



QUASI JUDICIAL

DATE: September 29, 2020

MEMO TO: Parties of Record

FROM: Office of the Hearing Examiner, 425-556-2190, kbiegel@redmond.gov

SUBJECT: PUGET SOUND ENERGY SAMMAMISH JUANITA TRANSMISSION LINE
CONDITIONAL USE PERMIT AND SITE PLAN ENTITLEMENT LAND-2020-00198

Reconsideration of the Hearing Examiner's Decision

Enclosed is a copy of the Hearing Examiner's Findings, Conclusions, and Decision on the Puget Sound Energy Sammamish Juanita Transmission Line Conditional Use Permit and Site Plan Entitlement, LAND-2020-00198. Pursuant to the Redmond Zoning Code, any party of record may file a written request for reconsideration with the Hearing Examiner. To be considered, a request for reconsideration must explicitly set forth alleged errors of procedure or fact, and must be filed within ten business days of the Hearing Examiner's Decision in this matter. Reconsideration requests must be received by the Office of the Hearing Examiner of the City of Redmond and can be submitted by email prior to **5:00 p.m. on October 12, 2021.**

City of Redmond Office of the Hearing Examiner Contact Information:

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For your convenience, Request for Reconsideration forms are available online:
<https://www.redmond.gov/913/Request-for-Reconsideration-or-Appeal>

FURTHER PROCEEDINGS

Hearing Examiner decision may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in RCW Chapter 36.70C. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW Section 36.70C.040.

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF REDMOND**

In the Matter of the Application of)	No.	LAND-2020-00198
)		
Puget Sound Energy)	Sammamish-Juanita Transmission Line	
)		
For a Conditional Use Permit and)	FINDINGS, CONCLUSIONS,	
Site Plan Entitlement)	AND DECISIONS	
_____)		

SUMMARY OF DECISIONS

The requested conditional use permit and site plan entitlement for the Redmond portion of the proposed construction of a new 115 kV transmission line from the Sammamish Substation in Redmond to the Juanita Substation in Kirkland and associated improvements are **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Puget Sound Energy (Applicant) proposes to construct a new 115kV transmission line from the Sammamish Substation in Redmond to the Juanita Substation in Kirkland, and associated improvements at and to the south of the Sammamish Substation and along the transmission line corridor, to improve system capacity and reliability within the Kirkland/Redmond service area. The Applicant requested a conditional use permit and site plan entitlement for the portion of the project falling within the Redmond city limits. The Sammamish Substation is located at 9221 Willows Road NE, and the transmission line corridor extends north along the east side of Willows Road to NE 124th Street, and west along NE 124th Street to the Kirkland City limits.

Hearing Date:

The Redmond Hearing Examiner conducted a virtual open record hearing on the request on September 13, 2021. The record was held open through September 15, 2021 to allow any members of the public having difficulty joining the virtual hearing to submit written comments, with time scheduled for written responses by the parties. No post-hearing public comment was submitted, and the record closed on September 15, 2021.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

- Cathy Beam, Principal Planner, City of Redmond
- Kerry Kriner, Senior Land Planner, PSE

Exhibits:

At the open record hearing, the following exhibits were admitted in the record:

1. Technical Committee Report to the Hearing Examiner, with the following attachments:
 - 1: General Application Form
 - 2: Vicinity Map
 - 3: Plan Set
 - 4: Site Plan Map Book
 - 5: Notice of Application and Certificate of Posting
 - 6: Notice of Application Public Comments
 - 7: Notice of Neighborhood Meeting
 - 8: Notice of Public Hearing and Certificate of Posting
 - 9: SEPA Documentation
 - 10: Arborist Report
 - 11: Code Compliance Narrative
 - 12: Conceptual Mitigation Plan
 - 13: Critical Areas Impact Assessment
 - 14: Easements
 - 15: Geotechnical Report
 - 16: Photo Sims
 - 17: Pole Installation Narrative and Graphics
 - 18: Stormwater Report
 - 19: Sammamish Substation Geotechnical Report
 - 20: Sammamish Substation Wetland and Stream Report
 - 21: Sammamish Substation Wetland Verification
 - 22: Tree Exemption Request
 - 23: Wetland and Stream Delineation Report
 - 24: Wall Deviation Request Letter
 - 25: Wall Deviation Exhibit
 - 26: Geotech Pavement Letter
 - 27: Conceptual Landscape Plan
2. City of Redmond PowerPoint slides
3. Pre-hearing comment letter submitted by Cheryl Corneil on August 25, 2021
4. SEPA DNS, issued by City of Kirkland on November 18, 2020
5. Applicant PowerPoint slides

After considering the testimony and exhibits admitted in the record, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. Puget Sound Energy (Applicant) proposes to construct a new 115kV transmission line from the Sammamish Substation in Redmond to the Juanita Substation in Kirkland, and associated improvements at and to the south of the Sammamish Substation and along the transmission line corridor, to improve system capacity and reliability within the Kirkland/Redmond service area. The Applicant requested a conditional use permit (CUP) and site plan entitlement (SPE) for the portion of the project falling within the Redmond City limits. The Sammamish Substation is located at 9221 Willows Road NE, and the transmission line corridor extends north along the east side of Willows Road to NE 124th Street, and west along NE 124th Street to the Kirkland City limits. *Exhibits 1, 1.1, 1.2, 1.3, and 1.4.*
2. The application was determined to be complete on March 12, 2020. *Exhibits 1 and 1.5.*
3. The Sammamish Substation is on the west side of Willows Road. Land uses surrounding the substation parcel include manufacturing and business park uses to the north, south, and east, and vacant land comprised of wetlands and streams to the west. From the substation, the transmission line would cross to the east side of Willows Road and follow a City-owned former railroad corridor north to NE 124th Street. To the east of the rail corridor, from south to north, there are manufacturing uses, a church, the Willows Run Golf Course, and an unimproved City park. The transmission line would then enter unincorporated King County, and at NE 124th Street would turn west along the north side of NE 124th Street within the City of Kirkland. (The Redmond city limits extend to the south side of NE 124th Street.) A portion of the work along the NE 124th Street corridor would occur on the south side of the street within Redmond, in an area containing business park land uses. *Exhibits 1, 1.2, and 1.4.* The nearest residential uses are approximately 1,000 feet from proposed Sammamish Substation improvements and 1,500 from the proposed transmission line. *Kerry Kriner Testimony; Exhibit 5.*
4. The project area includes lands zoned Manufacturing Park (MP), Business Park (BP), and Urban Recreation (UR). Although regional utilities such as the one proposed are allowed outright in the MP and BP zones, a conditional use permit is required for the portion within the UR zone. There is UR zoning on the east side of Willows Road. The Zoning Code does not contain development standards that are specific to regional utilities, and the building height limitations of the zones do not apply to transmission poles. Transmission lines are not subject to the building code requirements contained in Title 15 of the Redmond Municipal Code. *Exhibits 1 and 2; RZC Tables 21.06.010.B, 21.14.030.C, and 21.14.040.C; Cathy Beam Testimony.*
5. The City of Redmond Comprehensive Plan contains policies promoting the following: efficiency of utility placement through collocating in shared utility corridors, placing utilities in transportation corridors, and encouraging joint use of utility corridors for utilities, recreation, and nonmotorized connections; minimization of adverse impacts to

the environment by locating utility corridors in existing cleared areas, locating utility facilities and corridors outside of wetlands, minimizing crossings of fish-bearing watercourses, and minimizing corridor widths; coordination with other jurisdictions when energy transmission facilities cross jurisdictional boundaries; and recognizing PSE's Electrical Facilities Plan as the plan for electrical facilities serving Redmond and the vicinity. The Electrical Facilities Plan identifies the proposed transmission line as a regional facility. *Exhibit 1.*

6. Project work at the Sammamish Substation site would include: reconfiguring 115kV bays and adding equipment within the substation yard to accommodate the new transmission line; installing two new transmission poles and replacing one existing pole within the substation fence; replacing six existing poles south of the substation fence and adding one new pole to accommodate the bay reconfiguration; and providing mitigation of wetland and buffer impacts. *Kerry Kriner Testimony; Exhibit 5; Exhibit 1.4.*
7. Project work within Redmond along the Willows Road corridor would include installation of 25 new transmission poles and associated conductors, and the widening the existing rail ballast on the east side of Willows Road to create a construction access and maintenance road. Widening the rail ballast is needed because it is too narrow to be safely used by construction and maintenance equipment. The access road would be 1.36 miles long, 17 feet wide, and surfaced with gravel. There are six existing culverts beneath the rail ballast that would be replaced to accommodate the road widening. Three of the culverts contain regulated fish-bearing streams and would be replaced with fish passable culverts. Three stormwater culverts would be replaced. Stormwater infiltration improvements would be installed along the access road. *Kerry Kriner Testimony; Exhibits 1, 1.4, 1.13, and 5.*
8. Project work within Redmond along the NE 124th Street corridor west of Willows Road NE would consist of the replacement of two H-frame poles along the south side of the street within the Beverly-Renton Transmission Line Corridor¹ to accommodate the transmission line crossing on the north side of the street, and the replacement of one pole and installation of one new pole within the existing transmission line corridor connecting to the Totem Substation within the City of Kirkland. *Exhibits 1.4 and 5.*
9. A total of 30 new transmission line poles and 10 replacement poles are proposed within Redmond, and the length of new transmission lines within Redmond would be 1.68 miles.² *Kerry Kriner Testimony; Exhibit 5.* For the proposed new and replacement poles, five different pole types are proposed (direct embed wood poles, direct embed wood poles with guy anchors, direct embed steel poles, steel poles with foundations, and wood

¹ The undersigned notes that the application materials (Exhibit 1.11) state that the project is within the Beverly-Renton Transmission line corridor, while the Applicant's PowerPoint presentation (Exhibit 5, slide 9) says it is the Bothell-Sammamish Transmission Line. The instant approvals are intended for whichever is the correct corridor name, to be installed consistent with the plans in Exhibit 1.3.

² Exhibit 1.17 calls out a different number of poles. This was clarified in the Applicant PowerPoint and Applicant testimony as the correct number of each type of pole. *Kerry Kriner Testimony.*

H-frames), with the majority consisting of direct embed wood poles. Guy anchors and steel poles would be used in areas where additional support is needed due to soil type or because the line turns at an angle. The poles would range from 52 and 88 feet in height, except for the two replacement H-frame poles, which would be 40 feet tall. *Exhibits 1 and 1.17.*

10. The proposal would not generate significant traffic. After construction is complete, it is anticipated that the transmission line would be inspected once per month. *Kerry Kriner Testimony.*
11. The view of the Sammamish Valley along Willows Road is a designated view corridor pursuant to RZC 21.42.060.C, with views determined at a point four feet above grade. Solid fences, solid hedges, and rows of trees are prohibited along the east edge of Willows Road. Although the proposal would include new transmission poles along the east side of Willows Road, these would not create a solid barrier and the wires would be at a height significantly greater than four feet. *Exhibits 1, 1.16, and 1.17.*
12. There are eight wetlands and seven streams that have been identified within the project vicinity, plus two additional unconfirmed wetlands within the Willows Run Golf Complex with buffers (based on estimated classification) that extend into the project area. For some of these critical areas and their buffers, impacts have been avoided entirely by placing transmission poles outside of the buffer boundaries. Those critical areas or their buffers that would be temporarily or permanently affected by the project include the following:

Wetlands R-C and R-D

Wetlands R-C and R-D are two small Category III wetlands located in a ditch between Willows Road and the former railroad embankment. They provide moderate levels of water quality and hydrologic functions and low levels of habitat functions. Both wetlands require a 60-foot buffer under City ordinances. The proposed access road construction near these wetlands would result in minimal permanent wetland impact (30 square feet), and permanent buffer impacts. *Exhibits 1, 1.23, and 1.13 (see pages i, 2-2, 2-6, 5-2, and 5-3).³*

Wetland R-E

Wetland R-E is a large Category II depressional wetland dominated by reed canary grass and located mostly within the 100-year floodplain of the Sammamish River; however, only the western edge of the wetland (which is outside of the floodplain) is within the transmission line corridor. Wetland R-E provides high levels of water quality and hydrologic functions and low levels of habitat functions. The minimum buffer is 75 feet. There would be temporary impacts to the Wetland R-E and its buffer due to culvert replacement in the associated York Creek and

³ There are inconsistencies in the information in the tables and text at Exhibit 1.13, pages 2-6 and 5-4, with regard to which of the two wetlands would have the small wetland fill. This finding represents the best assessment of what is actually intended, but approval of the impacts as mitigated is intended even if this finding has misconstrued which has the smaller fill.

construction of the access road. *Exhibits 1, 1.23, and 1.13 (see pages i, 2-2, 2-7, and 5.4).*

Wetland R-GCA

Wetland R-GCA is a narrow Category III ditched wetland located between Willows Road and the former rail ballast; it is associated with Gun Club Creek. The wetland provides moderate levels of water quality and hydrologic functions and low levels of habitat functions. The minimum buffer is 60 feet. Although the proposed transmission line would avoid the wetland and buffer, access road construction would permanently impact 1,055 square feet of buffer, and temporarily impact a portion of the wetland. *Exhibits 1 and 1.13 (see pages i, 2-2, 2-5, 5-3, and 5-4).*⁴

Wetland Substation C

Wetland Substation C is a large, Category II wetland that covers 12.3 acres on the substation property. It receives groundwater from several points along a steep section of the hillslope, conveying water along and just below the ground surface toward the lower gradient eastern half of the property. This wetland has riverine components associated with the stream channels that run through the site. Wetland Substation C generally provides low levels of water quality functions, moderate levels of hydrologic functions, and high levels of habitat functions. It is important from a flood control perspective and is associated with multiple riparian and instream habitats. The minimum required buffer is 225 feet. Although the new transmission line route would not cross Wetland Substation C, associated project work including pole removal, installation, and replacement to support connecting the transmission line to the substation would occur within the wetland. *Exhibits 1 and 1.13 (see pages i, 2-2, 2-3, 5-1, 5-2, and 5-4).*

Wetlands ROS-A and ROS-B

These wetlands are located on the Willows Run Golf Complex property and are estimated to be Category III wetlands. The transmission line would run through the buffer of ROS-A, with one pole extending into the buffer. Construction of the access road would result in minimal permanent impacts to the ROS-A buffer and temporary impacts to both buffers. Permanent impacts to the ROS-A buffer would total 100 square feet. *Exhibits 1.23 and 1.13 (see pages i and 2-8).*

Stream R-2

Stream R-2 is an intermittent stream that is adjacent to and receives runoff from Willows Road and Willows Run Golf Course. The stream flows into ponds and other stream channels on the golf course before draining into the Sammamish River. East of the former railroad ballast, the active stream channel is about one foot wide. West of the ballast, there is no defined channel. The riparian corridor is fragmented by landscaping on the golf course. Stream R-2 is considered a Class III stream because it is a headwater stream with a likely surface water connection to a potentially salmon-bearing stream. The minimum required stream buffer is

⁴ Again, there are minor discrepancies in the information in the impact summary on page 5-4 of Exhibit 1.13, and the text description of impacts on page 2-5, which the staff report follows. This finding deferred to the impact summary. See Exhibit 1.13 page 5-3 for more detail.

100 feet. The transmission line would cross Stream R-2, with a pole installed outside the stream buffer near the edge of the construction access road. Culvert replacement would result in temporary stream impacts. *Exhibits 1, 1.23, and 1.13.*

Stream R-3

Stream R-3 is a very small intermittent stream that is located between two culverts and is associated with Wetland R-D. Although it has no defined riparian corridor within the study area, it is considered a Class III stream based on its connection to fish-bearing surface waters outside the study area. The stream would be temporarily impacted by culvert replacement. *Exhibits 1, 1.23, and 1.13.*

York Creek

York Creek is a perennial stream that, within the project area, runs from NE 116th Street along the east side of the rail ballast adjacent to Sammamish Valley Park into wetland R-E. It crosses beneath the rail ballast through a culvert. It receives stormwater runoff from Willows Road. The stream segment on the east side of the ballast has no defined stream channel, and the area is surrounded by reed canarygrass and receives regular maintenance mowing. York Creek is considered a Class III stream because of connections to salmon-bearing stream segments outside the study area. The transmission line would run adjacent to York Creek, crossing over the stream where it is piped through a culvert. The stream would be temporarily impacted by culvert replacement, and trees would be removed from the buffer to meet transmission line clearance standards. *Exhibits 1, 1.23, and 1.13 (see pages i and 2-).*

124th Street Stream

The 124th Street Stream is an intermittent stream that flows adjacent to Willows Road. It runs along the base of a slope leading down from the road shoulder and flows and functions similar to a roadside ditch that collects stormwater runoff from Willows Road. It does not have a defined channel in the study area and is overgrown with blackberry. The 124th Street Stream is considered a Class III stream because of its connection to salmon-bearing surface waters outside the study area. The transmission line would avoid the 124th Street Stream, but the access road would temporarily impact the stream buffer. *Exhibits 1, 1.23, and 1.13 (see pages i, 2-7, and 2-8).*

Exhibits 1, 1.13, 1.20, 1.21, and 1.23.

13. Consistent with the mitigation sequencing requirements of RZC 21.64.010, the Applicant designed the project to avoid and minimize impacts to critical areas through use of an existing multi-use corridor, use of retaining walls in the road design to avoid grading within wetlands and streams, and adjusting pole locations to avoid critical areas. A total of two new poles and six replacement poles would impact a wetland or buffer. No streams would be impacted by poles. *Exhibits 1.12 and 1.13.*
14. Permanent, unavoidable impacts to critical areas within Redmond would include the loss of 130 square feet of Category II wetland, 30 square feet of Category III wetland, and 1,955 square feet of buffer, plus the removal of 17 trees from a stream buffer. The

Applicant proposes to provide compensatory mitigation for these impacts through enhancement of Wetland C on PSE property to the south of the Sammamish Substation, which is the site of the Willows Creek Stream Relocation Project. Although the enhancement requirement to mitigate for project impacts is only 4,435 square feet (based on Category III wetland mitigation at an 8:1 ratio, Category II wetland mitigation at a 12:1 ratio, buffer mitigation at a 1:1 ratio, and the area of tree replacement vegetation), the larger Willows Creek Stream Relocation project includes additional wetland enhancement, the reestablishment of 1,450 feet of stream channel, the replacement of a partial fish barrier with a box culvert, and stream buffer enhancement. The mitigation site is in the same watershed as project impacts to ensure no net loss of critical area functions on a watershed scale. Wetland functions would improve as a result of the proposed mitigation. *Exhibit 1.12.*

15. Tree removal would be required to meet federal clearance safety standards along the transmission line corridor. Within the wire zone of the transmission line (directly underneath the conductor), PSE vegetation management standards for 115 kV construction require all trees with a mature height of 25 feet or greater to be removed. Within the border zone (areas of the transmission line corridor not directly under the conductor), select incompatible and structurally unsound trees are removed. In areas outside of the corridor, trees that have the potential to fall and come in contact with the conductor are removed. Trimming is performed if a conflict with the transmission line can be removed through trimming branches, except in cases in which trees have been previously trimmed, trimming would make the tree potentially unsound, or the conflict cannot be alleviated long term. *Exhibit 1.10.*
16. The Applicant's arborist has identified 101 significant trees within the project area, of which 40 would be removed to meet clearance requirements. Seventeen of the trees proposed for removal are within the buffer of York Creek. *Exhibit 1.10.*
17. Although the City's tree protection regulations set forth in RZC 21.72 exempt tree removal for utility construction from the tree removal permit requirements, the project must still meet the intent of the ordinance and mitigate for tree removal consistent with ordinance requirements. Pursuant to RZC 21.72.060.A, 35% of significant trees must be retained, which requirement is exceeded in this case.⁵ The same provision prohibits the removal of trees from critical areas and buffers, or removal of landmark trees, unless an exception is granted. In this case, 17 trees (one of which is a landmark tree) are proposed to be removed from a critical area buffer. The trees within the buffer are largely black cottonwood trees, which have height, canopy size, and branch strength characteristics that are incompatible with the transmission line. The landmark tree to be removed, also a black cottonwood, conflicts with one of the proposed fish passage culverts. The Applicant applied for and received Planning Director approval of a tree exception pursuant to RZC 21.72.090. *Exhibits 1 and 1.22.*

⁵ The staff report contains a typo on page 24, where it states the project would result in 40% tree retention. It would in fact result in 60% tree retention in the transmission corridor. *Cathy Beam Testimony.*

18. RZC 21.72.080.B requires removed significant trees to be replaced at a 1:1 ratio and removed landmark trees to be replaced at a 3:1 ratio. Because the nature of the proposed use does not allow replacement of removed trees within the transmission line corridor, the Applicant proposes to mitigate for tree removal outside of the critical areas by paying a fee in lieu of tree replacement pursuant to RZC 21.72.080.E.2. Trees removed from critical areas would be mitigated through wetland enhancement at the Willows Creek Stream Relocation Project site to the south of the substation. Because planting of replacement trees would not be feasible given the transmission lines in the area, the Applicant proposes to plant shrubs at a 5:1 ratio to tree removed, in an area covering 680 square feet. *Exhibits 1.10 and 1.12.*
19. Based on the City's Stormwater Technical Notebook, the proposal is subject to certain City stormwater management requirements because it would result in more than 5,000 square feet of new and replaced hard surfaces. However, due to the infrequent use of the gravel access road, the Stormwater Technical Notebook does not classify the road as a pollution-generating surface, and water quality treatment of the road runoff is not required. The road would be sloped so that runoff sheet flows to the east side into proposed infiltration trenches, which would be designed to comply with City on-site stormwater management and flow control requirements. *Exhibits 1 and 1.18; Cathy Beam Testimony.*
20. The Applicant requested a deviation from the retaining wall height limit of eight feet contained in the Stormwater Technical Notebook for the walls at each end of the replacement fish passage culverts, to allow wall heights of up to 10.5 feet plus fencing of an additional 3.5 feet. The Technical Committee reviewed the request against the relevant criteria and granted deviation approval on May 11, 2021. *Exhibits 1, 1.24, and 1.25.*
21. For multi-jurisdictional projects such as the proposed transmission line project, State Environmental Policy Act rules specify that the jurisdiction containing the greatest portion of the project is the lead agency for environmental review. In this case, the majority of the project falls within the Kirkland city limits, and the City of Kirkland assumed lead agency status. The City of Kirkland issued a determination of non-significance (DNS) for the project on November 18, 2020. *Exhibits 1, 1.9, and 4.*
22. Community outreach on the project commenced in September of 2011 and included formation of a Stakeholder Advisory Group. Route alternatives were developed over the course of 11 public meetings of the Stakeholder Advisory Group and the preferred route was announced in October of 2012. Since then, the Applicant has maintained a project website and provided updates to the community. *Kerry Kriner Testimony; Exhibit 5.*
23. Notice of the application was mailed to owners of property within 500 feet of the site and posted at three locations on or near the site, at City Hall, and at the Redmond Regional Library on March 24, 2020. *Exhibits 1.5 and 2.*

24. Notice of the virtual public hearing was mailed to owners of property within 500 feet of the site; posted on or near the site, at City Hall, and at the Redmond Regional Library, and published in *The Seattle Times* on or before August 23, 2021. *Exhibits 1, 1.8, and 2.*
25. The City of Redmond Technical Committee reviewed the project for consistency with the Zoning Code and SEPA, and recommended approval subject to conditions. *Exhibit 1.*
26. Issues raised in public comment on the application include concerns regarding increased noise for the residential neighborhood to the south of the substation property and fire preparedness. *Exhibits 1, 1.6 and 3.* The new transmission line, which would exit the substation towards the north, is not expected to generate more than 25 dBA of sound under worst-case weather conditions, which is half of the noise level allowed under City standards. Existing transformers at the site are a source of noise, but no new transformers are proposed. *Exhibits 1 and 1.6; Testimony of Cathy Beam and Kerry Kriner.* The Redmond Fire Department is prepared for emergencies at the facility. The Fire Department reviews plans prior to construction and conducts annual fire and life safety inspections, including ensuring that there are appropriate fire extinguishers. *Exhibits 1 and 1.6.* There was no public comment at or after the virtual public hearing, in the two-day post-hearing written public comment period.
27. Having heard all testimony and considered all materials, The City of Redmond Technical Review Committee and the principal planner on the case recommended approval of both the conditional use permit and site plan entitlement with the conditions in the staff report. *Exhibit 1; Cathy Beam Testimony.* Applicant representatives waived objection to the recommended conditions. *Kerry Kriner Testimony; Exhibit 5.*

CONCLUSIONS

Jurisdiction:

Pursuant to RZC 21.76.050.C (Table B) and RZC 21.76.060.F, the Hearing Examiner has jurisdiction to hear and issue the City's final decision on requests for a conditional use permit.

Per RZC Table 21.76.050.B, Site Plan Entitlements are Type II permits decided administratively without public hearing by the Technical Committee; however, pursuant to RZC 21.76.050.E.2, when two or more land use applications for a given development are submitted for consolidated review, the review shall be conducted using the highest numbered process type applicable to any of the land use applications.

Criteria for Review:

Conditional Use Permit

Pursuant to RZC 21.76.070.K.4, applications for conditional use permit may be approved if the Applicant demonstrates compliance with the following criteria for approval:

- a. The conditional use is consistent with the RZC and the Comprehensive Plan;

- b. The conditional use is designed in a manner which is compatible with and responds to the existing or intended character, appearance, quality of development, and physical characteristics of the subject property and immediate vicinity;
- c. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- d. The type of use, hours of operation, and appropriateness of the use in relation to adjacent uses minimize unusual hazards or characteristics of the use that would have adverse impacts;
- e. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
- f. The conditional use will be supported by adequate public facilities or services, and will not adversely affect public services to the surrounding area or conditions are established to mitigate adverse impacts on such facilities.

Site Plan Entitlement

Pursuant to RZC 21.76.070.Y, approval for site plan entitlement is granted if findings can be entered showing the following criteria are satisfied:

- a. The Technical Committee, composed of the Departments of Planning and Public Works, shall review all Development Review permits with the State Environmental Policy Act and the RZC.
- b. The Landmarks and Heritage Commission will review all Certificates of Appropriateness for compliance with the RZC.

Other Applicable Provisions

Criteria Applicable to all Land Use Permits

Pursuant to RZC 21.76.070.B.3.a, all land use permits must be reviewed to determine consistency between the proposed project and the applicable regulations and Comprehensive Plan provisions, based on the following criteria:

- i. A proposed project's consistency with the City's development regulations shall be determined by consideration of:
 - A. The type of land use;
 - B. The level of development, such as units per acre or other measures of density;
 - C. Availability of infrastructure, including public facilities and services needed to serve the development; and
 - D. The character of the development, such as development standards.
- ii. Upon review of a land use permit and accompanying site plan, the decision maker shall determine whether building design and/or site design complies with the following provisions:

- A. The Comprehensive Plan, RZC 21.02, *Preface*, RZC Article I, *Zone-Based Regulations*, RZC Article II, *Citywide Regulations*, and the Appendices that carry out these titles;
- B. The provisions of RMC Title 15, Buildings and Construction, that affect building location and general site design;
- C. The Washington State Environmental Policy Act (SEPA) if not otherwise satisfied;
- D. RZC Article VI, *Review Procedures*, to the extent it provides the procedures to ensure compliance with the requirements in subsections B.3.a.ii.B and B.3.a.ii.C of this section.
- E. Both within and outside Transition Overlays, decision makers authorized by the RZC to decide upon discretionary approvals may condition such approvals and development permits, including but not limited to site plan approvals, to minimize adverse impacts on other properties and uses, and to carry out the policies of the Comprehensive Plan.

Conclusions Based on Findings:

1. As conditioned, the proposal satisfies the criteria for a conditional use permit.
 - a. With the approved tree exception, the proposal is consistent with the RZC and the Comprehensive Plan. Required tree removal and impacts to critical areas would be mitigated consistent with RZC standards and the tree exception. The view corridor would be maintained. The proposal is consistent with Comprehensive Plan policies to encourage placement of utilities in transportation corridors and to minimize environmental impacts by locating utility corridors in existing cleared areas. Stream and wetland impacts were avoided to the extent possible, and unavoidable impacts are appropriately mitigated as proposed and conditioned. *Findings 4, 5, 11, 12, 13, 14, 15, 16, 17, 18, and 27.*
 - b. The proposal is compatible with the character of the subject property and immediate vicinity. The substation is an existing use. Consistent with Comprehensive Plan policies for siting utilities, the new transmission line and access road would follow the former rail corridor along Willows Road. The poles would be consistent with view corridor requirements. *Findings 1, 3, 5, 7, 11, 26, and 27.*
 - c. The location and height of the poles would not hinder neighborhood circulation or discourage development of properties along the corridor. Land uses in the vicinity of the corridor are largely commercial, golf course, and public open space. The project would improve private utility infrastructure serving all uses in the vicinity. The transmission line would have its own access road so as to not impact Willows Road. *Findings 3 and 7.*
 - d. The use minimizes hazards by including tree removal within the corridor to ensure adequate clearance of the transmission lines. The transmission line would not generate noise in excess of City standards. The location of the transmission line relative to residential uses reduces the risk of noise impact. There are no hours of

- operation applicable to the utility use; surrounding land uses demand and rely on electric power transmission 24 hours per day, seven days per week. *Findings 15, 16, 26, and 27.*
- e. Traffic associated with the use would not conflict with existing or anticipated traffic in the neighborhood. *Finding 10.*
 - f. The proposal is designed to deliver electricity to the area. The Redmond Fire Department would provide emergency response. *Findings 1 and 26.*
2. As conditioned, the proposal satisfies the criteria for site plan entitlement. The project has been reviewed for compliance with the RZC and SEPA. The Landmarks and Heritage Commission process does not apply to the proposal. *Findings 21 and 25.*
 3. With approval of the conditional use permit, the proposal is consistent with the criteria of RZC 21.76.070.B.3.a.i and ii.
 - a. The land use is allowed in the MP and BP zones and allowed with a conditional use permit in the UR zone. Development density is not applicable to the use. *Finding 4.*
 - b. The proposal provides for needed electrical utility infrastructure. A construction and maintenance access road would be constructed along Willows Road. *Findings 1, 6, 7, 8, and 9.*
 - c. There are no development standards that are specific to the use. *Finding 4.*
 - d. The proposal is consistent with the utility policies of the Comprehensive Plan, particularly those policies to encourage placement of utilities in transportation corridors and to minimize environmental impacts by locating utility corridors in existing cleared areas. In addition, with approval of a conditional use permit, the proposal is consistent with the zone-based and citywide regulations of the Redmond Zoning Code. Required tree removal and impacts to critical areas would be mitigated consistent with RZC standards and approved tree exception. The view corridor would be maintained. *Findings 4, 5, 11, 12, 13, 14, 15, 16, 17, and 18.*
 - e. No Title 15 provisions were identified that would affect the location or design of the project. The conditions of approval reference applicable Title 15 standards relating to stormwater and fire.
 - f. The project was reviewed pursuant to SEPA and a determination of non-significance was issued. *Finding 21.*
 - g. The project is being reviewed under the conditional use permit criteria to ensure compliance with the land use requirements of the UR zone. *Finding 4.*

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DECISIONS

Based on the preceding findings and conclusions, the requested conditional use permit and site plan entitlement for the Redmond portion of the proposed construction of a new 115 kV transmission line from the Sammamish Substation in Redmond to the Juanita Substation in Kirkland and associated improvements are **APPROVED** subject to the following conditions:

A. Site Specific Conditions of Approval

The following table identifies those materials that are approved with conditions as part of this decision.

Item	Date Received	Notes
Land Use Permit Plan Set	5/4/2021	<i>and as conditioned herein.</i>
SEPA Documentation	11/23/2020	<i>and as conditioned herein and as conditioned by the SEPA threshold determination on 11/5/2020.</i>
Conceptual Mitigation Plan	7/30/2021	<i>and as conditioned herein.</i>
Deviation Request Letter	5/3/2021	<i>and as conditioned herein.</i>
Tree Exception Request	4/1/2020	<i>and as conditioned herein.</i>
Stormwater Report	5/4/2021	<i>and as conditioned herein.</i>

The following conditions shall be reflected on the Civil Construction Drawings, unless otherwise noted:

1. Development Engineering - Transportation and Engineering

Reviewer: Andy Chow, Development Engineering Manager;

Rob Crittenden, Construction Project Manager

Phone: 425-556-2740; 425-556-2838

Email: kachow@redmond.gov; rcrittenden@redmond.gov

- a. Construction Restoration and Street Overlay.** In order to mitigate damage due to trenching and other work to the possible locations but not limited to the following, the asphalt street shall be planed, overlaid, and/or patched, per COR SD 202 or 203.

- A portion of existing trail south of NE 100th CT to reconstruct with minimum 3” HMA and 6” of 1-1/4” minus crushed rock base course per WSDOT standard spec 9-03.9(3).
- NE 100th CT, NE 116th ST, and NE 124th ST
- Ex. driveways at approximate STA 203+00, 221+50, and 222+00

Code Authority: RMC 12.08; Redmond Standard Specifications & Details

b. Access Road Improvements

The access road which include minimum 17 feet gravel surface edge to edge aligned with the future planned RCC III trail alignment as closely as possible, storm drainage with infiltration trench on one side, City standard railing or black vinyl coated fencing along the top of walls where the vertical fall is 30 inches or greater, and standard curb cut or asphalt pavement with City standard removeable bollards at all road or driveway crossing locations. The existing railroad tracks and ties shall be removed as part of this project. The minimum section for the gravel road within the City of Redmond shall consist of:

- 6” of 1-1/4” minus crushed rock base course per WSDOT standard spec 9-03.9(3).
- Biaxial Geogrid with min. ultimate tensile strength of 850 pound per foot shall be installed and rolled longitudinally along the alignment below the crushed rock.
- Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
- 1.5% cross sloped to drain system

Code Authority: Redmond Standard Specifications & Details

c. Access Improvements

Direct access to Willows Road will not be permitted. This restriction shall be indicated on the face of the civil plans and other final documents.

Code Authority: RZC 21.52.030.E; RZC 21 Appendix 2

2. Development Engineering – Water and Sewer

Reviewer: Zheng Lu, Senior Utility Engineer

Phone: 425-556-2844

Email: zlu@redmond.gov

- a. **Water Service.** There is no water utility work associated with this project.
- b. **Sewer Service.** There is no sanitary sewer utility work associated with this project.

3. Development Engineering – Stormwater/Clearing and Grading

Reviewer: Emily Flanagan, Senior Engineer

Phone: 425-556-2707

Email: eflanagan@redmond.gov

- a. **Water Quantity Control**
 - i. Stormwater discharges shall match the developed discharge duration to the predeveloped duration for the range or predeveloped discharge rates from 50% of the 2-year peak flow up to the full 50-year flow. Flow control will be met through infiltration trenches along the east side of the access road.

- ii. The trenches are designed to infiltrate the 100-year storm. Any flow beyond this will follow existing flow patterns and sheet flow to the east down the roadway embankment.

Code Authority: RZC 21.74.020.D; RMC 15.24.080(8)

b. Water Quality Control

- i. The current design does not trigger Minimum Requirement 6: Runoff Treatment. The access road will have minimal vehicular traffic and thus is non-pollution generating. No TDA in the existing design results in more than 5,000 square feet of pollution generating surface. As designed the project does not require water quality treatment.
- ii. If a design change results in a TDA with more than 5,000 square feet of pollution generating surface, then water quality treatment will be required. Basic water quality treatment shall be required for the 6-month, 24-hour return period storm.

Code Authority: RZC 21.74.020.D; RMC 15.24.080(8)

Temporary Erosion and Sediment Control (TESC).

- i. Rainy season work permitted October 1st through April 30th with an approved Wet Weather Plan. See Table 10.2 of the Stormwater Technical Notebook for additional TESC requirements for wet weather work in critical area buffers.
- ii. Work prohibited October 1st through April 30th. Work is not permitted within the Ordinary High Water Mark of a stream or within a regulated wetland during the rainy season.

Code Authority: RMC 15.24.080

- c. Floodplain Management.** The project is located along the western edge of the Sammamish River 100-year floodplain. If any work is done below the 100-year water surface elevation as shown in the effective FEMA FIS profiles, then a Flood Control Zone Application is required. No net fill is allowed with the floodplain. This floodplain is based on effective FEMA FIS profile elevations, not effective FEMA FIRM boundaries.

Code Authority: RZC 21.64.010 and 21.64.040

- d. Department of Ecology Notice of Intent Construction Stormwater General Permit.** Notice of Intent (NOI) must be submitted to the Department of Ecology (DOE) at least 60 days prior to construction on a site that disturbs an area of one acre or larger. Additional information is available at: www.ecy.wa.gov/pubs/0710044.pdf.

Code Authority: Department of Ecology Rule
Condition Applies: Prior to Commencement of Construction

- e. **Regional Capital Facilities Charge:** A Regional Capital Facilities Charge does not apply to this project, as it is located outside the Downtown and Overlake Sub-basin.

Code Authority: RMC 13.20.045 (Downtown); RMC 13.20.047 (Overlake); RMC 13.20.040 (Citywide)

5. **Fire Department**

Reviewer: Scott Turner, Assistant Fire Marshall

Phone: 425-556-2273

Email: sturner@redmond.gov

The current submittal is generally adequate for LAND-2020-00198 approval but does not fully represent compliance with all requirements. The following conditions are integral to the approval and shall be complied with in Civil Drawings, Building Permit Submittals, Fire Code Permit submittal, and/or other applicable processes:

- a. **Site Plan Condition.** Closure of required fire access roadways requires prior approval from Redmond Fire Prevention. Mitigation for blocked access to structures may be required. For culverts or other structures under required fire access roadways, culverts must meet HS-20 loading for fire apparatus.
- b. **Fire Protection Plan.** There are no fire protection systems required for this project.
- c. **Fire Code Permit.** Fire operational permits may be required for some activities/processes.

Code Authority: RMC 15.06; RZC Appendix 3, RFD Standards, RFDD&CG

6. **Planning Department**

Reviewer: Cathy Beam, AICP, Principal Planner

Phone: 425-556-2429

Email: cbeam@redmond.gov

a. **Site Specific Conditions**

- i. PSE shall secure easement rights from the City to construct the proposed Sammamish-Juanita project prior to approval of the civil construction drawings.
- ii. Critical areas mitigation for this project will be constructed both on-site and off-site. Off-site mitigation will occur as part of the future Willows Creek Stream Relocation Project located behind the Sammamish Substation. The applicant shall apply for a clearing and grading permit for the relocation project prior to approval of the civil construction drawings for the Sammamish-Juanita line.

As an option, the applicant can provide the City with a phased schedule for the Willows Creek Stream Relocation Project implementation with milestones for anticipated permitting and construction. This option includes bonding for the future work. If chosen, this latter option shall be mutually agreed upon by both the City and PSE.

Code Authority RZC 21.64.010.L.2

- b. Tree Preservation Plan.** A Tree Preservation Plan depicting all significant and landmark trees required to be preserved as part of the site development must be provided with the civil construction drawings.

Code Authority: RZC 21.72.060.D

- c. Tree Health Assessment.** An updated tree health assessment shall be provided during the Civil review process.

Code Authority: RZC 21.32

- d. Monitoring Program and Contingency Plan.** A five-year monitoring program shall be prepared and implemented to determine the success of the mitigation project and any necessary corrective actions. A contingency plan shall be established prior to construction approval of the Willows Creek Stream Relocation Plan for indemnity in the event that the mitigation project is inadequate or fails.

Code Authority: RZC 21.64.010.P

- e. Bonds.** Bonds for Tree Preservation, Tree Replacement and Critical Areas Mitigation shall be provided no less than 5 days prior to request for Mylar signatures. Drafts of the Bond Agreements, Bond Quantity Worksheets and Bond Calculation Worksheets shall be submitted at time of Civil Construction Application. If not provided at the time of CCR submittal, the entire submittal will be rejected for intake.

Code Authority: RZC 21.76.090.F

- f. Archaeological and Historical Preservation:** If archaeological resources or archaeological indicators are unearthed or exposed in the course of the project, the applicant and its contractors shall stop work immediately. The applicant and its contractors shall implement the procedures of the Cultural Resources Inventory dated February 2020.

Code Authority: RZC 21.30.070.D

Condition Applies: Civil Construction & Building Permit

- g. **Construction Parking Requirements and Contact Information.** A sign shall be posted on-site visible to the public throughout the duration of all construction activity per the Construction Contact Sign Handout. Construction activities consist of all site work including, but not limited to grading, landscaping, infrastructure and building permit related construction. Applicant and contractor shall work with city planner prior to mylar signing to determine location(s) of sign(s). Contact information shall remain up-to-date and visible at all times. The assigned city planner shall be notified within two business days when contact person has been changed and a picture of the updated sign shall be e-mailed. Construction Parking requirements for the project shall be denoted on the bottom portion of the sign per handout instructions.

Code Authority: RZC 21.76.070.B.3.a.ii.A; Comprehensive Plan TR-19 Parking requirements for the project shall be denoted on the bottom portion of the sign per handout instructions.

B. Compliance with City of Redmond Codes and Standards

This approval is subject to all applicable City of Redmond codes and standards, including the following:

Transportation and Engineering

RMC 6.36:	Noise Standards
RZC 21.52:	Transportation Standards
RMC 12.08:	Street Repairs, Improvements & Alterations
RMC 12.16:	Highway Access Management
RZC 21.76.020.G:	Site Construction Drawing Review
RZC 21.76.020.H.6:	Preconstruction Conference
RZC 21.76.020.H.7:	Performance Assurance
RZC Appendix 3:	Construction Specification and Design Standards for Streets and Access
City of Redmond:	Record Drawing Requirements, February 2021
City of Redmond:	Standard Specifications and Details (current edition at the time of this approval letter issued)

Water and Sewer

RMC 13.25	Temporary Construction Dewatering
City of Redmond:	Standard Specifications and Details (current edition)

Stormwater/Clearing and Grading

RMC 15.24:	Clearing, Grading, and Storm Water Management
RZC 21.64.010:	Critical Areas
RZC 21.64.040:	Frequently Flooded Areas

City of Redmond: Standard Specifications and Details (current edition at the time of this approval letter issued)
City of Redmond: Stormwater Technical Notebook, Issue No. 8, Amended June 5, 2019
Department of Ecology: Stormwater Management Manual for Western Washington (amended December 2014)

Fire

RMC 15.06: Fire Code
RZC Appendix 3: Construction Specification and Design Standards for Streets and Access
City of Redmond: Fire Department Design and Construction Guide 5/6/97
City of Redmond: Fire Department Standards

Planning

RZC 21.06: Urban Recreation
RZC 21.14: Business Park, Manufacturing & Industry
RZC 21.32, 21.72: Landscaping and Tree Protection
RMC 6.36: Noise Standards
RCZ 21.64: Critical Areas
RZC Appendix 1: Critical Areas Reporting Requirements

Decided September 28, 2021.

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Note: Pursuant to RZC 21.76.050.H.1, the decision of the Hearing Examiner in this Type III permit process is appealable to King County Superior Court.

1 **BEFORE THE HEARING EXAMINER**
2 **FOR THE CITY OF REDMOND**

3
4 In the Matter of the Application of) NO. LAND-2020-00198
5)
6 **Puget Sound Energy**)
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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of September, 2021, a true and correct copy of the Findings, Conclusions and Decision in the Matter of the Application of **PUGET SOUND ENERGY, LAND-2020-00198** for approval of a Conditional Use Permit and Site Plan Entitlement was sent via email to the Staff Planner and via United States Postal Service first class mail to the Parties of Record and Parties of the Appeal with adequate postage prepaid.

September 29, 2021

Date



Cheryl Xanthos
City Clerk, MMC
City of Redmond, Washington