputy City Manager  
Myrna Basich, City Clerk  
Chris Salomone, Director, PCD  
Mike Brennan, Director, DSD