

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 22-095

REFERRING A PROPOSED EXPANSION OF THE LAKE STEVENS URBAN GROWTH AREA, INCLUDING FUTURE LAND USE MAP AND ZONING MAP CHANGES TO THE SNOHOMISH COUNTY PLANNING COMMISSION AND THE DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES FOR CONSIDERATION DURING THE 2024 COMPREHENSIVE PLAN UPDATE

WHEREAS, the County Council wishes to obtain a recommendation from the Snohomish County Planning Commission regarding a proposed expansion of the Maltby Urban Growth Area, including changes to the Future Land Use Map (FLUM), official zoning map, and, possibly, policy language in the General Policy Plan (GPP); and

WHEREAS, FLUM and zoning map changes during comprehensive plan updates are Type 3 legislative actions pursuant to Chapter 30.73 SCC; and

WHEREAS, SCC 30.73.040 provides that the Planning Commission shall hold a public hearing on a Type 3 proposal referred to it by the county council within 90 days or within a time specified by the County Council; and

WHEREAS, RCW 36.70A.130 requires that the next periodic review of the GMACP be complete by June 30, 2024; and

WHEREAS, Planning and Development Services (PDS) is the lead department for the 2024 Update project and PDS may need to seek and receive input on the proposed policy amendments from other county departments; and

WHEREAS, the County Council is open to input from PDS and other departments on any issue or idea related to the proposal;


NOW, THEREFORE, ON MOTION, the County Council hereby refers the proposal as detailed and attached in "Exhibit A", to the Department of Planning and Development Services (PDS) for input as follows:

1. Pursuant to Chapters 2.08 and 30.73 SCC, the County Council refers the potential code revisions to the Director of PDS as both the head of the lead department and as acting in the capacity of Secretary to the Snohomish County Planning Commission for its review, consideration, and a recommendation to the Council.

2. The County Council understands that the proposed amendments may require refinements for consistency with other policies or statutes. PDS or other departments may suggest such refinements or other types of improvements. The intent of this motion is to consider expansion of the Lake Stevens UGA in Alternative 3 for the 2024 Update. Exhibit A to this motion includes details.
3. The County Council does not specify a date for a response and instead requests that the Planning Commission hold a public hearing and make its recommendation on the proposed changes back to the County Council as part of the commission's overall consideration of the 2024 Update.

DATED this 23rd day of March, 2022.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Asst. Clerk of the Council

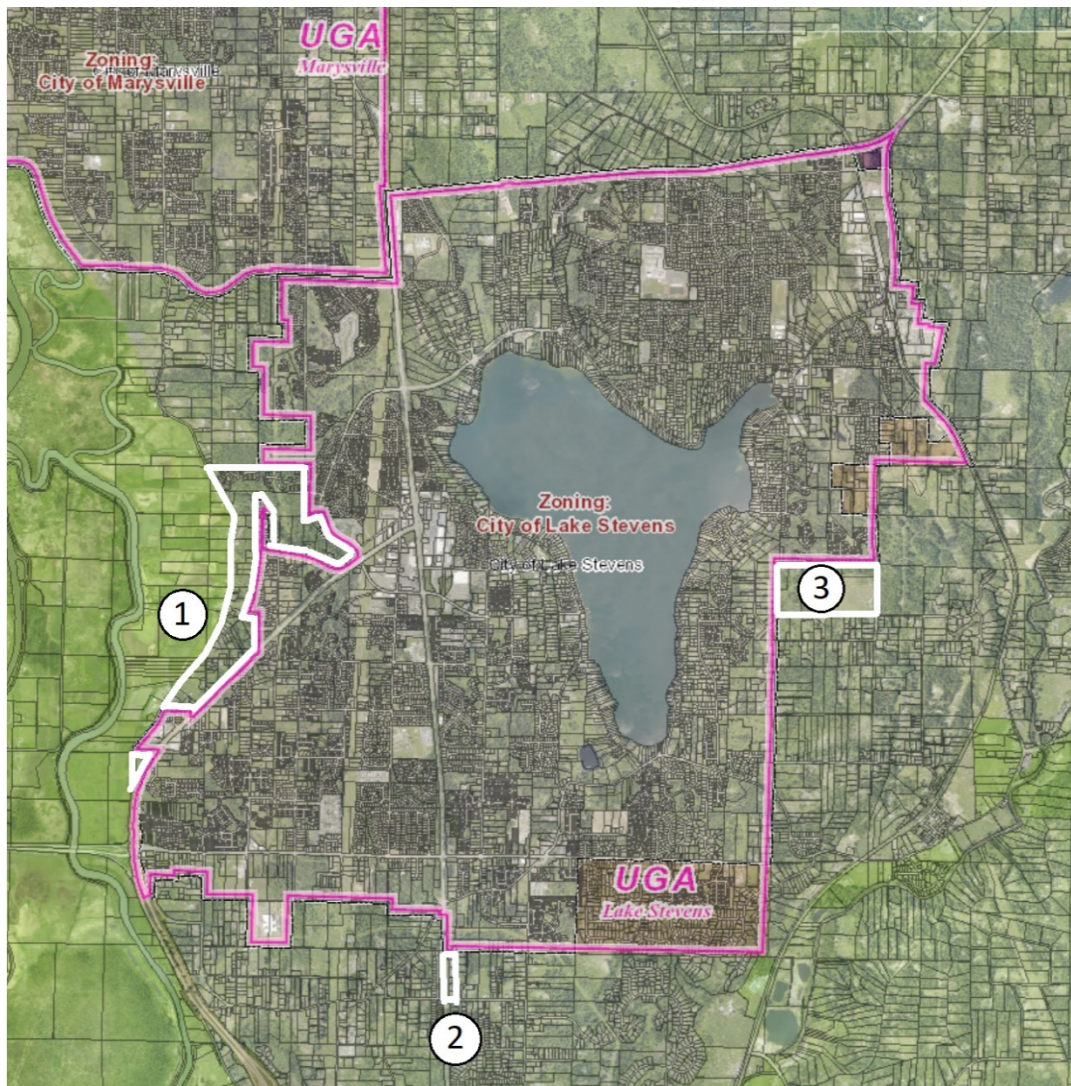
What is the proposed action?

Place an expansion of the Lake Stevens UGA by approximately 302 acres, plus additional right-of-way areas to be determined by PDS as appropriate, for inclusion in Alternative 3 for study purposes. This expansion would take place in three general areas of the UGA. Two of these expansion areas overlap with applications in Docket XXI. Expansion Area 1 (211 acres) includes the south part of the LS3 docket application. Expansion Area 2 (6 acres) is part of the LS4 docket application. Expansion Area 3 (86 acres) is unrelated to the docket.

Proposed Acreage by Future Land Use Map Designation:

- 241 acres Urban Low Density Residential
- 57 acres Public/Institutional Use
- 6 acres Urban Commercial

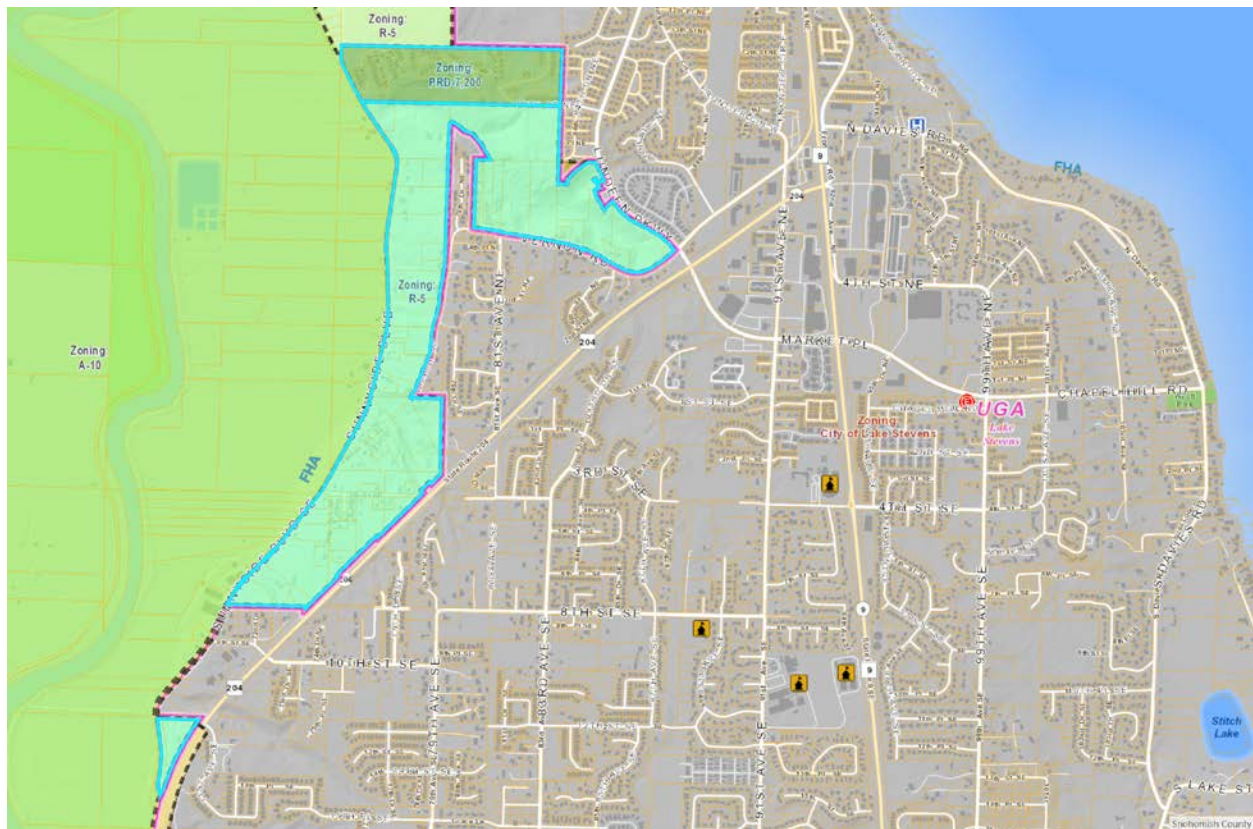
Figure 1 – General Expansion Areas



Area 1: Expansion Along Sunnyside Boulevard

This part of the expansion would include an area between Sunnyside Boulevard and the Lake Stevens UGA that includes and is bounded on the north by Valterra View Estates, an urban development permitted when this area was previously in the UGA. The affected area is part of the LS3 proposal proposed by the City of Lake Stevens for Docket XXI. This motion proposes a future land use designation of Urban Low Density Residential. The parts with R-5 zoning would be rezoned to R-7,200.

Figure 2 – Current Zoning of Area Along Sunnyside Boulevard (Blue Highlights)



The area proposed to be added to the Lake Stevens UGA by this motion was in the UGA from the time Snohomish County adopted UGAs in 1995 as part of its first Growth Management Act Comprehensive Plan (GMACP).¹ In 2001, the size of the UGA was reduced as part of a subarea plan.² In Docket XXI, the City of Lake Stevens proposed restoring most of the former UGA back into UGA status as part of the LS3 proposal.³ The LS3 proposal also proposed to include additional land to the north of this area back into

¹ The Lake Stevens UGA was established by Ordinance 94-117 on June 28, 1995.

² The UGA reduction was passed on November 7, 2001, in Amended Ordinance 01-073.

³ Docket Request LS3 did not include parcel 29052300300200.

the UGA along with additional land to the north that had never been in the UGA. This motion proposes to include place only the former UGA area back into the UGA.

Valterra View Estates (VVE) is an urban subdivision applied for on July 30, 1997, when the site was in the UGA, creating a vested right to the development. On November 7, 2001, the site was removed from the UGA by Amended Ordinance 01-073 and rezoned to R-5. However, removal from the UGA did not end vested rights, and the VVE proceeded in the review process. On June 27, 2002, the Hearing Examiner approved VVE, which included a rezone to PRD-7,200.⁴

Countywide Planning Policy DP-2.e.5 allows UGA expansion to “correct a demonstrated mapping error” and includes a footnote that reads

The type of errors that this policy intends to correct are cases where the UGA line incorrectly bisects an existing building or parcel, where it inadvertently and incorrectly follows an arbitrary feature such as a section line, or where the boundary is on the wrong side of a right-of-way that is expected to be annexed by a city.

This motion notes that the UGA reduction adopted by Amended Ord 01-073 in 2001 did not include any findings specifically related to VVE or vesting. That ordinance does include site specific findings for four other properties that were given special consideration.

Although the application for Valterra View Estates could have expired and the site remained with R-5 zoning, from the present-day perspective leaving this non-conforming development and zoning outside the UGA could be seen as a mapping error of the sort that can be corrected under CPP DP-2.e.2. RCW 36.70A.040(4)(d) supports taking some sort of action as this calls on jurisdictions to adopt “development regulations that are consistent and implement the comprehensive plan”, which includes zoning that implements the comprehensive plan. Rezoning the site to R-5 and making the entire development non-conforming to the zone is one option. Another is to leave it alone for resolution another time. Including Valterra View Estates in the UGA is a third valid option and is the one proposed in this motion.

Mapping error or not, CPP DP-2.e.2 could potentially authorize an UGA expansion for both Valterra View Estates and other expansion areas proposed by this ordinance. Those include 177 acres of additional proposed residential expansion along Sunnyside Boulevard. CPP DP-2.e.2 allows UGA expansion that:

⁴ Subsequent modifications and a later Hearing Examiner approval in 2006 led to the current configuration. This emphasizes the importance of vested rights when considering whether this site may have been removed from the UGA inappropriately, but those changes were not pending at the time the VVE site was removed from the UGA.

Highway 9 Business Center

- Existing development split the UGA
- Approximately 4.89 acres are currently outside UGA (proposed expansion area)
- Proposed Future Land Use Map designation: Urban Commercial
- Proposed Zoning: Planned Community Business (PCB), see below
- Countywide Planning Policies (CPPs): CPP DP-2.e.2 and DP-2.e.5, see below

The Highway 9 Business Center (H9BC) is a commercial condominium that includes five condominium lots with existing buildings and three tracts for common elements. The total area of the condominium is 6.42 acres, 4.89 acres of which is outside the UGA. The other 1.53 acres are inside the UGA and already incorporated by the City of Lake Stevens. Details are in Table 1.

Table 1. Parcels and tracts in the Highway 9 Business Center (AFN 200212115004)

Parcel	Area (Sq ft)	Area (Acres)	Use	Jurisdiction
00945200000100	29,696	0.68	Existing Commercial	Unincorporated Rural
00945200000200	34,620	0.79	Existing Commercial	Unincorporated Rural
00945200000300	50,409	1.16	Existing Commercial	Unincorporated Rural
00945200000400	42,850	0.98	Existing Commercial	Unincorporated Rural
00945200000500	24,826	0.57	Existing Commercial	Unincorporated Rural
00945200099900	30,625	0.70	Access Rd & Wetland	Unincorporated Rural
Non-UGA Total	213,006	4.89		
00945200099700	43,588	1.00	Drainfield Area	City of Lake Stevens
00945200099800	23,064	0.53	Drainage Tract	City of Lake Stevens
City Total	66,652	1.53		
Total Hwy 9 Bus. Center	279,658	6.42		

The main part of H9BC was 5.42-acre parcel with a building on it from 1920. A rezone action in 1987 changed the zoning to Planned Community Business (PCB) , with conditions.⁵ Permits originally applied for in 1994 allowed conversion of the 1920 building into an office which is how it remains today.⁶ Also in 1994, the owner applied for what became an official site plan approval⁷, satisfying one of the conditions placed on the rezone to PCB.

In 1995, Snohomish County first adopted its Growth Management Act Comprehensive Plan (GMACP). This established the Lake Stevens UGA. The UGA line split the area with

⁵ The zoning map identifies this action as ZA8711511.

⁶ This building is now on condo parcel 00945200000100. It may have been two older buildings connected with an addition when converted to office use by the 1994 permits.

⁷ See PDS file number 1987-160951, application date October 18, 1994.

PCB zoning, putting what is now the 0.53-acre Tract 998 in the UGA but leaving the remaining 4.89 acres of PCB zoning outside the UGA. Adoption of the GMACP made the PCB zoning outside the UGA a non-conforming zone. It is unclear whether the UGA adoption action in 1995 had taken the PCB zoning and vested development rights into consideration when leaving most of the PCB zoning outside the UGA.

Two things happened in 1999. On August 27, 1999, the property owner applied for a commercial building permit (99-111398-001-00-CP) to build an office building on what is now condo parcel 00945200000200. This building was the first of several consistent with the official site plan approval process started in 1994. On October 27, 1999, the County Council passed Ordinance 99-076. This ordinance adopted rezones in several areas to address non-conforming commercial and industrial zones outside UGAs. At the H9BC location, the PCB zoning outside the UGA became Rural Business (RB). Ord. 99-076 does not include any findings regarding permit activity on the H9BC site. Given the timing, it is likely that Ord. 99-076 was drafted when there had been no recent activity on the approved official site plan. However, permits reliant on the 1987 rezone, approved official site plan and other conditions were applied for before the effective date of the ordinance. The approved official site plan under the prior PCB zoning at H9BC has continued to govern vested development rights, despite the rezone to RB.

In 2001, a 1-acre area that is now Tract 997 was added to the overall parcel.⁸ This addition may have been to address a condition on the 1987 PCB rezone requiring additional drainfield area. In 2002, H9BC recorded as a condominium, creating the parcels and tracts summarized in Table 1 above. The layout of this condominium matches the approved official site plan. The condominium enables separate ownership of the condominium parcels and joint ownership of the tracts. In 2010, Lake Stevens annexed a large area of its southwest UGA, which included Tracts 997 and 998.

Countywide Planning Policy DP-2.e.5 allows UGA expansion to “correct a demonstrated mapping error” and includes a footnote that reads

The type of errors that this policy intends to correct are cases where the UGA line incorrectly bisects an existing building or parcel, where it inadvertently and incorrectly follows an arbitrary feature such as a section line, or where the boundary is on the wrong side of a right-of-way that is expected to be annexed by a city.

This motion notes that the UGA line adopted in 1995 split a parcel with urban (PCB) zoning. This action may have been an inadvertent mapping error since the site had development rights vested to PCB zoning.

⁸ See Boundary Line Adjustment AFN 200109210335. This 1-acre addition had R-9,600 zoning until it was annexed.

Mapping error or not, CPP DP-2.e.2 allows UGA expansion that

is a result of the review of UGAs at least every eight years to accommodate the succeeding twenty years of projected growth, as projected by the State Office of Financial Management, and adopted by the County as the 20-year urban allocated population projection as required by RCW 36.70A.130(3).

The action proposed here is part of a periodic plan update to accommodate growth over the succeeding twenty years and could be approved under CPP DP-2.e.2. However, now that the H9BC site is now fully built, adding it to the UGA would have no effect on capacity for new development. Instead, placement in the UGA would allow annexation of this existing employment area. Inclusion in the UGA might also allow it to revert to the vested PCB zoning.

For vesting reasons, this motion asks PDS to consider rezoning the part of H9BC outside the UGA back to PCB.⁹ Any such action may need to also consider findings related to Snohomish County Code [\(SCC\) 30.31A.020\(2\)](#). This section establishes minimum zoning criteria for rezones to PCB, including that the rezone “shall contain sufficient area to create a contiguous tract of PCB zoned land at least five acres in size.” Since there only 4.89 acres still unincorporated and outside the UGA, it is unclear whether the 5-acre criteria can be satisfied. One option is to consider this as a reversion to PCB on what remains unincorporated from an original 5.42-acre PCB site. Another option is to consider the potential applicability of [SCC 30.91F.340](#), which says that “Five (5) acres’ means 200,000 square feet or 1/128th of a section of land when described as a fraction of a section.” Outside of this code provision, 200,000 square feet of land is 4.59 acres. If PDS finds that it cannot recommend a rezone back to PCB, then this motion asks that the proposed zoning for the H9BC site be Community Business (CB).

Parcel 00477100002301

- Existing commercial development with Rural Business zoning
- Approximately 0.66 acres
- Proposed Future Land Use Map designation: Urban Commercial
- Proposed Zoning: Community Business
- Countywide Planning Policies (CPPs): CPP DP-2.e.2

Parcel 00477100002301 contains two structures. One is house built in 1965 and the other is a commercial building built in 1968. Although apparently legally established, the 1968 building and uses in it became non-conforming by 1996 when implementation of the GMACP rezoned the parcel and most of the surrounding area to Residential-5 acre. In

⁹ The LS4 proposal for Docket XXI had requested General Commercial (GC) zoning for this site. However, since the H9BC will remain vested to PCB zoning until annexed, PCB is the preferred zoning if it is added back into the UGA.

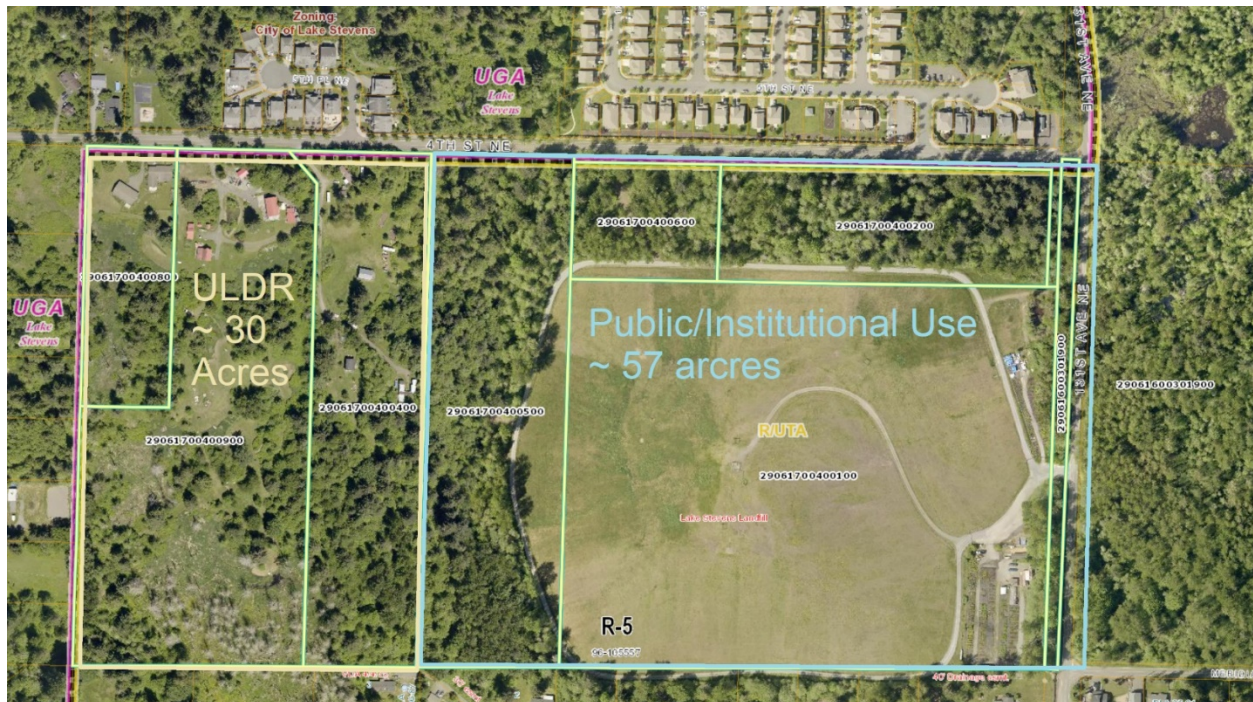
2015, the owner requested and received a rezone to Rural Business, thus allowing a wider variety of potential uses in the existing buildings.

While the RB zoning for parcel 00477100002301 is contiguous to the RB zoning at H9BC, it is not a part of that development. Exclusion of this parcel from the UGA was not a mapping error. Thus, only CPP DP-2.e.2 allowing UGA expansion during period plan updates applies. Placement of this parcel in the UGA would allow annexation of an existing employment site. Until annexed, the uses on the parcel are permitted uses in both the current RB zoning and the proposed CB zoning if added to the UGA.¹⁰

Area 3: Lake Stevens Landfill and Adjacent Parcels

The expansion proposed in this area is approximately 86 acres located south of 4th Street NE and west of 131st Ave NE. The main part is a closed landfill owned by Snohomish County. The rest is made of three residential parcels that would otherwise be surrounded on three sides by UGA.

Figure 4 – Lake Stevens Landfill and Adjacent Parcels



¹⁰ The LS4 proposal for Docket XXI had requested General Commercial (GC) zoning for this parcel. However, Snohomish County's GC zoning includes certain performance standards contained in Chapter 30.31B SCC that are mainly to address phased development of larger sites. One such performance standard is for an official site plan approval, like the discussion above for the H9BC site. An official site plan approval would not apply to this parcel since it already has two existing buildings on it. CB zoning allows the current uses and would allow changes without needing to meet the performance standards.

Inclusion of the closed Lake Stevens Landfill in the UGA would allow annexation and continued use by the City of Lake Stevens for public purposes. Snohomish County owns four parcels containing 54-acres of the landfill site.¹¹ Access to the landfill comes from 131st Avenue NE through a 1.4-acre strip of land owned by Washington State that is part of parcel 29061600301900.¹² If the UGA were to expand to include just these publicly owned properties then the UGA would surround parcels 29061700400400, 29061700400800, and 29061700400900 three sides by UGA. To make a more regular boundary, this motion proposes to include these three privately owned parcels which total 30 acres in the UGA as well.

Policy authorization for an expansion of the UGA for the 57-acres of publicly owned land and adjacent right-of-way could potentially come from Countywide Planning Policy (CPP) DP-2.e.6, which allows UGA expansion for community facilities.

Policy authorization for an expansion of the UGA for the 30-acres of privately owned land could potentially be under CPP DP-2.e.2, which allows UGA expansions during comprehensive plan updates that increase population capacity within the UGA.

¹¹ The landfill parcels owned by Snohomish County are 29061700400100, 29061700400200, 29061700400500, and 29061700400600.

¹² This motion notes that approximately 39 acres of parcel 29061600301900 is on the east side of 131st Ave NE. Inclusion of that area in the UGA is not necessary to achieve the policy intent described here. There is another state-owned strip of land divided by 131st and the UGA directly to the north, see parcel 29061600200800. This motion hereby asks PDS to review these conditions along with UGA annexation requirements. Based on that review, PDS may and propose a different configuration for Alternative 3 if there are reasons to do so.