

CITY OF LYNDEN  
PLANNING COMMISSION RESOLUTION #22-03

**A resolution of recommendation for the approval of  
Conditional Use Permit 22-03, Variance 22-02 and 22-03, for  
Puget Sound Energy**

WHEREAS, Emily Hagen, Agent for Puget Sound Energy, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a modification to their existing conditional use permit for a utility substation within a residential zone. The intent of the modification is to allow the expansion and upgrade to the existing equipment, to address aging infrastructure, increase reliability, and to address future electrical capacity issues within the Lynden community.

WHEREAS, the application also includes two variance requests: 1) To exceed the maximum permitted height of a fence (or wall) by replacing the 22-year-old wall along East Front Street with a concrete wall at a height of 9 feet. The remainder of the substation will be surrounded by an 8'-9' non-conductive wall or fence which will replace the chain-link enclosure currently in place. 2) Requesting to allow accessory substation structures to be placed within 20-feet of the front setback to meet substation design and safety clearances.

WHEREAS, the applications were determined complete on June 7, 2022, and the notice of application was published in the Lynden Tribune on June 22, 2022, and August 10, 2022; and

WHEREAS, the Proponent has provided the City with receipts for the certified mailing of all required notices to all property owners within three hundred feet of the subject property together with the affidavits of posting said notices; and

WHEREAS, the City's Technical Review Committee has reviewed the request for the conditional use permit and variance requests and has provided comments and recommendations to the Planning Commission in a report dated August 18, 2022; and

WHEREAS, the Lynden Planning Commission held a public hearing on August 25, 2022, to accept public testimony on the proposed conditional use permit and variance requests, and that meeting was duly recorded; and

WHEREAS, the Lynden Planning Commission has reviewed the **conditional use permit** request and has found that the application meets the criteria for granting a conditional use permit under Chapter 19.49.020 of the Lynden Municipal Code.

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.*

2. *The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:*
  - a. *Traffic and pedestrian circulation;*
  - b. *Noise, smoke, fumes, glare or odors generated by the proposed use;*
  - c. *Building and site design;.*
  - d. *The physical characteristics of the subject property*
3. *The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.*
4. *The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.*
5. *The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.*
6. *There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.*
7. *The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.*
8. *The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.*

WHEREAS, The Lynden Planning Commission has reviewed the **variance** requests and has found that the application meets the criteria for granting a variance under Chapter 19.47.060 of the Lynden Municipal Code.

*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.*

*A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application is located;*



*B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity and zone in which the subject property is located; and*

*C. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located.*

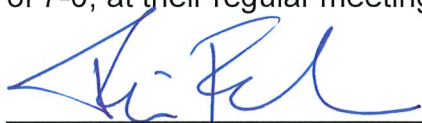
WHEREAS, the Lynden Planning Commission has reviewed the 6 conditions outlined under Chapter 17.09.040 of the Lynden Municipal Code and found that the **Conditional Use Permit and Variance** applications meet the required criteria.

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.*
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.*
- 3. The development adequately mitigates impacts identified under Titles 16 through 19.*
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest.*
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.*
- 6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.*

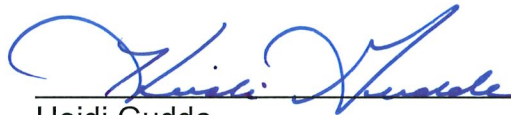
**NOW THEREFORE, BE IT RESOLVED** by the Lynden Planning Commission to recommend approval, to the Lynden City Council, of Conditional Use Permit #22-01 and Variances #22-02 and #22-03 for Puget Sound Energy, subject to conditions of the Technical Review Committee Report dated August 18, 2022, revised as follows:

- 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.
- 3) Approval of the Conditional Use Permit is recommended on the condition that Irrigation of landscaped areas is required as submitted on page 1 and 2 of the landscape plan. The Planning Commission indicated support for the use of gravel between the sidewalk in areas setback only 3 feet, as non-conductive material is needed in this location to meet safety requirements.
- 4) Approval of Variance 22-03 to allow structures within the front setbacks is recommended as the perimeter wall will screen these structures and 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 a non-conductive Shakespeare Safe Fence or the equivalent for the remainder of the sub-station perimeter.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 7-0, at their regular meeting held on the 25<sup>th</sup> day of August 2022.



Tim Faber, Chair  
Lynden Planning Commission



Heidi Gudde  
Planning Director