

# CITY OF LYNDEN



Mayor  
Scott Korthuis

Council Members  
Gary Bode  
Ron De Valois  
Gerald Kuiken  
Nick H. Laninga  
Brent Lenssen  
Kyle Strengolt  
Mark Wohlrab

Regular City Council Meeting  
Annex - 205 Fourth Street  
September 19, 2022

## **Call to Order**

## **Pledge of Allegiance**

## **Roll Call**

## **Oath of Office**

## **Summary Reports and Presentations**

## **Approval of Minutes**

1. Draft Council Minutes-9-6-2022

## **Citizen Comment**

## **Consent Agenda**

2. Approval of Payroll and Claims
3. Professional Services Agreement with The Watershed Company
4. Resolution No. 1052 Authorizing Submission of an Application for a Community Economic Revitalization Board (CERB) Loan and Authorizing the Mayor to Enter Into A Funding Agreement
5. Ordinance No. 1652-Set a Public Hearing date of October 3, 2022 to Hear Comments on Amending LMC Section 13.24 Stormwater Management Systems
6. Ratification of City Participation in State Opioid Settlement

## **Public Hearing**

7. Ordinance No. 1654 – Moratorium on Residential Development within CSL Zones

## **Unfinished Business**

**New Business**

[8.](#) Puget Sound Energy Conditional Use Permit 22-01, Variances 22-02 and 22-03

**Other Business**

[9.](#) Public Works Committee Meeting Minutes September 7, 2022

[10.](#) Calendar

**Executive Session****Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Draft Council Minutes- Regular Meeting	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft Council Minutes- Regular Meeting	
<b>Summary Statement:</b>	Draft Council Minutes- Regular Meeting	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



September 6, 2022

### 1. CALL TO ORDER

Mayor Korthuis called to order the September 6, 2022 regular session of the Lynden City Council at 7:00 p.m. at the city's council chambers.

### ROLL CALL

Members present: Mayor Scott Korthuis, Councilors Gary Bode, Ron De Valois, Brent Lenssen, Kyle Strengholt, and Mark Wohlrab

Members absent: Councilors Kuiken and Laninga were absent with notice.

Staff present: Fire Chief Mark Billmire, Public Works Director Steve Banham, City Administrator John Williams, City Clerk Pam Brown, and City Attorney Bob Carmichael.

**OATH OF OFFICE-** Mayor Korthuis administered the Oath of Office to Police Officer Luke Buitenbos. Afterwards Council and Staff welcomed Officer Buitenbos to the City.

### SUMMARY REPORTS AND PRESENTATIONS

### APPROVAL OF MINUTES

***Councilor De Valois moved, and Councilor Wohlrab seconded to approve the August 15 2022, regular council meeting minutes as presented. Motion approved on 5-0 vote.***

### CITIZEN COMMENT

Councilor Strengholt was involved in a motor vehicle accident this past Saturday here in Lynden. Councilor Strengholt thanks members of the fire and police departments for their very prompt responses. Specifically, he thanked officers Beld and Pluschakov and firefighters Davis, Chartier, Peterson-Scooter, and Monroe.

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



### Joe Lovelady- Pine Street, Lynden

Mr. Lovelady addressed council regarding the amount of traffic speeding through his neighborhood and asked what can be done to help ensure the safety of children and others that live there?

### Cynthia S Ripke Kutsagoitz, Guide Meridian, Lynden

Ms. Ripke-Kutsagoitz addressed council regarding local crime, a recent personal experience with someone that threatened her, the rights of the unborn and her appreciation for law enforcement.

### Katie James, 17<sup>th</sup> Street, Lynden

Ms. James read a statement on behalf of a friend that was unable to attend. The statement was in regard to the two homes which are owned by the Nelsons and may be planned for transitional housing.

### Nick Sawka, Village Drive, Lynden

Mr. Sawka addressed council regarding his opposition to the proposed halfway houses and that he plans to attend the next school board meeting and request that the school board issue a public statement regarding the transitional housing issue.

### Stephanie Rogers, Westview Place, Lynden

Reminded and urged the Council to make the transitional housing issue a priority and asked that the city attorney review the proposed ordinance in a timely manner. She has concerns about new laws that are scheduled to go into effect January 2023.

### Gary Vis – Front Street, Lynden

Mr. Vis addressed council regarding correspondence received about the hanging baskets downtown. He stated that he believed that the City's public works department may play a role in this issue since it involves sidewalk obstructions.

*Councilor Wohlrab assured those present that each council member and each member of staff attending the council meeting realize the importance of the transitional housing issue and they are actively working toward resolution.*

# CITY OF LYNDEN

CITY COUNCIL  
MINUTES OF REGULAR MEETING



## 2. CONSENT AGENDA

### Payroll Liability to August 14 through August 27, 2022

#### EFT & Other Liabilities

#### Non-L&I Liabilities

Monthly EFT .....	\$505,596.48
Check Liability .....	\$0.00
Total Non-L&I Liabilities .....	\$505,596.48
Quarterly Liabilities .....	\$13,983.55
<b>Total EFT &amp; Other Liabilities</b>	<b>\$519,580.03</b>

### Approval of Claims – September 7, 2022

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>24852</u>	through	<u>24967</u>		\$440,797.99
EFT Payments					<u>\$30,263.30</u>
				Sub Total	\$471,061.29
				Total Accts. Payable	\$471,061.29

Resolution No. 1053 - CUP Revocation – Lynden Automotive  
Award Bid for South Park Waterline and Overlay Project  
Professional Services Agreement with The Watershed Company  
Letter to NW Washington Fair Regarding LTAC Fee Collection

**Councilor Bode asked that the Professional Services Agreement with the Watershed Company be pulled from the consent agenda because the item is incomplete and does not reflect the cost.**

***Councilor Bode moved and Councilor Strengholt seconded, to approve the Consent Agenda. Motion passed with a 5-0 vote.***

## 3. PUBLIC HEARING - None

# CITY OF LYNDEN

CITY COUNCIL  
MINUTES OF REGULAR MEETING



## 4. UNFINISHED BUSINESS

### Ordinance No. 1653-Amendment to LMC 12.24 Regulating E-Bike Usage

At the August 1, 2002, meeting the City Council adopted ordinance 1649 setting Parks Rules. There was significant discussion regarding the use of E-Bikes on trails and setting a speed limit. Staff was directed to review the State laws regarding E-Bikes and what other jurisdictions have done regulating their use. There have been additional follow-up discussions at the August Parks Committee and the Public Safety Committee. In summary, this new section of LMC 12.24 contains language that authorizes the use of Class 1 & 2 E-Bikes on City Trails, but also creates a speed limit of 10 mph for all wheeled devices that may be used on the trail. Class 3 E-Bikes are not allowed for use on the trails but may be operated in areas designated for Motor Vehicle use (roads, bike lanes, etc.).

***Councilor De Valois moved, and Councilor Wohlrab seconded to approve Ordinance No. 1653 and authorize the Mayor to sign the Ordinance. Motion passed with a 5-0 vote.***

## 5. NEW BUSINESS

### Contract for Engaging Federal Lobbyist Services

Based on the 2021 flooding event and the unprecedented infrastructure bill passed at the federal level, there was interest from the small cities group to consider engaging a federal lobbying firm. A presentation was made to the group by CFM and later an on-site follow up to tour the potential projects.

Based on the information and review of projects presented by the City, CFM felt Lynden was a good candidate to apply for federal grant programs and potentially receive funding. Specifically for the Pepin Creek project(s) and Bradley Road. There may be a coalition of several small cities and the County forming a group for flooding mitigation, however, that effort will be led by the County and most likely not occurring until a later date in 2023. The Mayor has discussed the possibility of joining with a federal lobbyist at the Finance and Public Works committee meetings

***Councilor Strengholt moved, and Councilor De Valois seconded authorize the Mayor to sign a contract with CFM. Motion passed with a 5-0 vote.***

# CITY OF LYNDEN

CITY COUNCIL  
MINUTES OF REGULAR MEETING



## 6. OTHER BUSINESS

**Councilor Lenssen reporting for the Community Development Committee:**

- Discussion involving parking issues
- Comprehensive Plan amendments involving property west of Guide Meridian
- Zoning south of Lynden Birch Bay Road
- Protection of residences and farm property from the proposed annexation
- Working on civil penalties for code
- Transitional housing

**Councilor Wohlrab reporting for the Public Safety Committee**

- Discussion on transitional housing
- E-Bike signage for speed limits
- OT for police and fire departments
- Public safety personnel continue to prosecute criminals for property crimes
- Support Services position with the fire department has been filled
- Support Services position with the police department has also been filled from inhouse
- AC testing process is moving along
- Safer Grant options for equipment and personnel was discussed

***The Parks Committee meeting re-scheduled for Monday, September 12<sup>th</sup>.***

***Ribbon cutting ceremony scheduled for September 19<sup>th</sup> for Grover Street Overlay Project at 11:00 a.m.***

## 7. EXECUTIVE SESSION

Council adjourned into a 10-minute executive session at 7:47 p.m. to consider acquisition of a real estate purchase per RCW 42.30.110 (1)(b) with an expectation that no action would be taken. Council reconvened at 7:57 p.m.

# CITY OF LYNDEN

CITY COUNCIL  
MINUTES OF REGULAR MEETING



## 8. ADJOURNMENT

The September 6, 2022, regular session of the Lynden City Council adjourned at 7:57 p.m.

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Pamela D. Brown  
City Clerk

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Scott Korthuis  
Mayor

DRAFT

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Professional Services Agreement with The Watershed Company	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Parks	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
ES-Dickinson Park Forestry Assessment Professional Services Agreement from The Watershed Company.		
<b>Summary Statement:</b>		
<p>The Parks Department, with the assistance of the Planning Department, proposed and reviewed the ability to provide a proper forestry assessment of the Dickinson property for further development and maintenance. The Watershed Company responded with a proposal. Parks Committee reviewed the proposal and recommended forwarding it to full council for approval.</p>		
<b>Recommended Action:</b>		
Motion to approve the Dickinson Park Forest Assessment Professional Services Agreement from The Watershed Company and authorize the Mayor’s signature on the agreement.		

**AGREEMENT  
FOR PROFESSIONAL SERVICES  
BETWEEN**

**CITY OF LYNDEN  
300 4TH STREET  
LYNDEN, WA 98264**

**AND**

**THE WATERSHED COMPANY  
750 6<sup>TH</sup> ST SOUTH  
KIRKLAND, WA 98033**

**PROJECT: Dickinson Park Forest Assessment Report**

**THIS AGREEMENT** combines all understanding between the Parties regarding professional services for the Project named above and supersedes all prior proposals, quotations, solicitations, negotiations, representations, agreements, or understandings, whether written or oral.

The performance of the professional services described here, as well as payment for such services, shall be on the terms and conditions presented in this Agreement and the following Sections which are attached and incorporated by reference which, taken together, shall constitute the whole Agreement.

- Section 1 - Relationship of the Parties
- Section 2 - Payment
- Section 3 - General Provisions
- Section 4 - Scope of Services
- Section 5 - Extent of Agreement

**SECTION 1: RELATIONSHIP OF THE PARTIES**

The City of Lynden hereby contracts with The Watershed Company ("Consultant") to perform the professional services described in Exhibit A of this Agreement.

This Agreement shall enure to the benefit of and be binding upon the successors, assigns, and legal representatives of each of the Parties hereto. The Consultant must notify and obtain approval from the City prior to contracting with a sub-consultant(s). Any other assignment or transfer of an interest in this Agreement, by either Party, without the written consent of the other shall be void.

**SECTION 2: PROFESSIONAL REIMBURSEMENT**

Professional Reimbursement to the Consultant shall be in accordance with the Consultant's budget for the Scope of Work described in Exhibit A.

The budgeted total cost for each requested service shall be a "not to exceed" cost. The City shall pay all of the Consultant's invoices in accordance with the other conditions of the Agreement.

**SECTION 3: GENERAL PROVISIONS**

**3.1 PROFESSIONAL SERVICES**

The Consultant shall be consultant and advisor to the City, and shall not be agent or representative of the City. The Consultant represents that the studies, survey results, projections, plans, reports, specifications, cost estimates, recommendations and all other consulting, and analytical services furnished under this Contract will be in accordance with generally accepted professional practices. The Consultant hereby agrees to exercise usual and customary professional care in efforts to comply with all federal; state and local laws, rules and ordinances applicable to the work and to this Agreement in force at the time of Consultant's performance of the work hereunder.

The Consultant makes no other representation or warranty, express or implied.

**3.2 PAYMENT CONDITIONS**

The City agrees to pay the Consultant on a monthly basis, during the term of the project, commensurate with portions of the work completed. The Consultant's compensation shall be paid monthly on account, for the services performed during that month, with payment due within 30 days of the invoice date. The City of Lynden, Finance Department, must receive invoices from vendors by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second City Council meeting of the month (third Monday) before payment can be rendered. **All invoices must include the Project name and number and the services rendered, according to the approved scope of work, for which payment is to be rendered. Consultant is responsible for providing a cost tracking report for fund allocations and for declining budget balances on invoices. Invoices and supporting documentation will be reviewed for completeness before payment will be authorized.**

The Consultant will not incur any liability for damages of any type or nature when the performance is stopped as a result of stopping performance of services due to the failure of the City to pay for services rendered.

**3.3 GENERAL CITY RESPONSIBILITIES**

The City shall provide full information regarding its requirements for the services to be performed by the Consultant, and any circumstances known to the City that would hinder the Consultants performance, or make performance by the Consultant more difficult or expensive than would ordinarily be expected. The City shall furnish any required information and services, and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Consultant's services. If the City observes or otherwise becomes aware of any fault or defect in the services performed by the Consultant, the City shall promptly give written notice thereof to the Consultant.

**3.4 PROFESSIONAL RESPONSIBILITY**

The Consultant represents that the services shall be performed within the limits prescribed by this Agreement in a manner consistent with that type of care and skill ordinarily exercised by other professional consultants under similar circumstances. No other representations to the City, express or implied, and no warranty or guarantee is included or intended in the Agreement, or in any report, opinion, document, or

otherwise. The Consultant shall not accept other tasks, within the City of Lynden, that could be viewed as a conflict of interest.

**3.5 LIABILITY FOR CLAIMS**

The City shall, to the extent of its negligence and/or the negligence of its agents or employees, defend and indemnify the Consultant against any and all liability for personal injury (including death resulting therefrom) or property damage of any kind, sustained by any person and caused by or resulting from the concurrent negligence of the City, its agents, or employees, and the Consultant, its agents, or employees. Likewise, the Consultant, shall, to the extent of its negligence and/or the negligence of its agents or employees, defend and indemnify the City against any and all liability for personal injury (including death resulting therefrom) or property damage of any kind, sustained by any person and caused by or resulting from the concurrent negligence of the Consultant, its agents, or employees, and the City, its agents, or employees. For purposes of this provision, the City and Consultant agree to waive the statutory immunity under Title 51 of the Revised Code of Washington, and the parties, by this Agreement, certify and warrant that its waiver of statutory immunity was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**3.6 INDEMNIFICATION**

The City agrees that the following language shall be included in any agreement between the City and any third person and/or any third person and fourth person ("SubConsultant") for work of any kind or nature to be performed in connection with the Project, including without limitation, construction services.

"The Consultant shall defend, indemnify, and hold harmless the City and its respective officers, agents, and employees, from and against all damages, claims, losses, demands, suits, judgments, actions, and costs, including reasonable attorney's fees and expenses, arising out of or resulting from the performance of the work, provided that any such damages, claim, loss, demand, suit, judgment, cost, or expense:

- (1) Is attributable to bodily injury, sickness, disease, or death or to injury to, or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom or to purely economic loss; and
- (2) Is caused in whole or in part by any negligent act or omission on the part of the SubConsultant, anyone directly or indirectly employed by any one of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- (3) It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant’s waiver of immunity under Industrial Insurance, Title 51RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Consultant and City. The provisions of this section shall survive the expiration or termination of this Agreement.”

**3.7 INSURANCE**

The Consultant shall maintain insurance coverage for claims under the Workmen's Compensation Act and claims for bodily injury, death, or property damage, which might arise from the performance of their services under this Agreement. Limits of liability shall be as follows:

Professional Liability	\$1,000,000	each occurrence
Professional Liability	\$2,000,000	annual aggregate
Comprehensive General Liability	\$1,000,000	each occurrence
Comprehensive General Liability	\$2,000,000	annual aggregate
Automobile Liability	\$1,000,000	combined single limit

**The City of Lynden shall be listed as additional insured on all applicable certificates of insurance.** Consultant will provide City with current insurance certificate upon request.

**3.8 OPPORTUNITY TO REMEDY**

The parties agree that in the event of alleged error or omission by the Consultant in performance of services under the Scope of Services, the City shall notify the Consultant promptly in writing of that fact and allow the Consultant a reasonable time to remedy the problem. Upon notice the Consultant shall promptly review and remedy the problem at the cost of the Consultant. Where responsibility for a problem may be shared by the Consultant and others, the Consultant shall endeavor to remedy the Consultant's share, at the cost of the Consultant, and to cooperate with others involved. If the Consultant demonstrates that it is not at fault, for a problem identified by the City under this Section, the City shall reimburse the Consultant for its costs of investigating the problem.

**3.9 TERMINATION**

After one year, the City may, at its sole discretion, terminate the Agreement, by giving the Consultant a 90-day written Notice of Termination, and the Consultant may terminate the Agreement by giving the City a 90-day written Notice of Termination. If any portion of the authorized work covered by this Agreement, and begun by the Consultant, shall be abandoned, unreasonably delayed, or indefinitely postponed, the Consultant may terminate this Agreement. Whether or not terminated, the City shall pay the Consultant for the services rendered in connection therewith, prior to written notice of such abandonment, delay, or postponement, payment to be based insofar as possible, on the amounts specifically established in the Agreement.

**3.10 OWNERSHIP AND USE OF DOCUMENTS**

Drawings, specifications, documents, reports and electronic discs prepared by the Consultant pursuant to this Agreement are property of the City. The Consultant may retain copies, including reproducible copies of drawings and specifications for information and reference. The Consultant does not intend or represent such drawings and specifications to be suitable for reuse by the City or others on extensions of the Project. The City shall retain copyrights to any and all documents produced by it during the course of this Agreement. The City shall indemnify, hold harmless, and defend the Consultant from and against any and all claims asserted by any party in any manner resulting from unauthorized use by the City, of the Consultant-prepared drawings, specifications, or other documents.

All inventions, patents, design patents, and computer programs and copyrights relating thereto, acquired or developed by the Consultant in connection or relation to the Project, shall remain the property of the Consultant and shall be protected by the City from use by others, except pursuant to agreement in writing between the Consultant and the City, with agreed-upon compensation to the Consultant.

### **3.11 DISPUTE RESOLUTION**

Any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity thereof, shall be submitted for mediation pursuant to the Mediation Rules of the American Intermediation Service (AIS) prior to the commencement of arbitration or other adjudicative procedures.

Mediations and arbitration hearings shall be held at the location mutually agreed upon by the Consultant and the City.

If a settlement is agreed upon through mediation, the parties may agree that the settlement be reduced to writing, and that the mediator(s) shall be deemed to be arbitrator(s), for the sole purpose of signing that written settlement agreement, which shall then have the same force and effect as an arbitral award.

### **3.12 CLAIMS AND DISPUTES**

At the City's request, and only if the City and the Consultant first agree on compensation to the Consultant, the Consultant will assist the City in reviewing and evaluating claims and disputes, preparing information for the City's legal counsel, providing services as witness in litigation or arbitration to which the City is a party, and providing other services in connection with actual or potential claims or disputes, regardless of whether or not the Consultant is named in such legal action. In no case shall the Consultant be obligated to provide such services until the method of compensation therefore is agreed.

### **3.13 COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION**

The Consultant agrees to comply with all federal, state, and local laws governing equal opportunity employment. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, marital status, national origin, or the presence of any sensory, mental, or physical handicap, unless based on a bona fide occupational qualification. Such action includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Consultant further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause.

The Consultant will ensure that applicants for employment, and all employees during their employment, are treated without regard to race, creed, color, sex, age, marital status, national origin, or the presence of any sensory, mental, or physical handicap, unless based on a bona fide occupational qualification. The

Consultant agrees to take affirmative action to ensure that all of its employees, agents, and subConsultants adhere to this provision.

The Consultant will make positive efforts to utilize small businesses and minority-owned business sources of supplies and services. Efforts will allow these sources the maximum feasible opportunity to compete for sub-agreements and contracts to be performed utilizing federal grant funds.

**3.14 REFERENCE INFORMATION**

If the Consultant is required by the City to rely upon information provided by or through the City or a third party to perform the Consultant's services, the Consultant shall not be liable for errors or omissions in the Consultant's services caused by errors or omissions in said information.

**3.15 ADDITIONAL TAXES**

Since the Consultant's costs can be adversely affected through the application of new, additional, or retroactive taxes or charges (for instance, a sales tax on professional services or a new income tax), amounts due to the Consultant shall be increased equitably to compensate for any additional taxation charges, over those currently in effect, or for taxes retroactively determined to be due on services rendered, or on products delivered by the Consultant to the City.

**3.16 APPLICABLE LAWS AND VENUE**

This Agreement has been, and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed by and between the City and the Consultant, that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit in equity, or judicial proceeding, for the enforcement of this Agreement, or any of the provisions contained therein, shall be instituted and maintained only in the Whatcom County Superior Court, Bellingham, Washington.

**SECTION 4: SCOPE OF SERVICES**

The Consultant agrees to perform the services requested per the attached Scope of Work (Exhibit A).

The Consultant will make every attempt to complete the work within the estimated budget and time schedule. However, should changes in the Scope of Work require the Consultant to expend more time or incur more expenses than anticipated, the Consultant will notify the City, and upon concurrence by the City, an amendment to the Agreement will be prepared and executed.

**SECTION 5: EXTENT OF AGREEMENT**

This Agreement contains all of the terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. This Agreement may only be amended by written agreement of the parties.

**SECTION 6: NOTICES**

In every case where, under any of the provisions of this Agreement or in the opinion of either the City or the Consultant or otherwise, it shall or may become necessary or desirable to make, give, or serve any declaration, demand, or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the Planning Director, if given by the Consultant, or to the President or Secretary of the Consultant personally, if given by the City; or (2) mail the same or a copy thereof by registered or certified mail, postage prepaid, addressed to the other party at such address as may have theretofore been designated in writing by such party, by notice

served in the manner herein provided, and until some other address shall have been so designated, the address of the City for the purpose of mailing such notices shall be as follows:

Parks Director  
CITY OF LYNDEN  
300 4<sup>th</sup> Street  
Lynden, Washington 98264

and the address of the Consultant shall be as follows:

The Watershed Company  
750 6<sup>th</sup> Street South  
Kirkland, WA 98033

**SECTION 7: ATTORNEY’S FEES**

The parties agree that in the event a civil action is instituted by either party to enforce any of the terms and conditions of this Agreement or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.

**SECTION 8: CONTRACT VALIDITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of the applicable law.

**SECTION 9: NONWAIVER OF BREACH**

Failure of either party to require performance of any provision of this Agreement shall not limit such party’s right to enforce such provision, nor shall a waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.



## EXHIBIT A

August 8, 2022

Dave Timmer, City Planner  
City of Lynden, Planning Department  
300 4<sup>th</sup> Street  
Lynden, WA 98264  
Email: [timmerd@lyndenwa.org](mailto:timmerd@lyndenwa.org)

**Re: Dickinson Park Forest Assessment Report**

The Watershed Company Reference Number: 220126

Dear Mr. Timmer:

We are pleased to provide the following scope of work and budget for the City of Lynden's Dickinson Park Forest Assessment Report. Our scope of work is detailed below, which includes a description and deliverables of each task, proposal assumptions, budget, and schedule of hourly rates for Watershed staff.

**Scope of Work:****Task 1. Project Administration and Coordination****A. Project kickoff.**

The Watershed team will meet with City staff to review the scope of work, timeline, and project deliverables. Watershed will follow up with a work plan which will include a project schedule for completing the field data collection and assessment report. The kick-off meeting will be conducted via video conference.

**B. Project administration, coordination, and meetings with City staff.**

The Watershed Project Manager will work directly with the City Project Manager to schedule meetings, coordinate the work plan, and provide status updates on project deliverables. Ongoing meetings may be conducted via video conference. To assist with project team communication and collaboration, Watershed recommends using

a SharePoint drive or similar shared file system for documents and project calendars. This can be discussed during the project kick-off.

### **Task 1. Deliverables Summary and Assumptions:**

- A work plan will be adopted following the project kick-off meeting and will include a project schedule, timeline, and key deliverables.
- A shared digital drive, such as SharePoint, will be established for the project team.

## **Task 2. Forest Inventory**

### **A. Forest Stand Characterization and Mapping**

Watershed field staff will conduct an initial site visit to walk the entirety of Dickinson Park. During this site visit, field staff will qualitatively assess forest conditions, characterize forest management units, and highlight any outstanding and/or unique features such as presence and location of critical areas, exceptional trees, geologic features, and areas to focus volunteer stewardship efforts.

### **B. Develop Study Plot Protocol**

Based on the results of the forest stand characterization, Watershed staff will work with City staff to develop a study plot data collection protocol. This protocol will be scientifically rigorous, repeatable, and may be applicable for use throughout the entire park system. Plot-level data collected will include, but is not limited to, tree species, condition, number of stems, height, diameter, and canopy radius. Smaller, nested sub-plots will include additional forest health metrics such as native and non-native understory species and cover, seedlings and saplings, and habitat features such as coarse woody debris and snags. Plot size and locations will be determined through a coarse level GIS analysis coupled with the forest stand characterization.

### **C. Establish Study Plots and Field Data Collection**

Field staff will then establish study plots and collect field data, which we expect can be accomplished in two or three days with two of our field staff. All data will be collected in a digital spreadsheet, such as Excel, and set up based on the established protocol, when possible. Paper copies will be available as a backup. All data will be backed up daily for quality control.

Watershed staff will install permanent plot location points using rebar with end caps or similar materials provided by the City. Plot center locations will be taken using ESRI's Field Maps app on a tablet connected to a GPS unit. All plot level data can be

geospatially referenced based on plot locations, and can be provided in a geodatabase, or similar product.

### **Task 2. Deliverables and Assumptions**

- Plot level data will be available in a digital spreadsheet, shared with the project team.
- The City of Lynden will provide materials to mark permanent plot locations.

### **Task 3. Geospatial Analysis and Mapping**

#### **A. Coarse level GIS Analysis.**

Our GIS specialist will collect and organize any relevant available geospatial data at the beginning of the project including high spatial resolution aerial imagery, LiDAR and other topographic data, parcel boundaries, survey data, streams, soils, and any other applicable environmental data. A high-level analysis of this data, coupled with our initial forest stand characterization, will help guide the determination of plot locations and data collection efforts. Additionally, data collection will be set up digitally to be tied to geospatial locations collected by field staff.

#### **B. Compile and Deliver GIS Data**

Once all plot-level data has been collected and compiled, our GIS specialist will package it along with associated metadata and deliver it as a geodatabase or other product as agreed upon with the City. Additionally, all relevant raster and vector data associated with forest stand mapping can be delivered with associated metadata, for the City to use.

### **Task 3. Deliverables and Assumptions**

- Any geospatial data will be shared with the project team in a geodatabase or similar product.
- This assumes the integration of existing canopy analyses and does not include additional processing of remote sensing inputs for classification (e.g., lidar data, satellite, or aerial imagery).
- All remote sensing data used will be from publicly available and open access sources and does not include the purchase of private vendor data.

## **Task 4. Data Analysis and Forest Assessment Report**

### **A. Field data analysis**

The Watershed team will compile all collected field data for analysis. Statistical summaries from plot level data will include, but not be limited to, number of trees, tree density (trees per acre), basal area, volume, and species composition. Collected field data and summary statistics will be integrated with geospatial data to produce a comprehensive analysis of existing forest conditions.

### **B. Forest Assessment Report**

Watershed staff will complete a Forest Health Assessment Report including methods, all results and findings from analyses, and implications for urban forest management specific to Dickinson Park and the City of Lynden. The report will highlight major forest health findings and concerns and identify areas suitable for future volunteer engagement. The final report, as well as any additional maps or graphics will be made available in PDF format.

## **Task 4. Deliverables and Assumptions**

- The final forest assessment report, as well as any additional maps or graphics will be made available in PDF format.
- The above-described deliverables assume one draft and one final copy of the comprehensive report. Comments from the City on the assessment report will be compiled into a single document; if multiple reviewers are involved, comments will be consistent among reviewers.

## Proposed Schedule

The project timeline runs from August 2022 to January 2023. The timeline provided for specific tasks is approximate. Watershed will deliver the final Forest Assessment Report (PDF) by January 31, 2023.

Task	Task / Deliverable	AUG	SEP	OCT	NOV	DEC	JAN
<b>1</b>	<b>Project Administration</b>						
	Project kick-off meeting	X					
	General project administration and coordination, including meetings and communication with City staff.	X	X	X	X	X	X
<b>2</b>	<b>Forest Inventory</b>						
	Initial site visit and walkthrough. Forest stand qualitative characterization and mapping.	X	X				
	Develop study plot protocol.		X				
	Establish study plots and collect field data.		X	X			
<b>3</b>	<b>Geospatial Analysis and Mapping</b>						
	Coarse level GIS analysis, data acquisition and setup.	X					
	Compile and package data, including metadata and methods. Deliver to City staff				X		
<b>4</b>	<b>Data Analysis and Forest Assessment Report</b>						
	Compile data, summarize results, and complete Forest Assessment Report.				X	X	X

## Compensation

The Watershed Company shall receive a “not to exceed” amount of \$20,000 in compensation in exchange for the Services under this Agreement. A detailed project budget and fee schedule are included with this scope of work.

Project Assumptions:

1. *The above described deliverables will be provided in PDF format, with the exception of the GIS data. If hardcopies are requested, copies will be billed at standard in-house rates beyond the quoted price above.*
2. *The above described deliverables assume one draft and one final copy of project deliverables. Comments from the City and stakeholders on each deliverable will be compiled into a single document; if multiple reviewers are involved, comments will be consistent among reviewers.*
3. *Time may be transferred from one task to another due to greater or lesser level of effort, provided that each task shall be completed, and the total budget shall not be exceeded.*
4. *This proposal does not include tree hazard assessment.*
5. *This proposal does not include preparation of tree removal/replacement plans.*
6. *The schedule proposed is approximate. Factors outside of the control of the Watershed Company may impact the project schedule.*

Please call if you have any questions or if we can provide you with any additional information. We look forward to working with you on this exciting opportunity to conduct a forest health assessment of Dickinson Park.

Sincerely,



Kim Frappier  
Environmental Planner | Urban Forester  
ISA Certified Arborist, PN-8213A  
TRAQ certified

**Proposal approved by:**



Kenny Booth, AICP  
Principal / Senior Planner

Enclosures:

- Budget
- Watershed staff rate sheet (2022)

The Watershed Company  
Dickinson Park Forest Assessment Report Budget  
City of Lynden  
August 8, 2022

Task	Subtask	Description	Kenny Booth AICP, Principal \$210	Kim Frappier Project Manager/Arborist \$155	April Mulcahy Ecological Designer \$135	Nathan Burroughs GIS Analyst \$115	Drew Foster Forest Ecologist/Arborist \$110	Hours		Total Costs
<b>1</b>		<b>Project Administration</b>								
1	1.1	Project kick-off meeting		2	2			4		\$580
1	1.2	General project administration and coordination, including meetings and communication with City staff.	4	12				16		\$2,700
			4	14	2			20	<b>Subtotal</b>	\$3,280.00
<b>2</b>		<b>Forest Inventory</b>						0		
2	2.1	Initial Site Visit and walkthrough. Forest stand qualitative characterization and mapping.			10		10	20		\$2,450
2	2.2	Develop study plot protocol		4	4			8		\$1,160
2	2.3	Establish study plots and field data collection.		24			24	48		\$6,360
				28	14		34	76	<b>Subtotal</b>	\$9,970.00
<b>3</b>		<b>GIS Analysis</b>						0		
3	3.1	Coarse level GIS analysis, data acquisition and setup.				3		3		\$345
3	3.2	Compile and package data, including metadata and methods. Deliver to City staff.				6		6		\$690
						9		9	<b>Subtotal</b>	\$1,035.00
<b>4</b>		<b>Data Analysis and Report</b>								
4	4.1	Field data analysis.				2	4	6		\$670
4	4.2	Summarize results and write Forest Health Assessment Report.	2	24				26		\$4,140
			2	24		2	4	32	<b>Subtotal</b>	\$4,810.00
<b>E</b>		<b>Expense</b>								
E		Mileage, GPS, lodging, per diem							<b>Subtotal</b>	\$905.00
<b>TOTAL COST NOT TO EXCEED</b>										<b>\$20,000.00</b>

### Hourly Rates Effective January 2022\*

Dan Nickel, MSc	Environmental Engineer	\$210
Hugh Mortensen, PWS	Senior Ecologist	\$210
J. Kenny Booth, AICP	Senior Planner	\$210
Al Wald, LHg	Hydrogeologist	\$190
Amber Mikluscak, PLA, GISP, MLA	Senior Landscape Architect/GIS Manager	\$180
Greg Johnston, EIT, CFP, MSc	Senior Fisheries Biologist	\$170
Nell Lund, PWS	Senior Ecologist	\$170
Ryan Kahlo, PWS	Senior Ecologist	\$170
Mark Daniel, AICP	Senior Planner/GIS Specialist	\$170
Marina French, PLA, MLA	Senior Landscape Architect	\$160
Kimberly Frappier, MSc	Environmental Planner	\$155
Clover McIngalls, PWS	Environmental Planner	\$150
Peter Heltzel, MSc, CFP	Fisheries Biologist	\$150
Heather Rogers, LG, MSc, WPiT	Planner/Geomorphologist	\$150
Katy Crandall, PWS	Ecologist/Arborist	\$145
Leila Willoughby-Oakes	Associate Planner	\$145
Kyle Braun, PLA	Landscape Architect/Arborist	\$140
April Mulcahy	Ecological Designer/Arborist	\$135
Roen Hohlfeld, MLA	Ecologist/Arborist/Landscape Designer	\$135
Alex Capron	Planner/GIS Specialist	\$130
Dawn Spilsbury	GIS Analyst/FAA Licensed Drone Pilot	\$130
Sam Payne, PWS	Ecologist/Arborist	\$125
Grayson Morris, PLA, MLA, SITES AP	Landscape Architect	\$120
Amanda Fleischman, MLA	Landscape Designer	\$118
Fern Huynh	Landscape Designer	\$117
Nathan Burroughs, MSc	GIS Analyst	\$115
Grace Brennan	Ecologist	\$115
Bri Hines	Environmental Planner	\$115
Devin Melville	Environmental Planner	\$113
Hui Cao	Landscape Designer	\$112
Alexis Ochoa	Arborist	\$110
Drew Foster	Arborist	\$110
Debra Klein	Accountant	\$110
Brooke Taylor	Accountant/Project Administrator	\$110
Betsy Mann	Marketing Manager	\$110
Angela Mele	Interpretive Planner	\$105
Jake Robertson	Arborist	\$105
Sage Presster	Ecologist	\$105
Justin Kay	Ecologist	\$100
Laura Keil	Landscape Designer	\$100
Jesse Rogers	Arborist	\$90
Anna Tono	Marketing Coordinator	\$75

#### Acronym Key:

CFP = Certified Fisheries Professional as certified by the American Fisheries Society  
 EIT = Engineer In Training  
 LG = Licensed Geologist  
 LHg = Licensed Hydrogeologist  
 GIS = Geographic Information System  
 PWS = Professional Wetland Scientist as certified by the Society of Wetland Scientists  
 PLA = State of Washington Professional Landscape Architect  
 AICP = American Institute of Certified Planners  
 MSc = Master of Science degree  
 MLA = Master of Landscape Architecture  
 GISP = GIS Professional

\*Rates for 2022 only; escalator clause for cost of living may apply in future years

## Direct Costs

<b><u>Auto Mileage</u></b> Maximum standard rate allowable by IRS	
<b><u>Reproduction:</u></b>	
<b><u>Black &amp; White Printing</u></b>	<b><u>Rate per Page</u></b>
8 1/2 x 11	\$0.10
11 x 17	\$0.20
12 x 18	\$0.30
<b><u>Color Printing</u></b>	<b><u>Rate per Page</u></b>
8 1/2 x 11	\$1.00
11 x 17	\$2.00
12 x 18	\$2.50
<b><u>Plotting</u></b>	<b><u>Rate per SF</u></b>
B&W Bond	\$1.05
Color Bond	\$1.18
B&W Glossy	\$12.18
Color Glossy	\$13.76
Outside Reproduction	At cost
Electrofishing Equipment Fee	\$100.00/day
Trimble Geo XH - GPS Equipment Fee	\$190.00/day
Field Tablet	\$20.00/day
Solomat Water Quality Testing Equipment Fee	\$50.00/day
YSI Salinity pH Meter	\$50.00/day
Expert testimony	Expert testimony is billed at 1.5 times standard hourly rates
Lodging and per diem	Reimbursement will be at a rate not to exceed the WA State OFM per diem rate for location services are provided. Out-of-State locations will be reimbursed at the current GSA rate for location services are provided.
Other Direct Costs At Cost	

# CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Resolution No. 1052 Authorizing Submission of an Application for a Community Economic Revitalization Board (CERB) Loan and Authorizing the Mayor to Enter Into A Funding Agreement	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Public Works	
<b><u>Council Committee Review:</u></b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b><u>Legal Review:</u></b>	
	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
1) Resolution No. 1052 – Authorizing Submission of a CERB Loan Application 2) Contingency Agreement – Alliance Freeze Dry (USA)		
<b>Summary Statement:</b>		
<p>Community Economic Revitalization Board (CERB) funds are available to support economic development projects which are ready to implement, and which create or retain jobs.</p> <p>City Council desires to fund improvements to Main Street and the intersection of Main Street and Berthusen Roads with a roundabout. This project is on Whatcom County adopted 2022 Comprehensive Development Strategy and is consistent with the purposes of the CERB.</p> <p>The CERB loan funding is made possible by the large commitment of private resources by Alliance Freeze Dry (USA) in this area and the resulting expansion of employment opportunities and increased tax revenues.</p> <p>The Public Works Committee concurred to recommend submitting this CERB application at their meeting on September 7, 2022.</p>		
<b>Recommended Action:</b>		
That City Council authorizes submitting an application to CERB for the Main Street Arterial Street Improvements and Berthusen Roundabout Project in the amount of up to \$6,000,000 and authorizes the Mayor to enter into an agreement for funding if the application is approved. The City Council also authorizes the Mayor to sign the attached Contingency Agreement with Alliance Freeze Dry required to be submitted with the CERB Application.		

**RESOLUTION NO. 1052**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNDEN WASHINGTON, AUTHORIZING SUBMISSION OF AN APPLICATION FOR A COMMUNITY ECONOMIC REVITALIZATION BOARD LOAN UP TO \$6,000,000 AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR SUCH FUNDING**

**WHEREAS**, Community Economic Revitalization Board (CERB) funds are available to support economic development projects which are ready to implement and for which jobs are to be created or retained; and

**WHEREAS**, the City Council desires to fund improvements to Main Street and the intersection of Main Street and Berthusen Roads with a roundabout which is a project consistent with the purposes of the CERB; and

**WHEREAS**, the improvements to Main Street and the intersection of Main Street and Berthusen Roads are included in the Whatcom County adopted 2022 Comprehensive Development Strategy (CEDS); and

**WHEREAS**, the CERB Public Facilities Project would be funded in recognition of the over \$40 million investment being made by a Alliance Freeze Dry (USA) as committed private business in Lynden’s economy, providing new employment opportunities for the City of Lynden, together with increased tax revenues; and

**WHEREAS**, City of Lynden’s CERB Public Facility and this particular private investment by Alliance Freeze Dry does not result in the transfer/relocation of jobs from one part of the state of Washington to another; and

**WHEREAS**, in the event the application for CERB funding is approved, and the funding accepted by the City Council, the City of Lynden will comply with all applicable federal and State requirements in regard to environmental impact of the project; and

**WHEREAS**, the City Council of the City of Lynden finds and determines that an application should be submitted to appropriate agencies for consideration of CERB funding the Main Street Arterial Street Improvements and Berthusen Roundabout Project, and that such submission will promote economic development within the City of Lynden.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Lynden, Washington as follows:

**SECTION 1: Proposition.**

1. That the Mayor, or his designee, is hereby authorized to submit an application to the Community Economic Revitalization Board, for and on behalf of the City of Lynden,

for CERB funding in the approximate amount of \$6,000,000 for the CERB Project;  
and

- 2. That the Mayor is hereby further authorized to provide such additional information as may be necessary to secure approval of such application; and
- 3. That, in the event such application is approved, the Mayor is authorized to enter into an agreement for such funding; and
- 4. That this Resolution shall be effective upon passage and signatures hereon in accordance with law.

**SECTION 2: Severability.**

If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR \_\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF SEPTEMBER, 2022.

\_\_\_\_\_  
MAYOR SCOTT KORTHUIS

**ATTEST:**

\_\_\_\_\_  
CITY CLERK PAMELA D. BROWN

**APPROVED AS TO FORM:**

\_\_\_\_\_  
CITY ATTORNEY ROBERT A. CARMICHAEL



## Contingency Agreement

In order to show that a specific private investment is ready to occur, but will do so only if CERB funding is made available to the applicant, CERB requires a signed Contingency Agreement between the applicant and **each** private sector business named in the application.

The following recitals and terms apply to this Contingency Agreement:

### 1. PARTIES

The parties to this Agreement are The **City of Lynden** (hereinafter the “City”) and **Alliance Freeze Dry** (hereinafter “**Alliance**”).

### 2. PURPOSE

The purpose of this Agreement is to clarify the intentions of the parties regarding the proposed private development and the City’s completion of the roadway and intersection improvements to West Main Street and the intersection at Berthusen Road hereinafter referred to as the “Public Facilities Project”.

West Main Street and Berthusen Road are the two roads directly abutting the new Alliance Freeze Dry “Canature Foods” freeze dried pet foods plant. Alliance Freeze Dry currently operates a smaller plant in Canada and is expanding its operations in the U.S with this new state of the art facility. The new plant will create over 70 living wage jobs. This intersection also serves as a primary entrance to Lynden from western Whatcom County to the entire west Lynden industrial area.

The City’s public facilities project constructs a round-about to eliminate the current three (3) leg skewed and unsignalized intersection. The City of Lynden has completed 30% design plans following a traffic study that recommended a round-about for this intersection. A round-about provides the lowest collision potential and the highest level of service.

### 3. BACKGROUND

#### Description of the Public Facilities Project:

1. Constructs a 70-foot inscribed diameter single lane round-about designed to accommodate larger trucks.
2. Includes stormwater treatment and detention facilities meeting State Department of Ecology Western Washington standards. This will include 820 feet of 30-inch pipe for stormwater detention and 1350 feet of conveyance piping, ranging from 8 to 36-inches in diameter.
3. Includes street improvement on approximately 300 feet of all three legs of the approaching streets.

- 4. Includes additional street lighting for improved illumination.
- 5. Includes bike and pedestrian facilities the full length of the project limits. This will be a "Complete Street".

Benefits of the Public Facilities Project:

- 1. Provides safe or efficient access to the growing West Lynden Industrial Park and surrounding industrial land which is currently project to stimulate an additional \$70M in investment on an additional 15 acres near this Public Facilities Project.
- 2. Provides safe and efficient access to the north Whatcom County berry and agricultural fields west of Lynden.
- 3. Provides safe and efficient vehicular and truck international commerce travel between the West Lynden Industrial area, via State Routes to the International Border crossing into Canada and the fertile Fraser Valley agricultural lands.

**4. AGREEMENT**

- a) The applicant, the City of Lynden, agrees to construct the required public improvements, the Public Facilities Project if CERB financing is approved.
- b) The City of Lynden has already completed more than \$160,000 in engineering design of the Public Facilities Project.
- c) The projected number of permanent, full-time jobs created by Alliance Freeze Dry as a result of the Public Facilities Project is 77 employees.
- d) The approved building permit for Alliance Freeze Dry Canature Plant identifies the private capital investment in the new plant at just over \$40M.
- d) Alliance Freeze Dry will contact the local Northwest Workforce Council (NWC) and the State Employment Security Department for possible assistance in filling new positions.
- e) Alliance Freeze Dry will upon request provide the City of Lynden with employment and data as requested by CERB no less than five years following the completion of the Public Facilities Project.
- f) Alliance Freeze Dry has already dedicated additional right-of-way needed for construction of the Public Facilities Project.

**5. CONTINGENCY**

This Agreement is contingent upon receipt of CERB funds by *THE APPLICANT* and is intended to provide convincing evidence of private development as required by CERB.

**City of Lynden**

**Alliance Freeze Dry (USA) Inc.**

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Scott Korthuis, Mayor

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Guang Xu, President

# CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Set a Public Hearing date of October 3, 2022 to Hear Comments on Amending Lynden Municipal Code Section 13.24 Stormwater Management Systems	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Public Works	
<b><u>Council Committee Review:</u></b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____	<b><u>Legal Review:</u></b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Ordinance No. 1652	
<b>Summary Statement:</b>	<p>Staff has identified revisions needed to Lynden Municipal Code Section 13.24 Stormwater Management Systems. The code currently refers to Ecology’s 2012 Stormwater Management Manual for Western Washington; however, the 2019 Manual is the current edition.</p> <p>The proposed amendment to the Lynden Municipal Code clarifies that this current Ecology Stormwater Management Manual will be used for stormwater system design in Lynden consistent with the City’s current National Pollution Discharge Elimination System (NPDES) Phase II Permit.</p> <p>The Public Works Committee reviewed these revisions at their September 7, 2022 meeting and concurred to recommend setting a Public Hearing date of October 3, 2022.</p>	
<b>Recommended Action:</b>	That City Council set a Public Hearing date of October 3, 2022 at 7:00 p.m. to hear comments on proposed changes to Lynden Municipal Code Section 13.24 Stormwater Management Systems.	

ORDINANCE NO. 1652

AN ORDINANCE OF THE CITY OF LYNDEN, AMENDING SECTION 13.24  
STORMWATER MANAGEMENT SYSTEMS

WHEREAS, Section 13.24 of the Lynden Municipal Code carries out the city’s adopted comprehensive drainage and stormwater management plan, including responsibilities for planning, design, construction, maintenance standards, administration, and operation of all city stormwater management system facilities, as well as establishing standards for design, construction, and maintenance of private facilities associated with new development and redevelopment where these may affect stormwater; and

WHEREAS, The City has determined that a more recent Ecology Stormwater Management Manual for Western Washington (“Ecology Manual”) was published by the State Department of Ecology in 2019; and

WHEREAS, The City the City of Lynden is required under its current Stormwater National Pollution Discharge Elimination System (NPDES) Permit with the State Department of Ecology to apply this newer 2019 Ecology Manual; and

WHEREAS, The City of Lynden seeks to incorporate the most recent regulations from this Manual

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN,  
WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 13.24 of the Lynden Municipal Code is hereby repealed and replaced as follows:

Chapter 12.28 - STORMWATER MANAGEMENT SYSTEMS

13.24.050 – Minimum requirements for new development and redevelopment.

B. Stormwater Management Manuals Adopted

1. The city adopts Ecology's 2019 Stormwater Management Manual for Western Washington, hereafter referred to as the Ecology Manual. Adoption is not for general regulatory purposes. Adoption shall be for guidance as stated in the Ecology Manual, Volume 1 Chapter 1, except where otherwise provided herein.
2. The city adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the city's NPDES Permit all of which are incorporated herein.
3. Any undefined terms in this chapter have the meanings established in the Ecology Manual.

- 4. The city utilizes the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual for information related to BMPs. BMPs shall be used to control pollution from stormwater. The city will also use the latest edition of the Ecology Manual. BMPs shall be used to comply with the requirements in this chapter and to ensure protection of water quality, reduction of discharge of pollutants to the maximum extent practicable and to apply all known available reasonable methods of prevention, control and treatment prior to allowing discharge.5.The director is authorized to determine feasibility and make decisions on adjustments and exceptions under the Ecology Manual.

Section 2 – Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 3 – Effective Date.

This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, otherwise as provided by law, five days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_ IN FAVOR \_\_\_  
AGAINST AND SIGNED BY THE MAYOR THIS 3rd DAY OF October, 2022.

MAYOR

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_

CITY ATTORNEY

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Ratification of City Participation in State Opioid Settlement	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Other: <u>_Legal_</u>	<b>Legal Review:</b>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Not included as complete document exceeds 160 pages.	
<b>Summary Statement:</b>	<p>The Washington State Attorney General office reached a settlement agreement with prescription drug manufacturers regarding opioid distribution and the impacts on citizens for their distribution and potential addictive issues associated with its manufacture. As a part of the agreement, counties and cities in the state will receive a proportionate share based on population. These funds are restricted as to how they can be used; however, the City feels there is benefit to the citizens by funding education programs.</p> <p>Due to the upcoming deadline, the city has submitted the participation agreement, memorandum of understanding, and distribution agreement to the Attorney General's office.</p>	
<b>Recommended Action:</b>	Staff recommends City Council make a motion to ratify the signatures on the documents for the City's participation in the settlement.	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Ord 1654 – Moratorium on Residential Development within CSL Zones	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Draft Ord 1654		
<b>Summary Statement:</b>		
<p>The City’s existing zoning ordinance, under certain provisions allows multi-family residential development within the Commercial Services- Local (CSL) zones in conjunction with first floor commercial spaces. These projects are often referred to as “mixed-use” and are intended to facilitate a symbiotic relationship between commercial uses and the residents that live nearby.</p> <p>As the demand for commercial space wans, the viability of mixed-used projects has been called into question by the Community Development Committee. As a result, at the start of 2022 the City Council approved Ordinance 1642 which enacted a moratorium on residential development within the City’s Commercial Services – Local (CSL).</p> <p>Subsequently, planning staff have been working with the Community Development Committee and the Planning Commission on a revised ordinance which would be more sensitive to the current commercial and residential markets. The final ordinance, including associated comprehensive Plan amendments, are expected to go to public hearing before the Planning Commission on September 22<sup>nd</sup> and then be routed to the Department of Commerce for comment prior to the City Council hearing in December. In the meantime, the City Council being asked to consider a reestablishment of the moratorium on residential development within the CSL zone which would last through the remainder of 2022 as the previous moratorium has expired.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1654 which would reinstate an interim moratorium on new residential development within the City’s CSL zones through the end of the 2022 calendar year, and to authorize the Mayor’s signature on the document.		

ORDINANCE NO. 1654

INTERIM ORDINANCE REESTABLISHING A MORATORIUM ON RESIDENTIAL DEVELOPMENT WITHIN THE COMMERCIAL SERVICES – LOCAL (CSL) ZONE

**WHEREAS**, the 2016 City of Lynden Comprehensive Plan Section 3.7 includes Housing Goal H-2 which states that the City will strive to:

“Provide a mix of single-family and multi-family homes that achieves the density necessary to accommodate projected population growth over the 20-year planning period.”

and;

**WHEREAS**, the policy associated with Goal H-2 states:

“Zoning should be applied to ensure that future residential development over the planning period is composed of approximately 60% single-family units and 40% multi-family units.”

and;

**WHEREAS**, community feedback collected in the writing of the 2016 Comprehensive Plan, appearing as Community Value Statement 4C, indicated a preference for an even higher ratio of single-family housing, calling for a ratio of 75% single-family units to 25% percent multi-family units; and

**WHEREAS**, the purpose of the Commercial Services – Local (CSL) zone stated in the 2016 Comprehensive Plan is “to provide a location for local scale retail development (stores less than 65,000 square feet), medical, professional and financial services;” and

**WHEREAS**, per the permitted uses listed in Lynden Municipal Code (LMC) 19.23.020, properties within the Commercial Services – Local (CSL) zone may construct multi-family development; and

**WHEREAS**, the North Lynden Sub-area made additional provisions for residential development within the CSL zone, requiring only development with 200 feet of the intersection of Badger Road and Depot Road be commercial in nature; and

**WHEREAS**, since 2013, the City has approved construction of 276 multi-family dwelling units within the CSL zone; and

**WHEREAS**, these projects have typically been at a density of 14 to 21 units per acre, consistent with the permitted densities for the Residential Multifamily 3 and 4 zones, which is where dense multifamily development was intended to be concentrated; and

**WHEREAS**, the residential development occurring within the CSL zone at such high densities may be frustrating the purpose of the CSL zone, Comprehensive Goal H-2,

Community Value Statement 4C, and other goals and policies in the Comprehensive Plan; and

**WHEREAS**, because the zone was intended for community-scale commercial use, residential development within CSL zones may not be located in areas which provide adequate amenities to future residents of these developments; and

**WHEREAS**, tracking land uses and residential densities can be done more accurately and consistently if land use and zoning categories align with how properties are actually developed; and

**WHEREAS**, the City Council has granted an approval to a petition for the annexation of 277 acres within the city’s southwest Urban Growth Area; and

**WHEREAS**, the area of potential annex includes a number of parcels south of Birch Bay Lynden Road which are slated for commercial land use designations, possibly including CSL; and

**WHEREAS**, the City will shortly begin reviewing commercial land use with the City limits and its Urban Growth Areas in light of the Comprehensive Plan Goal H-2 and the existing and future impact that residential development on CSL properties; and

**WHEREAS**, this review and any necessary subsequent actions, which are outlined in Section 3 below, will require significant staff time, and possibly one or more public hearings; and

**WHEREAS**, to assure that the issue of residential development in the CSL zone is addressed consistently with the objectives of the Comprehensive Plan and zoning code, and with the public health, safety, and welfare of the community, a moratorium on residential development in the CSL zone is required; and

**WHEREAS**, on December 20, 2021 the Lynden City Council approved Ordinance 1642 which enacted a moratorium on multi-family residential development within CSL zones so that adequate time could be taken to review the mixed-use ordinance and revise as needed; and

**WHEREAS**, the moratorium enacted per Ordinance 1642 has expired; and

**WHEREAS**, City staff is in the final stages of drafting a revised ordinance and associated Comprehensive Plan amendment and public hearings are scheduled to occur on the revised ordinance before the Planning Commission and City Council in September and December of this year, respectively; and

**WHEREAS**, enactment of the revised mixed-use ordinance is expected to occur at the start of 2023; and

**WHEREAS**, the City Council desires to reestablish the moratorium until the revised ordinance is adopted; and

**WHEREAS**, the City duly noticed the public hearing on the moratorium by publishing the notice of hearing in the Lynden Tribune on September 7, 2022; and

**WHEREAS**, the City held a public hearing on this proposed Ordinance on the 19<sup>th</sup> day of September 2022; and

**WHEREAS**, the foregoing recitals are a material part of this Ordinance.

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF LYNDEN DOES ORDAIN as follows:

Section 1. Findings of Fact. The City Council adopts the above “WHEREAS” recitals as findings of fact in support of this Ordinance. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Moratorium Established for Certain Building Permit Applications. The City shall not accept design review applications or building permit applications for new residential structures intended for human occupancy, or for additions to existing residential structures of more than fifty percent (50%) of the existing square footage, on any CSL zoned property for the remainder of calendar year 2022, or unless extended, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Resolution of Issues related to Residential Development within CSL Zones. During the term of this interim ordinance the City shall work on resolving the following issues.

- A. Code Amendment. Revisions to LMC 19.23 and other areas of the code will be finalized as they relate to the development of residential units on commercially zoned properties.
- B. Additional Recommendations and Land Use Actions. A Comprehensive Plan Amendment will be completed to create alignment between Land Use Designations and actual land use.

Section 4. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this Ordinance shall control.

Section 5. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. This ordinance shall not be construed as a moratorium on repair or reconstruction of single-family homes existing prior to 1992 which are permitted per LMC 19.23.020.

Section 7. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON,  
AND APPROVED BY THE MAYOR on the \_\_\_\_\_ day of September 2022.

\_\_\_\_\_  
**M A Y O R**

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Puget Sound Energy Conditional Use Permit 22-01, Variances 22-02 and 22-03	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Draft City Council Findings of Fact, Planning Commission Resolution 22-03, August 18, 2022 Final Technical Review Report, CUP 22-01 and Variance 22-02 and 22-03 Application Narrative, Site Plan, and Landscape Plan		
<b>Summary Statement:</b>		
<p>The Planning Commission considered a Conditional Use Permit (CUP) application and two corresponding variance requests at a public hearing on August 25<sup>th</sup> for Puget Sound Energy (PSE) who was represented by Emily Hagin and the PSE design team.</p> <p>A CUP is required as PSE is proposing to expand an electrical substation within a RM-3 residential zone into the vacant lot immediate west of the existing substation located at 131 E. Front Street. PSE was previously granted a Conditional Use Permit in 1999 which was considered during the review of these applications. The variance requests relate to design considerations specific to an electrical substation. This includes a request for greater fence (wall) heights than typically allowed in order to properly secure the site, and a request to allow structures within the front setback in order to efficiently use the allotted space.</p> <p>The update to the sub-station will result in greater capacity and more resilient electrical infrastructure. It will also provide additional enclosure of electrical infrastructure inside of the enclosure and an overall reduction in equipment height. Staff worked closely with PSE representatives regarding the impact of this project as it is closely located to residences and adjacent to a frequently used sidewalk. The result is a replacement of the entire substation enclosure to more attractive materials, an updated landscape for the entire site, and access points designed to prevent the encroachment of vehicles onto the sidewalk.</p> <p>The Technical Review Committee and the Planning Commission recommend approval of the CUP 22-01 and Variances 22-02 and 22-03 with specific conditions that have been detailed in the attached draft findings of fact.</p>		
<b>Recommended Action:</b>		
Motion to approve with specific conditions, and authorize the Mayor’s signature on the Findings of Fact, for Conditional Use Permit 22-01, Variance 22-02 and 22-03 regarding the expansion of the Puget Sound Energy Substation located at 131 East Front Street.		

CITY OF LYNDEN  
LYNDEN CITY COUNCIL

IN RE THE CONDITIONAL USE  
PERMIT REQUEST OF Puget Sound  
Energy

CUP # 22-01  
VAR # 22-02 and 22-03

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW for Puget  
Sound Energy Expansion

Owners of the premises known as:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST W.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 1 HAWLEY AND LAWRENCE ADDITION TO LYNDEN AS FILED IN VOLUME 1 OF PLATS, PAGE 46, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE SOUTH 66°34'31" WEST ALONG THE NORTHWESTERLY RIGHT OF WAY MARGIN OF FRONT STREET A DISTANCE OF 70.00 FEET; THENCE NORTH 22°22'34" WEST A DISTANCE OF 140.00 FEET TO THE SOUTHEASTERLY MARGIN OF AN UNNAMED ALLEY BETWEEN FRONT AND GROVER STREETS; THENCE NORTH 66°34'31" EAST ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 70.00 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL AS DESCRIBED IN STATUTORY WARRANTY DEED RECORDED UNDER AUDITORS FILE NO. 1529480, RECORDS OF SAID COUNTY; THENCE NORTH 22°27'21" WEST ALONG THE WESTERLY LINE OF A PORTION OF A VACATED ALLEY AS DESCRIBED IN CITY OF LYNDEN VACATION ORDINANCE NO. 1102, A DISTANCE OF 20.00 FEET; THENCE NORTH 66°34'31" EAST ALONG THE NORTHERLY LINE OF SAID VACATED ALLEY A DISTANCE OF 72.49 FEET TO THE WEST LINE OF SAID BLOCK 1; THENCE NORTH 01°39'49" EAST ALONG SAID WEST LINE OF BLOCK 1, A DISTANCE OF 22.08 FEET; THENCE NORTH 66°34'31" EAST ALONG A LINE 162 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF GROVER STREET, A DISTANCE OF 125.22 FEET; THENCE SOUTH 23°25'56" EAST ALONG A LINE 25 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF LOT 3 OF SAID BLOCK 1, A DISTANCE OF 81.41 FEET TO SAID NORTHWESTERLY RIGHT OF WAY MARGIN; THENCE SOUTH 41°25'46" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY MARGIN A DISTANCE OF 231.96 FEET TO THE POINT OF BEGINNING.

**COMMONLY DESCRIBED AS:** 131 E Front Street, Lynden.

Having made application for a conditional use permit and three variances to allow the expansion and upgrade to the existing PSE Substation at the above noted address within the RM-3 zone.

The Lynden Planning Commission held a public hearing on August 25, 2022, and considered the consistency of the applications under LMC 19.49.020 and LMC 19.47.060 and has determined that the Conditional Use Permit and Variance applications meet the required criteria according to the findings, conditions and recommendations of the Technical Review Committee Report dated August 18,

2022, except that landscape requirements for the 3 foot space between the sidewalk and wall were removed so as to utilize non-conductive materials for safety reasons. These conditions have been collectively represented at the conclusion of this document.

Said request having come before the Lynden City Council on September 19, 2022, and the Lynden City Council having fully and duly considered the conditional use permit request, hereby makes the following:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1.01 Application. Emily Hagin, Puget Sound Energy, (“Applicant”) filed a conditional use application and three variance applications which were accepted by the City as complete on June 7, 2022.

1.02 Location. The Property is located at 131 E Front Street in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Puget Sound Energy is the Property Owner.

1.04 Reason for Request. The request is for a Conditional Use Permit to allow the expansion and upgrade to the existing Lynden substation within a residential zone to address aging infrastructure, increase reliability, and to address future capacity issues. The application also includes three (3) variance requests (fence heights and setback encroachment). One variance request regarding fence (all) setback was removed during the technical review process and the plan revised to comply with the minimum code requirement.

1.05 Compliance with Criteria for Granting a Conditional Use Permit and Variance. The application as presented during the public hearing complies with the criteria listed within Section 19.49.020 and 19.47.060 of the Lynden Municipal Code.

1.06 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in the Project Manual for Engineering Design and Development Standards, as applicable.

1.07 Appropriate Provisions for Promoting Health, Safety and General Welfare. The application makes appropriate provisions for public health, safety and general welfare. Meeting electrical safety standards is the highest priority of the project. Revisions to the substation will result in greater enclosure of electrical structures and an increased use of non-conductive enclosures and materials. Variance request to utilize wall heights of 8 and 9 feet have been granted to provide additional security and screening of the substation.

1.08 Open Spaces, Streets, Roads, Sidewalks and Alleys. The application makes appropriate provisions for public open spaces, roads, streets, sidewalks

and alleys. Review and final findings recognize the significance of this location at it is a key pedestrian connector between downtown and neighborhoods along East Grover and East Front Streets. The only sidewalk along this corridor passes immediately by the subject substation. Care has been taken to avoid encroachment into the sidewalk and enhance the pedestrian experience with attractive wall and gate materials and the installation of irrigated landscaping.

1.09 Potable Water Supplies, Sanitary Wastes and Drainage Ways. The application makes appropriate provisions for public drainage ways, potable water supplies and sanitary wastes.

1.10 Public Interest. The application is consistent with the City’s comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application. The project serves to expand critical electrical infrastructure and increase resilience of this service to the public.

1.11 Critical Area Review. There were no critical areas found to be on the site. Critical areas on the opposite side of the street will not be impacted by this project.

1.12 SEPA Determination. Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on June 22, 2022 and mailed to neighbors within 300 ft of the property.

The foregoing Findings of Fact and Conclusions of Law are not labeled. Those sections which are most properly considered Findings of Fact are hereby designated as such. Those sections which are most properly considered Conclusions of Law are also designated as such. From the foregoing Findings of Fact and Conclusions of Law, the City Council establishes the following conditions:

**II. CONDITIONS**

- 1) Approval of the Conditional Use Permit is approved 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 approved 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 approved on the condition that landscape and irrigation is required as submitted on page 1 and 2 of the landscape plan. The Planning Commission and City Council 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) Variance 22-03 to allow structures within what are typically residential front setbacks is approved 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) 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 approved in association with the submitted 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.

By Planning Commission Recommendation and the City Council final approval the following conditions from the Technical Review Committee Report have also been adopted as required:

- 6) *Front Street Gates:* The applicant is required use attractive metal gates along the Front Street frontage rather than chain link “station gates”. These must be similar to those made by Superior Concrete in conjunction with the Superior Concrete Cobblestone wall.
- 7) *Site Lighting:* Any lighting proposed for the site must be glare-free and shielded from the sky and adjacent properties.
- 8) *Maintenance Bond:* A landscape maintenance bond in the amount of 10% of the construction costs will be required prior to fence/wall approval for all landscape and irrigation installation.
- 9) *Wall Finish:* The use of a graffiti sealer on the proposed concrete panel fence is required to protect the wall and allow for an easier cleaning process.
- 10) *Access Points:* Proposed (new) access points shall be paved a minimum of 50 feet from the back of the sidewalk. Existing access point shall be paved a minimum of 10 feet from the back of sidewalk in order to prevents gravel from tracking into public streets.
- 11) *Stormwater:* If impervious addition reach a threshold by which a stormwater management plan is required, it must be prepared by a professional engineer and meeting the requirements of the City’s Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required. This

plan must be approved by the City of Lynden prior to final approval of the project plans including proposed fill and grade permit.

- 12) *Civil Review Deposit:* A review deposit of \$6,000 minimum, to review the civil construction plans, due prior to review and construction respectively.
- 13) *Maintenance Bond:* A post construction maintenance bond in the amount of 10% of the construction costs will be required prior to final approval for all work within the City’s right-of-way.
- 14) *Performance Bond:* A 150% performance bond is required for all work in the City’s right-of-way or on city owned property prior to final approval for all work within the City’s right-of-way.
- 15) *Final Drawings:* All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City’s control monuments is available to the project consultant for their use.
- 16) The proposed conditional use permit and variance requests shall be consistent with the scope of the proposal as provided within the applications. Any changes to the proposal may require additional review and approval by City staff and/or City Council.

**III. DECISION**

Petitioner’s application for a Conditional Use Permit and two variance requests to allow the expansion and upgrade of the existing Puget Sound Energy substation within the Residential Multi-Family Zone (RM-3) on the property described herein is hereby **Approved**.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Scott Korthuis  
Mayor

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.

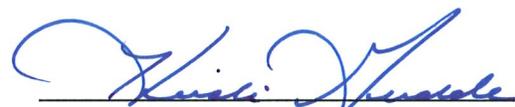
1. *The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.*
2. *The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation 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

# CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE  
Conditional Use Permit Application

August 18, 2022

## CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

### FINAL STAFF REPORT

Re: The application of Puget Sound Energy, for a Conditional Use Permit and Variance(s) Applications.

CUP #22-01 and VAR 22-01, 22-02, and 22-03, Puget Sound Energy FINDINGS, CONCLUSIONS, AND RECOMMENDATION

#### I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a Conditional Use Permit to allow the expansion and upgrade to the existing Lynden substation to address aging infrastructure, increase reliability, and to address future capacity issues. The application also includes three (3) variance requests. One request was removed during the technical review process.

- 1) ~~Fence Location~~ - withdrawn
- 2) Fence Height.
- 3) Front Setbacks.

Recommendation: The Conditional Use Permit (CUP) and Variance applications will be consolidated as one project. The Planning Commission will hold one open record hearing on the entire project and the City Council will make the final decision. After initial review staff recommendations are shown below with staff conditions are included at the conclusion of this report and further subject to any conditions placed by the Planning Commission and City Council.

Conditional Use Permit (CUP):  
Staff (the Technical Review Committee) supports 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. Specific conditions of CUP approval are recommended within the body of this report.

Puget Sound Energy Conditional Use Permit and Variance Requests – TRC Report

**Variance Applications:**

**Fence Location (request 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.

**Fence Height:** Staff can support some variance to fence height with the justification provided. This is discussed in more detail in the following TRC Report.

**Setback Encroachment:** The residential zoning in this location requires that structures be setback 20 feet from the street frontage. Staff can recommend approval of the front setback variance to allow structures within the front setbacks as impacts of this variance are mitigated by the treatment of the site perimeter and, given the unique use of the location.

**II. PRELIMINARY INFORMATION**

Applicant: Emily Hagin, Puget Sound Energy

Property Owner: Puget Sound Energy

Zoning Designation: RM-3 (Residential Multi-Family)

Property Location: 131 E Front Street, Lynden WA

Parcel Number: 400320-444398

Legal Description: THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST W.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 1 HAWLEY AND LAWRENCE'S ADDITION TO LYNDEN AS FILED IN VOLUME 1 OF PLATS, PAGE 46, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE SOUTH 66°34'31" WEST ALONG THE NORTHWESTERLY RIGHT OF WAY MARGIN OF FRONT STREET A DISTANCE OF 70.00 FEET; THENCE NORTH 22°22'34" WEST A DISTANCE OF 140.00 FEET TO THE SOUTHEASTERLY MARGIN OF AN UNNAMED ALLEY BETWEEN FRONT AND GROVER STREETS; THENCE NORTH 66°34'31" EAST

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ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 70.00 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL AS DESCRIBED IN STATUTORY WARRANTY DEED RECORDED UNDER AUDITORS FILE NO. 1529480, RECORDS OF SAID COUNTY; THENCE NORTH 22°27'21" WEST ALONG THE WESTERLY LINE OF A PORTION OF A VACATED ALLEY AS DESCRIBED IN CITY OF LYNDEN VACATION ORDINANCE NO. 1102, A DISTANCE OF 20.00 FEET; THENCE NORTH 66°34'31" EAST ALONG THE NORTHERLY LINE OF SAID VACATED ALLEY A DISTANCE OF 72.49 FEET TO THE WEST LINE OF SAID BLOCK 1; THENCE NORTH 01°39'49" EAST ALONG SAID WEST LINE OF BLOCK 1, A DISTANCE OF 22.08 FEET; THENCE NORTH 66°34'31" EAST ALONG A LINE 162 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF GROVER STREET, A DISTANCE OF 125.22 FEET; THENCE SOUTH 23°25'56" EAST ALONG A LINE 25 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF LOT 3 OF SAID BLOCK 1, A DISTANCE OF 81.41 FEET TO SAID NORTHWESTERLY RIGHT OF WAY MARGIN; THENCE SOUTH 41°25'46" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY MARGIN A DISTANCE OF 231.96 FEET TO THE POINT OF BEGINNING.

<u>Notice Information:</u>	Application Submitted:	May 25, 2022
	Notice of Application:	June 22, 2022
	Notice of SEPA determination:	June 22, 2022
	Notice of Hearing:	June 22, 2022
	Comment Period Ending:	July 6, 2022

SEPA Review: Lynden SEPA #22-05. Mitigated Determination of Non-Significance (MDNS) issued June 17, 2022.

Authorizing Codes, Policies, and Plans:

- Lynden Municipal Code (LMC) Chapter 2.09 Hearing Examiner
  - LMC 2.09.040 (B) and (C), Jurisdiction – Duties – Powers
- LMC Chapter 17 Land Development
  - LMC 17.09, Review and Approval Process
  - LMC 17.09.040, Planning Commission Review and Recommendation
  - LMC 17.17.040, Standards and criteria for granting a variance.
- LMC Chapter 19 Zoning Code
  - LMC 19.17, Multi-Family Building Zones
  - LMC 19.17.050, Conditional Property Uses
  - LMC 19.17.060, Height, Area, Setback and Bulk Requirements
  - LMC 19.49, Conditional Use Permits
  - LMC 19.49.020, Standards and Criteria for Granting a Conditional Use Permit.

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- LMC 19.49.050, Maximum coverage and minimum lot size for certain conditional uses.
- LMC 19.49.080, Modification of or addition to, existing conditional uses.
- LMC 19.63 Fence Permits and Requirements
- International Building Code
- City of Lynden Manual for Engineering Design and Development Standards
- RCW 197-11-350 – SEPA MDNS

**I. PROJECT DESCRIPTION**

Puget Sound Energy is requesting a modification to their existing CUP to allow the expansion and upgrade of the existing Lynden substation in order 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.

Running concurrently with the Conditional Use Permit application are two separate variance requests:

~~Variance #1. LMC 19.63.040 – Fencing Location: PSE is requesting that the concrete panel fence around the front of the substation be located within 3 feet of the property owners side of the sidewalk. Code requires a minimum of 3 foot setback. WITHDRAWN~~

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.

**PREVIOUS PROJECT APPROVAL CUP #99-05**

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:

- That all overhead *distribution* lines be placed underground at the proponent’s expense.
- That the proponent install an 8 foot brick fence on the property line adjoining East Front Street (this was installed as a concrete cobblestone panels).
- Type V landscape buffer ten feet in width is to be installed on the west and northern boundaries of the project expansion.

**II. PUBLIC NOTICE AND COMMENT**

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on June 22, 2022

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on June 22, 2022 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on July 6, 2022.

Public Comment Received:

The comments are summarized, with City response, below:

- 1) Jewett-Kelly Letter (124 E. Grover Street #4D and 126 E. Grover Street #6B). Patricia Jewett and Steven Kelly, nearby residents, 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 attached July 5, 2022 letter).

City’s response: Jewett and Kelly raise appropriate concerns about the condition of the site during construction. Impacts are keenly felt as this PSE location is very near to residential dwellings. During construction of the substation expansion, residents will be encouraged to contact the City if issues related to dust and garbage arise so that City staff can intervene and correct if needed.

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The alley adjacent to the PSE property will be paved as requested by the residents. PSE will also be required to install a vegetated perimeter along the west, north, and east sides of the substation. See the provided landscape plan for more details.

**III. ANALYSIS AND CONSISTENCY WITH REGULATIONS**

**Conditional Use Permit 22-01**

The application is reviewed in accordance with the LMC 19.49.020, and the criteria listed for land use application review in LMC 17.09.040(C) “Planning Commission Review and Recommendation; Required Findings”.

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **Applicant’s response: The proposed use is an expansion of an existing substation and substations are an approved conditional use under Zoning RM-3. PSE is proposing the expansion upgrade to address aging infrastructure, increase reliability, and future capacity issues.**
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:

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- a. Traffic and pedestrian circulation; **Applicant’s response: There will be temporary traffic and pedestrian impacts during construction. Street and sidewalk closures will likely be needed during construction for delivery and installation of new equipment. Post construction vehicle access will typically be limited to monthly substation inspection site visits.**
  
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; the substation; **Applicant’s Response: Some noise will be generated from the transformer within the substation but will be reduced by the fencing and vegetation screening. Lighting will be directed towards the substation to reduce glare on neighboring properties.**
  
  - c. Building and site design; **Applicant’s Response: Due to the odd shape of the property, the proposed expansion to the substation requires a variance for structure setbacks. PSE is applying for a BOA and development variance. The structures otherwise comply with zoning height requirements. The tallest structures in the substation will be 35 ft. tall.**
  
  - d. The physical characteristics of the subject property. **Applicant’s response: The property is long and somewhat narrow with very little topographic change. The existing site is developed with an existing substation that is proposed to be expanded to the west.**
- 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. **Applicant’s Response: The substation does not require domestic water or sewer services. A water service may be utilized for landscape irrigation. The substation will be secure from the public and only authorized personnel will be allowed within fence boundaries.**
  
  - 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. **Applicant’s Response: The expansion of the substation will not increase traffic to the surrounding vicinity. There will be no change in overall traffic patterns post construction and will revert back to monthly site inspections by a substation operator.**
  
  - 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. **Applicant’s Response: The proposed substation expansion complies with most standards and other provisions of the LMC. PSE will install appropriate**

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**vegetation screening around the perimeter of substation or architectural wall where there is no room for vegetation per LMC. Structures meet conditional use height requirements, and no vehicles are proposed to be parked or stored on site. PSE is applying for variances for the 20 ft front setback for accessory structures (LMC 19.22.040B), fence height (LMC 19.63.088) and 3 ft. sidewalk setback (LMC 19.63.088).**

- 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. **Applicant’s Response: PSE will plant appropriate vegetation screening to obscure substation structures, noise, and glare from neighboring landowners. The North and East corner of the property will have a 9-foot non-conductive safety fence for additional screening and safety for adjacent properties. PSE plans to extend the 8-foot concrete panel fencing along E Front Street with a 10-foot high concrete panel fencing to match the existing style.**
  
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Applicant’s Response: The project is not located near any natural, scenic or historic features of major importance. PSE purchased 125 E. Front Street as part of the expansion upgrade. PSE did conduct an Intensive Survey of the home per SEPA requirements before demolition of the home.**
  
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Applicant’s Response: The proposed use is an expansion of an existing substation and substations are an approved conditional use under Zoning RM-3.**

**VARIANCE REQUESTS - #22-01, #22-02 and #22-03**

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. However, the hearing body may only grant a variance if it finds that all of the following conditions exist for each variance application.

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- 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;
- 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.

*Staff Comment:* Variance requests facilitate the efficient use of space for this conditionally permitted use of an electrical substation within a residential zone. This is a special circumstance that is unique to this site. Mitigating factors such as screening by fence and landscape will mitigate for detrimental effect to the public welfare while providing a valuable expansion of electrical service to the Lynden community.

**IV. TECHNICAL REVIEW COMMITTEE COMMENTS**

Planning and Development Department

- 1. *Site Context:* Applicant has been advised as to the significance of this location at it is a key pedestrian connector between downtown and neighborhoods along East Grover and East Front Streets. The only sidewalk along this corridor passes immediately by the subject substation. Recognizing this, the applicant is expected to contribute positively to the street frontage at a scale that is appropriate to pedestrians.
- 2. *Landscape Buffer and Screening:* Consistent with a condition of approval for the CUP approved in 1999, a Type V landscape buffer must be restored on the north and east property lines. Any plantings that are affected or removed during this expansion must be replaced. In addition, the same landscape screening is recommended on the westerly boundary of the substation. This condition appears to be met per the provided landscape plan.
- 3. *Irrigation:* Irrigation of landscaped areas must be provided as noted on the landscape plan, Note 3 on D-21035.
- 4. *Landscape required along Front Street Walls:* LMC 19.22.050(A)(2)(a) requires that landscape material be installed and maintained within the three-foot wall setback.

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This is the space between the sidewalk and the wall. Plans currently indicate gravel in this area however, plant material creates a more pedestrian-friendly environment adjacent to a 9 foot wall. Staff understands that PSE’s grounding lines run within this space and may require excavation in the future. Because of this, staff recommends the use of a low ground cover such as Vinca, Bearberry, or Creeping St.John’s Wort.

- 5. *Front Street Gates:* The applicant has agreed to use attractive metal gates along the Front Street frontage rather than chain link “station gates”. These are expected to be similar to those made by Superior Concrete in conjunction with the Superior Concrete Cobblestone wall. Example shown here:



*Drive gate for Big Sky, Montana, Substation project, plus Superior Cobblestone™ screening wall from Superior Concrete Products.*

- 6. *Barbed Wire Fence:* Chain link and barbed wire fencing has been removed from this application request.
- 7. *Fence Heights:* Per LMC 19.63.080 the maximum height for solid fencing / walls for nonresidential uses in a residential zone is 7 feet. Wire fence is permitted to heights of 12 feet. The existing wall along Front Street is 8 feet in height. The variance request is to allow a wall heights of up to 9 feet. The application states that increased fence heights are needed to meet “NESC Criteria in Section 110.A”. Additionally, solid fencing, in this case, is preferable to wire fencing. Staff can support the current proposal that uses non-conductive fencing and concrete wall at heights of 8-9 feet.
- 8. *Accessory Structure and Siting Requirements:* After reviewing the proposed site plan, staff can agree that the location of structures within the front setback is

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consistent with the previously permitted Conditional Use, and the depth of the property limits the applicant’s ability to meet front setbacks. Staff can also agree that locating structures within the front setback may not be detrimental to the surrounding properties if it is properly mitigated with screening along Front Street.

- 9. *Site Lighting:* Any lighting proposed for the site must be glare-free and shielded from the sky and adjacent properties.
  
- 10. *Driveways:* The proposed driveway has been modified from the initial application so that gates are set back a minimum of 25 feet from inside edge of the sidewalk. This allows a service vehicle to park outside the gate without impeding the public sidewalk.
  
- 11. *Maintenance Bond:* Be advised, a landscape maintenance bond in the amount of 10% of the construction costs will be required prior to fence/wall approval for all landscape and irrigation installation.

Public Works Department

- 12. *Wall Finish:* The use of a graffiti sealer on the proposed concrete panel fence is required to protect the wall and allow for an easier cleaning process.
  
- 13. *Access Points:* Proposed access points shall be paved a minimum of 50 feet from the back of the sidewalk. Existing access point shall be paved a minimum of 10 feet from the back of sidewalk. This prevents gravel from tracking into public streets.
  
- 14. *Stormwater:* Be advised, if impervious addition require a stormwater management plan prepared by a professional engineer and meeting the requirements of the City’s Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required. This plan must be approved by the City of Lynden prior to final approval of the project plans including proposed fill and grade permit.
  
- 15. *Civil Review Deposit:* Be advised, there is a review deposit of \$6,000 minimum, to review the civil construction plans, due prior to review and construction respectively.
  
- 16. *Maintenance Bond:* Be advised, a post construction maintenance bond in the amount of 10% of the construction costs will be required prior to final approval for all work within the City’s right-of-way.
  
- 17. *Performance Bond:* Be advised, a 150% performance bond is required for all work in the City’s right-of-way or on city owned property prior to final approval for all work within the City’s right-of-way.

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- 18. *Final Drawings:* All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City’s control monuments is available to the project consultant for their use.
- 19. *Other Requirements:* Be advised, issuance of the Conditional Use Permit and associated Variances does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.
- 20. The proposed conditional use permit and variance requests shall be consistent with the scope of the proposal as provided within the applications. Any changes to the proposal may require additional review and approval by City staff and/or City Council.

Fire Department – The Fire Department had no additional comments on this application

Parks Department – The Fire Department had no comments on this application.

**V. RECOMMENDATION**

Based on the above findings, Staff recommends approval with conditions of Conditional Use Permit #22-01.

~~Denial of Variance #22-01 related to fence location. - WITHDRAWN~~

Approval with conditions of Variance #22-02 related to fence height.

Approval of Variance #22-03 related to setback encroachment.

- 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.

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- 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.
  
- 6) Approval of the Variance 22-02 with the required use of a graffiti sealer on the proposed concrete panel fence to protect the wall and allow for an easier cleaning process.



**TOPO LEGEND**

- ⊗ WM WATER METER
- ⊗ WV WATER VALVE
- ⊗ CV INTERVAL CONTROL VALVE
- ⊗ FH FIRE HYDRANT
- ⊗ SIGN
- ⊗ SANITARY SEWER MANHOLE
- 95— MAJOR CONTOUR
- 94— MINOR CONTOUR
- OP— OVERHEAD POWER LINE
- OT— OVERHEAD TELEPHONE LINE
- SS— SANITARY SEWER LINE
- G— NATURAL GAS LINE
- W— WATER LINE
- ⌒ VEGETATION/TREE LINE

**LEGEND**

- — — — — PROPERTY LINE
- — — — — EXISTING SUBSTATION CHAIN LINK FENCE
- — — — — PROPOSED SUBSTATION CHAIN LINK FENCE
- — — — — EXISTING CONCRETE PANEL FENCE
- — — — — PROPOSED CONCRETE PANEL FENCE
- — — — — PROPOSED NON-CONDUCTIVE FENCE
- 95— EXISTING MAJOR CONTOUR
- 94— EXISTING MINOR CONTOUR
- 94— PROPOSED CONTOUR
- ▨ PROPOSED ASPHALT DRIVEWAY
- ▨ PROPOSED ENTRANCE DRIVEWAY
- ⊡ EXISTING CATCH BASIN, TYPE 1
- ⊡ PROPOSED CATCH BASIN, TYPE 1
- ⊡ GRATE INLET
- ⊡ GATE VALVE
- ⊡ EXISTING DRAINAGE PIPE
- ⊡ PROPOSED DRAINAGE PIPE
- ⊡ EXISTING FOUNDATION
- ⊡ PROPOSED FOUNDATION
- ⊡ EXISTING VAULT

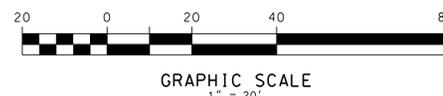
**CATCH BASIN SCHEDULE**

CB-1 TYPE 1 RIM EL 96.40 S- IE 6" 93.62 E- IE 6" 93.72	CB-2 TYPE 1 RIM EL 97.00 W- IE 6" 94.00 E- IE 6" 93.90	GI-1 RIM EL 96.72 N- IE 6" 94.69 E- IE 6" 95.12 S- IE 6" 95.05 W- IE 6" 94.83
CB-3 TYPE 1 RIM EL 96.72 S- IE 6" 94.64 W- IE 6" 94.54	CB-4 TYPE 1 RIM EL 96.72 S- IE 6" 95.14 E- IE 6" 95.04	

**REFERENCE DRAWINGS**

- D-21030 SITE PLAN AND GENERAL NOTES
- D-21032 TEMPORARY EROSION/SEDIMENT CONTROL PLAN
- D-21033 GRADING AND FENCING PLAN
- D-3306 FOUNDATION PLAN
- D-3326 STRUCTURAL PLAN

60% DESIGN  
NOT FOR CONSTRUCTION



WD NUMBER: 111023608		CITY PROJECT NO:	
REVISION DESCRIPTION: REVISED PER LYNDEN TRC COMMENTS		<b>DRAINAGE PLAN</b> <b>LYNDEN SUBSTATION</b>	
CADD	J. Nelson	PUGET SOUND ENERGY	SUBSTATION ENGINEERING DEPARTMENT
ENGINEER			
REVIEWED			
APPROVED	J. HENRY	SCALE: 1"=20'-0"	CLASS: SITE
		DATE: 2022.08.18 15:03:47-0700	DRAWING NO: <b>D-21034</b>
		DATE: 2022.08.18 14:53:51-0700	SHEET: 01 OF 03
		CADD NO: D-21034_01.dgn	REV NO: <b>1</b>
			FILE NO:
			CODE: LYN

INTERNAL USE

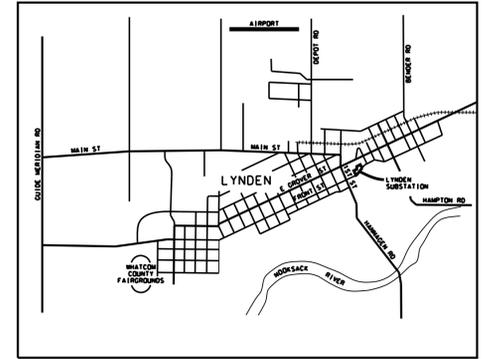
USER: j.nelson 8/17/2022 2:56:49 PM



**PUGET  
SOUND  
ENERGY**

# LYNDEN 115kV SUBSTATION

SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST, W.M.  
CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON



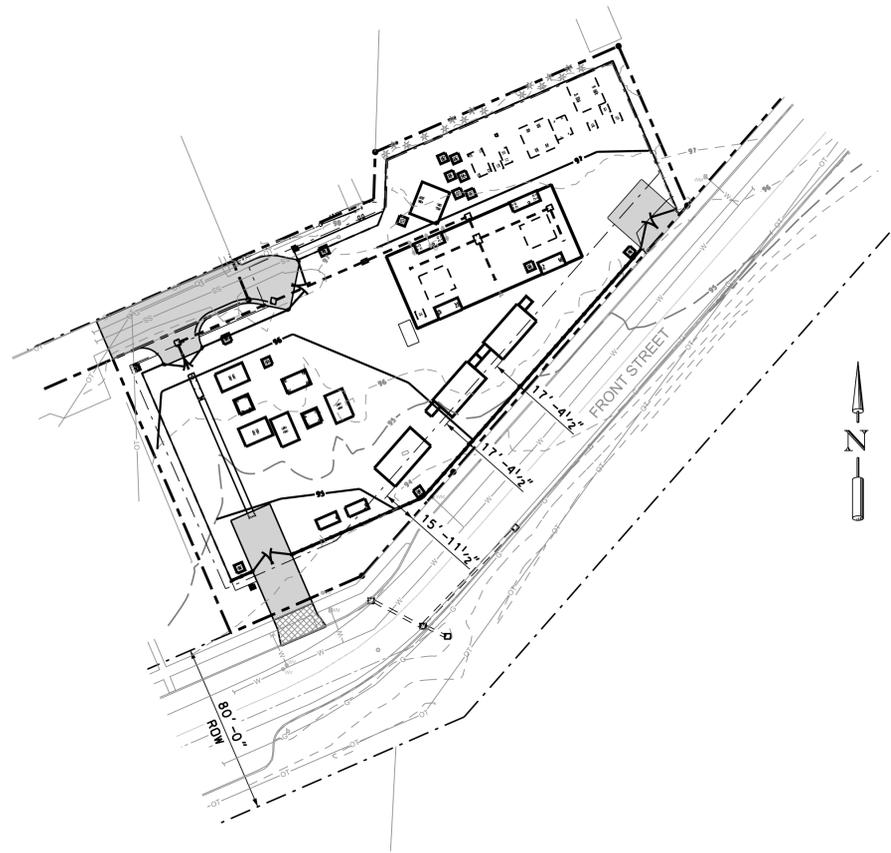
VICINITY MAP  
NO SCALE

**SURVEY NOTES:**

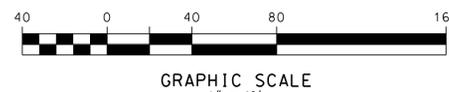
- PURPOSE OF THIS SURVEY THIS SURVEY WAS PERFORMED DURING DECEMBER, 2016 IN SUPPORT OF A PUGET SOUND ENERGY SUBSTATION AND TRANSMISSION DESIGN PROJECT AND IS INTENDED TO BE USED FOR THIS PURPOSE. SPECIFIC INFORMATION SHOWN HEREON SHOULD BE VERIFIED AS TO ITS ACCURACY IF THIS SURVEY IS TO BE USED FOR PURPOSES OTHER THAN THAT IT WAS INTENDED FOR.
- BASIS OF BEARING WASHINGTON COORDINATE SYSTEM, NORTH ZONE, NAD-83/11.
- VERTICAL DATUM NAVD-88  
NOTE: NGVD 29 = NAVD 88 MINUS 3.5'. SOURCE - CORPSCON FOR WINDOWS CONVERSION SOFTWARE VER 6.0.1
- TREES TREE SURVEY HAS NOT BEEN CONDUCTED. TREES SHOWN HEREON DO NOT COMPRISE ALL TREES WITHIN PROJECT LIMITS.
- METHODOLOGY FIELD MEASUREMENTS FOR THIS SURVEY WERE PERFORMED USING A LEICA MS50 TOTAL STATION AND A LEICA GS14 GPS RECEIVER. THIS SURVEY COMPLIES WITH THE MINIMUM REQUIRED "ERROR OF CLOSURE" OF 1:10,000 FOR WASHINGTON STATE PLANE COORDINATES AS SET FORTH PER W.A.C. 332-130-090 (AND POSITIONAL TOLERANCE LEVELS OF LESS THAN 0.011 METERS).
- PROPERTY LINES PROPERTY LINES SHOWN HEREON ARE BASED ON READILY AVAILABLE PLATS/SURVEYS/RIGHT OF WAY PLANS/PIERCE COUNTY ASSESSOR INFORMATION/GIS DATA. AS NOTED HEREON, SPECIFIC PROPERTY LINES BEEN VERIFIED TO A HIGHER LEVEL OF ACCURACY TO BE USED FOR DETERMINING EXACT LOCATION OF FEATURES IN THOSE AREAS.
- ENCUMBRANCES EASEMENTS AND RESTRICTIONS OF RECORD SHOWN HEREON PER DOCUMENTS PROVIDED BY CLIENT. NO FURTHER SEARCH INTO PUBLIC RECORDS WAS REQUESTED OR PERFORMED. ACCORDINGLY, NO GUARANTEE IS MADE THAT ALL ENCUMBRANCES THAT MAY EXIST ON SITE ARE SHOWN.
- UNDERGROUND UTILITIES SHOWN REPRESENT FIELD SURVEYED POINT MARKS AS PLACED ON THE GROUND BY A UTILITY LOCATE SERVICE TOGETHER WITH AVAILABLE UTILITY AS-BUILT AND REFERENCE DRAWINGS. NO GUARANTEE IS MADE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED OR THAT THE UNDERGROUND UTILITIES ARE SHOWN IN THEIR EXACT LOCATION. THE UTILITIES ARE SHOWN AS ACCURATELY AS POSSIBLE FROM AVAILABLE INFORMATION.
- CONTOUR INTERVAL 1 FOOT
- SUBSURFACE CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS PART OF THIS SURVEY.
- SENSITIVE AREAS  
WETLANDS FOR THE ENTIRE PSE SUBSTATION PROJECT WERE DELINEATED (INCLUDING UPDATES TO PREVIOUS DELINEATIONS) AND BUFFER WIDTHS WERE PROVIDED BY ENCO ENVIRONMENTAL CORPORATION. THE DELINEATION FOR WETLANDS A, B, & C ON PARCEL NUMBER 0619044040 WERE PERFORMED IN OCTOBER 2015 AND THESE 3 WETLANDS EDGES WERE RE-CONFIRMED IN THE FIELD ON SEPTEMBER 7, 2017 AND APRIL 11/12, 2019. THE DELINEATION FOR WETLAND D WAS PERFORMED ON APRIL 11-12, 2019.
- 1-800-424-5555 MUST BE CALLED NOT LESS THAN 48 HOURS BEFORE BEGINNING EXCAVATION WHERE ANY UNDERGROUND UTILITIES MAY BE LOCATED. FAILURE TO DO SO COULD MEAN BEARING SUBSTANTIAL REPAIR COSTS. (UP TO THREE TIMES THE COST OF REPAIRS TO THE SERVICE).

**LEGAL DESCRIPTION:**

PARCEL NO.  
A TRACT OF LAND SITUATED IN THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 1, HAWLEY AND LAWRENCE'S ADDITION TO LYNDEN, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 46, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE WESTERLY ALONG THE NORTHERLY LINE OF FRONT STREET 70 FEET; THENCE NORTHERLY AT RIGHT ANGLES TO FRONT STREET 140 FEET; THENCE EASTERLY PARALLEL TO FRONT STREET 70 FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO FRONT STREET 140 FEET TO POINT OF BEGINNING, LESS ROADS.  
SITUATE IN WHATCOM COUNTY, WASHINGTON  
SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.



SITE PLAN



PSE ENGINEERING CONTACTS 355 110TH AVE NE, BELLEVUE WA. 98004			
GROUP	NAME	PHONE	EMAIL
PROJECT MANAGEMENT	HECTOR GONZALEZ	425-396-3709	hector.gonzalez@PSE.COM
ELECTRICAL	SERGEY RUSSU	425-396-3839	sergey.russu@pse.com
CIVIL	JASON HENRY	425-396-3784	jason.henry@pse.com
CONSTRUCTION MANAGEMENT	CODY SPENCE	425-466-8946	cody.spence@pse.com
PERMITTING	EMILY HAGIN	360-647-6506	emily.hagin@pse.com

**LEGEND**

---	PROPERTY LINE	---	EXISTING MAJOR CONTOUR
---	EXISTING SUBSTATION CHAIN LINK FENCE	---	EXISTING MINOR CONTOUR
---	PROPOSED SUBSTATION CHAIN LINK FENCE	---	PROPOSED CONTOUR
---	EXISTING CONCRETE PANEL FENCE	---	VEGETATION/TREE LINE
---	PROPOSED CONCRETE PANEL FENCE	---	WATER LINE
---	PROPOSED NON-CONDUCTIVE FENCE	---	SANITARY SEWER LINE
---	BUILDING SET BACK LINE	---	OVHD TELEPHONE LINE
---	EXISTING FOUNDATION	---	NATURAL GAS LINE
---	PROPOSED FOUNDATION	---	WATER METER
---	POWER POLE AND GUY WIRE	---	WATER METER
---	CATCH BASIN	---	INTERVAL CONTROL VALVE
---	STORM PIPE	---	FIRE HYDRANT
---	VAULT	---	SIGN

**DRAWING LIST:**

DRAWING NO:	SHEET NO:	TITLE:
D-21030	1	SITE PLAN AND GENERAL NOTES
D-21031	1	ALTA/NSPS SURVEY
	2	ALTA/NSPS SURVEY
D-21032	1	TEMPORARY EROSION/SEDIMENT CONTROL PLAN
	2	TEMPORARY EROSION/SEDIMENT CONTROL DETAILS
D-21033	1	GRADING AND FENCING PLAN
	2	GRADING AND FENCING SECTIONS AND DETAILS
D-21034	1	DRAINAGE PLAN
	2	DRAINAGE DETAILS
	3	DRAINAGE DETAILS
D-21035	1	TOPOGRAPHIC SURVEY
D-3306	1	FOUNDATION PLAN
D-3326	1	STRUCTURAL PLAN

**SITE INFORMATION:**

PROPERTY OWNER: PUGET SOUND ENERGY  
 PARCEL NO:  
 ADDRESS: 127 E FRONT ST  
 LYNDEN, WA 98264  
 ZONING: GC (GENERAL COMMERCIAL)

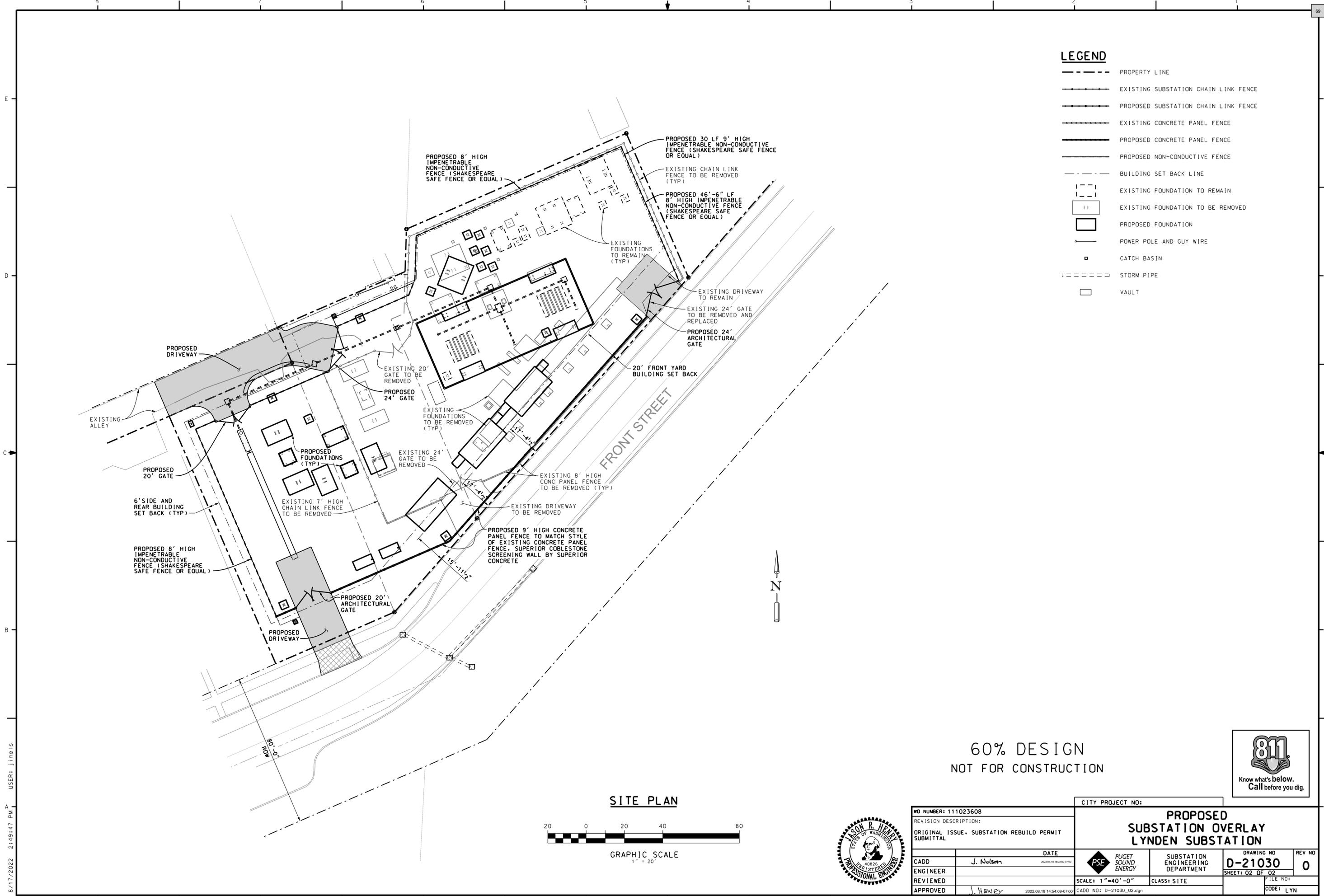
60% DESIGN  
NOT FOR CONSTRUCTION



WD NUMBER: 111023608	CITY PROJECT NO:	<b>SITE PLAN AND GENERAL NOTES LYNDEN SUBSTATION</b>			
REVISION DESCRIPTION: REVISED PER LYNDEN TRC COMMENTS					
CADD: J. Nelson	DATE: 2022.08.18 15:01:35-0700		SUBSTATION ENGINEERING DEPARTMENT	DRAWING NO <b>D-21030</b>	REV NO <b>1</b>
ENGINEER			SCALE: 1"=40'-0" CLASS: SITE	SHEET: 01 OF 02	FILE NO:
REVIEWED				CODE: LYN	
APPROVED: J. HENRY	DATE: 2022.08.18 14:53:28-0700	CADD NO: D-21030_01.dgn			



INTERNAL USE



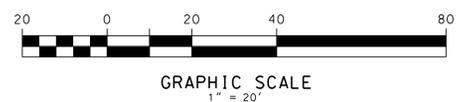
**LEGEND**

- PROPERTY LINE
- - - - - EXISTING SUBSTATION CHAIN LINK FENCE
- - - - - PROPOSED SUBSTATION CHAIN LINK FENCE
- EXISTING CONCRETE PANEL FENCE
- PROPOSED CONCRETE PANEL FENCE
- PROPOSED NON-CONDUCTIVE FENCE
- - - - - BUILDING SET BACK LINE
- - - - - EXISTING FOUNDATION TO REMAIN
- EXISTING FOUNDATION TO BE REMOVED
- PROPOSED FOUNDATION
- POWER POLE AND GUY WIRE
- CATCH BASIN
- - - - - STORM PIPE
- VAULT

60% DESIGN  
NOT FOR CONSTRUCTION



**SITE PLAN**



WD NUMBER: 111023608		CITY PROJECT NO:	
REVISION DESCRIPTION: ORIGINAL ISSUE, SUBSTATION REBUILD PERMIT SUBMITTAL		<b>PROPOSED SUBSTATION OVERLAY LYNDEN SUBSTATION</b>	
CADD	J. Nelson		
ENGINEER		SCALE: 1"=40'-0"	CLASS: SITE
REVIEWED		FILE NO:	CODE: LYN
APPROVED	J. Henry	CADD NO: D-21030_02.dgn	

INTERNAL USE

USER: j.rnelis 8/17/2022 2:49:47 PM

# Superior Cobblestone™



## Category

Screening Walls

### DESCRIPTION

OLD WORLD CHARM. STATE-OF-THE-ART ENGINEERING. There's nothing like cobblestone to invoke a traditional look & feel to any environment. But with Superior Cobblestone™ you can have the appeal of stone & mortar with the durability and versatility of precast concrete. Superior Cobblestone™ installation requires a fraction of the time of traditional products while maintaining the same attractive appearance for decades. With its varied, natural textures and soft edges, Superior Cobblestone™ blends beautifully with any architectural style, from farmhouse to colonial or modern. Concrete never looked so good.

### FEATURES

- Double-sided stone & mortar texture
- Little-to-no maintenance
- Heights from 1' to 30'
- Engineered & built to spec
- Posts set 5' on-center
- Engineered for a variety of soil & wind conditions
- No heavy equipment required
- Horizontal alignment
- Integral color
- Enduring appeal & beauty

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### LINKS

[COLOR SELECTION](#)

[NPCA PLANT CERTIFICATION](#)

[ICC-ES EVALUATION](#)

[SUPERIOR CONCRETE PRODUCTS BROCHURE](#)

## Product Information

General

Product Category

Screening Walls

Resources



# CITY OF LYNDEN

PLANNING DEPARTMENT  
360-354-5532



## 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 2<sup>nd</sup> 6-0
- B. **June 9, 2022** Scott / Kaemingk 2<sup>nd</sup> 4-0
- C. **July 27, 2022** Johnson / Kaemingk 2<sup>nd</sup> 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 15<sup>th</sup> 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 8<sup>th</sup> 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.**

# CITY OF LYNDEN

TECHNICAL REVIEW COMMITTEE  
Conditional Use Permit Application



**APPLICANT RESPONSE JULY 26, 2022 to**  
June 28, 2022

## CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

Re: The application of Puget Sound Energy, for a Conditional Use Permit and Variance(s) Applications.

CUP #22-01 and VAR 22-01, 22-02, and 22-03, Puget Sound Energy  
**FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

### I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a Conditional Use Permit to allow the expansion and upgrade to the existing Lynden substation to address aging infrastructure, increase reliability, and to address future capacity issues. The application also includes three (3) variance requests:

- 1) Fence Location.
- 2) Fence Height.
- 3) Front Setbacks.

### IV. TECHNICAL REVIEW COMMITTEE COMMENTS

#### Planning and Development Department

1. *Application Materials:* Please provide a plan showing the location of the existing walls, fence, gates and driveways of the substation as it relates to the proposed walls, fence, gates and driveways. Label with “to remain”, “to be removed”, and “proposed” so that the scope of the project is clear.

Action Item (PSE) – update design drawings to reflect Lynden’s requests above.

2. *Application Materials:* Provide the referenced drawing D-18381 as noted for the proposed 7’ high station chain link fence.

Emily provided D-18381 drawing to Lynden on 6/30/22.

3. *Application Materials:* Provide landscape Sheets 2 and 3 which are referenced on landscape plan Sheet 1 so that staff can review planting details and the plant schedule consistent with a Type V landscape buffer.

**Commented [HE1]:** Goal is to explain proposed changes as clearly as possible to the Planning Commission and City Council in layman’s terms.

**Commented [HE2]:** PSE has updated the design to reflect proposed changes. D-21033

**Commented [HE3]:** D-18381 provided.

**Commented [HE4]:** Sheets 1 and 2 provided.

Emily provided landscape sheets 2 & 3 to Lynden on 6/30/22.

4. *Site Context and Compatibility:* The application states that the project is not located near any natural or scenic features. Staff disagrees as critical areas are immediately across the street from this location with views of the Nooksack River valley beyond. The use is generally incompatible with the surrounding uses but obviously necessary to provide electrical service to the City of Lynden. The expansion of the conditional use should recognize the conflict associated with a substation in this location. The application should also recognize that the Front Street corridor is popular walking route that connects residential neighborhoods to the City's downtown. The only sidewalk along this corridor passes immediately by the subject substation. Given this context, the applicant is expected to contribute positively to the street frontage at scale that is appropriate to pedestrians.

Emily revised Critical Areas Checklist to Lynden on 6/21/22.

5. *Landscape Buffer and Screening:* Consistent with a condition of approval for the CUP approved in 1999, a Type V landscape buffer must be restored on the north and east property lines. Any plantings that are affected or removed during this expansion must be replaced. In addition, the same landscape screening is recommended on the westerly boundary of the substation. This condition appears to be met on the landscape plan. Please provide plant schedule and planting details on Sheets 2 and 3 of the landscape plan to verify.

Landscape plan sheets 2 and 3 were provided to Lynden on 6/30/22 to answer landscape buffer and screening.

6. *Variance Justification:* The variance request related to wall location states, in response to criteria "B", the "tight constraints within the substation footprint make moving the fence back 3 inches not viable" however, just previous to this, in response to criteria "A", the application states that "PSE owns the adjacent property". Please provide clarification regarding this contradiction.

PSE will need to clarify explanation on why even with the substation footprint expanding to the West why PSE is unable to move the fence along Front Street 3" inches in to meet sidewalk setback code. (i.e. NESC clearance standards between electrical equipment and vehicle access)

\*\*PSE needs Vehicle access along the frontage. Also, around metal clad structures 12-13' clearance.

7. *Walls and Fences:* The application proposes a variety of walls and fence types in a variety of heights. This includes the existing concrete panel walls at 8 feet in height, the proposed concrete panel walls at 10 feet in height, the non-conductive

**Commented [HE5]:** PSE was able to move the concrete panel fence back 3'6" to centerline of fence from the back of concrete sidewalk removing the need for this variance. The wall height was also reduce to 9' to minimize the fluctuation between fence heights around the perimeter of the substation.  
  
Is clarification still needed?

Puget Sound Energy Conditional Use Permit and Variance Requests – TRC Report

fiberglass/plastic wall at 9 feet in height, and chain link fencing at 7 feet in height. Please provide an explanation as to why this variation of wall and fence types is proposed.

PSE needs to elaborate on why PSE is using different fencing heights and materials. I explained to the best of my ability with the notes Jason provided for the application materials. It was recommended the next TRC review meeting that the Civil Engineer also attend to explain in more detail the need for different fencing heights and materials.

Commented [HE6]: Civil engineer is planning on attending the next TRC review meeting to discuss fence types and heights.

Address continuity between non-conductive and concrete paneling fence

8. *Front Street Walls*: Staff does not support the location of the proposed concrete wall along Front Street. City code requires that all fences be setback from City sidewalks a minimum of three feet. This code is applied to all fences even at heights of only 42 inches (the maximum height of a front yard fence). The PSE application proposes a 10 foot wall only 2'-9" from the sidewalk. Staff recommends, that as mitigation for the impact of an extremely tall wall and the proposed Conditional Use, that:

- a. The proposed wall be setback a minimum of 6 feet from the edge of the sidewalk. PSE stated this proposed action is difficult because of clearances required within the substation footprint and could alter the fence height and material used.
- b. That landscape to be established in this area between the sidewalk and the proposed wall. This seems like a reasonable solution to moving fence back 6ft. PSE needs to inquire if possible and provide an answer at the next TRC review meeting. (not possible b/c need it for grounding unless use non-conductive fencing).
- c. That a climbing vine such as Duchman's Pipe Vine (*Aristolochia macropphylla*) or Virginia Creeper (*Parthenocissus quinquefolia*) be established on the existing wall – with or without the use of a "green wall" trellis system. Is this even possible? PSE to confirm.
- d. That irrigation be installed the full perimeter of the substation. Provide the referenced irrigation plan, D-20899, and sheets 1 and 2 of the landscape plan to verify this requirement. PSE will provide D-20899 drawing referenced in sheets 1 & 2 of the landscape plan. (Verify correct D#)

9. *Front Street Gates*: Gates used on the Front Street frontage should be attractive as well as secure. No specifications or images of the proposed gates were included in the application package. Staff recommends that the proposed gate and the existing gate that are visible from Front Street be similar to those used by Superior Concrete in conjunction with the Superior Concrete Cobblestone wall. Example shown here:

Puget Sound Energy Conditional Use Permit and Variance Requests – TRC Report



Drive gate for Big Sky, Montana, Substation project, plus Superior Cobblestone™ screening wall from Superior Concrete Products.

PSE will look into front gate options are more attractive than chain link with slats.

**Commented [HE7]:** PSE can look into options. This request is reasonable.

10. *Barbed Wire Fence:* While wire fencing for non-residential uses may be permitted to a height of 12 feet, per LMC 19.63.060(A), barbed wire fencing is not permitted in residential zones. Please revise the application to exclude barbed wire fencing.

PSE conveyed this is a substation design safety standard to keep people and wildlife out of the substation. Lynden is okay with the barbed wire fencing if properly screened with vegetation.

**Commented [HE8]:** PSE has removed the chain link fence and replaced it with 8' high non-conductive fencing at west and north perimeter of the substation and a portion along the east perimeter. Short section will be 9' due to electrical equipment proximity to the fencing.

11. *Fence Heights:* Per LMC 19.63.080 the maximum height for solid fencing / walls for nonresidential uses in a residential zone is 7 feet. The existing wall along Front Street is 8 feet in height. The variance request is to allow a wall height of 10 feet along Front Street and 9 feet along the north and east property lines. The application states that increased fence heights are needed to meet "NESC Criteria in Section 110.A". Staff, and the City's Planning Commission, are not familiar with what NESC stands for or the code reference provided. Please clarify. Additionally, the application is not clear as to why the permitted 7 foot height or existing 8 foot height is not adequate.

**Commented [HE9]:** NESC stands for National Electrical Safety Code Article 110 covers the general requirements for the examination and approval, installation and use, access to and spaces about electrical equipment.

NESC stands for the National Electrical Safety Code. Article 110 covers the general requirements for the examination and approval, installation and use, access to and spaces about electrical equipment. PSE further explained the calculations from Article 10 indicates that a 9-ft. non-conductive fencing is required because of electrical equipment's proximity to the property line and near residential developments.

**Commented [HE10]:** Civil engineer plans to attend the next TRC review meeting to clarify fencing heights.

Puget Sound Energy Conditional Use Permit and Variance Requests – TRC Report

12. *Accessory Structure and Siting Requirements:* After reviewing the proposed site plan, staff can agree that the location of structures within the front setback is consistent with the previously permitted Conditional Use, and the depth of the property limits the applicant’s ability to meet front setbacks. Staff can also agree that locating structures within the front setback may not be detrimental to the surrounding properties if it is properly mitigated with screening along Front Street.

13. *Site Lighting:* Any lighting proposed for the site must be glare-free and shielded from the sky and adjacent properties. Please provide a lighting plan and any specifications needed to demonstrate this requirement.

PSE will provide information on site lighting for the substation and where lighting will be located.

Commented [HE11]: Working on getting a lighting site plan for the substation

14. *Driveways:* The proposed driveway from Front Street does not leave adequate space between the sidewalk and the gate. Driveways must be configured so that gates are set back a minimum of 25 feet from inside edge of the sidewalk.

PSE review ability to extend driveway to meet code requirement of 25 ft. Gate is currently 20 ft. from sidewalk.

Commented [HE12]: PSE can meet that criteria

Public Works Department

15. *Access Points:* Driveways from public streets shall be paved a minimum of 50 feet from the back of the sidewalk per Section 5.1(F) of the City of Lynden Design and Engineering Standards. Please revise plans to show paved area.

Is PSE able to extend and pave driveway full 50 ft? This would extend into the substation footprint.

Commented [HE13]: PSE can meet that criteria.

16. *Stormwater:* Be advised, if impervious addition require a stormwater management plan prepared by a professional engineer and meeting the requirements of the City’s Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required. This plan must be approved by the City of Lynden prior to final approval of the project plans including proposed fill and grade permit.

PSE is aware that stormwater management plan is needed. The drainage report and SWPPP will be ready with a fill and grade permit by August/September.

Commented [HE14]: September more likely to allow time to answer comments from public hearing.

17. *Civil Review Deposit:* Be advised, there is a review deposit of \$6,000 minimum, to review the civil construction plans, due prior to review and construction respectively.

Puget Sound Energy Conditional Use Permit and Variance Requests – TRC Report

- 18. *Maintenance Bond*: Be advised, a post construction maintenance bond in the amount of 10% of the construction costs will be required prior to final approval for all work within the City’s right-of-way and required landscaping.
- 19. *Performance Bond*: Be advised, a 150% performance bond is required for all work in the City’s right-of-way or on city owned property prior to final approval for all work within the City’s right-of-way.
- 20. *Final Drawings*: Be advised, all surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City’s control monuments is available to the project consultant for their use.

Fire Department – The Fire Department had no additional comments on this application

Parks Department – The Fire Department had no comments on this application.

**I. RECOMMENDATION**

Staff recommendation to be issued after submittal of additional information as requested above and associated plan revision.

# CITY OF LYNDEN



## CONDITIONAL USE PERMIT APPLICATION

*City of Lynden use only:*  
**CUP #** 2201      **Staff Initials:** \_\_\_\_\_

### Property Owner

Name: Puget Sound Energy  
 Address: 131 E. Front Street Lynden, WA 98264  
 Telephone Number: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

### Applicant (Agent, Land Surveyor or Engineer)

Name: Emily Hagin  
 Address: 1110 Kentucky Street Bellingham, WA 98229  
 Telephone Number: 360-319-6424 E-mail Address: emily.hagin@pse.com

Who is the primary contact for this project? This person will receive all official correspondence for the project.      Property owner  Applicant

### Property Information

Project Location (street address / block range): 131 E. Front Street Lynden, WA 98264  
 Legal Description (attach if necessary): see attached legal description  
 Assessor's Parcel Number: 4003204443980000 Zoning Designation: RM-3  
 Property Dimensions: \_\_\_\_\_ X \_\_\_\_\_ Parcel Square Footage: 34,105 sq. ft.  
 Applicable Sub-Area: \_\_\_\_\_ Building/Structure Size: \_\_\_\_\_  
 Height of Structure: not to exceed 35 ft. Addition Size: \_\_\_\_\_

**Please describe request in detail:**       **CUP Criteria must be attached**

Puget Sound Energy requests the City of Lynden to approve a conditional use permit to expand and upgrade the existing Lynden substation to address aging infrastructure, increase reliability, and address future capacity issues.

\*\*\*\*\*

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

**Submitted by:** Emily E. Hagin      **Date:** 4/22/22  
**Property owner signature:** Emily E. Hagin      **Date:** 4/22/22  
**Property owner printed name:** Emily E. Hagin      **Date:** 4/22/22

400.00 ✓

# CITY OF LYNDEN

## CONDITIONAL USE PERMIT CRITERIA WORKSHEET



A Conditional Use Permit (CUP) will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

**Please describe the proposed use.** Relevant information may include hours of operation, parking requirements, anticipated traffic to the site, and how the site will be developed and used. Attach additional information and plans as needed.

The substation is secured and only accessed by authorized PSE substation operation crews. Site will be accessed on a monthly basis for routine site inspections or for emergency repairs. Current traffic patterns will not change with the proposed substation expansion and upgrades.

**Respond to each of the criteria below with the specifics of the proposed use in mind. (per LMC 19.49)** Identify nearby streets and the uses surrounding the site.

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

The proposed use is an expansion of an existing substation and substations are an approved conditional use under Zoning RM-3. PSE is proposing the expansion upgrade to address aging infrastructure, increase reliability, and future capacity issues.

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;

There will be temporary traffic and pedestrian impacts during construction. Street and sidewalk closures will likely be needed during construction for delivery and installation of new equipment. Post construction vehicle access will typically be limited to monthly substation inspection site visits.

b. Noise, smoke, fumes, glare or odors generated by the proposed use;

Some noise will be generated from the transformer within the substation, but will be reduced by the fencing and vegetation screening. Lighting will be directed towards the substation to reduce glare on neighboring properties.

c. Building and site design; and

Due to the odd shape of the property, the proposed expansion to the substation requires a variance for structure setbacks. PSE is applying for a BOA and development variance. The structures otherwise comply with zoning height requirements. The tallest structures in the substation will be 35 ft. tall.

d. The physical characteristics of the subject property.

The property is long and somewhat narrow with very little topographic change. The existing site is developed with an existing substation that is proposed to be expanded to the west.

# CITY OF LYNDEN

## CONDITIONAL USE PERMIT CRITERIA WORKSHEET CONTINUED



- 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.

The substation does not require domestic water or sewer services. A water service may be utilized for landscape irrigation. The substation will be secure from the public and only authorized personnel will be allowed within fence boundaries.

- 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.

The expansion of the substation will not increase traffic to the surrounding vicinity. There will be no change in overall traffic patterns post construction and will revert back to monthly site inspections by a substation operator.

- 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.

The proposed substation expansion complies with most standards and other provisions of the LMC. PSE will install appropriate vegetation screening around the perimeter of substation or architectural wall where there is no room for vegetation per LMC. Structures meet conditional use height requirements and no vehicles are proposed to be parked or stored on site. PSE is applying for variances for the 20 ft front setback for accessory structures (LMC 19.22.040B), fence height (LMC 19.63.088) and 3 ft. sidewalk setback (LMC 19.63.088).

- 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.

PSE will plant appropriate vegetation screening to obscure substation structures, noise, and glare from neighboring landowners. The North and East corner of the property will have a 9-foot non-conductive safety fence for additional screening and safety for adjacent properties. PSE plans to extend the 8 foot concrete panel fencing along E Front Street with a 10 foot high concrete panel fencing to match the existing style.

- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

The project is not located near any natural, scenic or historic features of major importance. PSE purchased 125 E. Front Street as part of the expansion upgrade. PSE did conduct an Intensive Survey of the home per SEPA requirements before demolition of the home.

- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

The proposed use is an expansion of an existing substation and substations are an approved conditional use under Zoning RM-3.

# CITY OF LYNDEN



## CRITICAL AREAS CHECKLIST

Section: 20 Township: T40N Range: R03E Parcel Number: 4003204443980000

Site Address: 131 E. Front Street Lynden, WA 98264

Proposed Uses: Upgrade and expand existing PSE Lynden Substation.

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area:*

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).  
 Yes     No     Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?  
 Yes     No     Unknown
- c. Is there vegetation that is associated with wetlands?  
 Yes     No     Unknown
- d. Have any wetlands been identified?  
 Yes     No     Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?  
 Yes     No     Unknown
- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?  
 Yes     No     Unknown
- g. Are there slopes of 15% or greater?  
 Yes     No     Unknown
- h. Is the project located within a Flood Hazard Zone?  
 Yes     No     Unknown
- i. Do you know of any landslide hazard areas?  
 Yes     No     Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.

Emily E. Haggin  
Applicant's Signature

4/18/2022  
Date

**LEGAL DESCRIPTION OF PROPERTY (includes Gap area and 6 PSE parcels)**

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 1 HAWLEY AND LAWRENCES ADDITION TO LYNDEN AS FILED IN VOLUME 1 OF PLATS, PAGE 46, RECORDS OF WHATCOM COUNTY, WASHINGTON;

THENCE SOUTH 66°34'31" WEST ALONG THE NORTHWESTERLY RIGHT OF WAY MARGIN OF FRONT STREET A DISTANCE OF 70.00 FEET;

THENCE NORTH 22°22'34" WEST A DISTANCE OF 140.00 FEET TO THE SOUTHEASTERLY MARGIN OF AN UNNAMED ALLEY BETWEEN FRONT AND GROVER STREETS;

THENCE NORTH 66°34'31" EAST ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 70.00 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL AS DESCRIBED IN STATUTORY WARRANTY DEED RECORDED UNDER AUDITORS FILE NO. 1529480, RECORDS OF SAID COUNTY;

THENCE NORTH 22°27'21" WEST ALONG THE WESTERLY LINE OF A PORTION OF A VACATED ALLEY AS DESCRIBED IN CITY OF LYNDEN VACATION ORDINANCE NO. 1102, A DISTANCE OF 20.00 FEET;

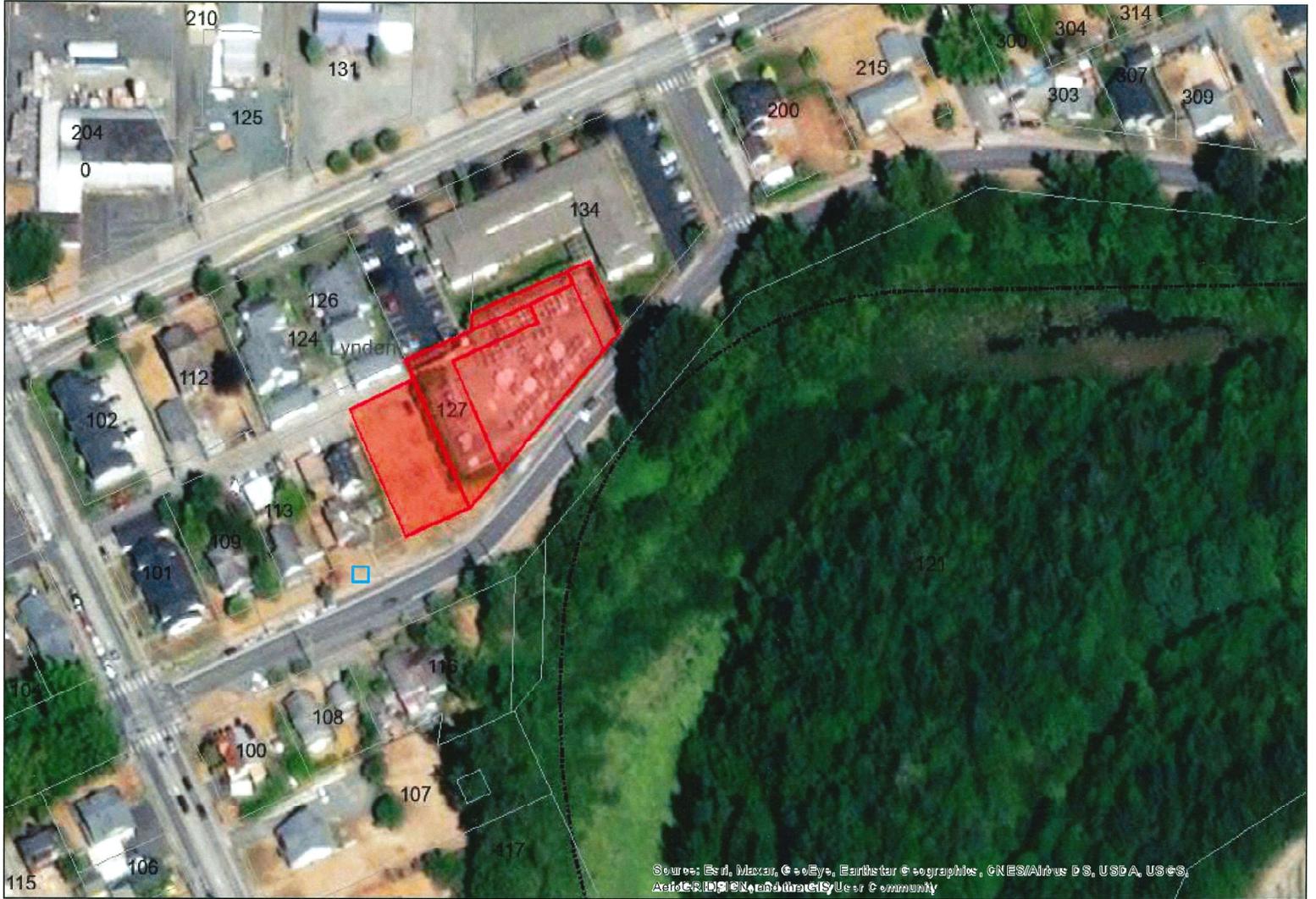
THENCE NORTH 66°34'31" EAST ALONG THE NORTHERLY LINE OF SAID VACATED ALLEY A DISTANCE OF 72.49 FEET TO THE WEST LINE OF SAID BLOCK 1;

THENCE NORTH 01°39'49" EAST ALONG SAID WEST LINE OF BLOCK 1, A DISTANCE OF 22.08 FEET;

THENCE NORTH 66°34'31" EAST ALONG A LINE 162 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF GROVER STREET, A DISTANCE OF 125.22 FEET;

THENCE SOUTH 23°25'56" EAST ALONG A LINE 25 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF LOT 3 OF SAID BLOCK 1, A DISTANCE OF 81.41 FEET TO SAID NORTHWESTERLY RIGHT OF WAY MARGIN;

THENCE SOUTH 41°25'46" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY MARGIN A DISTANCE OF 231.96 FEET TO THE POINT OF BEGINNING.



Source: Esri, Maxar, Earthstar Geographic, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

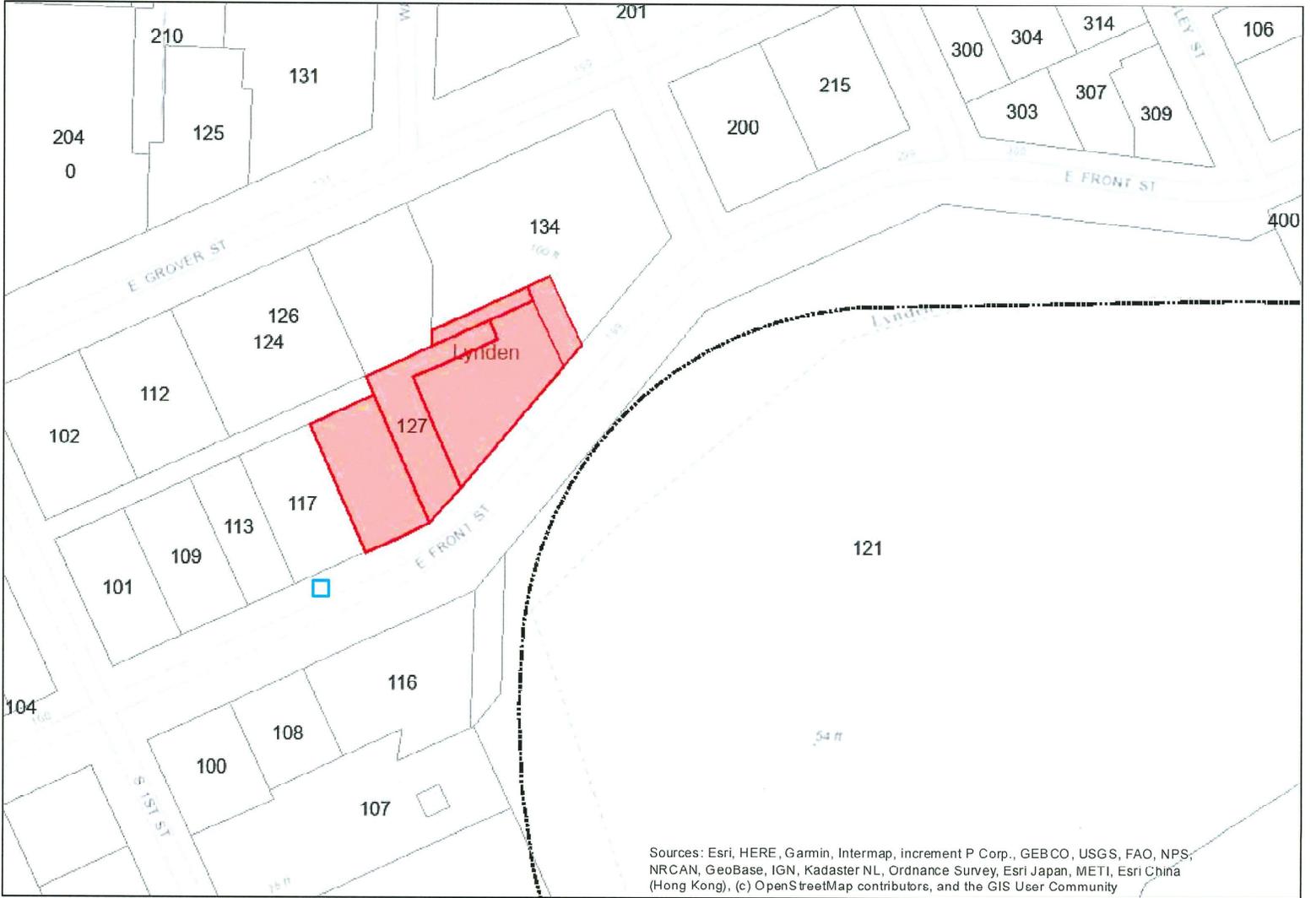


**PSE Lynden Substation Area Map**



The information on the attached map is subject to change without notice. Puget Sound Energy makes no representation or warranty of suitability of this information for any purpose. This map is not to be used for determining the actual location of any PSE facilities. Copyright ©2012. All rights reserved.

Property of Puget Sound Energy  
 Maps, Records and Technology  
 355 110th AVE NE, BELLEVUE, WA, 98004  
 NAD\_1983\_StatePlane\_Washington\_North\_FIPS\_4601\_R  
 Date: 4/25/2022 Reference Scale: 1:0



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

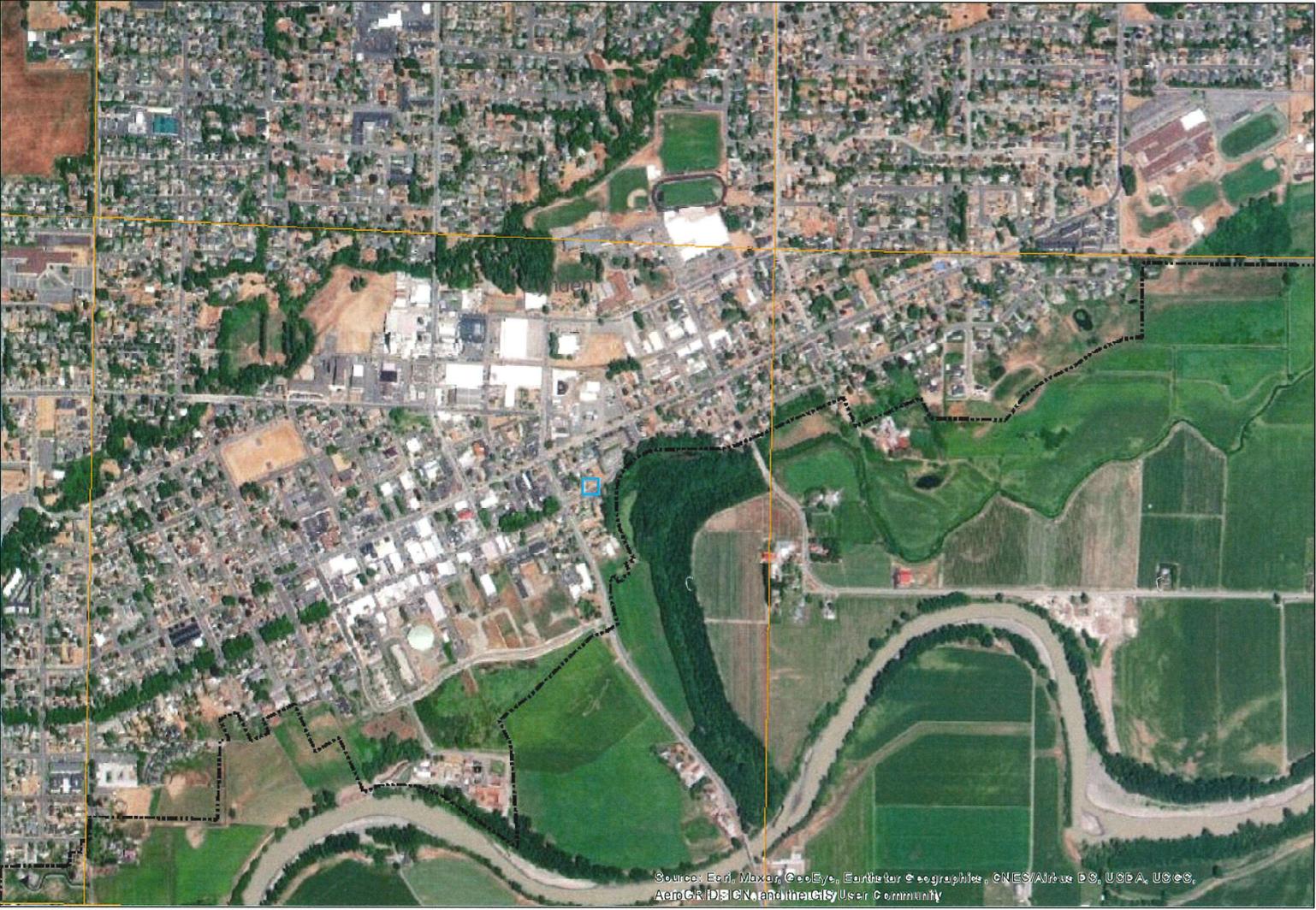


**PSE Lynden Substation  
Topographic Map**



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Maps, Records and Technology  
355 110th AVE NE, BELLEVUE, WA, 98004  
NAD\_1983\_StatePlane\_Washington\_North\_FIPS\_4601\_R  
Date: 4/25/2022 Reference Scale: 1:0



**PSE Lynden Substation  
Vicinity Map**



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Property of Puget Sound Energy  
Maps, Records and Technology  
355 110th AVE NE, BELLEVUE, WA, 98004  
NAD\_1983\_StatePlane\_Washington\_North\_FIPS\_4601\_R  
Date: 4/25/2022 Reference Scale: 1:0

# CITY OF LYNDEN



## HEARINGS EXAMINER TITLE 19 VARIANCE APPROVAL PROCESS

City of Lynden use only:

VAR # 22-02 Staff Initials: \_\_\_\_\_

### Property Owner

Name: Puget Sound Energy

Address: 131 E. Front Street Lynden, WA 98264

Telephone Number: 360-319-6424 E-mail Address: emily.hagin@pse.com

### Applicant (Agent, Land Surveyor or Engineer)

Name: Emily Hagin (PSE)

Address: 1110 Kentucky Street Bellingham, WA 98229

Telephone Number: 360-319-6424 E-mail Address: emily.hagin@pse.com

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner  Applicant

### Property Information

Project Location (street address / block range): 131 E. Front Street Lynden, WA 98264

### Variance Request:

#### **Section of the Municipal Code to be varied:**

LMC19.63.080(A) - Nonresidential zone fences

**Identify Desired Result:** PSE is requesting to keep and exand 8 ft. existing front concrete paneling fence along E. Front Street and install 9ft. non-conductive fencing along NE property line for safety and additional screening.

**Criteria must be attached (19.47.110)**

\*\*\*\*\*

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Submitted By: Emily Hagin Date: 5/20/22

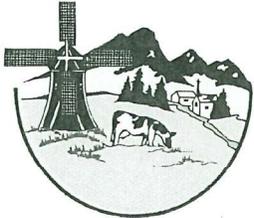
Property owner signature: Emily E. Hagin Date: 5/20/22

Property owner printed name: Emily Hagin Date: 5/20/22



400.00 ✓

# CITY OF LYNDEN



## CRITICAL AREAS CHECKLIST VARIANCE APPROVAL PROCESS

Section: 20 Township: T40N Range: R03E Parcel Number: 4003204443980000

Site Address: 131 E. Front Street Lynden, WA 98264

Proposed Uses: Upgrade and expand existing PSE Lynden Substation

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area:*

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).  
 Yes    No    Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?  
 Yes    No    Unknown
- c. Is there vegetation that is associated with wetlands?  
 Yes    No    Unknown
- d. Have any wetlands been identified?  
 Yes    No    Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?  
 Yes    No    Unknown
- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?  
 Yes    No    Unknown
- g. Are there slopes of 15% or greater?  
 Yes    No    Unknown
- h. Is the project located within a Flood Hazard Zone?  
 Yes    No    Unknown
- i. Do you know of any landslide hazard areas?  
 Yes    No    Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**LEGAL DESCRIPTION OF PROPERTY (includes Gap area and 6 PSE parcels)**

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST W.M., DESCRIBED AS FOLLOWS:

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THENCE NORTH 66°34'31" EAST ALONG SAID SOUTHWESTERLY MARGIN A DISTANCE OF 70.00 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL AS DESCRIBED IN STATUTORY WARRANTY DEED RECORDED UNDER AUDITORS FILE NO. 1529480, RECORDS OF SAID COUNTY;

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THENCE NORTH 66°34'31" EAST ALONG THE NORTHERLY LINE OF SAID VACATED ALLEY A DISTANCE OF 72.49 FEET TO THE WEST LINE OF SAID BLOCK 1;

THENCE NORTH 01°39'49" EAST ALONG SAID WEST LINE OF BLOCK 1, A DISTANCE OF 22.08 FEET;

THENCE NORTH 66°34'31" EAST ALONG A LINE 162 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF GROVER STREET, A DISTANCE OF 125.22 FEET;

THENCE SOUTH 23°25'56" EAST ALONG A LINE 25 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF LOT 3 OF SAID BLOCK 1, A DISTANCE OF 81.41 FEET TO SAID NORTHWESTERLY RIGHT OF WAY MARGIN;

THENCE SOUTH 41°25'46" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY MARGIN A DISTANCE OF 231.96 FEET TO THE POINT OF BEGINNING.

**Hearing Examiner Variance Application Criteria per 19.47.110 -**

**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.**

The proposed extension of the 8-ft concrete paneling fence along E. Front Street and the proposed 9-ft non-conductive fencing at the northeast and a portion of the north property line do not constitute as a special privilege inconsistent with the uses of the vicinity and zone. The purpose of the proposed fencing is to provide adequate screening from neighboring properties and to keep the surrounding area safe from the energized equipment located inside the substation. Only authorized personnel will be able to enter the premise, as it is not open to the public.

Project Overall

The proposed substation expansion upgrade is located within RM-3 zoning (residential multi-family). Substations are a conditional use within this zoning jurisdiction and it is an existing use. It is not overreaching any of the use limitations permitted within this zoning. PSE owns the adjacent property the substation footprint will expand.

The project serves to benefit the community of Lynden, as it will address a number of aging infrastructure, reliability and future capacity issues. Expansion of the substation footprint will allow PSE to do the necessary upgrades to increase reliability for customers served by the substation and accommodate for future load growth in the area.

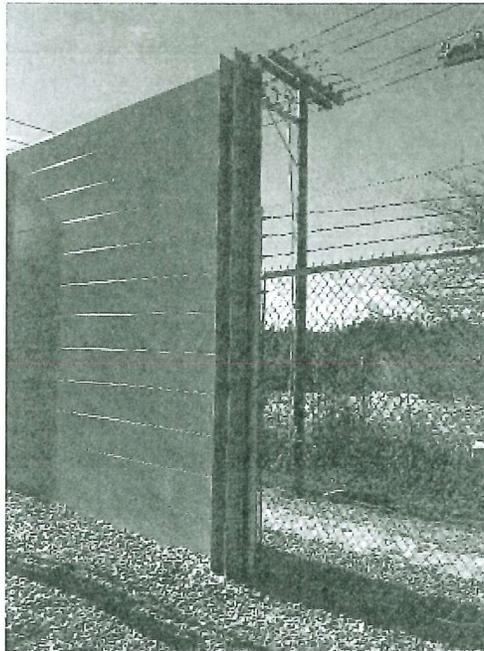
**B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity and zone in which the subject property is located.**

The existing 8 ft. concrete panel fencing along the frontage of E. Front Street was a permit condition for PSE’s substation upgrade in 1999. The permit condition is no longer in compliance with current Lynden Municipal Code. PSE is proposing to keep the existing fencing along E. Front Street and extending it to the west with the substation expansion for aesthetic and screening continuity. The proposed extension will adequately screen the substation from the public view and keep people safe.



Figure 1: Existing 8 ft. concrete paneling fencing along E. Front Street at Lynden Substation

The proposed 9 ft. non-conductive fencing along the northeast and a portion of the north property line is necessary to meet NESC Criteria in Section 110.A. The energized equipment is too close to the fence due to the size constraints of the lot and meeting design clearances within the substation footprint. Based on calculated figures in NESC Section 110.A, a 9 ft. impenetrable fence meets safety standards for enclosures of electrified equipment.



*Figure 2 - Example of 9 ft. non-conductive fencing enclosure at a substation*

**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.**

The proposed substation expansion upgrade will not be injurious to the property or improvements in the vicinity and zone. The upgrades actually reduce the risk of being injurious by replacing end of life equipment to increase safety and reliability to the surrounding vicinity. Fencing and landscaping will keep it isolated from the public and only accessible to authorized substation personnel.

# CITY OF LYNDEN



## HEARINGS EXAMINER TITLE 19 VARIANCE APPROVAL PROCESS

*City of Lynden use only:*

VAR # 22-03 Staff Initials: \_\_\_\_\_

### Property Owner

Name: Puget Sound Energy

Address: 131 E. Front Street Lynden, WA 98264

Telephone Number: 360-319-6424 E-mail Address: emily.hagin@pse.com

### Applicant (Agent, Land Surveyor or Engineer)

Name: Emily Hagin (Puget Sound Energy)

Address: 1110 Kentucky Street Bellingham, WA 98229

Telephone Number: 360-319-3424 E-mail Address: emily.hagin@pse.com

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner  Applicant

### Property Information

Project Location (street address / block range): 131 E. Front Street Lynden, WA 98264

### Variance Request:

#### **Section of the Municipal Code to be varied:**

LMC 19.22.04B - Accessory Structure Setbacks

**Identify Desired Result:** PSE is requesting accessory substation structures be placed within 20 ft. front setback to meet substation design and safety clearances.

#### **Criteria must be attached (19.47.110)**

\*\*\*\*\*

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Submitted By: Emily E. Hagin Date: 5/20/22

Property owner signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property owner printed name: Emily Hagin Date: 5/20/22

**RECEIVED**

400.00

# CITY OF LYNDEN



## CRITICAL AREAS CHECKLIST VARIANCE APPROVAL PROCESS

Section: 20 Township: T40N Range: R03E Parcel Number: 4003204443980000

Site Address: 131 E. Front Street Lynden, WA 98264

Proposed Uses: Upgrade and expand existing PSE Lynden Substation

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area:*

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).  
 Yes     No     Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?  
 Yes     No     Unknown
- c. Is there vegetation that is associated with wetlands?  
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- d. Have any wetlands been identified?  
 Yes     No     Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?  
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- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?  
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- g. Are there slopes of 15% or greater?  
 Yes     No     Unknown
- h. Is the project located within a Flood Hazard Zone?  
 Yes     No     Unknown
- i. Do you know of any landslide hazard areas?  
 Yes     No     Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**LEGAL DESCRIPTION OF PROPERTY (includes Gap area and 6 PSE parcels)**

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST W.M., DESCRIBED AS FOLLOWS:

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THENCE NORTH 22°27'21" WEST ALONG THE WESTERLY LINE OF A PORTION OF A VACATED ALLEY AS DESCRIBED IN CITY OF LYNDEN VACATION ORDINANCE NO. 1102, A DISTANCE OF 20.00 FEET;

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THENCE SOUTH 41°25'46" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY MARGIN A DISTANCE OF 231.96 FEET TO THE POINT OF BEGINNING.

**Hearing Examiner Variance Application Criteria per 19.47.110 -**

**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.**

The proposed substation expansion upgrade is located within RM-3 zoning (residential multi-family). Substations are a conditional use within this zoning jurisdiction and it is an existing use. It is not overreaching any of the use limitations permitted within this zoning. PSE owns the adjacent property the substation footprint will expand.

The project serves to benefit the community of Lynden, as it will address a number of aging infrastructure, reliability and future capacity issues. Expansion of the substation footprint will allow PSE to do the necessary upgrades to increase reliability for customers served by the substation and accommodate for future load growth in the area.

**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.**

Design clearances, vehicle drive path and safety are the key reasons why structures need to be located within the 20ft front setback for the proposed substation expansion. PSE has identified five areas that influenced design and placement of equipment within the 20ft front setback.

**Area 1 (Clearance)** – PSE is required to maintain clearances between the fence and the nearest energized equipment (in this case the energized bus on the standalone structure). Therefore, the structures near Area 1 cannot shift further north. This limitation affects the amount of driving and working space PSE will have below in Area 2 and Area 3.

**Area 2 (Clearance)** – In order to remove the breaker near Area 2, workspace and work clearances must be maintained. There are three factors affecting the location of the Capacitor Banks:

- Swinging Entrance Gate to the West
- MPAC to the East
- Breaker to the North

The proposed capacitor banks location closer to the solid fence has the least effect on the three factors listed above. In addition, the capacitor bank is approximately 8ft tall and will not be visible from the street.

**Area 3 (Drive Path)** – Approximately 20ft has been dedicated to ensure a drive path between the surrounding structures. Moving the control house outside of the 20ft setback would eliminate the drive path near Area 3 needed for routine operations and maintenance as well as emergency repair.

**Area 4 (Drive Path)** – Approximately 17ft has been dedicated to ensure a drive path between the surrounding structures. Moving the Metalclad Switchgear outside of the 20ft setback will completely

block access to the equipment near Area 5 and any equipment in the northern direction of Area 5. Access to Area 5 is critical for regular operations and maintenance as well as emergency repair.

**Area 5 (Safety)** – Metalclad switchgear must be located at least 25ft away from each transformer. Transformers are oil-filled equipment. Moving the Metalclad Switchgear outside of the 20ft front setback will in turn encroach on the desired 25ft buffer and increase the risk of potential fires.

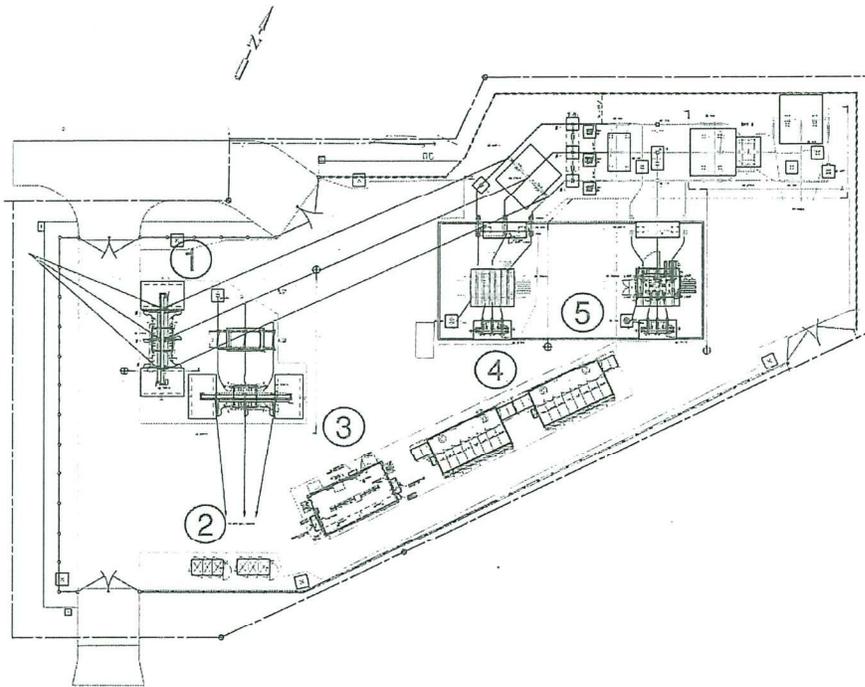


Figure 1: Identified Substation Areas that need to meet electrical space and design criteria.

**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.**

The proposed substation expansion upgrade will not be injurious to the property or improvements in the vicinity and zone. The upgrades actually reduce the risk of being injurious by replacing end of life equipment to increase safety and reliability to the surrounding vicinity. The site will be secured with fencing and landscaping to keep it isolated from the public and only accessible to authorized substation personnel.

July 5<sup>th</sup>, 2022

Heidi Gudde  
Planning Director  
City Of Lynden

Re: Puget Sound Energy  
Sub Station Expansion  
131 E. Front Street  
Lynden, WA 98264

RECEIVED  
JUL 05 2022  
City of Lynden  
Planning Department

We reside at 124 E. Grover Street, #4D and 126 E. Grover Street, #6B. We are located just North of the said property separated by a city owned alley.

Our concerns regarding this project are the amount of Construction traffic utilizing the alley. The amount of dust and potholes created by construction trucks and equipment has been, so far, an unacceptable hazard. Secondly, vendors who have worked on the project so far, have left trash in the ally and on private property. The third thing, we would like to see the finished project have a paved alley, to at least the level of the 2 electrical bunkers recently installed. Also, we would request, in addition to the 9ft non-conductive fencing that vegetation would also be installed.

Finally, we need to be informed on all closures of the alley and access. At least 30 or more vehicles use this alley every day. One residence has the alley as its only access. Emergency access must also be addressed.

We appreciate you time with this matter. Thank you!

Patricia E. Jewett  
Steven S. Kelly

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Public Works Committee Meeting Minutes September 7, 2022	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
September 7, 2022 Draft Public Works Committee Meeting Minutes		
<b>Summary Statement:</b>		
Draft minutes for the September 7, 2022 Public Works Committee meetings.		
<b>Recommended Action:</b>		
For Review		



## PUBLIC WORKS COMMITTEE MINUTES

4:00 PM September 7, 2022  
City Hall 2<sup>nd</sup> Floor Large Conference Room

### CALL TO ORDER

- Members Present: Councilors Gary Bode and Ron De Valois
- Members Absent: Jerry Kuiken and Mayor Scott Korthuis, with notice
- Staff Present: City Administrator John Williams; Public Works Director Steve Banham; and Sr. Admin. Assistant Jessica King
- Public Present: Gary Vis, Judy Smith, Jan Holtrop

### ACTION ITEMS

1. **Approve Minutes from August 3, 2022**  
Bode motioned to approve the minutes and De Valois seconded the motion.  
**Action**  
***The minutes from August 3, 2022, were approved.***
2. **Update Lynden Municipal Code 13.24 Stormwater Management Systems**  
Banham stated that the 2019 Stormwater Manual needs to be adopted. The current Lynden Municipal Code references the 2014 Stormwater Manual. This will be presented at the next Council meeting to set a Public Hearing regarding the change to the Municipal Code 13.24 Stormwater Management Systems.  
**Action**  
***The Public Works Committee concurred and recommended forwarding the amendment to Lynden Municipal Code 13.24 Stormwater Management Systems to City Council to set a Public Hearing Date of October 3, 2022.***
3. **CERB Funding Resolution No. 1052**  
Banham explained that the City is applying for Community Economic Revitalization Board (CERB) Funding for the round-about proposed at Berthusen Road and Main Street. CERB requires a Resolution authorizing the City to apply for and accept funds.  
**Action**  
***The Public Works Committee concurred and recommended forwarding Resolution No. 1052 to City Council for approval.***
4. **Contingency Agreement with Alliance Freeze Dry for CERB Funding**  
Banham explained that a contingency agreement is a required portion of the application process for CERB Funding. Alliance Freeze Dry is constructing at the intersection of Berthusen Road and Main Street and will be directly impacted by the construction of the round-about.

**Action**

***The Public Works Committee concurred and recommended obtaining a Contingency Agreement with Alliance Freeze Dry.***

**INFORMATION ITEMS**

**5. Wastewater Treatment Plant Outfall Sediment Sampling**

Banham explained the upstream and downstream sampling process that is going to be done in the Nooksack River as required by the Department of Natural Resources lease. He noted that sediment sampling was supposed to happen today, but conditions were too shallow for the boat. This has been rescheduled to September 8<sup>th</sup>, pending river conditions.

**6. Proposed 2023 Utility Rate Increases and Project Placemat**

Banham stated that he has proposed a 7% rate increase for all utilities, including connection fees, in 2023. The Committee concurred. The placemat was not presented at this meeting but will be brought to the October meeting.

**7. 2023 Equipment and Major Maintenance**

Banham discussed the upcoming purchases as noted in the 2023 Equipment and Major Maintenance schedules provided with the meeting packet.

**8. Design Standards 2023 Updates**

The proposed revisions to the Design Standards will be presented at the October Public Works Committee Meeting.

**9. 2022 Grant Applications**

Transportation Improvement Board (TIB) Pavement Restoration - Submitted August 19  
Main/1st and 3rd Street Intersections

Committee recommends using concrete for the intersection, so that the lifespan of the intersection will be extended further than if asphalt is used.

Public Works Trust Fund (PWTF) - Due September 9  
W. Main Street Round-about at Berthusen Road (Match to CERB)  
Pepin Upstream (Main to Westview) Pine Street Bridge & Channel

Banham discussed coordination with Whatcom County of right-of-way for the round-about.

Community Economic Revitalization Board (CERB) - Due September 12 and 26  
W. Main Street Roundabout at Berthusen Road

Department of Ecology (DOE) - Due October 6  
10th Street/Judson Street Stormwater Low Impact Development  
Pepin Downstream Stabilization (South of Main Street)  
Wastewater Treatment Plant Expansion Phase 1

Banham explained that the City has been successful with the 8<sup>th</sup> & 9<sup>th</sup> Street applications and funding and staff is preparing the application for 10<sup>th</sup> and Judson

Streets with expectation that it will be funded. The match requirement has been reduced from 25% to 15% for the applications submitted in 2022.

Legislative (Federal/State Funding)

Bradley Road Complete Streets Improvement

Pepin Upstream (Main to Westview) Pine Street Bridge & Channel

Williams discussed the details of the federal approval process and requirements.

**10. Projects Update**

Pepin Creek Main Street Bridge

Williams noted that the bridge girders were placed earlier today. Banham stated the project is still on schedule, and the contractor is hoping to re-open the roadway before the holidays.

Grover Overlay

Banham stated that work is complete, and a ribbon cutting is scheduled for September 19<sup>th</sup> at 11:00 AM at the 2<sup>nd</sup> Street on the north side of Grover Street. Bode said that public feedback has been very positive on how nicely the Grover project has turned out.

West Front Street Improvements

The Notice to Proceed was issued August 6.

West Front Street Culvert Replacement

Banham said the City is not going to remove the culvert this year, but will be prepared to close the road if it appears the culvert is at risk of failing. Staff is working with Federal Highways on applying for emergency funding, which will pay for 86.5% of the cost of the culvert replacement.

Industrial Condensate Outfall

All in-water work has been completed and the crane has been demobilized. A ribbon cutting date has not been set but may occur in early October.

Bender Road Waterline

Work is starting September 19<sup>th</sup>.

South 6<sup>th</sup> Street CIPP

Banham explained that the starting date has changed to November 7 due to material delivery delay. The work is expected to take about two weeks.

8th Street Stormwater LID

Banham stated that there will be a public Open House on September 27<sup>th</sup> from 4 to 6 PM at the City Hall Annex. Neighbors to the project will be notified the week of September 12<sup>th</sup>. He invited Committee members and others to come to the meeting.

Guide Meridian Pump Station

Banham said that the potholing is scheduled to start tomorrow. *[Note: Project has not started – awaiting materials.]*

**NEW BUSINESS:**

**11. Hanging Baskets**

Vis expressed concern about the current locations of hanging baskets downtown. With the additional outdoor dining furniture and umbrellas that are being added, the hanging baskets need to be rearranged to coordinate with these additions. Vis suggested consistency in their location, locating baskets on either the outside edge of the sidewalks or on the inside edge of the sidewalks (up against the building walls).

**12. 15 Minute Parking**

At the Public Works Committee meeting on August 3, 2022, the Committee recommended placing a 15-minute parking space at the front of the Dutch Village Mall after reviewing requests from Lynden Liquor and Chandara House. After placing the sign, City Council directed that the sign be removed due to issues. Staff will prepare a 15-minute parking plan for the Public Works Committee to discuss at their October meeting.

**13. Meadow Lane Neighborhood Flooding**

Smith and Holtrop, residents of the Meadow Lane neighborhood, asked about future flooding and stormwater prevention plans since their neighborhood had flooding issues from this past year’s flooding (November 2021). They expressed concerns about possible conditions for this upcoming flooding season and obtaining sandbags. Banham described the location for obtaining sandbags from the shop and noted that this information will also be available on the City website.

Bode and Banham discussed replacement of the Duffner Culvert under the Guide Meridian and proactive flood control planned. Staff agreed to discuss with WSDOT ditch maintenance responsibilities on the Guide Meridian.

**14. Automatic Sandbag Filling Machine for Flood Control Preparation**

Vis asked about the Army Corps use of a sandbag filling machine to help speed up flood preparations in 2021. Vis inquired whether this was something that the Committee could look into and try to rent/buy the machine now to make pallets of sandbags ahead of time and store them for future flooding use this winter. The Committee suggests adding the purchase of a sandbagging machine to the 2023 budget.

**15. Transportation Benefit District Ballot Item**

Williams discussed the Transportation Benefit District Funding process and said that no “Anti-” Committee was formed.

**16. Boulders Added to 7<sup>th</sup> St. Planter by Lynden Gardeners**

The City received a request from the Lynden Garden Club to place boulders in the planter at 7<sup>th</sup> and Front Streets to improve visual interest and add some “hardscape” elements to the planter. The Committee concurred with this request.

**ADJOURNMENT:** The meeting was adjourned at 5:47 p.m.

**NEXT MEETING:** October 5, 2022

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	September 19, 2022	
<b>Name of Agenda Item:</b>	Calendar	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
<b>Summary Statement:</b>		
<b>Recommended Action:</b>		

**August 28, 2022**

Sunday

All Day

8-28 thru 9-10 Pay Period

**September 1, 2022**

Thursday

10:00 AM - 10:30 AM

Meeting Time Change: Technical Review Committee Meeting -- City Hall 2nd Floor Large Conference Room

Hi All, we need to change the meeting time for this date only from 2:00 to 10:00. Hopefully this works for everyone!

**September 2, 2022**

Friday

All Day

PAYDAY  
PAYDAY

**September 5, 2022**

Monday

All Day

Labor Day -- United States

**September 6, 2022**

Tuesday

9:00 AM - 10:00 AM

Copy: Leadership Team Meeting -- Annex Council Chamber

5:00 PM - 6:30 PM

Design Review Board -- TBD

7:00 PM - 9:00 PM

Copy: Council Meeting -- Annex Council Chamber

**September 7, 2022**

Wednesday

All Day

Court -- Annex Council Chamber; Annex South East Conference Room; Annex East Training Room; Annex North East Conference Room

**September 7, 2022 Continued**  
Wednesday

4:00 PM - 6:00 PM

Public Works Committee Meeting

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Microsoft Teams meeting  
**Join on your computer or mobile app**  
[Click here to join the meeting](#)  
**Or call in (audio only)**  
[+1 253-948-9362,,547176899#](#) United States, Tacoma  
 Phone Conference ID: 547 176 899#  
[Find a local number](#) | [Reset PIN](#)  
[Learn More](#) | [Meeting options](#)

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**September 8, 2022**  
Thursday

7:00 PM - 9:00 PM

Planning Commission -- TBD: Virtual Meeting or Annex Council Chamber

**September 11, 2022**  
Sunday

All Day

9-11 thru 9-24 Pay Period

**September 13, 2022**  
Tuesday

9:00 AM - 10:00 AM

Copy: Leadership Team Meeting -- Annex Council Chamber

**September 14, 2022**  
Wednesday

7:00 PM - 9:00 PM

Parks & Rec District Meeting -- Annex South East Conference Room

**September 15, 2022**

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- tbd

**September 16, 2022**

Friday

All Day

PAYDAY  
PAYDAY

**September 19, 2022**

Monday

4:00 PM - 5:00 PM

Parks Committee Meeting -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM

Copy: Council Meeting -- Annex Council Chamber

**September 20, 2022**

Tuesday

All Day

Civil Service at 4 pm

9:00 AM - 11:00 AM

Copy: Small Cities Meeting -- City Hall 1st Floor Large Conference Room

**September 21, 2022**

Wednesday

All Day

Court -- Annex Council Chamber; Annex South East Conference Room; Annex East Training Room; Annex North East Conference Room

4:00 PM - 5:30 PM

Community Development Committee Mtg -- City Hall 2nd Floor Conf Rm

**September 22, 2022**

Thursday

7:00 PM - 9:00 PM

Planning Commission -- TBD: Virtual Meeting or Annex Council Chamber

**September 25, 2022**

Sunday

All Day

9-25 thru 10-8 Pay Period

**September 27, 2022**

Tuesday

9:00 AM - 10:00 AM

Copy: Leadership Team Meeting -- Annex Council Chamber

**September 30, 2022**

Friday

All Day

PAYDAY  
PAYDAY