

PLANNING COMMISSION AGENDA



REMOTE ACCESS ONLY – VIA ZOOM

Wednesday, June 16, 2021

Join Zoom Meeting: <https://us02web.zoom.us/j/81439815974>

Call in: (253) 215-8782 Meeting ID: 814 3981 5974

Planning Commission Meeting: First Wednesday of every month at 6:00pm | Municipal code available online: <https://www.codepublishing.com/WA/LakeStevens/>

- **CALL TO ORDER 6:00pm**

Pledge of Allegiance

- **ROLL CALL**

- **GUEST BUSINESS**

- **ACTION ITEMS**

None

- **PUBLIC HEARING**

Lot Status Code Amendment (LUA2021-0001)

Associate Planner Gassaway

Public hearing presentation will follow the following format:

1. PC Chair open public hearing
2. Staff presentation
3. Commission's questions for staff
4. Public comments
5. Staff response to public comments (as needed)
6. Close public comments portion of hearing by motion
7. Deliberation
8. Close hearing by motion
9. COMMISSION ACTION BY MOTION—Recommendation to Council
 - A. Approve
 - B. Deny
 - C. Continue

- **DISCUSSION ITEMS**

1. Impact Fees Code Amendment Introduction

Planning Manager Levitan

- **COMMISSIONER REPORTS**

- **PLANNING DIRECTOR'S REPORT**

- **FUTURE AGENDA ITEMS**

- **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.



SUBJECT: Public Hearing for Lot Status Regulations (LUA2021-0001)

CONTACT PERSON/DEPARTMENT: Sabrina Gassaway, Associate Planner

SUMMARY: A city-initiated code amendment to create process and requirements for determining legal lot status.

ACTION REQUESTED OF PLANNING COMMISSION: Forward a recommendation to City Council to approve the proposed code amendments shown in Attachment 1.

Background

LUA20202-0001 is a city-initiated code amendment that would create codified regulations for legal lot status determinations. Since 1989 lot status determinations have been regulated through a City Administrative Policy, which lacks a codified framework and decision criteria on which these determinations are made or an avenue for appeal.

On [March 3](#), staff introduced the Commission to the proposed amendment, which would add a new section related to legal lot status to Chapter 14.16C LSMC (Land Use Actions, Permits and Determinations), with a definition to be added to LSMC 14.08. Staff presented a revised draft of the code on [April 21](#) and then again on [May 5](#), after the code was reviewed by the City Attorney. Commissioners indicated their support for the amendment and directed staff to schedule a public hearing.

The code amendment shown in Attachment 1 establishes the application process, submittal requirements, decision criteria, methods for appeal, and alternative methods for determining lot status for new LSMC Section 14.16C.078, and adds definitions for “lot of record” and “lot status determination” to LSMC 14.08. The proposed code language also allows for lot status determinations to be reviewed concurrently with a building or land use permit, without requiring a separate Type I land use application. Alternative methods for determining lot status are included to provide relief in situations where properties were divided through tax segregation, deed, or fee simple transfer purchase but the lot in questions meets the minimum zoning standards per Title 14.

Land use code amendments must meet the procedural requirements and decision criteria identified in [LSMC 14.16C.075](#), which are addressed below under Findings and Conclusions.

FINDINGS AND CONCLUSIONS:

1. Compliance with elements of the Comprehensive Plan

- Land Use Element Policy 2.3.2 – Preserve and promote the character of existing neighborhoods through thoughtful development regulations and design standards.
- Land Use Element Policy 2.3.3 – Encourage infill development on suitable vacant parcels and redevelopment of underutilized parcels. Ensure that the height, bulk and design of infill and redevelopment projects are compatible with their surroundings.

- Land Use Element Policy 2.3.4 – Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services.

Conclusions – The proposed code amendment provides an application process, submittal requirements, decision criteria, methods for appeal, and alternative methods for determining lot status. These new regulations will provide a more clear and objective process for legal lot status determinations and are consistent with the Lake Stevens Comprehensive Plan.

2. Compliance with the State Environmental Policy Act (SEPA) (Chapter 97-11 WAC and Title 16 LSMC)

- A SEPA Exemption was issued on June 7, 2021 pursuant to WAC 197-11-800(19) procedural actions.

Conclusions – The proposed code amendment has met local and state SEPA requirements.

3. Compliance with the Growth Management Act (RCW 36.70A.106)

- The city requested expedited review from the Department of Commerce on May 10, 2021, which was granted on May 25, 2021.
- Staff will file the final ordinance with the Department of Commerce within 10 days of City Council action.

Conclusions – The proposed code amendment has met Growth Management Act requirements.

4. The amendment serves to advance the public health, safety and welfare

- The proposed code amendment establishes defined procedures and requirements for determining legal lot status, helping to ensure that development in the city will occur in an orderly manner and that there are opportunities for applicants to appeal city decisions.

Conclusions – The proposed code amendment will serve to advance the public health, safety and welfare.

5. Public Notice and Comments

- The city published a notice of public hearing in the Everett Herald on June 5 and 14, 2021, as required by Chapter 14.16B LSMC.
- No written comments have been received.

Conclusions – The city has met public notice requirements per Chapter 14.16B LSMC.

RECOMMENDATION: Staff recommends that Planning Commission forward a recommendation to City Council to APPROVE the proposed code amendment to LSMC 14.16C.78 to adopt regulations for lot status review and determinations (LUA2021-0001).

ATTACHED:

Attachment 1 – Proposed Amendment creating LSMC 14.16C.78 and adding definitions to LSMC 14.08

Attachment 1

Chapter 14.16C LAND USE ACTIONS, PERMITS AND DETERMINATIONS - DECISION CRITERIA AND STANDARDS

Sections:

[14.16C.005 Purpose](#)

[14.16C.010 Scope](#)

[14.16C.015 Administrative Conditional Uses](#)

[14.16C.020 *Repealed*](#)

[14.16C.025 Administrative Modifications](#)

[14.16C.030 Changes of Use](#)

[14.16C.035 Code Interpretations](#)

[14.16C.040 Comprehensive Plan Amendments - Text and Maps](#)

[14.16C.045 Conditional Uses](#)

[14.16C.050 Design Review](#)

[14.16C.055 Development Agreements](#)

[14.16C.060 Essential Public Facilities](#)

[14.16C.065 Events](#)

[14.16C.070 Home Occupations](#)

[14.16C.075 Land Use Code Amendments](#)

14.16C.078 Legal Lot Status Determination

[14.16C.080 Planned Neighborhood Developments](#)

[14.16C.083 Planned Action Projects](#)

[14.16C.085 Reasonable Use Exceptions](#)

[14.16C.090 Rezones - Official Zoning Map Amendments](#)

[14.16C.095 Right-of-Way Vacation](#)

[14.16C.100 Shoreline Permits](#)

[14.16C.105 Site Plan Review](#)

[14.16C.110 Temporary Use](#)

[14.16C.115 Variances](#)

[14.16C.120 Administrative Authority](#)

14.08 Definitions

"Lot of record" means: (1) Lots created through a subdivision or short subdivision and recorded with Snohomish County after 1969 (not all short plats were required to be recorded before 1974); (2) land for which a deed or other instrument describing the land was recorded with Snohomish County prior to 1969; (3) lots created per RCW 58.17.040 or (4) land that receives a lot status determination by the city or previous lot status determination from Snohomish County.

"Lot Status Determination" means an administrative review process to determine if a lot was legally created and is eligible for conveyance and/or whether the lot is eligible to be considered for development permits.

14.16C.078 Lot Status Determination

(a) Purpose

- (1) The purpose of this section is to provide a process and criteria for determining whether a lot, tract, or parcel (parcels) is a lot of record consistent with applicable state and local law, and to provide alternate criteria for determining lot status for a parcel that may not qualify outright as a lot of record.

(b) Applicability and burden of proof.

- (1) The standards of this section apply to all requests for lot status determinations or for any applications relating to land development, building permits, property division, boundary line adjustment or any other land use actions when a lot status determination is necessary pursuant to RCW 58.17.210.
- (2) The applicant shall bear the burden of proving that a parcel of land is a lot of record.

(c) Determination Process

- (1) Lot status determinations as part of a building permit or other land use and development request.
 - (i) Lot status determinations involving building permit or other land use and development applications shall submit all materials set forth in LSMC section 14.16.C.078(d), along with the underlying applications, and required application fees.
 - (ii) Concurrent review with an underlying application shall follow the process for the underlying building permit or land use permit.
 - (iii) A separate written approval of a lot status determination will not be issued unless requested by the applicant.
- (2) Lot status determinations without a building permit or other land use and development request.
 - (i) Lot status determinations not involving any other concurrent city reviews shall submit all materials set forth in LSMC section 14.16C.078(d), a complete Type I application and current fee.
 - (ii) The lot status determination shall be reviewed for compliance with the criteria in this section.
 - (iii) The city will issue a written determination of lot status.

(d) Submittal Requirements

The following materials shall be provided by all applicants for a lot status determination:

- (1) Complete application (if not a concurrent review);
- (2) Written narrative explaining the purpose of the request;

- (3) Title Report (prepared within 30 days of submittal to the City);
- (4) Scaled site plan to include property lines, dimensions, structures, site improvements, easements and utility locations;
- (5) Any existing evidence of legal lot status such as:
 - (i) Prior approved and recorded short subdivision or subdivision approval showing formal lot creation;
 - (ii) Recorded deeds or contracts describing the lot or lots either individually or as part of a conjunctive legal description (e.g., Lot 1 and Lot 2); or
 - (iii) Historic tax records or other similar evidence, describing the parcel as an individual lot.
- (e) Decision Criteria. The Planning Director or designee shall determine that a parcel is a legal lot of record when the parcel meets one or more of the following criteria:
 - (1) The parcel was created through a subdivision or short subdivision in the city after June 17, 1970.
 - (2) The parcel was created through a subdivision or short subdivision recorded with Snohomish County or approved by Snohomish County prior to annexation and after August 9, 1969.
 - (3) The parcel was created through a subdivision or short subdivision with written approval by Snohomish County between 1937 and 1969 and has been subsequently developed, sold through deed transfer and meets the requirement of 14.16C.078(f)(3).
 - (4) The lot was created by a process defined in RCW 58.17.040 RCW.
- (f) Alternate decision criteria for determining lot status. The Planning Director or designee may determine that a parcel is a legal lot of record when the parcel meets one or more of the following criteria:
 - (1) The parcel was created through territorial platting prior to 1937, was not subsequently developed, altered or improved, and the applicant can demonstrate that the parcel meets the requirement of LSCM section 14.16C.078(f)(3).
 - (2) The parcel is a tax parcel created for tax segregation purposes by the County Assessor and the applicant can demonstrate: that the parcel meets the requirement of LSMC section 14.16C.078(f)(3) and the following:
 - i. The parcel was created by a tax segregation process prior to March 4, 1972; and
 - ii. The parcel was defined by metes and bounds legal description or fractional section description and conveyed by notarized deed prior to December 31, 1968; or
 - iii. The parcel was conveyed as an individually described parcel to separate, noncontiguous ownerships through a fee simple transfer or purchase.
 - (3) For consideration for an alternative determination of lot status, the applicant shall demonstrate that:
 - i. The parcel meets the zoning regulations in effect at the time the lot was created; or
 - ii. The parcel substantially meets or can meet current zoning standards per Title 14 including but not limited to access to public utilities, site access, road, sidewalk, stormwater, lot size, setbacks, etc.; and
 - iii. The parcel does not adversely impact public health or safety; and
 - iv. The parcel does not adversely affect or interfere with the implementation of the comprehensive plan.

- v. For purposes of reviewing the status of pre-existing parcels, parcels within 10 percent of lot size standards shall be considered to substantially meet the current standards unless the Planning Director or designee determines that public health or safety impacts are present.

(g) Prior Determination.

- (1) Lots which have been recognized through a previous lot status determination, including approvals from Snohomish County before annexation, or other planning approval in which lot recognition is made, are lots of record. Such parcels shall remain lots of record unless the property owner consolidates or merges the lot with another lot or alters the lot or portions of a lot subject to a court decision. Any such change shall necessitate a new legal lot determination through the processes outlined in this LSMC section 14.16C.078.
- (2) The city shall have the authority to review lots that have been altered through the boundary line agreement process identified in RCW 58.04.007. If the city determines that the limited parameters of RCW 58.04.007 do not apply to a recorded boundary line agreement, the city's determination of lot status shall be based on the recorded boundaries prior to the agreement, unless a boundary line adjustment is approved through the process outlined in LSMC section 14.18.200.



Staff Report City of Lake Stevens Planning Commission

Date: June 16, 2021

Subject: Introduction to Impact Fee Code Amendments

Contact Person/Department: David Levitan, Planning Manager

ACTION REQUESTED: No formal action is required. Staff will introduce potential code amendments related to impact fees for roads/streets (traffic), schools, and parks that are needed to address recent and upcoming annexations as well as existing code language that is difficult to interpret and administer.

BACKGROUND/ HISTORY

Impact fees are one-time charges that cities, counties, and special service districts may collect to help fund public facility or capital improvements needed to help mitigate the impacts from development. Impact fees may only be used to fund “system improvements” identified in the city’s (or district’s) capital facilities plan. They must be reasonably related and proportional to the impacts of the proposed development and may not be used to correct existing deficiencies. City and school district impact fees are identified on pages 4/5 of the city’s [fee resolution](#), which is updated annually.

Per RCW 82.02.050-110 and WAC 365-196-850, local jurisdictions may impose impact fees on:

- Public streets and roads (traffic)
- Public parks, open space, and recreation facilities
- Schools
- Fire protection facilities

The most recent ordinance related to impact fees was [Ordinance 970](#), which created a new section ([LSMC 14.124](#)) that allows the city to defer collection of impact fees for residential development until the issuance of a certificate of occupancy (as opposed to issuance of building permits). Since that time, the city has completed several annexations (Rhodora, SE Island, Machias Industrial) and another major annexation (SE Interlocal) is scheduled to be completed later this summer.

The city also recently adopted higher SEPA flexible thresholds for minor new construction via [Ordinance 1118](#), which exempts up to 30-lot subdivisions, 60-unit MFR developments, and 30,000-sf commercial projects. This means that a number of projects that the city could previously utilize the SEPA process to assess and mitigate impacts (most notably traffic impacts) are now exempt from SEPA review. It is especially important to revise the city’s traffic impact zones to reflect updated city boundaries, for, as detailed on the next page, these areas are not currently included in any traffic impact zone established by [LSMC 14.112](#).

PROPOSED UPDATES TO IMPACT FEES

The Lake Stevens Municipal Code (LSMC) currently includes sections related to the following impact fees:

- School Impact Mitigation ([LSMC 14.100](#))
- Traffic Impact Mitigation Fees ([LSMC 14.112](#))
- Park Impact Mitigation Fees ([LSMC 14.120](#))

Proposed Updates to LSMC 14.100 (Schools)

LSMC 14.100 allows for the collection of school impact fees for residential projects that increase the number of dwelling units in the city. The code language allows the Lake Stevens School District to charge impact fees so long as the city approves its [capital facilities plan](#), which was last adopted by reference as part of the 2020 Comprehensive Plan docket.

The 2018 Rhodora annexation resulted in the city boundaries now including a small area within Snohomish School District boundaries, which will further expand with the upcoming SE Interlocal annexation. LSMC 14.100.040 will need be amended to also reference the Snohomish School District, and the city will need to update the district's [capital facilities plan](#) as part of the 2021 Comprehensive Plan docket.

Proposed Updates to LSMC 14.112 (Traffic)

LSMC 14.112 allows for the collection of traffic impact fees for all new development that is not identified as exempt under [LSMC 14.110.030](#), with the exception of planned action projects. The city is broken up into three traffic impact zones (Attachment 1), which have not been updated since 2012 and as such do not include any of the recent or upcoming annexations. LSMC 14.112.070 also allows the city to use the SEPA review process to address traffic impacts not mitigated by the city's traffic impact fee. The city used this authority to assess traffic impact fees on the current Mountain Crest (formerly Mountain View) subdivision, which is not currently included in any of the traffic impact zones.

The most pressing update to LSMC 14.112 will be to update the traffic impact zone (TIZ) map to reflect city boundaries through the SE Interlocal annexation. Planning and Public Works staff have reviewed the map and are proposing to expand TIZ 3 to the east and north and TIZ 1 to the south, with the dividing line between the two zones located just south of 3rd PI SE, as shown on Attachment 1. Staff is also proposing to add code language that would assign a TIZ to future annexations that matches the TIZ of adjacent areas within the city. It will be important to adopt these amendments in the near future so that SEPA-exempt projects in recently annexed areas are not also exempt from traffic impact fees.

Proposed Updates to LSMC 14.120 (Parks)

LSMC 14.120 allows for the collection of park impact fees for all new residential development, with exemptions outlined in LSMC 14.120.040. The city has a single parks service area (unlike traffic), and the existing code also allows for the SEPA to address and mitigate additional impacts through the SEPA review process. LSMC 14.120.080 includes a formula regarding the use of impact fee revenues that has been somewhat onerous to administer, resulting in the development of a city administrative policy in 2013. Staff intends to simplify LSMC 14.120 and is currently reviewing examples of code language from several local jurisdictions. Staff will provide a brief update on its research at the Commission's July 7 meeting.

NEXT STEPS

Staff will begin drafting amendments to LSMC 14.100 (school impact fees) and LSMC 14.112 (traffic impact fees) and will share additional research on potential updates to LSMC 14.120 (park impact fees) at the Commission's July 7 meeting. As a Type VI land use code amendment, the Planning Commission will be required to hold a public hearing to make a recommendation to City Council, which staff has tentatively scheduled for August 4.

ATTACHMENTS

Attachment 1 – Traffic Impact Zone Map (including proposed expansions)

Attachment 1

