



Planning and Community Development
Type I Decision –
Shoreline Exemption and Floodplain Development Permits

Lake Stevens Outlet Channel Dredging Project

LUA2021-0086

A. PROJECT DESCRIPTION AND REQUEST

The City of Lake Stevens Public Works Department applied for a shoreline exemption and a floodplain development permit on May 24, 2021 (**Exhibit 1**) 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 in the fish window (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 I decision encompasses both the shoreline exemption permit and floodplain development permit. A separate decision will be issued for the Type II permits (land disturbance and SEPA review). 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 shoreline exemption is required for projects within the shoreline jurisdiction that are exempt from a substantial development permit pursuant to WAC 173-27-040 and that meet the thresholds established in the Lake Stevens Shoreline Master Program (LSSMP) Chapter 7.C.1.a-p. A shoreline exemption is a Type I application as defined by Lake Stevens Municipal Code (LSMC) 14.16A.210 and Table 14.16A-I. A floodplain development permit is required for this proposal pursuant to LSMC 14.64.030(b)(5) and LSSMP Chapter 3.B.5. A floodplain development permit is a Type I application as defined by LSMC 14.16A.210 and 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 shoreline exemption application and floodplain development application under a single Type I application (**Exhibit 1**).
- b. Per LSMC 14.16A.210 (b)(1) and Table 14.16A-I, a floodplain development permit is a Type I permit approved administratively and is exempt from public noticing.
- c. The city issued a SEPA Determination of Nonsignificance (DNS) for the project on July 13, 2021 using the optional DNS process per WAC 197-11-355 (**Exhibit 8**). 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 (except for 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 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.130 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 I applications as established in Title 14 of the LSMC.

2. Floodplain Development Permit Application Type and Specific Criteria: Chapter 14.64 LSMC establishes the requirements and criteria for approving a floodplain development permit and Chapter 3.B.5 of the LSSMP sets forth the policies and regulations for development within a floodplain.
- a. LSMC 14.64.015: Classification. Staff has reviewed the project location and determined that it is located within Flood Hazard Zone Area "A", defined by FEMA as a Special Flood Hazard Area (SFHA), or an area that will be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year.
 - b. LSMC 14.64.020: Administrative Procedures: The request by the applicant for a Floodplain Development permit fulfills the procedural requirements of Chapter 14.64 LSMC.
 - c. LSMC 14.64.030: Other Activities: The proposed project is an activity allowed with a floodplain permit but without a habitat impact assessment pursuant to LSMC 14.64.030(b)(5) - "Activities with the sole purpose of creating, restoring and/or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet Federal and State standards, if the activities do not include the creation of structures and/or impervious surfaces."
 - d. LSSMP 3.B.5: One of the purposes of this section of the city's SMP is for the protection and, where appropriate, the restoration of the physical integrity of the ecological system processes, including water and sediment transport and natural channel movement. The proposal fulfills this section of the SMP.

Several other floodplain regulations that pertain to and that the proposal fulfills are as follows:

1. LSSMP 3.B.5.c.1– Including consistency with any conditions of an HPA permit.
2. LSSMP 3.B.5.c.5 - Existing hydrological connections into and between water bodies, such as streams, tributaries, wetlands, and dry channels, shall be maintained.
3. LSSMP 3.B.5.c.10 - Bridges, culverts, and other river, stream, and waterway crossings shall be designed and constructed so they do not restrict flood flows such that flood elevations are increased. Where a bridge, culvert, or other waterway crossing replaces an existing crossing, the replacement structure shall not increase flood heights over those caused by the original structure.

CONCLUSION: The application as conditioned will meet the requirements for floodplain development applications established in LSMC 14.64 and LSSMP Chapter 3.B.5.

3. Shoreline Exemption Application Type and Specific Criteria: The proposal is exempt from requiring a shoreline substantial development permit per WAC 173-27-040(2)(b) and LSSMP Chapter 7.C.1.b. An exemption from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act or the local master program, nor from any other regulatory requirements.

CONCLUSION: The application as conditioned will meet the requirements for shoreline exemption applications established in LSSMP Chapter 7.

4. Environmental / Project Review:

The city reviewed the applicant's SEPA checklist and issued a DNS (**Exhibit 8**) 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.

D. FINDINGS AND CONCLUSIONS

This decision meets the requirements of LSMC 14.16B.130 as the written record for a Type I administrative approval and the shoreline exemption review process pursuant to LSSMP Chapter 7.C.1.

E. DECISION AND CONDITIONS

Permit No. LUA2021-0086 is hereby **APPROVED subject to the following conditions:**

1. The city grants approval to the applicant and/or successor for the dredging work as requested by the Shoreline Exemption and Floodplain Development permit applications (**Exhibit 1**).
2. 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.
3. All work shall adhere to the final mitigation plan (**Exhibit 3**).
4. 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 I Application – Combined Shoreline Exemption permit and a Floodplain Development permit 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. Critical Areas Report dated May 14, 2021
6. Outlet study dated November 5, 2020
7. Photos
8. SEPA DNS and Checklist

G. EXPIRATION AND APPEALS

Per LSMC 14.16B.135, approval of a Type I application shall expire one year from the date of approval, unless the proponent or successor has made significant construction progress pursuant to LSMC 14.16A.250 and applied for a timely permit extension.

Interested parties may appeal the Floodplain Development permit 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, rational for the appeal, and any supporting evidence, pursuant to LSMC 14.16B.710. The Hearing Examiner is the appeal body for administrative decisions.

Any person aggrieved by the granting, denying or rescinding of a Shoreline Exemption permit may seek review by filing a request for review with the Shoreline Hearings Board, the Department of Ecology, and the Attorney General **within 21 days of receipt of the date of decision**. No fee is required for filing an appeal with the Shoreline Hearings Board. The appeal must be filed with each of the following parties:

Physical Address:

Environmental Hearings Office
1111 Israel Road SW, Suite 301
Tumwater, WA 98501

Mailing Address:

Environmental Hearings Office
P.O. Box 40903
Olympia, WA 98504-0903

Within seven days of filing any petition for review with the Board pertaining to a decision of local government, the petitioner must provide copies of the petition on all parties, including the local government:

State Department of Ecology
300 Desmond Drive Olympia
P.O. Box 47600
Olympia, WA 98504-7600

State Attorney General Ecology Division
2425 Bristol Court SW, 2nd Floor
P.O. Box 40117
Olympia, WA 98504-0117

City of Lake Stevens
1812 Main St.
P.O. Box 257
Lake Stevens, WA 98258

(There is a City fee for shoreline permit appeals.)

Service on all parties shall be by personal service or by mail. Service by mail is effective on the date of mailing; however, filing with the Board is only effective on actual receipt by the Board.

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