



PLANNING COMMISSION AGENDA

Regular Meeting Date: 01/20/2021

BY REMOTE PARTICIPATION ONLY

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Call in: 253 215 8782

Meeting ID: 818 4339 2107

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Planning Commission Meeting:

First Wednesday of every Month @ 7:00pm

Planning & Community Development Department

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

www.lakestevenswa.gov

Municipal Code

Available online:

www.codepublishing.com/WA/LakeStevens/

- **CALL TO ORDER 6:00pm**
Pledge of Allegiance
- **OATH OF OFFICE**
- **ROLL CALL**
- **GUEST BUSINESS**
- **ACTION ITEMS**
 1. Approve minutes for 01-06-2021
- **DISCUSSION ITEMS**
 1. Briefing-SEPA Updates Sr. Planner Levitan
 2. Briefing-Marijuana Processing ordinance Sr. Planner Levitan
- **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, January 6, 2021

CALL TO ORDER: 7:00 pm by Chair Jennifer Davis

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

MEMBERS ABSENT: Vicki Oslund

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

OTHERS PRESENT: Councilmembers Gary Petershagen and Steve Ewing

Chair Davis called the meeting to order at 6:00 p.m. and asked Commissioner Duerr to lead the Pledge of Allegiance.

Roll Call: All present except Vicki Oslund, who was excused unanimously by the Commission.

Guest business: None

Approval of Minutes: Motion by Commissioner Welch, to approve the minutes for-12-09-2020, with one correction, seconded by Commissioner Huxford (6-0-0-1).

John Cronin was elected Chairperson for the 2021 year, Todd Welch was elected Vice-Chairperson. (6-0-0-1)

Discussion items:

Assistant Planner Needham gave a briefing on the proposed revisions to the Permissible Use Table. This draft is particular to the non-resident section of the table. The goal of staff is to streamline the table and combine uses where applicable. NAIICS (North American Industrial Classification System is being added for consistency with the State naming conventions. The Commission asked for a table of definitions be included for clarity. Assistant Planner Needham will present the next two sections in January and February.

Senior Planner Levitan introduced a proposed amendment to the City's Marijuana Facilities regulations for buffers between processing plants and childcare centers if certain provisions are met. This does not allow to construct a facility closer to a day care center, rather the distance of a direct public sidewalk or pathway. Commissioner Davis shared concern of the odor that comes with marijuana facilities and being close to a day care provider would expose children the smell. This concern was shared by multiple Commissioners. Director Wright said the Puget Sound Clean Air is the monitoring body for odor complaints and we can reach out to them to come inspect. Director Wright informed the group that the Day Care center that is in proximity of this producer is a

Home Occupation and has a small number of clients. He offered to provide an updated map of current facilities currently in business. Commissioner Davis cautioned that when codes are amended it will impact all other Marijuana facilities. Director Wright said this will be the final one to be built as it will max out the allowable marijuana facilities allowed in the City.

Commissioner Reports:

Commissioner Huxford brought attention to the current lake level and asked that the City provide notice to residents that with the high-water level there are new hidden dangers. She also reported that the sandbags that were placed along Hartford Rd were causing waters to flood inward towards the industrial area.

Director's Report: No report.

MOTION: Moved by Commissioner Davis, seconded by Commissioner Huxford to adjourn the meeting at 7:34 p.m. The motion carried (6-0-0-1).

Jennie Fenrich, Planning Commission Clerk



One Community Around the Lake

Staff Report Lake Stevens Planning Commission

Planning Commission Briefing

Date: **January 20, 2021**

Subject: **Potential amendments to SEPA exemption regulations for infill development**

Contact Person/Department: David Levitan, Senior Planner

SUMMARY:

Staff will discuss the process that allows cities to make certain levels of infill development categorically exempt from SEPA environmental review and where in the city such an infill ordinance may be appropriate

ACTION REQUESTED OF PLANNING COMMISSION:

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

INTRODUCTION:

The purpose of this briefing is to discuss potential amendments to the city's State Environmental Policy Act (SEPA) categorical exemption thresholds that would allow for certain levels of infill development. These amendments would be in addition to the proposed changes to thresholds for minor new construction projects that were introduced at the Planning Commission's [October 21, 2020 meeting](#) and discussed in greater detail at the Commission's [December 2, 2020 meeting](#).

DISCUSSION:

At the Commission's December 2, 2020 meeting, commissioners reviewed draft code amendments that would raise the city's SEPA exemption thresholds for minor new construction, as shown in Table 1 below. Adoption of these amendments would result in thresholds that exceed the standard thresholds in WAC 197-11-800(1)(b) that are currently in place for the city, but which would be less than the maximum flexible thresholds allowed by WAC 197-11-800(1)(d). Commissioners were supportive of the proposed thresholds (the far-right column in Table 1), which would apply in all the city's zoning districts where such uses are permitted.

Table 1 – SEPA Thresholds for Minor New Construction

	Current Threshold	Maximum Threshold	Proposed Threshold
Single-Family Residential	4 units	30 units	9 units
Multi-Family Residential	4 units	60 units	20 units
Agricultural Structures	10,000 sf	40,000 sf	20,000 sf
Office/School/Commercial	4,000 sf	30,000 sf	20,000 sf
Parking Facilities	20 spaces	90 spaces	40 spaces
Fill/Excavation	100 cubic yards	1,000 cubic yards	500 cubic yards

DISCUSSION:

At the October 21, 2020 meeting, commissioners learned about [Substitute House Bill \(HB\) 2673](#), which was passed by the state legislature as part of their efforts to address affordable housing issues and became effective in June 2020. HB 2673 amended the existing categorical exemptions for infill development codified in [RCW 43.21C.229](#). It created a more streamlined process for cities to adopt SEPA categorical exemption thresholds for residential and mixed-use developments as well as commercial developments (not including retail) up to 65,000 sf in areas where current development density or intensity is equal to or lower than identified in the city's comprehensive plan. The city does not currently have a categorical exemption for infill development, which would be separate from the city's categorical exemptions for minor new construction that the city is also looking to amend.

Since the commission's October 21 meeting, staff has reached out to the state's Department of Commerce to learn more about the process required to adopt an infill exemption ordinance. Several cities, including Everett, have adopted infill exemption ordinances under the old provisions of RCW 43.21C.229, and the cities of Covington and Port Angeles are currently working on ordinances under the new regulations. One of the key requirements of RCW 43.21C.229 is that the city must illustrate that there are adequate Comprehensive Plan policies, implementing ordinances (such as the Zoning Code), and other federal, state and local regulations in place to address potential environmental impacts from allowing infill development without SEPA environmental review.

As detailed in Attachment 3 from the commission's December 2 meeting packet, the city has determined there are adequate regulations in place to mitigate any potential environmental impacts. The City also adopted an Environmental Impact Statement as part of the 2005 Comprehensive Plan Update and has adopted numerous addenda as part of the annual Comprehensive Plan docket updates, which is another requirement to qualify under RCW 43.21C.229.

Cities have the discretion to establish specific areas where the infill exemption ordinance would apply, so long as the current levels of development are less than those identified in the Comprehensive Plan. In Everett's case, their [infill exemption ordinance](#) was applied to its Metro Everett subarea (the greater downtown area). Everett's ordinance also rescinded an existing Planned Action ordinance for its Downtown Subarea Plan, as it was determined that the two ordinances were duplicative in nature.

When considering areas where an infill exemption ordinance might be appropriate in Lake Stevens, one option would be in areas where the city has adopted a Planned Action ordinance, especially in areas where development is approaching the development caps covered by the Planned Action. A Planned Action shifts environmental review from the project-level stage to the planning stage and requires the preparation of an Environmental Impact Statement (EIS) that analyzes and mitigates for environmental impacts for a certain level of development (residential units and square feet of commercial/mixed-use development).

The city has adopted Planned Action ordinances for the Lake Stevens Center Subarea, 20th St SE Corridor Subarea, and Downtown Lake Stevens Subarea, with specific levels of development within these areas exempt from SEPA environmental review. The city maintains a spreadsheet of projects within each subarea that have utilized the Planned Action certification process. For the 20th St SE Corridor, the city is approaching the number of residential units covered by the Planned Action, so that might be an appropriate area to consider an infill exemption ordinance. As discussed at the October 21 meeting, the Hartford Industrial Area might be another appropriate location to implement the ordinance.

Another option would be to include all areas covered by the city's Innovative Housing and Infill Ordinance (LSMC 14.46), which was provided as an option at the October 21 meeting. However, the

minor new construction exemption thresholds appear to already cover the level of development permitted in LSMC 14.46, so an infill exemption ordinance does not appear necessary within the city's single-family residential zoning districts (R4, R6, and R8-12).

As previously noted, all areas of the city qualify for the categorical exemptions for minor new construction, which the city is proposing to increase through a separate process. Under the proposed minor construction thresholds, an office building up to 20,000 sf or a multi-family development with up to 20 units would be exempt from SEPA environmental review. Adoption of an infill exemption ordinance for specific areas of the city could increase that exemption for an office building to 65,000 sf and would also increase the size of residential and mixed-use developments exempt from SEPA. As an example, a recently approved four-story, 48-unit MFR development includes approximately 42,000 sf of building area (although residential development is not subject to the 65,000-sf size limit).

The city meets all the procedural requirements to establish an infill exemption ordinance under RCW 43.21C.229. Staff would like guidance from commissioners on whether they think an infill exemption ordinance is appropriate for the city, and if so, which areas it should apply. The city's adopted subareas are intended to accommodate much of the city's future residential and commercial growth, so that may be the most appropriate place to consider such an ordinance. As noted at your last meeting, the city believes there are adequate local, state, and federal regulations in place to mitigate for any environmental impacts that could arise from higher levels of development in these areas. If commissioners are concerned about the potential for exempt projects within these areas that far exceed the minor new construction thresholds, RCW 43.21C.229 does not appear to preclude the city from including a limit to the size or number of units for a residential or mixed-use project within the designated area. The city would also consider whether the existing planned action ordinances for the three subareas are still needed.

NEXT STEPS:

Staff briefed the City Council on this proposed code amendment at the joint meeting on December 15, 2020 and intends to hold a more detailed study session that incorporates any additional guidance from commissioners on the potential infill exemption ordinance. Adoption of an infill exemption ordinance would require a separate land use code amendment from the proposed amendment to the minor new construction exemptions thresholds, but could be brought forward on a similar timeline, with public hearings possible in Spring 2021. In advance of any public hearings, staff would conduct public outreach in the form of a project website and press/social media releases.



One Community Around the Lake

Staff Report Lake Stevens Planning Commission

Planning Commission Briefing

Date: **January 20, 2021**

Subject: **Update on Proposed Amendments to Marijuana Facility Buffers (LSMC 14.44.097)**

Contact Person/Department: David Levitan, *Senior Planner*

SUMMARY:

Staff will provide responses to questions asked by commissioners at their January 6 meeting about the citizen-initiated land use code amendment that proposes to allow marijuana processing facilities to be located within 225 feet of child care centers.

ACTION REQUESTED OF PLANNING COMMISSION:

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

BACKGROUND/DISCUSSION

Marijuana facilities authorized under Initiative 502 are only permitted in the city's Light Industrial (LI) and General Industrial (GI) zoning districts (which are located in the northeast corner of the city within the Hartford Industrial Area) and require an administrative conditional use permit for production and processing. The city has adopted the standard buffer requirements established by [RCW 69.50.331\(8\)](#) into [LSMC 14.44.097](#), which requires licensed marijuana producers, processors and retailers to be located at least 1,000 feet away from uses such as schools, playgrounds, parks, libraries, and child care centers. This distance is measured as the shortest straight-line distance from the property line of the proposed marijuana facility to the property line of the second property.

On January 6, staff introduced a citizen-initiated land use code amendment that would reduce the required buffer between marijuana processors and child-care centers from 1,000 feet to 225 feet, which is permitted under [RCW 69.50.331\(8\)\(b\)](#). The proposed amendment would require that the distance between the main entrance of the child-care center and the processing facility, as measured by the most direct route over and across public streets or sidewalks, be at least 1,000 feet, and that the processing facility not include a retail component.

Commissioners had several questions and concerns about the proposed amendment, which staff has summarized and responded to below.

- 1) Commissioners noted that odor from marijuana facilities is an existing issue in the Hartford Industrial Area and had concerns about reducing the buffer for processing facilities. While staff noted that [LSMC 14.44.097](#) prohibits odors to be detectable outside of marijuana facilities, there were questions about enforcement and monitoring of odor complaints.

Response: The Puget Sound Clean Air Agency (PSCAA) is responsible for regulating air quality in Snohomish, King, Pierce and Kitsap counties, and has a [permitting and registration program](#) for

marijuana producers and processors that includes monitoring and inspections. City staff reached out to PSCAA staff, but due to staffing limitations had not received a response at the time this staff report was published. However, staff research did find that production facilities – which comprise almost all of the existing marijuana businesses - are generally the main generator of odors, and that processing facilities are typically less of an issue. Staff hopes to share additional information about the PSCAA monitoring, inspection, and complaint process at the January 20 meeting, as well as an assessment of whether a marijuana processing facility is likely to further contribute to any existing odor issues.

At the January 6 meeting, staff also noted that LSMC 14.44.097(f) establishes a cap of 70,000 sf for Tier 2 marijuana production facilities in the city. Staff would like to clarify that the proposed amendment is limited to processing facilities, which aren't covered by the 70,000 sf cap. To date the city has permitted approximately 54,000 sf towards this production cap.

- 2) Commissioners asked whether any surrounding cities had reduced their buffers below the 1,000-foot standard.

Response: The Municipal Research and Service Center (MRSC) maintains a [map of all marijuana ordinances](#) in the state. State reviewed this map and the corresponding zoning codes for all cities in Snohomish and King counties, and found that the only city to have reduced its buffer below the 1,000 foot buffer is Seattle, which reduced the buffer to 250 feet for processing and production and 500 feet for retail. A number of cities within Snohomish County, including Marysville, Snohomish, Monroe and Mill Creek, prohibit all marijuana businesses.

- 3) Commissioners expressed concerns that there may be additional in-home child-care centers located within 1,000 feet of marijuana facilities.

Response: City staff reviewed the business licenses for all child-care centers in the city, and did not find any additional child-care centers located within 1,000 feet of the city's light industrial and general industrial zoning districts (where processing and production facilities are permitted). As part of the state licensing program, the Liquor and Cannabis Board reviews applications to make sure marijuana facilities are not located within the required buffer for uses covered by RCW 69.50.331(8). It was during this state licensing processing that the property that is requesting the code amendment discovered there was an in-home child-care center within the required 1,000-foot buffer.

NEXT STEPS:

Following the commission's January 20 meeting, staff intends to hold a work session with the City Council to discuss the proposed amendment, which will incorporate input and feedback from commissioners. As previously noted, the proposed amendment is a Type VI legislative amendment, which requires a public hearing before both the Planning Commission and City Council. Staff will develop a more defined project schedule after it receives additional feedback from the commission and City Council.