

**MINUTES OF THE REGULAR MEETING OF THE
ARAPAHOE COUNTY PLANNING COMMISSION
TUESDAY, APRIL 15, 2025**

ATTENDANCE	<p>A regular meeting of the Arapahoe County Planning Commission (PC) was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code.</p> <p>The following Planning Commission members were in attendance: Brooke Howe; Kathryn Latsis; Randall Miller; Dave Mohrhaus, Chair Pro-Tem; Richard Sall; Lynn Sauve, Chair.</p> <p>Also, present were Matt Hader, Senior Assistant County Attorney; Jason Reynolds, Planning Division Manager; Ava Pecherzewski, Development Review Planning Manager (moderator); Loretta Daniel, Long Range Planning Manager; Ceila Rethamel, Engineering Services Division Manager; Joe Schiel, Engineering Services Division Program Manager; Molly Orkild-Larson, Principal Planner; Larry Mugler, Planner; Sue Liu, Engineer; and Kim Lynch, Planning Technician.</p>
CALL TO ORDER	<p>Ms. Sauve called the meeting to order at 6:30 p.m. and the roll was called. The meeting was held in person and through the Granicus Live Manager platform with telephone call-in for staff members and the public.</p>
GENERAL BUSINESS ITEMS:	
APPROVAL OF THE MINUTES	<p>The motion was made by Mr. Morhhaus and duly seconded by Ms. Latsis to accept the minutes from the March 18, 2025, Planning Commission meeting, as submitted:</p> <p>The vote was:</p> <p>Ms. Howe, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p>
PUBLIC HEARING ITEMS:	
ITEM 1	<p>CASE NO. PM23-001, LOWRY ENVIRONMENTAL PROTECTION CLEANUP / MINOR SUBDIVISION PLAT (PM) – MOLLY ORKILD-LARSON, PRINCIPAL PLANNER; SUE LIU, ENGINEER – PUBLIC WORKS AND DEVELOPMENT (PWD)</p>



Ms. Sauve asked the County Attorney if the case had been properly noticed. Mr. Hader agreed it was consistent with the requirements of the LDC regarding signage and mailing that were met and said that the PC had jurisdiction to proceed.

Ms. Orkild-Larson said Front Range Energy Storage, LLC, on behalf of the property owner, Lowry Environmental Protection Cleanup Trust Fund, was seeking approval of a Minor Subdivision Plat to subdivide 102.75 acres to create a 19.10-acre lot and an 83.65-acre tract, of which 3.59 acres adjacent to E. Quincy Avenue would be dedicated as road right-of-way. She explained that a battery energy storage system was proposed on the 19.10-acre lot and would be connected to Xcel Energy's Harvest Mile Substation located adjacent and south of the subject property. She said the battery system would charge directly from the existing electrical grid (via the electricity provided by connecting to the substation during periods when energy demand was low) and discharge electricity through the same path (through the Harvest Mile Substation and into the grid) when energy demand was high. She described the goal of the applicant was to enhance the reliability of the electrical grid, improve the state's ability to continue to diversify its energy mix, and help the state meet its objectives for electrical infrastructure modernization. She stated the tract would remain undeveloped as part of this application and would be reserved for future development by others. She added that along with this plat, a USR/1041 application (UASI23-001) was under review on Lot 1, and if both applications were approved, the applicant had applied for a development agreement (DA24-003) to vest these approvals for seven years, in a separate proceeding on Lot 1 and after the approval of the plat and USR/1041 applications.

She characterized the parcel as an undeveloped agricultural property that was currently dryland-farmed and located south of Lowry Landfill. She reported the landfill had operated since 1964 and accepted both municipal solid and industrial liquid waste. She explained that in 1984, due to groundwater contamination, the Environmental Protection Agency (EPA) placed the landfill on its National Priorities List of sites to be addressed under the federal remediation program known as Superfund and had been undergoing extensive containment remedy since its listing. She added, though not required by the terms of the EPA-selected remedy, Denver, Waste Management and Lowry Environmental Protection Cleanup Trust Fund purchased properties a half mile around the site as an additional level of assurance for the remedy to prohibit future groundwater issues and to control future land use around the site. She affirmed that any future use of these lands would be compatible with the remedy, conform to certain restrictive covenants, and comply with all regulations to ensure the protection of public health and the environment. She reiterated the land within the half-mile area would continue to be managed by the Lowry



Environmental Protection Cleanup Trust (Lowry Trust), which oversaw the uses of these lands. She described the Lowry Trust Master Plan that identified land uses that were compatible with the Lowry Landfill remedy and identified the subject site as being in Section 7, which allowed retail warehouse/distribution, flex, and utility services. She confirmed the proposed land use associated with this subdivision request was in alignment with the Plan in that it was a land use with no permanent human-occupied structures and did not require access to water and sanitary sewer services, thereby removing any concern for contamination from the Superfund site. She recounted that the site would mainly be developed with unmanned battery storage units. She concluded based on the review components Staff recommended approval of this minor subdivision plat application.

Mr. Todd Messenger of Fairfield and Woods, on behalf of the applicant Power Plus, explained the nature of the unmanned definition of the site at this time. He reiterated that the project met the criteria of the Land Development Code and explained that any subdivision of less than 5 acres required a minor subdivision plat. He introduced the project team of Steve LaDelfa of Power Plus and Chris Sveum of Norris Design. He requested that Condition 2 be amended to describe exact easement exceptions, and Mr. Hader prepared this language to be read into the record with the motion.

There was discussion around progress on the Fire Plan presented and Mr. LaDelpha stated the Emergency Response Plan was in development for the associated USR/1041 application in progress.

Ms. Sauve opened the hearing for public comments. There were no members of the public present and 1 caller who spoke in favor of the project. The public hearing was closed.

Mr. Miller reiterated his objection to the proposed location and spoke of concerns about the fire plan for a battery storage facility in close proximity to the Arapahoe County Fairgrounds.

The motion was made by Ms. Latsis and duly seconded by Mr. Mohrhaus, in the case of PM23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 / Minor Subdivision, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and the public comment as presented at the hearing and hereby move to recommend approval of this application based on the findings in the staff report, subject to the following conditions:

- 1. Prior to the signature of the final copy of these plans, the applicant will address all Public Works and Development Staff comments.**



	<p>2. No permits shall be issued, grading or otherwise, until the applicant has conveyed all necessary right of way to the County free and clear of any encumbrances with the exception of the 50-foot gap easement (Recordation# B2144430) and the 50-foot gap easement recorded at Book 1929, Page 237 (Recordation# B4064205).</p> <p>The vote was:</p> <p>Ms. Howe, No; Ms. Latsis, Yes; Mr. Miller, No; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p>
STUDY SESSION ITEMS:	
ITEM 1	<p>CASE NO. LDC24-003, LOCATION AND EXTENT PLAN / LAND DEVELOPMENT CODE (LDC) AND DEVELOPMENT APPLICATION MANUAL (DAM) AMENDMENT – LARRY MUGLER, LONG RANGE PLANNER – PUBLIC WORKS AND DEVELOPMENT (PWD)</p> <p>Mr. Mugler said Planning staff had reviewed the Location and Extent (LE) provisions in the LDC and the DAM and identified several changes that should make the LE review process more efficient for applicants, staff, and the Planning Commission. He explained the County undertook LE reviews based on two Colorado statutes: Colorado Revised Statutes, § 30-28-110, as amended, and Colorado Revised Statutes, § 22-32-124, as amended. He said the text read “No road, park, public way, ground, or space, no public building or structure, and no major facility of a public utility shall be constructed or authorized in the unincorporated areas of Arapahoe County unless and until the proposed location and extent thereof has been submitted to and approved by the Arapahoe County Planning Commission”. He described the second statute concerning the location and construction of public and charter schools and stated it was not currently referenced in the LDC, therefore the proposed change provided this summary of C.R.S. § 22-32-124, “prior to acquiring land or contracting for the purchase of land for a school site, the school district shall consult with and advise the Planning Commission in writing to ensure that the proposed site conforms to the adopted Comprehensive Plan as far as is feasible. Prior to the construction of any structure or building, the school district shall submit a site development plan for review and comment to the Planning Commission, to be added to the LDC document.</p> <p>He reported the one unique element of these statutes was that the applicant in either case was not bound by the Planning Commission’s action and could override a Planning Commission (PC) disapproval by action of their own board. He said the Colorado Land Planning and</p>



Development Law publication described the L and E process this way, “Generally, the approval process is not intended to be a mechanism to prevent the construction of public improvements and public utilities, rather, it is intended to encourage intergovernmental communication and coordination in the development of public improvements and public utilities.” He confirmed the intent of the suggested changes was to clarify the L and E process, simplify where possible, and make the LDC and DAM consistent. He added that Staff reviewed the L and E processes for neighboring counties and summarized generally, they did not require the amount of detail that Arapahoe County lists in the LDC and the DAM. He described El Paso County as having an extensive L and E provision but also included a list of projects that were excluded from the L and E process. He stated that exclusion was an element that the staff was proposing to add to the Arapahoe County LDC.

He went on to explain while the LDC did not have a reference to the school location and building review statute, the County had reviewed new schools, and one difficulty had been the process for public charter schools. He said the statute stated that the PC may request a hearing before the school district board to address concerns, however, charter schools had their own boards of directors and made their own decisions on siting. He affirmed the PC, a school district board, and a charter school board needed a clear process for making sure the PC’s comments were considered. He described Douglas County solution to this problem of having the school district require the charter school to contact the Planning Commission at the same time as the charter requested approval from the school district. He stated if the PC had concerns that should be considered at a public hearing, early notification would allow the PC to participate in the school district’s public hearing and the revisions to the LDC would provide the linkages among the County, the school district board, and the charter school with the correct state statute cited.

He recounted the changes to the DAM as more technical with respect to requirement of several special studies that might not be appropriate for some LE projects and thereby allowed the staff more flexibility in determining which studies were necessary to potentially save the applicant time and money and now emphasized the need to determine the special studies at the earliest opportunity in the review process. He encouraged PC to review all aspects of the proposed regulations and welcomed comments and direction on the entire set of proposed code amendments.

There was discussion regarding the review of the process by those in other counties whose processes were discussed, reports suggested, and request for report with staff support to create this report.

GENERAL BUSINESS ITEMS:



ELECTION OF 2025 OFFICERS	<p><u>ELECTION OF PLANNING COMMISSION CHAIR</u></p> <p>It was moved by Ms. Sauve to nominate Ms. Mohrhaus to serve as Chair. The motion was duly seconded by Ms. Latsis. Mr. Mohrhaus accepted the nomination.</p> <p>The vote to elect Mr. Mohrhaus as Chair was affirmed, as follows:</p> <p>Ms. Howe, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p> <p><u>ELECTION OF PLANNING COMMISSION CHAIR PRO-TEM</u></p> <p>It was moved by Ms. Sauve to nominate Ms. Latsis to serve as Chair Pro-Tem. The motion was duly seconded by Mr. Sall. Ms. Latsis accepted the nomination.</p> <p>The vote to elect Ms. Latsis as Chair Pro-Tem was affirmed, as follows:</p> <p>Ms. Howe, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p> <p><u>APPOINTMENT OF THE PLANNING COMMISSION RECORDING SECRETARY</u></p> <p>Mr. Mohrhaus moved to nominate the Planning Division Manager or his designee as Recording Secretary. The motion was duly seconded by Ms. Sauve.</p> <p>The vote was:</p> <p>Ms. Howe, Yes; Ms. Latsis, Yes; Mr. Miller; Mr. Mohrhaus, Yes; Mr. Sall, Yes; Ms. Sauve, Yes.</p>
ANNOUNCEMENTS	<p>Ms. Orkild-Larson said the Planning Commission meeting for May 5, 2025, was not certain and would keep the PC in the loop. She said there were items scheduled for May 20, 2025.</p>
ADJOURNMENT	<p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>