



Arapahoe County

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Board Summary Report

File #: 25-252

Agenda Date: 5/13/2025

Agenda #: 7.a.

To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works and Development

Prepared By:
Molly Orkild-Larson, Principal Planner, Public Works and Development

Presenter: Molly Orkild-Larson, Principal Planner, Public Works and Development

Subject:
PM23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 - Minor Subdivision

Purpose and Request:

Front Range Energy Storage LLC, on behalf of the property owner, Lowry Environmental Protection Cleanup Trust Fund, is seeking approval of a Minor Subdivision Plat to subdivide a 102.75-acre parcel at the southwest corner of E. Quincy Avenue and S. Harvest Road. This subdivision will create a 19.10-acre lot and an 83.65-acre tract, of which 3.59 acres adjacent to E. Quincy Avenue will be dedicated as road right-of-way.

On the 19.10-acre lot, a battery energy storage system is proposed and is to be connected to Xcel Energy's Harvest Mile Substation located adjacent and south of the subject property. The battery system will charge directly from the existing electrical grid (via the electricity provided by connecting to the substation during periods when energy demand is low) and discharge electricity through the same path (through the Harvest Mile Substation and into the grid) when energy demand is high. The goal of the applicant is 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.

Two existing gas easements bisect the property in a north-south direction. Another easement runs along the east property line.

The tract will remain undeveloped as part of this application and will be reserved for future development by others.

Along with this plat, a USR/1041 application (UASI23-001) is under review on Lot 1, and if both applications are approved, the applicant has applied for a development agreement (DA24-003) to vest those approvals for seven years, which will be considered in a separate proceeding on Lot 1 and after the approval of the plat and USR/1041 applications.

Background and Discussion: The parcel is an undeveloped agricultural property that is currently dryland-farmed.

To the north of the subject site across E Quincy Avenue is the Lowry Landfill, which has operated as a landfill

since 1964 and accepts both municipal solid and industrial liquid waste. 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. The landfill has been undergoing extensive containment remedy since its listing.

Though not required by the terms of the EPA-selected remedy, Denver and 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. This was intended to prohibit future groundwater use and to control future land use around the site. Any future use of these lands will 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.

The land within the half-mile area is managed by the Lowry Environmental Protection Cleanup Trust (Lowry Trust), which oversees the uses of these lands. To assist with their supervision, the Lowry Trust Master Plan was created, and its primary goal is to identify land uses that are compatible with the Lowry Landfill remedy. The Master Plan identifies the subject site as being in Section 7, which allows retail, warehouse/distribution, flex, and utility services. The proposed land use associated with this subdivision request is in alignment with the Lowry Trust Master Plan in that it is a utility service land use with no permanent human-occupied structures and does not require access to water and sanitary sewer services, thereby removing any concern for contamination from the Superfund site. The site will mainly be developed with unmanned battery storage units.

This application was before the Planning Commission on April 15, 2025. During the hearing, Condition #2 in the staff report was modified, clarifying that two existing 50' wide gas easements in the County Road right-of-way of E. Quincy Avenue didn't need to be vacated. Presently, these gas easements bisect the subject property and E. Quincy Avenue. These easements will not be vacated since they are currently being used by a third party. The Planning Commission recommended approval of the proposed minor subdivision in a 4-2 vote. One dissenting commissioner stated that he was opposed to the subdivision because he was opposed to the accompanying land use application for a battery storage facility due to concerns about fire protection. One member of the public spoke in favor of the proposal. Please see the attached Planning Commission Minutes from the April 15, 2025 meeting.

Fiscal Impact: No fiscal impacts are anticipated at this time.

Alternatives: The Board of County Commissioners has alternatives that include the following:

1. Approve the proposed Minor Subdivision with Conditions of Approval as recommended by staff or with changes.
2. Continue to a date certain for more information.
3. Deny the Minor Subdivision.

Alignment with Strategic Plan:

- ☐ Be fiscally sustainable
- ☒ Provide essential and mandated service
- ☐ Be community-focused

Staff Recommendation: Considering the findings in the attached Planning Commission staff report and other

information provided herein, staff recommends approval of Case No. PM23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 - Minor Subdivision, subject to the following conditions of approval:

- 1.) Prior to the signature of the final copy of these plans, the applicant will address all Public Works and Development Staff comments.
- 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' gas easement, recordation no. B2144430, and the 50' gas easement recorded at book 1929, pg. 237, and recorded at B4064205.

Concurrence: The Public Works and Development Planning and Engineering Services Division have reviewed this application, and the Arapahoe County Public Works Department is recommending approval of this case. The Planning Commission recommended approval of this minor subdivision on a 4-2 vote, at their April 15, 2025, public hearing.