



Planning and Community Development
Type II Decision –
Major Land Disturbance Permit and SEPA Review

Lake Stevens Outlet Channel Dredging Project

LUA2021-0087

A. PROJECT DESCRIPTION AND REQUEST

The City of Lake Stevens applied for a major land disturbance permit and SEPA review on May 24, 2021 (**Exhibit 1**) that aims to address ongoing flooding and related property damage around Lake Stevens due to excessive sediment deposition within the Lake Stevens Outlet Channel (Stevens Creek). The City proposes to dredge sediment from the Outlet Channel to its historic elevation at the time the existing weir was installed. Dredged materials will equal approximately 135 cubic yards, spanning approximately 1,000 linear feet from Lake Stevens to just downstream from the Main Street bridge. Work will take place within the fish window for work below the ordinary high-water line (July 15 – September 30, 2021) when lake outlet channel flows are naturally low. Work proposed is not anticipated to result in channel expansion beyond the original channel.

A major land use disturbance permit, floodplain development permit, shoreline exemption, and SEPA review applications were submitted by the city for the project. LSMC 14.16A.220(g)(1-2) provides staff the ability to consolidate permit processes, as well as issue combined decisions. This Type II decision encompasses both the major land disturbance permit and SEPA review. A separate decision will be issued for the Type I permits (floodplain development and shoreline exemption). The applicant has submitted civil plans including a mitigation plan, a SEPA checklist, a critical areas report, an outlet study, and photos in addition to the applications.

A major land use disturbance permit is required for any grading, excavation or filling on a lot that exceeds the 100 cubic yards threshold level within any 12-month period, pursuant to LSMC 14.50.120(b). A major land use disturbance permit is a Type II application as defined by Lake Stevens Municipal Code (LSMC) 14.16A.210 and Table 14.16A-I. SEPA review is required for this proposal pursuant to LSMC 16.04. SEPA review is a Type II application as defined by Table 14.16A-I.

The U.S. Army Corps of Engineers has determined the project does not require permit approval under the Clean Water Act (CWA) section 404, and as such the Washington State Department of Ecology is waiving the CWA Section 401 certification process (**Exhibit 2**). The city applied for a Hydraulic Project Approval (HPA) permit from the Washington Department of Fish and Wildlife (WDFW), which was approved and issued on August 24, 2021.

B. GENERAL INFORMATION

1. Date of Application: May 24, 2021
2. Property Owners: City of Lake Stevens
3. Applicant/ Contact Person: Shannon Farrant, City of Lake Stevens
4. Property Address: 1812 Main Street, Lake Stevens, WA

5. Assessor Parcel Numbers (APNs): 9060800300600, 00553800002100, 00553800002200, 29060800403000, 29060800403200, and 29060800412400
6. Comprehensive Plan Land Use Designations, Zoning Classifications and Existing Land Uses of the Site and Surrounding Area:

AREA	LAND USE DESIGNATION	ZONING	SHORELINE DESIGNATION	EXISTING USE
Project Site	MU/ D/LC / P/SP	CBD	UC	Creek
North of Site	MU/ D/LC - Roadway	CBD	SR	Roadway, Residential and vacant lot
South of Site	P/SP	P/SP	UC	Civic use
East of Site	D/LC	CBD	N/A	Commercial use
West of Site	WR	WR	SR	Residential

7. Public Utilities and Services Provided by:

Water:	Snohomish County PUD	Gas:	Puget Sound Energy
Sewer:	Lake Stevens Sewer District	Cable TV:	Comcast
Garbage:	Waste Management	Police:	City of Lake Stevens
Stormwater:	City of Lake Stevens	Fire:	Snohomish Regional Fire & Rescue
Telephone:	Frontier Communications	School:	Lake Stevens School District
Electricity:	Snohomish County PUD	Hospital:	Providence Hospital

C. ANALYSIS ¹

1. Application Process:

- a. The applicant submitted a major land use disturbance permit and SEPA checklist under a single Type II application (**Exhibit 1**).
- b. Per LSMC 14.50.105, the proposed work requires a land disturbance permit and is considered a major land use disturbance per LSMC 14.50.120(b). A major land disturbance permit is a Type II permit, issued by the Planning and Community Development Director after an administrative review process and public comment period.
- c. The city issued a SEPA Determination of Non-significance (DNS) for the project on July 13, 2021 using the optional DNS process per WAC 197-11-355 (**Exhibit 9**). No comments or appeals on the DNS were received.
- d. The city received one written public comment from Snohomish County PUD notifying the city of an electric line along N. Lakeshore Drive that crosses the creek to serve the residences (**Exhibit 4**). The line is an overhead line and isn't anticipated to impact the project, but the city will continue to coordinate with PUD on any potential impacts to the electric line.
- e. The city consulted with WDFW and the Tulalip Tribes on the proposal as part of the HPA permitting process. The downstream dredging areas (from the weir to the Main Street Bridge) were removed from the project after coordination with WDFW and the Tulalip Tribes and review of stream modeling results from the city's consultant. Removal of the downstream dredging is anticipated to have a relatively minor impact on the lake level. In addition, the city is proposing to conduct mitigation from the weir to the Main Street Bridge (excepting the proposed location of a future pedestrian bridge) to offset the disturbance from the channel dredging between the lake and the weir. Mitigation will consist of removal of all invasive plants and replanting of native plants in accordance with the approved mitigation plan (**Exhibit 3**).

¹ Project analysis includes staff findings and conclusions based on a review of current materials applicable to the project.

- f. This decision meets the requirements of LSMC 14.16B.235 as the written record for the administrative approval and meets the requirements of LSMC 14.16A.220(g)(1-2) for a consolidated permit review.

CONCLUSION: The application meets the procedural requirements for Type II applications as established in Title 14 of the LSMC.

2. Public Notification (Affidavit of Public Notice – Exhibit 5):

- a) Notice of Application was published in the Everett Herald on June 4, 2021 (**Exhibit 5a**).
- b) Notice of Application was mailed to property owners within 300 feet of the site on June 4, 2021 (**Exhibit 5b**).
- c) Notice of Application was posted on the subject property and city bulletin boards on or around June 4, 2021 (**Exhibit 5c**).

CONCLUSION: The application meets the noticing requirements for Type II applications established in Chapter 14.16B LSMC, Part II.

3. Criteria for Land Disturbance / Tree Retention:

- a. Chapter 14.50 LSMC – Part I Land Disturbance establishes the requirements for land disturbance activities.
 - 1. The civil plan and mitigation plan set (**Exhibit 3**) shows compliance with codified requirements. The city’s consultants prepared a critical areas report and an outlet study (**Exhibits 6 and 7**). Staff has included a condition of approval that all work on the site adhere to the recommendations found in the prepared reports. Additionally, as a condition of approval, compliance with the restrictions and requirements listed in LSMC 14.50.130 shall be required.
- b. Chapter 14.76 LSMC – Part II Shading establishes the requirements for significant tree retention and protection.
 - 1. LSMC 14.76.120 requires that any unprotected significant trees removed shall be replaced at a ratio of 3:1. The city is proposing to mitigate from the weir to the Main Street Bridge (excepting the proposed pedestrian bridge location) to offset the disturbance from the channel dredging from the lake to the weir. Mitigation will consist of replanting of approximately 60 native trees within the stream buffer with additional native shrub plantings as shown on the approved mitigation plan (**Exhibit 3**).
 - 2. A landscaping performance bond is not required since the city is a local agency that secures their own work.
 - 3. The project is exempt from a Forest Practices permit per LSMC 14.50.155(c)(2).

CONCLUSION: The application as conditioned will meet the requirements of land disturbance permits per Chapter 14.50 LSMC – Part I and II and tree retention per LSMC 14.76.

4. Environmental / Project Review:

The city reviewed the applicant’s SEPA checklist and issued a DNS (**Exhibit 9**) for the project on July 13, 2021 using the optional DNS process per WAC 197-11-355. No comments or appeals on the DNS were received.

CONCLUSION: The application meets SEPA standards established in Chapter 16.04 LSMC and Chapter 197-11 WAC.

5. Critical Areas:

- a. The Watershed Company prepared a critical areas report for the project to address the city's critical areas regulations (**Exhibit 6**).
- b. The Lake Channel Outlet is considered an environmentally sensitive or critical area and classified as a Type F Stream as listed in the Lake Stevens Critical Areas Atlas 2012 and confirmed by documented fish use by other agencies. Type F Streams include those stream segments within the OHWM that are not Type S streams (inventoried as shorelines of the State), and which are "demonstrated or provisionally presumed to be used by fish" (LSMC 14.88.400(g)(2)).
- c. Per LSMC 14.88.220(i), normal maintenance, repair, operation of existing structures, facilities, or improved areas is allowed "provided, that a site/resource-specific report prepared when the activity may result in a loss of functions and values, that describes the environmental limitations of and proposed mitigation for the site, shall be submitted, reviewed, and approved by the City prior to permit issuance or land use approval." This project meets the criteria for normal maintenance per critical area regulations. To mitigate any temporary impacts to and protect fish species utilizing the channel, this project includes a stream diversion plan.
- d. The report summarized "that proposed project will include dredging 135 cubic yards of sediment from the outlet channel to the original grade of the outlet when the weir was first constructed. This will also allow the City to restore the functioning of the weir located 250 feet downstream of the channel. The proposed project is considered normal maintenance of an existing structure and will not include the expansion of the original outlet channel footprint. Since the Lake Stevens Outlet Channel is a fish bearing channel that is the only outlet for Lake Stevens, a stream diversion plan has been developed to mitigate any temporary impacts to fish utilizing the channel."

CONCLUSION: The application meets the critical area standards established in Chapter 14.88 LSMC.

6. Public Utilities and Services

- a. Water: The applicant has coordinated with Snohomish County PUD and will continue to do so throughout construction.
- b. Fire: The current action does not require Fire District approval.
- c. Sewer: The applicant has coordinated with Snohomish County PUD and will continue to do so throughout construction.
- d. Stormwater Management: The Public Works Department is the applicant on the land disturbance permit and has coordinated with other city departments and outside agencies on the proposal.

CONCLUSION: The application as conditioned will meet the standards for public services and utilities as established in the Lake Stevens Municipal Code.

D. FINDINGS AND CONCLUSIONS

This decision meets the requirements of LSMC 14.16B.235 as the written record for a Type II administrative approval and the SEPA review process pursuant to LSMC 16.04.

E. DECISION AND CONDITIONS

Permit No. LUA2021-0087 is hereby **APPROVED subject to the following conditions:**

1. The applicant is granted approval to perform the site disturbance and earthwork as identified in the application (**Exhibit 1**).
2. All work shall conform to the approved civil and mitigation plans approved (**Exhibit 3**) or as hereafter amended with city approval and other agency approval (if needed).

3. All land disturbance shall follow the requirements of LSMC 14.50.130 and 14.50.160.
4. The work associated with this permit shall occur only within the construction limits outlined on the civil plans for the project (**Exhibit 3**). No work may occur outside these boundaries without proper permits.
5. All in water work shall commence during the period set forth by Washington Department of Fish and Wildlife also known as the “fish window”, which per the HPA permit ends on September 30, 2021.
6. All work shall adhere to the final mitigation plan (**Exhibit 3**).
7. The applicant and/or successor is responsible for obtaining all other required local, state, and federal development permits as applicable, including but not limited to permit(s) from the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the Department of Ecology.

CITY OF LAKE STEVENS, DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Decision Completed by



Melissa Place, *Senior Planner*

August 24, 2021

Date of Review

Ordered by



Russ Wright, *Community Development Director*

August 25, 2021

Date Approval

F. EXHIBITS

1. Type II Application – Combined major land use disturbance permit and SEPA checklist dated May 24, 2021
2. ACOE letter and DOE Email – dated March 16, 2021 and May 11, 20201 respectively
3. Civil Plans and Mitigation Plan – dated July 16, 2021
4. Public Comment – PUD letter dated June 18, 2021
5. Public Notice Affidavit
 - a. Publication
 - b. Postcards
 - c. On-site Posting
6. Critical Areas Report dated May 14, 2021
7. Outlet study dated November 5, 2020
8. Photos
9. SEPA DNS and Checklist

G. EXPIRATION AND APPEALS

Pursuant to LSMC 14.16B.245, approval of a Type II application shall expire one year from the date approval was final, unless significant action proposed in the application has been physically commenced and remains in progress pursuant to LSMC 14.16A.250.

Interested parties may appeal the decision by submitting a written appeal form and required fees to the City Clerk **within 14 days of the date of decision**. The appeal must identify the specific aspect(s) of the decision being appealed, rationale for the appeal, and any supporting evidence, pursuant to LSMC 14.16B.710. The Hearing Examiner is the appeal body for administrative decisions.

Distributed to the Following Parties:

1. Derek Marks, Tulalip Tribes
2. Ashley Kees, WDFW
3. Mary Wicklund, Snohomish County PUD No. 1
4. Doug Gresham, DOE
5. Amanda Nadjkovic, U.S. Army Corps of Engineers