



## PLANNING COMMISSION AGENDA

Regular Meeting Date: 03/03/2021

[Zoom mtg](#)

### BY REMOTE PARTICIPATION ONLY

Join Meeting here: <https://us02web.zoom.us/j/83535786493>

Call in: 253 215 8782  
Meeting ID: 835 3578 6493

### Doc2

Planning Commission  
Meeting:

First Wednesday of  
every Month @ 6:00

Planning & Community  
Development  
Department

1812 Main Street  
Lake Stevens, WA  
98258 (425) 622-9430

[www.lakestevenswa.gov](http://www.lakestevenswa.gov)

### Municipal Code

Available online:

[www.codepublishing.com/WA/LakeStevens/](http://www.codepublishing.com/WA/LakeStevens/)

- **CALL TO ORDER** 6:00pm  
Pledge of Allegiance

- **ROLL CALL**

- **GUEST BUSINESS**

- **ACTION ITEMS**
  1. Approve minutes for 02-03-2021 meeting
  2. Approve minutes for 02-17-2021 meeting

### **DISCUSSION ITEMS**

1. SEPA Threshold for Minor New Construction
2. Lot Status Code Amendment

Sr Planner Levitan

Associate Planner Gassaway

- **COMMISSIONER REPORTS**

- **PLANNING DIRECTOR'S REPORT**

- **ADJOURN**

### **SPECIAL NEEDS**

*The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact City of Lake Stevens ADA Coordinator, at (425) 622-9419 at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service.*

**PLANNING COMMISSION REGULAR MEETING MINUTES**

Remote Participation  
Wednesday, February 03, 2021

CALL TO ORDER: 6:00 pm by Chair Cronin

MEMBERS PRESENT: Jennifer Davis, Janice Huxford, John Cronin, Todd Welch, Linda Hoult, Mike Duerr and Vicki Oslund

MEMBERS ABSENT: None

STAFF PRESENT: Community Development Director Russ Wright, Senior Planner Levitan, Assistant Planner Needham and Clerk Jennie Fenrich

OTHERS PRESENT: Councilmembers Steve Ewing and Gary Petershagen

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Chair Cronin called the meeting to order at 6:00 pm and led the pledge of Allegiance.

**Roll Call:** All present.

**Guest business:** None

**Approval of Minutes:** Motion by Commissioner Cronin, to approve the minutes for 01-06-2021, with one correction, seconded by Commissioner Hoult (7-0-0-0).

**Discussion items:**

A proposed agenda item to discuss a citizen-initiated application for changes to the Marijuana Code, was removed from this meeting as requested by the applicant. The Commissioners had discussion amongst themselves and voiced general concerns about the proposed Code Amendment to reduce buffers for marijuana processing facilities to Daycare facilities.

Senior Planner Levitan gave a briefing on the proposed 2021 Comprehensive Plan docket. There were no citizen requests for amendments this year. There are minimal land use changes proposed by the City as part of the docket, with the largest being updated information from the county's Buildable Lands Report and minor updates to the Shoreline Master Program. Map changes will reflect new city boundaries resulting from current annexations. The Commission agreed with the proposed amendments.

Assistant Planner Jill Needham briefed the Commission on the Residential and Special Use components of the city's update to the Permissible Use table. Chair Cronin thought the format and layout of table was great and appreciated the simplicity of the chart and how it helps to eliminate code redundancies. Commissioner Duerr was pleased with the simplicity and alerted staff to several footnotes that need to be updated. Commissioner Davis inquired if tourist homes were in reference to homes listed on AirBnB and VRBO. Planner Needham confirmed that was correct and that it applied to all short-term rentals

(leases of 30 days or less). Director Wright said the City will be revisiting short term rentals as a separate work item this year.

**Commissioner Reports:**

Commissioner Welch is happy with the Permissible Use Table and thinks it was well done. Commissioner Oslund thanked both planners for the good reports. Commissioner Huxford appreciates the discussion on the proposed marijuana Code change and the two pending annexations. Commissioner Cronin is excited about the new Permissible Use table and noted the Staff reports have been great and thanked staff for their work.

**Director's Report:**

Community Development Director Wright reported on the Council Retreat. He shared that there is an ambitious Capital Project list this year, almost double from last year. The Planning Department briefed the Council on the vision of a new Civic Campus. The Downtown Plan continues as planned. The next phase will be to build a new festival street that will be named Mill Spur. Additional Urban Growth Areas are being considered for 2024 docket. There are plans to do some pedestrian features and beatification to 91<sup>st</sup> St. The Council has stepped back the revisioning of the Industrial area and recognize that there needs to a and focus on the Infrastructure effort there first.

**MOTION:** Moved by Commissioner Todd Welch, seconded by Commissioner Hoult to adjourn the meeting at 6:46 p.m. The motion carried (7-0-0-0).

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Jennie Fenrich, Planning Commission Clerk

**PLANNING COMMISSION REGULAR MEETING MINUTES**

Remote Participation  
Wednesday, February 17, 2021

CALL TO ORDER: 6:09 pm by Chair Cronin

MEMBERS PRESENT: Jennifer Davis, Janice Huxford, John Cronin, Todd Welch, Linda Hoult, Mike Duerr and Vicki Oslund

MEMBERS ABSENT: None

STAFF PRESENT: Community Development Director Russ Wright, Senior Planner Levitan and Clerk Jennie Fenrich

OTHERS PRESENT: Councilmembers Steve Ewing and Gary Petershagen

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Chair Cronin called the meeting to order at 6:09 pm and led the pledge of Allegiance.

**Roll Call:** All present.

**Guest business:** None

**Approval of Minutes:** Motion by Chair Cronin, to table the minutes for 02-03-2021, as he felt that there was discussion that warranted a more detailed summary in the minutes. Seconded by Commissioner Oslund (7-0-0-0).

Public Hearing on 2021 Comprehensive Plan Docket Ratification

Chair Cronin opened the hearing

Senior Planner Levitan gave a staff report on this years' docket proposal. There were no amendments initiated by the public this year, The Commission previously reviewed and discussed the proposed at their February 3 meeting and did not recommend any additions. Senior Planner also noted that the docket was introduced to the City Council at their February 9 meeting, and they did not propose any additions.

Chair Cronin opened the public comment portion of the hearing one citizen provided testimony. Anne Anderson expressed concerns about the city's buildable lands capacity and housing affordability. She felt there are inequities in where multi-family housing is allowed and asked why it is not permitted in the waterfront residential zone. Senior Planner Levitan explained that the city had increased its buildable lands capacity in early 2020 with the adoption of the Infill and Innovative Housing chapter of the Land Use Code, and that the city is currently participating in the county-led update to the Buildable Lands Report. He also noted that the Waterfront Residential Task Force had discussed expanding multifamily and infill housing opportunities in the waterfront residential zone, but the majority opinion was to maintain the current development regulations and permitted uses. Both the Planning Commission and City Council agreed with the task force's recommendation.

Commissioner Oslund moved and Commissioner Hoult seconded to close the public comment portion.

Commissioner discussion

Commissioner Huxford spoke to her involvement on the Waterfront Task Force and stated the primary reasons for the recommendation to not allow multi-family housing along the waterfront were related to the safety of the lake and traffic concerns.

Commissioner Huxford made a motion to approve the 2021 Docket to City Council as presented. Commissioner Welch seconded. Motion passed (7-0-0-0).

**Commissioner Reports:**

Commissioner Huxford commented that Chair Cronin is handling the hearing as a first time Chair great and how difficult it must be doing it on the Zoom platform. She reported that citizens are pleased with the under-dock lighting at the new North Cove docks. Commission Davis also complimented Chair Cronin on doing a good job on his first public hearing. She also thanked Anne Anderson for her comments during the hearing and said there has been a lot of work done prior to this meeting on density and affordable housing.

**Director's Report:**

Community Development Director Wright reported that the City Council held a workshop the night before (February 16) and they are pursuing a more stream-lined, efficient approach to housing and economic development that is supported by quantitative analysis. He noted that he had met with Councilperson Petershagen earlier in the day to discuss Council's feedback on the proposed SEPA thresholds that Planning Commission had reviewed and made a recommendation on at their January 20 meeting, and invited him to speak tonight if the Planning Commission desired.

Councilperson Petershagen provided additional context and history regarding SEPA, and that it pre-dated a number of environmental regulations that are now in place which have made the SEPA review process somewhat redundant and largely an administrative exercise. He noted Council inquired about the origin of the proposed thresholds that staff had presented to Planning Commission on January 20 and requested that staff provide additional analysis on the thresholds proposed by Council. Staff indicated that they would prepare that analysis and present it to the Planning Commission at their March 3 meeting.

**MOTION:** Moved by Commissioner Welch, seconded by Commissioner Hoult to adjourn the meeting at 6:57 p.m. The motion carried (7-0-0-0).

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Jennie Fenrich, Planning Commission Clerk

DRAFT



*One Community Around the Lake*

## Staff Report Lake Stevens Planning Commission

### Planning Commission Briefing

Date: **March 3, 2021**

Subject: **City Council Feedback on SEPA Exemption Thresholds for Minor New Construction**

Contact Person/Department: David Levitan, Senior Planner and Russ Wright, Community Development Director

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#### **SUMMARY:**

Staff will update the Planning Commission on Council feedback on proposed SEPA exemption thresholds for minor new construction and discuss next steps.

#### **ACTION REQUESTED OF PLANNING COMMISSION:**

This is an informational briefing and no action is requested at this time.

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#### **DISCUSSION:**

At the Commission's [January 20, 2021 meeting](#), commissioners reviewed draft code amendments that would raise the city's SEPA exemption thresholds for minor new construction to levels that exceed the standard thresholds in WAC 197-11-800(1)(b) but are less than the maximum flexible thresholds allowed by WAC 197-11-800(1)(d). Commissioners were supportive of the proposed thresholds, which were based on feedback from the Commission's October 21 and December 2, 2020 work session and would apply in all the city's zoning districts where such uses are permitted. Commissioners also recommended against adoption of a separate SEPA infill exemption ordinance, which would exempt higher levels of infill development in designated areas of the city as there is no clear benefit at this time with proposed increases and existing subarea planned actions.

On February 16, City Council held a [work session](#) to discuss the proposed minor new construction thresholds and the recommendation against adoption of a SEPA infill exemption ordinance. Several councilmembers inquired how the proposed exemption thresholds were created, and why staff felt that existing local, state and federal environmental regulations warranted raising the exemption thresholds to the proposed values, but not to higher levels of development that are permitted under WAC 197-11-800(1)(d). Several councilmembers expressed their desire to eliminate process redundancy if other regulations adequately addressed potential environmental impacts. Staff responded that the thresholds were proposed as bookends for discussion and intended to reflect appropriate levels of exempt development for the Lake Stevens community – such as using the 9 SFR units that differentiate a short plat from a long plat - but that it was not an exact science and warranted additional discussion and research.

As shown in the far right column of Table 1, councilmembers proposed increases to the exemption thresholds for SFR, MFR, and commercial development, parking spaces, and grading amounts, while recommending that the current standard exemption for agricultural development be maintained, given

the city's vision for economic development and the lack of available land for larger agricultural uses. Staff has provided additional research on development trends to assess issues such as the typical quantity of grading and the types of SEPA threshold determinations issued for the listed projects.

**Table 1 – SEPA Thresholds for Minor New Construction**

|               | Current Threshold | Maximum Threshold | January 21 Proposal | <b>Council Proposal</b>  |
|---------------|-------------------|-------------------|---------------------|--------------------------|
| Single-Family | 4 units           | 30 units          | 9 units             | <b>15 units</b>          |
| Multi-Family  | 4 units           | 60 units          | 20 units            | <b>30 units</b>          |
| Agricultural  | 10,000 sf         | 40,000 sf         | 20,000 sf           | <b>10,000 sf</b>         |
| Commercial    | 4,000 sf          | 30,000 sf         | 20,000 sf           | <b>30,000 sf</b>         |
| Parking       | 20 spaces         | 90 spaces         | 40 spaces           | <b>90 spaces</b>         |
| Grading       | 100 cubic yards   | 1,000 cubic yards | 500 cubic yards     | <b>1,000 cubic yards</b> |

Attachment 1 includes a sampling of projects in the city, including moderately sized (5-15 unit) subdivisions and other projects that would be exempt under the Council's recommended thresholds. It also includes, for context, larger projects such as Stevens Creek Elementary, the Mountain View and Timbers subdivisions, and the Lake Stevens Apartments. It includes both the amount of grading (cut and fill) for each proposal as well as the SEPA threshold determination that was issued. A Determination of Non-significance (DNS) means that the project is not expected to have adverse environmental impacts under existing regulations; a Mitigated Determination of Non-Significance (MDNS) means that a project is not expected have an adverse impacts with the implementation of SEPA mitigation measures; and a Planned Action determination means that a project is covered by the Planned Action Environmental Impact Statement (EIS) for one of the city's three subareas, which shifted environmental review to the subarea planning stage and established a maximum amount of development covered by the EIS and doesn't provide a certification based on the threshold levels being reviewed.

Attachment 1 shows that the typical grading quantities for a 5 to 15 unit subdivision exceeds the 1,000 cubic yard maximum flexible threshold as to mid to large sized projects, which is a strong argument for raising the city's grading threshold to that 1,000 cubic yard maximum. Additionally, projects reviewed as Planned Actions do not consider grading quantities as part of the review, so these are already reviewed solely against other adopted regulations.

Reviewing the SEPA checklists and threshold determinations for sample subdivisions and other projects against the public notice requirements (Attachment 2) and planned action thresholds, staff believes raising the SFR exemption threshold to between 15 and 20 units is supportable as adequate regulations are in place to provide the same level of public notice and environmental protection and any required mitigation measures identified in those projects for which an MDNS was issued.

In comparison to single-family exemptions, staff is also supportive of raising the exemption thresholds for MFR development to 30 units. MFR development typically involves less grading, site disturbance, and impervious surface area than a SFR development with half as many units, and the trip generation rate for MFR development is approximately half that of SFR development, resulting in similar traffic impacts at the maximum proposed thresholds.

Staff analyzed the potential impacts of different projects of varying sizes in response to Council's request to quantify potential development impacts. For example, the site impacts for a 15-unit SFR project, a 30-unit MFR project and a 30,000-sf commercial project would be similar in scale. All these projects would require (at minimum) between one acre and one and one-half acres and result in similar grading quantities and new impervious surface area. The parking needs for a 15-unit subdivision is approximately 33 spaces (2 spaces per dwelling and one on-street space per every five lots ), while a 30-unit MFR development would require between 45 and 67 spaces (1.25 to 2 spaces per unit plus 1



guest space per 4 units, depending on the zone) and a 30,000-sf commercial development with a mix of office and retail would require approximately 90 spaces (about 3 spaces per 1,000 sf). Raising the parking exemption threshold to between 60 and 90 spaces would tie the parking exempt level to the associated levels of exempt development.

One additional concern raised by commissioners and councilmembers was whether raising the exemption thresholds might reduce opportunities for public comment on development projects. In response, staff has created a table (Attachment 2) that illustrates the public notice requirements for different types of land use applications in the city. As noted in the far-right column of Attachment 2, raising the exemption thresholds would only potentially reduce the level of public notice for very limited projects which are subject to a Notice of SEPA Threshold Determination but not to a Notice of Application, such as large road projects or other infrastructure projects. However, these projects typically have a high level of early planning and are highly visible, so staff does not believe raising SEPA exemption thresholds would reduce the amount of public notice. Most Type II and Type III land use application will continue to provide project-level public notice to properties within 300 feet of the proposal. Type IV, V and VI actions would provide non-project public notice as required.

#### **NEXT STEPS:**

Staff is proposing that commissioners review and discuss the Council's proposed changes to the SEPA exemption thresholds for minor new construction based on the expanded analysis provided. As previously noted, the city will be required to provide an analysis to the Department of Ecology of how existing local, state, and federal environmental regulations provide the same level of protection for projects that would be exempt under the adopted flexible thresholds. Adoption of the thresholds would require a Type VI code amendment, with public hearings likely in June 2021.

#### **ATTACHMENTS**

Attachment 1 – Grading Amounts and SEPA Threshold Determinations for Recent Projects

Attachment 2 – Public Noticing Requirements for Different Land Use Applications

| Project Type             | Project Name              | Project Scope                       | Amount Cut | Amount Fill | SEPA Determination     |
|--------------------------|---------------------------|-------------------------------------|------------|-------------|------------------------|
| <b>MFR and Mixed Use</b> | Centennial                | 9 triplex units                     | 500 cy     | 3,800 cy    | Exempt (<4 units/lot)  |
|                          | Smith Townhomes           | 15 townhomes                        | 2,424 cy   | 2,536 cy    | Planned Action         |
|                          | Callow Green              | 35 townhomes                        | 4,500 cy   | 4,000 cy    | Under review           |
|                          | Smoots Mixed Use          | 5,800 sf retail/16 MFR units        | 1,800 cy   | 1,800 cy    | DNS                    |
|                          | Lake Drive Apartments     | 48 MFR units                        | 2,208 cy   | 17,819 cy   | MDNS                   |
|                          | 2BR Townhomes             | 112 townhomes                       | 22,700 cy  | 16,500 cy   | Planned Action (20th)  |
|                          | Lake Stevens Apartments   | 195 MFR units                       | 38,650 cy  |             | Planned Action (20th)  |
| <b>Commercial</b>        | Bartells and RAM          | 21,000 (2 buildings)                | 4,800 cy   | 14,500 cy   | Planned Action (LSC)   |
|                          | Soper Hill Everett Clinic | 24,618 sf                           | 3,578 cy   | 4,005 cy    | MDNS                   |
|                          | Hartford CUP              | 17,000 sf (2 buildings)             | 150 cy     | 1,250 cy    | MDNS                   |
|                          | Gold Creek Church         | 32,000 sf church                    | 7,600 cy   | 4,500 cy    | DNS                    |
|                          | Stor Quest                | 108,827 sf storage building         | 17,800 cy  | 18,600 cy   | DNS                    |
| <b>Public Facilities</b> | Soper Hill Roundabout     | Roundabout                          | 1,500 cy   | 2,500 cy    | MDNS                   |
|                          | 20th St SE Widening       | Road Widening                       | 770 cy     | 20 cy       | Planned Action (20th)  |
|                          | North Cove Park Phase II  | Parking, playground, picnic shelter | 998 cy     | 369 cy      | Planned Action (DT)    |
|                          | Stevens Creek Elementary  | New elementary school               | 120,800 cy | 61,010 cy   | MDNS (School District) |
| <b>Detached SFR</b>      | Cedar                     | 5 detached SFR                      | 2,200 cy   | 1,700 cy    | DNS                    |
|                          | Hintz Plat                | 10 detached SFR                     | 4,500 cy   | 4,500 cy    | MDNS                   |
|                          | Hillcrest Estates         | 12 detached SFR                     | 6,300 cy   | 6,300 cy    | MDNS                   |
|                          | Stevens Ridge Estates     | 12 detached SFR                     | 5,000 cy   | 10,000 cy   | DNS (County)           |
|                          | Arcadia                   | 13 detached SFR                     | 5,400 cy   | 8,800 cy    | DNS                    |
|                          | Hewitt Subdivision        | 14 detached SFR                     | 8,700 cy   | 500 cy      | Planned Action (20th)  |
|                          | Shadowhawk                | 16 detached SFR                     | 66,000 cy  | 3,400 cy    | MDNS                   |
|                          | Ebey View                 | 18 detached SFR                     | 2,200 cy   | 2,200 cy    | MDNS                   |
|                          | Bayview Estates           | 18 detached SFR                     | 10,000 cy  | 10,000 cy   | MDNS                   |
|                          | Adkins-Strom Cluster      | 22 detached SFR                     | 3,064 cy   | 20,260 sf   | DNS                    |
|                          | Vinje Hill Estates        | 23 detached SFR                     | 15,373 cy  | 10,730 cy   | Pending                |
|                          | Stevens Vista             | 23 detached SFR                     | 7,500 cy   | 7,500 cy    | Planned Action (LSC)   |
|                          | Autumn Crest              | 27 detached SFR                     | 1,100 cy   | 6,200 cy    | Planned Action (20th)  |
|                          | Sedona                    | 38 detached SFR                     | 12,030 cy  | 19,810 cy   | Planned Action (20th)  |
|                          | Fairview Terrace          | 45 detached SFR                     | 10,455 cy  | 13,681 cy   | Planned Action (20th)  |
|                          | Pellerin Ridge I          | 44 detached SFR                     | 45,000 cy  | 47,000 cy   | MDNS                   |
|                          | Eagle Glen                | 70 detached SFR                     | 22,000 cy  | 22,000 cy   | Planned Action (20th)  |
|                          | Timbers Phase II          | 100 detached SFR                    | 60,000 cy  | 60,000 cy   | DNS                    |
|                          | Mountain View             | 191 detached SFR                    | 100,000 cy | 164,000 cy  | MDNS                   |

DNS = Determination of Non-Significance; MDNS = Mitigated Determination of Non-Significance; Planned Action = Covered by Subarea Plan

| Table 14.16A-I: Classification of Permits and Decisions |   |                               |                                  |                                 |   | Affected by proposed SEPA changes  |
|---|---|-------------------------------|----------------------------------|---------------------------------|---|--|
| Type of Review  | Land Use Actions and Permits  | Recommendation By             | Public Hearing Prior to Decision | Permit-Issuing Authority        | Administrative Appeal Body and Hearing  |  |
| TYPE I<br>Administrative without Public Notice          | <ul style="list-style-type: none"> <li>• Design Review</li> <li>• Administrative Deviation</li> <li>• Administrative Modifications</li> <li>• Boundary Line Adjustments</li> <li>• Change of Use</li> <li>• Code Interpretations</li> <li>• Events</li> <li>• Floodplain Development Permits</li> <li>• Home Occupations</li> <li>• Master Sign Program</li> <li>• Minor Land Disturbance</li> <li>• Reasonable Use Exceptions</li> <li>• Shoreline Exemptions</li> <li>• Signs</li> <li>• Temporary Uses</li> </ul>  | None                          | None                             | Department director or designee | Hearing Examiner, except shoreline permits to State Shoreline Hearings Board, and Open Record | No changes to Public Notice  |
| TYPE II<br>Administrative with Public Notice            | <ul style="list-style-type: none"> <li>• Administrative Conditional Use (formerly Special Use)</li> <li>• Administrative Variance</li> <li>• Binding Site Plans</li> <li>• Final Plats (short subdivisions and subdivisions)</li> <li>• Major Land Disturbance</li> <li>• Planned Action Certification</li> <li>• Short Plats - Preliminary</li> <li>• Short Plat Alterations</li> <li>• Short Plat Vacations</li> <li>• Site Plan Reviews</li> <li>• SEPA Review (early or when not combined with another permit or required for a Type I permit)</li> <li>• Shoreline Substantial Developments</li> </ul> | None                          | None                             | Department director or designee | Hearing Examiner, except shoreline permits to State Shoreline Hearings Board, and Open Record | <p>Only stand alone SEPA review not combined with another permit with proposed increased thresholds.</p> <p>Rare process usually tied to a large projects, such as road projects designed for early public comment.</p> <p>The SEPA threshold determination stands as the notice of application.</p> |
| TYPE III<br>Quasi-Judicial, Hearing Examiner            | <ul style="list-style-type: none"> <li>• Conditional Uses</li> <li>• Preliminary Plats</li> <li>• Shoreline Conditional Uses</li> <li>• Shoreline Variances</li> <li>• Variances</li> </ul>   | Planning Director or designee | Open Record                      | Hearing Examiner                | Superior Court, except shoreline permits to State Shoreline Hearings Board, and Closed Record | No changes to Public Notice  |

|  |   |  |               |              |  |                             |
|--|---|--|---------------|--------------|--|-----------------------------|
| TYPE IV<br>Quasi-Judicial, City Council with Hearing Examiner Recommendation | <ul style="list-style-type: none"><li>• Essential Public Facilities</li><li>• Planned Neighborhood Developments</li><li>• Rezone - Site-Specific Zoning Map Amendments</li><li>• Secure Community Transition Facilities</li></ul> | Hearing Examiner with Open Record Hearing    | Closed Record | City Council | None, appeal to Superior Court                     | No changes to Public Notice |
| TYPE V<br>Quasi-Judicial, City Council                                       | <ul style="list-style-type: none"><li>• Plat Alterations</li><li>• Plat Vacations</li><li>• Right-of-Way Vacations</li></ul>  | Planning Director or designee                | Open Record   | City Council | None, appeal to Superior Court                     | No changes to Public Notice |
| TYPE VI<br>Legislative, City Council with Planning Commission Recommendation | <ul style="list-style-type: none"><li>• Comprehensive Plan Amendments, Map and Text</li><li>• Development Agreements</li><li>• Land Use Code Amendments</li><li>• Rezones - Area-Wide Zoning Map Amendments</li></ul>             | Planning Commission with Open Record Hearing | Open Record   | City Council | Growth Management Hearings Board and Closed Record | No changes to Public Notice |

| 14.16B.010 Classification  |              |    |     |    |   |    |
|--|--------------|----|-----|----|---|----|
| Procedure Category   | Permit Types |    |     |    |   |    |
|  | I            | II | III | IV | V | VI |
| Unique permit submittal requirements and decision criteria apply | X            | X  | X   | X  | X | X  |
| Public notice required   |              | X  | X   | X  | X | X  |
| SEPA threshold determination required                            |              | *  | *   | X  | * | *  |
| Public meeting may be required                                   | *            | *  | *   | *  | * |    |
| Public hearing required  |              |    | X   | X  | X | X  |
| Design review required   | *            | *  | *   | *  | * |    |
| Pre-application conference recommended                           | O            | O  | H   | H  | H | O  |

X - required; \* - may be required depending on the project; O - optional; H - highly recommended



## Staff Report City of Lake Stevens Planning Commission

Planning Commission Briefing  
Date: **March 3, 2021**

**SUBJECTS:** Lot Status Code Amendment

**CONTACT PERSON/DEPARTMENT:** Sabrina Gassaway, *Associate Planner*

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**SUMMARY:** Introduce Proposed Lot Status Code Amendment (LUA2021-0001)

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**ACTION REQUESTED OF PLANNING COMMISSION:** None required

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### **Background:**

Legal lots are parcels of land that were created pursuant to the zoning and subdivision requirements in place at the time of the lot creation. Since 1969, subdivisions in Washington state have been regulated by [Chapter 58.17 RCW](#), which provides state regulations for the process and recording of subdivisions and other methods of land division and is implemented at the local level through adoption of a subdivision ordinance. Prior to City approval of applications relating to land development, property division, boundary line adjustment or any other land use action, the property must be determined to have legal lot status. It is the property owner's responsibility to prove lot status to the City.

Over the last fifty years, the Washington State Office of the Attorney General (AGO) has issued a number of legal opinions that found that local jurisdictions have the right to make lot status determinations on lots that were created prior to the adoption of RCW 58.17. Since 1989, Lake Stevens lot status determinations have been evaluated through a series of administrative policies, with the most recent version established in 2010 (City Policy No. 2010-3, *Policy to Determine Legal Lot Status in Land Use Actions*). City staff issued two lot status determinations in 2020 and has issued approximately 10 in the last 15 years, which are reviewed through a Type I land use application and rely on a review of property history and documentation, consultation with Snohomish County, case law and AGO legal opinions, and the specific requirements for lots created through the tax segregation process that are included in Policy No. 2010-3. However, the review process lacks a codified framework and decision criteria on which these determinations are made or an avenue for appeal. Staff is proposing an amendment to the Land Use Code to resolve this issue.

### **Purpose of Code Amendment:**

This amendment is proposed to include clear review and decision criteria for lot status determinations.

- Establish situations where a Lot Status Determination is required
- Detail the required submittal materials
- Provide Decision Criteria
- Document the method for appeal

Staff is proposing that lot status determinations continue to be reviewed through a Type I land use application, with approval by the Community Development Director. Staff is proposing that the review and approval criteria be added to LSMC 14.16C, with related updates to LSMC 14.18 (Subdivisions) and

14.48 (Density and Dimensional Requirements).

**Next Steps**

Staff plans to brief the City Council on the proposed amendment at their next meeting in March. Staff is proposing a 3 to 4-month process to draft the code amendment before it is brought before the Planning Commission and the City Council for public hearings. The project will include SEPA notification and actions, work sessions with the Planning Commission and City Council, WA Department of Commerce 60-day review, and Type VI public notice.

**Attachments:**

- 1) Draft Code Amendment Framework

**Title 14 - Chapter 14.16C Land use Actions, Permits and Determinations – Decision Criteria and Standards**

- 14.16C.77 Lot Status Determination
  - 14.16C.77 (a) Purpose and Intent
  - 14.16C.77 (b) Procedure
  - 14.16C.77 (c) Lot Status Determination Application
  - 14.16C.77 (d) Decision Criteria

**Title 14 - Chapter 14.48 Density and Dimensional Regulations**

- 14.48
  - Reference to lot status

**Title 14 - Chapter 14.18 Subdivisions**

- 14.18
  - Reference to lot status