



PLANNING COMMISSION MEETING MINUTES

7:00 PM August 25, 2022
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Darren Johnson, Khush Brar, Hollie Lyons, and Bryan Korthuis.

Staff Present: Gudde, Planning Director and Samec, City Planner

3. APPROVAL OF MINUTES

- A. **March 24, 2022** Korthuis / Scott 2nd 6-0
- B. **June 9, 2022** Scott / Kaemingk 2nd 4-0
- C. **July 27, 2022** Johnson / Kaemingk 2nd 4-0

4. OF CONFLICT DECLARATION

None of the other Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARING - Quasi-Judicial Item

A. **CUP #22-01 and Variance 22-02 and 22-03, Puget Sound Energy, 131 E Front Street, Lynden**

Faber opened the public hearing.

Gudde addressed the Commission and stated that Puget Sound Energy is requesting a modification to their existing CUP to allow the expansion and upgrade of the Lynden substation to address aging infrastructure, increase reliability, and to address future capacity issues. The proposed substation expansion upgrade is located within RM-3 zoning (residential multi-family). Substations are a conditional use within this zoning jurisdiction. The applicant states that expansion of the substation footprint will allow for necessary upgrades to increase reliability to customers served by the substation and to accommodate future load growth in the area. PSE will expand to the west, remove the surrounding perimeter, and install new a new fresh perimeter.

Staff has worked closely with PSE to get the result in front of the PC today.

Gudde stated that the applications come forward with great support from the Public Works Department. This request is a much-needed upgrade and expansion. In addition, Staff also supports the expansion of the substation and recommends approval of the Conditional Use Permit; however, expansion of the substation should not be done at the detriment to the surrounding residential area and must recognize that this street frontage is a popular walking route for nearby residents.

Running concurrently with the Conditional Use Permit application are two separate variance requests (one request was removed during the technical review process).

The variance requests are as follows:

Variance # 1. Fence Location request has been withdrawn. Code requires that fences (a wall in this instance) must be located a minimum of 3 feet from the edge of public sidewalks. Staff did not support the variance to fence/wall location which would have placed the proposed wall closer than 3 feet to the sidewalk. Staff asserted that the significant height of the fence/wall warranted, at a minimum, meeting the setback from the sidewalk. In response, the applicant has revised the application to remove the variance request and will not only be placing the new wall at the required setback but will be replacing the old wall in a location which meets setback as well.

Variance #2. LMC 19.63.080 (A) – Non-Residential zone fences: PSE is requesting to replace the 22-year-old wall along East Front Street with a concrete (rock finish) wall at a height of 9 feet. This will be setback a minimum of 3 feet from the sidewalk. The remainder of the substation will be surrounded by an 8'-9' conductive fence which will replace the chain-link enclosure currently in place. Code limits solid nonresidential fences to 7 feet in height and wire fencing to 12 feet in height. Existing non-conforming fence heights cannot be continued when located parallel to a city street (LMC 19.63.060(D)(5)).

Variance #3. LMC 19.22.040 (B) – Accessory Structure Setbacks: PSE is requesting to allow accessory substation structures to be placed within 20-feet of the front setback to meet substation design and safety clearances.

Brief discussion regarding the landscape plan. Some of the landscaping on site will be removed, however new plantings will be installed. There will be an irrigation system installed. Overall, it will be an improvement.

The PC should look at the project tonight as an expansion, not as a new CUP. In 1999, Puget Sound Energy was granted approval of a Conditional Use Permit to expand the existing (50-year-old) power substation to allow installation of a new transmission line circuit breaker. In addition to the standard requirements for approving a CUP, the decision also included the following: 1) That all overhead distribution lines be placed underground at the proponent's expense. 2) That the proponent install an 8-foot brick fence on the property line adjoining East Front Street (this was installed as concrete cobblestone panels). 3) Type V landscape buffer ten feet in width is to be installed on the west and northern boundaries of the project expansion.

Speaking in Favor:

Emily Hagen, PSE, 1110 Kentucky Street, Bellingham

Hagen stated that PSE is proposing the upgrade and expansion to address aging infrastructure, operational needs and to improve reliability. The site is very tight and PSE operators are not able to access all areas of the substation properly. Hagen handed out renderings (at street view) of the site before and after the expansion.

Faber addressed the two photos and asked if the structure in the existing photo will be removed or is it hidden by the new wall?

Jason Henry, PSE Civil Engineer, 1110 Kentucky Street, Bellingham

Henry stated that the structure you are talking about is a feeder structure and will be removed and enclosed within a new building. Faber stated that it looks much cleaner.

Brief discussion regarding fence heights. Fencing will meet the requirements of the NESC.

Hagen and Henry addressed the Staff Condition #2 of the Staff Report regarding the installation of landscaping within the 3-foot area along Front Street between the sidewalk and the wall. Henry stated that area requires a ground system to maintain a safe step touch potential in case there are any abnormal conditions inside the substation. Due to this requirement, we are not able to landscape that area because of safety concerns and the conductive nature of the wall. There needs to be a ground conductor between the back of walk and fence and four inches of yard rock that must comply with PSE resistive specs. The alternative would be to not use a conductive wall and install a fiberglass (plastic looking) wall instead.

Korthuis questioned if anything would even grow in that area? The current condition is rock/gravel. The Commission prefers a concrete wall and gravel in the landscape area. Gudde stated that a masonry wall has a long-lasting quality. Staff is also okay with gravel / rock in the landscaping area.

Opposition via mail:

Patricia Jewett and Steven Kelly, 124 E Grover Street #4D and 126 E Grover Street #6B, wrote to the Planning Department with concerns related to the condition of the alley, impacts associated with recent PSE construction (not specifically related to this expansion), and the request to have vegetation installed around the perimeter of fenced area. See staff report for City response.

Scott motioned to close the public hearing. Motion passed, 7-0.

Korthuis stated that the expansion benefits the community in a wide range of areas. PSE did their homework with this application, looks good.

Scott stated that he is in favor of the request. It is a definite improvement. The only potential concern would be a power station near the residential use; however, it is existing. The landscaping and setbacks help to buffer. Appreciates how PSE has addressed that.

Lyons stated, obviously the city needs to plan for growth of services and sub stations etc. as they are a need. In the future, consideration should be given to allowing homes within close proximity of utilities.

The Commission had no further comments.

Conditional Use Permit: The application was reviewed in accordance with the LMC 19.49.020, and the criteria listed for land use application review in LMC 17.09.040(C).

The Commission indicated that they appreciate the applicant's responses and that the site has been adequately mitigated. **Criteria has been met.**

Variance requests: The application is reviewed in accordance with the LMC 19.47.060, which specifically states, "Where unnecessary hardships and practical difficulties render it difficult to carry out a bulk provision of the zoning ordinance, the hearing body may grant a variance in harmony with the general purpose and intent of the provisions contained in this title from any rules, regulations or provisions of the zoning ordinance relating to the bulk provisions of the zoning

ordinance, so that the spirit of the ordinance will be observed, public safety secured, and substantial justice done. **The Commission agreed that the applications meet the criteria.**

Conditional Use Permit and Variances: The Commission also reviewed the criteria for land use applications found under LMC 17.09.040(C). **The Commission agreed that the criteria has been met.**

Brar asked for an estimated timeframe for the project from start to finish?

Hector Gonzales, PSE Project Engineer, 1110 Kentucky Street, Bellingham

Gonzales replied that the project will likely start in the fall of 2023 and will be phased out. Currently working on the phase durations, however, should be complete by the end of 2024.

Scott asked, will there be any outages in the community during the expansion? Gonzales stated that there will be no outages to the community during the expansion. Only outages within the station for the workers.

The Commission agreed that this is a much-needed upgrade. Everyone needs power.

No further comments from the Commission.

Korthuis motioned to recommend to the Lynden City Council the approval of Conditional Use Permit #22-01 and Variances #22-02 and #22-03, for the Puget Sound Energy Expansion, subject to conditions of the Technical Review Committee Report dated August 18, 2022, as revised:

1) Approval Conditional Use Permit is recommended on the condition that Type V landscape is re-established on the north and east perimeter of the substation and new landscape is installed on the west and south sides of the substation per the plan provided to the City on 6/30/22 or equivalent.

2) Approval of the Conditional Use Permit is recommended on the condition that new wall sections along Front Street are setback a minimum of 3 feet as required by code, ~~and landscape, such as a low-maintenance ground cover, be installed between the wall and the sidewalk.~~ The Planning Commission recommended that the requirement for vegetation within the 3-foot strip along Front Street between the sidewalk and the wall *be removed* for safety and maintenance purposes.

3) Approval of the Conditional Use Permit is recommended on the condition that Irrigation of landscaped areas is required as noted on page 1 of the landscape plan.

4) Approval of Variance 22-03 to front setbacks is recommended on the condition that the driveway to the proposed gate at the southwest corner of the site is a minimum of 25 feet long so vehicles, at no time, encroach on the sidewalk.

5) Approval of the Variance 22-02 regarding height of the concrete wall and non-conductive walls at 8 to 9 feet, as submitted to the City on 6/30/22, is recommended in association with the approved landscape plan and wall types specified. That is Superior

Cobblestone Concrete Wall or the equivalent along Front Street, and Shakespeare Safe Fence elsewhere.

Seconded by Scott, and the motion passed 7-0.

Faber asked about the CUP for Lynden Automotive. Gudde stated that on August 15th Council approved the revocation and he must cease and desist the mechanic work. Council will likely give him 60 days to clean up the site and mechanic services. Staff will be in contact with legal regarding the next steps forward in the process.

Next meeting is September 8th and will be a Code Update workshop.

Brief discussion regarding area road closures.

6. ADJOURNMENT

Motion to adjourn by Korthuis / Second by Scott. Meeting adjourned at 7:55 pm.