

**ARAPAHOE COUNTY PLANNING COMMISSION  
PUBLIC HEARING  
DECEMBER 17, 2024  
6:30 P.M.**

**SUBJECT: CASE NO. UASI23-001 – FRONT RANGE ENERGY STORAGE - USE BY SPECIAL REVIEW/1041**

**MOLLY ORKILD-LARSON, PRINCIPAL PLANNER**

**Location and Vicinity Map**

The proposed Use by Special Review/1041 is located at the southwest corner of E. Quincy Avenue and S. Harvest Road. The subject property is situated in Commissioner District No. 3 and zoned Agricultural - One (A-1).



Subject Property (shown in red above)

**ADJACENT SUBDIVISIONS, ZONING, AND LAND USE**

- North - Vacant, zoned A-1, across E. Quincy Avenue - Lowry Landfill, zoned A-1, and future recycling and waste collection facility, zoned I-1.
- South - Harvest Mile Substation, zoned A-1. Further south is the City of Aurora's Tollgate Crossing residential development.
- East - Vacant, zoned A-1, and further east, Arapahoe County Fairgrounds and Regional Park, zoned MU.
- West - Vacant, zoned A-1 and Smoky Hill substation

**PURPOSE AND REQUEST**

The applicant, Front Range Energy Storage, LLC, on behalf of the property owner, Lowry Environmental Protection Cleanup Trust Fund, is seeking approval of a USR/1041 application on 19.10 acres to build a battery energy storage system that proposes to be connected to Xcel Energy's Harvest Mile Substation located adjacent and south of the subject property. The

facility is to provide Xcel Energy with the ability to balance electric grid services by providing energy reserves, frequency regulation, and renewable energy balancing. 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.

Approximately 16.5 acres of the 19.10-acre site will be enclosed by a seven-foot-tall chain-link fence and contain battery storage containers and transformers, an on-site project-specific substation, and a detention pond. The portion of the site that isn't fenced contains an existing gas easement and is located along the west portion of the property. The battery containers and transformers are in three areas on-site and separated from each other by 25-foot-wide drives. The containers will be located on concrete pad foundations and once installed, the containers will not be more than 16 feet in height. Light poles 32 feet in height will be dispersed throughout the site.

Another seven-foot-tall chain-link fence will enclose the proposed project substation. An electrical step-up transformer and switchgear/control unit will be situated on concrete pad foundations and an electrical transmission line will be installed to connect to the Harvest Mile Substation within this fenced area.

The subject site will obtain access from S. Harvest Road through an access easement. Water, sanitary sewer, phone, cable, and gas services are not proposed for this project.

Once the facility is operational, it is anticipated that there will be 19 vehicle trips on an average weekday, with half entering and half exiting during a 24-hour period. Maintenance and operations professionals will visit the site as needed for inspections and maintenance activities. In some circumstances, these visits may occur up to seven days a week, while in other circumstances, the visits will be less frequent. The temporary visits for inspections and maintenance activities will last for a duration to be determined by the maintenance and operations professionals. The applicant has indicated that these employees will not be on-site full-time.

The applicant has expressed an interest in placing a structure in the future for their employees working on-site, but this will only be allowed if it can meet Arapahoe County's building code. Another review by County staff could be required.

The project will also include a review of a minor subdivision plat application (PM23-001) and, if approved, the applicant has applied for a development agreement (DA24-003) to vest those approvals for a period of seven years, which will be considered in a separate proceeding.

## **BACKGROUND**

The parcel is an undeveloped agricultural property that is currently dryland-farmed.

To the north of the subject site 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 located in Section 7 which allows retail warehouse/distribution, flex, and utility services.

This application is being reviewed by the Regulations Governing Areas and Activities of State Interest – 1041 Regulations as a Major Electrical Facilities of a Private Company and by a Use by Special Review application as per Section 5-3.4 of the Land Development Code.

#### **ANALYSIS OF THE USE BY SPECIAL REVIEW APPLICATION**

Staff review of this application included a comparison of the proposal to: 1) applicable policies and goals outlined in the Comprehensive Plan; 2) Use by Special Review Regulations in the Land Development Code; 3) 1041 Regulations Governing Areas and Activities of State Interest; and, 4) analysis of referral comments.

##### **1. The Comprehensive Plan**

The subject property is within Section 7 of the Lowry Trust Fund properties and governed by the goals, policies, and recommendations identified in the Lowry Trust Master Plan. The proposed subdivision into a 19.10-acre parcel and proposed use as a battery storage facility are in conformance with the Plan's goals for Section 7 which identifies the property's use as utility services.

This proposal complies with the Comprehensive Plan as follows:

The Comprehensive Plan calls for supporting “the use of alternative energy . . .” in order to foster “a safe and resilient natural and built environment” (see Comp. Plan at p. 13).

##### *Policy GM 1.2 – Encourage Infill Development and Redevelopment.*

The proposed application is located in a designated growth area and is considered “infill” development.

##### *Policy GM 3.1 – Direct Future Development to Areas with Low Risks from Natural and Man-made Hazards*

The subject property is outside the 100-year floodplains of Murphy Creek and East Toll Gate Creek. The site is within an airport influence area for Lowry Space Force Base and the applicant is to provide the County with an avigation and hazard easement prior to final approval of the USR/1041. This has been set as a condition of approval.

*GOAL PFS 6 – Ensure the Adequacy of Electric, Natural Gas, Telephone, Cable, and Internet in Existing and New Development*

The proposal can be served by Xcel Energy. No other services are proposed at this time since employees servicing the facility will not be there full-time. The applicant has indicated that in the future they may wish to place a structure on-site for their employees. This structure would have to meet Arapahoe County building codes and may require another review by County staff.

*GOAL PFS 7 – Ensure Existing and New Development have Adequate Police and Fire Protection Utilities in Existing and New Development*

The Arapahoe County Sheriff's Office and Sable Altura Fire District will serve the property. The Sheriff's Office had no comments, and the fire district is working with the applicant and has no concerns. The fire district also provided staff with a "will serve" letter.

*Policy NCR 6.2 – Encourage the Development and Use of Alternative Energy Sources*

The applicant is proposing a battery storage facility that will assist in storing electricity and providing power back into the electric grid when it's needed.

*Strategy PFS 6.1(a) – Continue Collaboration with Utility Companies*

This facility proposes the installation of new or upgraded electrical equipment to serve existing or proposed development.

*Strategy PFS 6.1(c) – Provide Alternative Energy Access*

The facility is to provide new development and redevelopment energy from solar, wind, and other alternative energy sources.

*Policy NCR 6.2 – Encourage the Development of Solar Energy Facilities*

The battery storage facility promotes alternative energy (solar, wind, etc.) by being able to store the energy for these industries.

*Policy EH 1.2 - Encourage Environmentally Friendly Businesses and Jobs in Arapahoe County*

The proposed project will provide an alternative energy source for Arapahoe County. Having more environmentally friendly facilities in the County may encourage other businesses to the area.

*Policy PFS 12.3 - Require Land Use Compatibility when Siting Local and Regional Utility Facilities*

The proposed location of the battery facility next to a regional transmission-scale electrical substation optimizes its function and minimizes its visual impact.

2. Land Development Code Review

Section 5-3.4 of the Land Development Code allows Use by Special Review to be approved if the proposal meets all of the following criteria:

- A. *Recognize the limitations of existing and planned infrastructure, by thoroughly examining the availability and capability of water, sewer, drainage, and transportation systems to serve present and future land uses.*

Water and Sewer: The battery storage facility is unmanned and is not proposing water or sanitary sewer services.

Drainage: No drainage issues are present on-site.

Transportation: Access to the facility is from S. Harvest Road. Visits to the site will be conducted by the operator's personnel.

- B. *Assure compatibility between the proposed development, surrounding land uses, and the natural environment.*

The proposed land use is compatible with the surrounding uses in the area such as the Harvest Mile Substation to the south and industrial uses to the north (Lowry Landfill and future Waste Management recycling and processing facility). The Arapahoe County Fairgrounds is located to the east of the site but is separated from the proposed facility by a road and open space.

Since the facility is at a lower elevation than the Arapahoe County Fairgrounds, placement of trees along Harvest Road would be ineffective. After discussions with Open Spaces, it was decided and agreed upon by the applicant and the County that a better solution to screen the facility from the fairgrounds would be to place the landscaping on the fairground's property. The applicant and Open Spaces agreed to \$50,000 to install this landscaping.

The Tollgate Crossing subdivision is situated south of the facility. This subdivision is approximately 1,400 feet from the battery facility and is buffered by the Harvest Mile Substation.

The Colorado Parks and Wildlife made the following comments.

1. Raptor survey if disturbance to occur between February 15<sup>th</sup> and August 31<sup>st</sup>, recommends surveys for tree, shrub, and ground-nesting raptors and songbirds. If an active raptor nest is observed, appropriate buffers should be maintained until the young are no longer dependent on the nest.

2. A burrowing owl survey be conducted if earthmoving is to occur between March 15<sup>th</sup> and August 31<sup>st</sup>.
3. Recommend a weed management plan.
4. Any security lighting be designed to minimize light pollution and dark sky initiatives.

The applicant has provided a wildlife study and a weed management plan and is proposing shielded downward-directed lighting. If this project is approved, the facility may not be built for seven years. Therefore, another wildlife study will be required to ensure wildlife is not impacted before site disturbance occurs. A condition of approval has been set to address this situation.

- C. *Allow for the efficient and adequate provision of public services. Applicable public services include, but are not limited to, police, fire, schools, parks, and libraries.*

The development can be served by the applicable public services, including the Sable Altura Fire District and the Arapahoe County Sheriff's Office.

- D. *Enhance convenience for the present and future residents of Arapahoe County by ensuring that appropriate supporting activities, such as employment, housing, leisure time, and retail centers are in close proximity to one another.*

This development will provide electricity to Arapahoe County and other cities' residents and businesses.

- E. *Ensure that public health and safety is adequately protected against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.*

There are no known man-made hazards on the property. The parcel is not within the 100-year floodplain but is within the airport influence area. The applicant is to provide the County with an avigation and hazard easement before the final signature of the plan set. A condition of approval has been set requiring this.

- F. *Provide for accessibility within the proposed development, and between the development and existing adjacent uses. Adequate on-site interior traffic circulation, public transit, pedestrian avenues, parking and thoroughfare connections are all factors to be examined when determining the accessibility of a site.*

The proposed facility is accessed from S. Harvest Road through an access easement and 25-foot-wide drives within the site's fenced area provide internal circulation.

- G. *Minimize disruption to existing physiographic features, including vegetation, streams, lakes, soil types, and other relevant topographical elements.*

The existing property is vacant and stabilized with grasses and perennials. There are no wetlands, streams, lakes, or topographic features on the property.

As per the geotechnical report, the site contains lean clays and clayey sands which can expand when wet. The applicant will need to account for this when designing and building the facility.

- H. *Ensure that the amenities provided adequately enhance the quality of life in the area, by creating a comfortable and aesthetically enjoyable environment through conventions such as, the preservation of mountain views, the creation of landscaped open areas, and the establishment of recreational activities.*

It is not anticipated that the quality of life of the surrounding area will be impacted due to the distance of surrounding uses from the facility. The Tollgate Crossing neighborhood to the south of the facility is buffered by the substation and open space.

To assist in mitigating the views of the facility from Arapahoe County Fairgrounds, the applicant is proposing to provide the Open Spaces Division with money (\$50,000) to purchase trees and shrubs to be strategically placed on their property to assist in screening the battery storage facility. This option was proposed since the facility is located at a lower elevation and placement of trees along S. Harvest Road wouldn't be effective in screening the facility. Also, added vegetation to the site would add to the fire risk of the facility.

- I. *Enhance the useable open spaces in Arapahoe County and provide sufficient unobstructed open space and recreational area to accommodate a project's residents and employees.*

There is open space surrounding the facility which will serve as a buffer. No recreational uses are proposed on the parcel.

3. 1041 Regulations Governing Areas and Activities of State Interest

The 1041 Permit approval criteria for Major Electrical Facilities of a Private Company shall comply with the criteria set forth in the 1041 Regulations, Section V, Parts A and C.

A. General Approval Criteria

- 1) *Documentation that prior to site disturbance associated with the Proposed Project, the applicant can and will obtain all necessary property rights, permits, and approvals. The Applicant is the contract purchaser of the subject property and is pursuing this application with the consent of the property owner. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits, and approvals are obtained.*

The applicant is the contract purchaser of the subject property and is pursuing this application with the consent of the property owner. No site disturbance will occur until after the applicant purchases the subject property. All required permits for the work will be obtained by the applicant or its contractors prior to site disturbance.

After the USR/1041, minor subdivision plat, and development agreement applications are approved, the applicant will respond to an anticipated request for proposals (RFP) from Xcel Energy to develop the battery energy storage system and connect it to the Harvest Mile Substation. The RFP process is a state-mandated process that governs

how Xcel's clean energy plan is implemented. As the RFP progresses, subsequent negotiations regarding interconnection to the power grid, and subsequent acquisition and installation of batteries and equipment may take many years. Therefore, this application is accompanied by a development agreement application for a seven-year vested rights period.

2) *The Project considers the relevant provisions of the regional water quality plans.*

A detention pond will be constructed within the project boundary with an outfall that is piped under S. Harvest Road and released at the historic flow rate to the Murphy Creek drainageway in accordance with the County's regulations.

3) *The applicant has the necessary expertise and financial capability to develop and operate the Proposed Project consistent with all requirements and conditions.*

Plus Power, the parent company of Front Range Energy Storage, LLC, has extensive experience developing and operating battery storage facilities throughout the United States. At the time of this application, Plus Power has seven operating facilities across the country, which demonstrates its extensive experience in building and operating such facilities. Plus Power has raised approximately two billion in capital markets for battery storage facility projects since October 2023. Plus Power's capital partners have included Morgan Stanley, CoBank, Greenprint Capital Management, First Citizens Bank, Nord LB, Investec, and Siemens Financial Services.

As to the proposed facility, although capital partners have not been specifically identified yet, the applicant has provided a letter from CoBank (see Appendix G) that states in pertinent part that CoBank "has extensive experience financing renewable energy and energy storage projects in the United States and has participated in the debt financings for three projects developed and owned by Plus Power in the United States. Based on our familiarity with the operations and financial performance of Plus Power, CoBank is highly interested in providing senior debt financing to Plus Power for the Project."

4) *The project is technically and financially feasible.*

Plus Power, the parent company of Front Range Energy Storage, LLC, has experience developing and operating battery storage facilities throughout the United States, including:

- The Sierra Estrella Energy Storage facility, a 250 MW / 1,000 MWh BESS in Avondale, Arizona.
- The Rodeo Ranch Energy Storage facility, a 300 MW / 600 MWh BESS in Pecos, Texas.
- The Kapolei Energy Storage facility, a 185 MW / 565 MWh BESS in Honolulu, Hawaii.
- The Anemoi Energy Storage facility, a 200 MW / 400 MWh BESS in Edinburg, Texas.



- The Ebony Energy Storage facility, a 200 MW / 400 MWh BESS in San Antonio, Texas.
- The Gambit Energy Storage facility, a 100 MW / 175 MWh BESS in Angleton, Texas.
- The Superstition Energy Storage facility, a 90 MW / 360 MWh, in Gilbert, Arizona.

The financial feasibility of the proposed facility is demonstrated by the letter from CoBank (see Appendix G).

5) *The Proposed Project is not subject to significant risk from natural hazards.*

There are no known significant risks from natural hazards on the property. The site is not within the 100-year floodplain and does not have topography constraints.

6) *The Proposed Project is in general conformity with the applicable comprehensive plans.*

See Section 1. The Comprehensive Plan of this report.

7) *The Proposed Project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.*

The proposed facility will not require any local government services beyond those currently provided to the area.

- Once in operation, it will place no perceptible additional demands upon transportation infrastructure. The proposed facility is projected to generate about 19 vehicle trips on the average weekday (with the assumption of five potential employees' overtime) with about half entering and half exiting the site during a 24-hour period, the equivalent of about two single-family detached homes.
- It does not create any demand for educational facilities, housing, water supply, wastewater treatment, or public transportation.
- The Sable Altura Fire District has not expressed concerns about the safety of the proposed facility and has provided the County with a "will serve" letter. The applicant is working closely with the fire district to ensure that they have all of the necessary information and training to provide an appropriate response in the event of an emergency.
- A large number of concrete truck deliveries will be necessary during foundation and pile construction. To minimize the impacts on adjacent streets, there will be an on-site staging area where vehicles will park and delivered materials will be unloaded. In accordance with applicable requirements, a Traffic Control Plan will be prepared and followed to mitigate any potential impacts from this initial construction-related traffic.

8) *The Proposed Project will not create an undue financial burden on existing or future residents of the County.*

The proposed facility will not create an undue financial burden on existing or future residents of the County because:

- The proposed facility will help Colorado reach its greenhouse gas reduction targets, which are aimed at slowing climate change and reducing associated severe weather events.
- The proposed facility may help prevent potentially costly blackouts and brownouts.
- The proposed facility may help attract industries that are seeking to reduce their carbon footprints or improve their access to reliable electricity, promoting regional economic growth and diversification.
- The proposed facility has the potential to slow the rate of growth of electricity rates by enhancing grid stability, reducing transmission congestion, and improving the practicality of renewable power generation.
- The proposed facility will be connected to the power grid only after the project is selected by Xcel after a state-mandated competitive bid process that is monitored and audited by the Public Utilities Commission.
- The proposed Decommissioning Plan proposes, that when the facility reaches the end of its useful life, it will be dismantled and removed at the applicant's expense, and its components will be recycled.

9) *The Proposed Project will not significantly degrade any substantial sector of the local economy.*

The proposed facility will enhance the local economy by improving the reliability of the power grid, facilitating the transition to reliable renewable power, and making the County more attractive to companies that are working to reduce their carbon footprints or improve their access to reliable electricity.

10) *The Proposed Project will not unduly degrade the quality or quantity of recreational opportunities and experience.*

The proposed facility will contribute to statewide efforts to reduce fossil fuel emissions (from power generation, and to the extent the transportation sector continues to electrify, from the transportation sector), which may provide an indirect benefit for outdoor recreation.

11) *The planning, design, and operation of the Proposed Project will reflect principles of resource conservation, energy efficiency, and recycling or reuse.*

The subject site is located adjacent to the existing Harvest Mile Substation, such that impacts to the surrounding area are minimized, and the wired connections between the facility and the electrical grid (by way of Harvest Mile Substation) are short. The proposed facility will improve energy efficiency in Colorado by reducing electricity waste that can result from transmission congestion and will reduce carbon emissions and other air pollutants by facilitating the state-mandated transition from fossil-fuel-generated electricity to renewable energy sources. Excess electricity in the transmission grid will be stored for use when it is needed.

During construction, unused materials will be recycled to the extent practicable. Batteries that reach the end of their useful life will be transported and recycled in accordance with industry standards and applicable regulations at the time they are removed from the facility. See Decommissioning Plan, Appendix H.

12) *The Proposed Project will not significantly degrade the environment.*

a. *Air quality.*

The proposed facility will be emission-free and will have no direct impacts on air quality. To the extent the proposed facility supports the development of renewable power resources (principally solar and wind), it will reduce emissions related to power generation elsewhere in Colorado and implement Xcel's state-approved clean energy plan. During construction, dust control measures will be taken to prevent dust from becoming airborne.

b. *Visual quality.*

The proposed facility will be adjacent to the existing Harvest Mile Substation, and due to the topography of the existing ground, the finished site pad will be cut down into the existing slope so that it is somewhat below the existing grade. The equipment will be housed in light-colored enclosures (white is most often used so heat is not absorbed), which will provide a clean and well-organized appearance.

The proposed equipment to connect the facility to the Harvest Mile Substation will be located more than 400 feet west of S. Harvest Road, and the battery enclosures more than 650 feet west of S. Harvest Road. Due to distance, topography, and context, the facility will be visually de-emphasized from the travel lanes from S. Harvest Road. The applicant is providing money for landscaping on the Arapahoe County Fair Grounds property to assist in screening views of the facility from this property. The facility is setback approximately 600 feet from E. Quincy Avenue providing a buffer from those traveling along this road.

The facility will not produce smog and will improve and facilitate the electrification of fossil fuel uses.

c. *Surface water quality.*

A detention pond is proposed on the subject site. The Grading Erosion Sediment Control Plan will be implemented during construction to maintain water quality and sediment control.

*d. Groundwater quality.*

Groundwater was not encountered during the geotechnical borings to a depth of 25 feet and the shallow footings and foundations for the equipment are not anticipated to impact groundwater. No water use is proposed for this facility.

*e. Wetlands, flood plains, streambed meander limits, recharging areas, and riparian areas.*

There are no wetlands, streams, recharging, or riparian areas on the subject site. The subject property is out of the 100-year floodplain.

*f. Terrestrial and aquatic animal life.*

The wildlife study indicates that there are no suitable shrubs or trees for tree-associated bird nesting or wetlands. No prairie dogs were located on-site eliminating the presence of burrowing owls. The property does not contain habitat for aquatic species. However, the proposed facility may not be built for several years therefore, another study addressing wildlife on the property will need to be conducted prior to site disturbance. This has been made a condition of approval.

*g. Terrestrial and aquatic plant life.*

The subject property is located on an open dry-land agricultural parcel and was evaluated for the potential presence of special-status plants (Ute's ladies' tresses and Western prairie fringed orchid). A site survey was conducted by the applicant's consultant and neither of these species were found on the property. No U.S. Fish and Wildlife Service-designated critical habitats or state-protected plant species were found on the property.

*h. Soils and geologic conditions.*

The proposed facility will not significantly change the existing topography, geology, or drainage within the property or surrounding area.

*13) The Proposed Project will not cause a nuisance.*

The proposed location of the facility was selected based on adjacency to the existing Harvest Mile Substation.

- Traffic: The facility will generate essentially imperceptible traffic, and that traffic will not conflict with existing traffic movements.
- Lighting: Lighting of the facility will be provided using shielded fixtures that comply with Arapahoe County illumination standards.
- Noise: The applicant commissioned a noise study for the proposed facility, see Appendix I. The noise produced by the equipment used in the facility is anticipated to operate between 45 and 60 db(A) at property lines. This means that the facility is well under the maximum permissible noise level for "industrial use"

under C.R.S. § 25-12-103 (“Noise Statute”), which is the applicable noise standard. As per state statute, the industrial noise levels are 80 db(A) from 7:00 a.m. to 7:00 p.m. and 75 db(A) from 7:00 p.m. to the next 7:00 a.m.

- 14) *The Proposed Project will not significantly degrade areas of paleontological, historic, or archaeological importance.*

The applicant has conducted a records search, and no cultural resources or prehistoric finds have been previously identified on the site.

- 15) *The Proposed Project will not result in an unreasonable risk of releases of hazardous materials.*

- a. *Plans for compliance with federal and State handling, storage, disposal, and transportation requirements.*
- b. *Use of waste minimization techniques.*
- c. *Use of waste minimization techniques.*

No hazardous or dangerous materials will be stored or released as a result of the development or operation of the facility. The existing underground pipelines and the soils over them (located to the west of the facility) will be left undisturbed. During construction, appropriate measures will be taken to control or contain any spills, and in the unlikely event of a spill, the appropriate steps will be followed in accordance with federal, state, and local requirements.

- 16) *The benefits accruing to the County and its citizens from the proposed activity outweigh the losses of any resources within the County or the losses of opportunities to develop such resources.*

The proposed facility may help Xcel Energy achieve state-mandated targets for greenhouse gas reduction and conversion from fossil fuel generation to clean renewable power. Adequate energy storage can assist in reaching these goals which will benefit everyone.

Developing the site as a battery storage facility aligns with the Lowry Trust Master Plan.

- 17) *The Proposed Project is the best alternative available based on consideration of need, existing technology, cost, impact, and these regulations.*

The proposed location for the facility is optimal due to its adjacency to the existing Harvest Mile Substation, and the need to interconnect with the electrical grid via a wired connection to a transmission-scale substation. The proposed location minimizes both costs and potential land use conflicts. The location on the north side of the Harvest Mile Substation places the facility away from residences and is an ideal use of land located between a large existing substation (which is connected to a major transmission corridor that is slated for improvements as part of the Colorado Power Pathway) and a large landfill. Additional distance between the facility and the

Harvest Mile Substation would increase impacts and costs related to the project, including for example, by necessitating the construction of new, longer transmission lines for the interconnection (a visual, cost, and maintenance impact), and the need for acquisition of associated rights-of-way.

- 18) *The Proposed Project will not unduly degrade the quality or quantity of agricultural activities.*

The subject site has historically been used for dryland farming. However, given that the property is situated between an electrical substation and a major landfill, and the growth occurring in the area, farming isn't the best and highest use of the land.

- 19) *Cultural Resources. The Proposed Project will not significantly interfere with the preservation of cultural resources, including historical structures and sites, agricultural resources, the rural lifestyle, and the opportunity for solitude in the natural environment.*

Based on the records search, and as summarized in response 14, no cultural resources have been identified on the subject property. The applicant proposes to provide funding for landscaping materials for the Fairgrounds to assist in screening the facility from this location.

The immediate area within which the facility is proposed is nonresidential, and the broader context is an area of rapid growth that no longer provides a true "rural lifestyle." The facility is fenced, not particularly scenic (due to its proximity to a large transmission scale substation, a major limited access highway (E-470), and a major landfill), and not physically accessible to the public.

- 20) *Land Use. The Proposed Project will not cause significant degradation of land use patterns in the area around the Proposed Project.*

The proposed facility fits with the land use pattern of the area in which it is proposed. It is strategically located adjacent to a transmission-scale substation to which it will be connected and is south of a major landfill.

- 21) *Compliance with Regulations and Fees. The applicant has complied with all applicable provisions of these regulations and has paid all applicable fees.*

The applicant has complied with all applicable provisions of the USR/1041 and has paid all applicable fees.

#### C. Additional Criteria Applicable to Major Facilities of a Public Utility

1. *Areas around major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the public utility.*

Staff is not aware of any areas around the proposed facility that are planned to be administered in a way that will cause disruption of the electric services that will be

provided by the facility. Staff is also not aware of any permissible land uses in the undeveloped areas to the north and west of the proposed facility that could disrupt the facility's service.

2. *Areas around major facilities of a public utility shall be administered so as to preserve desirable existing community and rural patterns.*

The proposed facility is a use that fits the land use pattern of the area and its location adjacent to the Harvest Mile Substation allows for easy connection. The facility is also south of a major landfill and property that is the subject of environmental monitoring, which may ultimately be developed for appropriate nonresidential purposes.

The immediate area within which the facility is located is zoned A-1 but as per the Lowry Trust Master Plan, nonresidential uses are only allowed due to contamination concerns due to the Lowry landfill. The area around the E-470 corridor has been growing rapidly, such that it no longer offers the rural lifestyle or development context that it once had.

3. *Where feasible, major facilities of a public utility shall be located so as to avoid direct conflict with adopted local comprehensive, State and regional master plans.*

The proposed facility implements key planning priorities articulated by the County in its Comprehensive Plan. The proposed facility will also advance Xcel's PUC-approved Electric Resource Plan and Clean Energy Plan.

State policies such as House Bill 19-1261 set economy-wide emission reduction goals (reduce greenhouse gases by least 50% by 2030 and 90% by 2050); Senate Bill 19-236 established guidance for Investor-Owned Utilities to achieve the stated goals of mandatory CO2 reduction over 2005 levels by 2030, and 100 percent clean energy by 2050 "so long as doing so is technically and economically feasible and in the public interest."

The proposed facility is an appropriate use of land within the Lowry Superfund Site buffer land in which it is situated. The proposed facility appears to implement the adopted plans as set out above and is not in conflict with any other adopted state, regional, or local master or comprehensive plans that would apply to the subject property.

4. *Where feasible, major facilities of a public utility shall be located so as to minimize dedication of new right-of-way and construction of additional infrastructure (e.g., gas pipelines, roads, and distribution lines).*

The proposed facility will be helpful to the electrical infrastructure in the County and has been located adjacent to the existing Harvest Mile Substation to minimize the need for the acquisition of new right-of-way and construction of additional infrastructure, including large power lines that are necessary to connect the facility to the electrical grid.

4. Referral Comments

Comments received during the referral process are summarized in the chart attached to this report. Any late responses will be conveyed verbally at the public hearing. No public comments were received for this application.

5. Neighborhood Meetings and Outreach

As part of the original application, it was required to send out public outreach materials to inform the surrounding properties of the proposed battery storage facility. A neighborhood meeting was held on February 23, 2023. One person from the public attended the meeting and he felt the new facility would be an asset to the community. The applicant also stated that they had several people reach out to them and the dialogue was positive.

Staff believes the applicant has adequately fulfilled the requirement of neighborhood outreach.

**STAFF FINDINGS**

Staff has visited the site, and reviewed the plans, supporting documentation, referral comments, and public input in response to this application. Based upon the review of applicable policies and goals in the Comprehensive Plan, review of the development regulations, and analysis of referral comments, our findings include:

1. The proposed UASI23-001, Front Range Energy Storage - Use by Special Review/1041, generally conforms to the Arapahoe County Comprehensive Plan.
2. The proposed UASI23-001, Front Range Energy Storage - Use by Special Review/1041, complies with the General Submittal Requirements contained in Section 2-4 of the Arapahoe County Development Application Manual and Section III, Parts C and E of the Regulations Governing Areas and Activities of State Interest in Arapahoe County - 1041 Regulations.
3. The proposed UASI23-001, Front Range Energy Storage - Use by Special Review/1041, complies with the approval criteria in Section V, Parts A and C of the Regulations Governing Areas and Activities of State Interest in Arapahoe County - 1041 Regulations.
4. The proposed UASI23-001, Front Range Energy Storage - Use by Special Review/1041, meets the Arapahoe County Land Development Code, including those stated in Section 5-3.4.

**STAFF RECOMMENDATION**

Considering the findings and other information provided herein, staff recommends approval of Case No. UASI23-001, Front Range Energy Storage - Use by Special Review/1041, subject to the following conditions of approval:



1. Prior to the signature of the final copy of these plans, the applicant must address Public Works and Development staff's comments and concerns.
2. Prior to the signature of the final copy of these plans, the applicant shall provide an avigation and hazard easement.
3. If site disturbance is to occur between February 15 and August 31, a nesting raptor study shall be conducted. If an active raptor nest is observed, appropriate buffers should be maintained until the young are no longer dependent on the nest. Contact the Colorado Parks and Wildlife (303) 291-7227 and Arapahoe County Planning Division if raptors are present.
4. If there are prairie dogs present on the subject site when earthmoving occurs between March 15<sup>th</sup> and August 31<sup>st</sup>, a burrowing owl survey shall be conducted. Contact the Colorado Parks and Wildlife (303) 291-7227 and Arapahoe County Planning Division if burrowing owls are present.
5. The Decommissioning Plan Agreement shall be signed and bonded before the issuance of a Certificate of Completion by the County. The Decommissioning Plan cost estimate shall be reviewed every five years by the Planning and Building Divisions commencing from the year of the issuance of the Certificate of Completion. This cost estimate shall be submitted by December 31st every five years.
6. The Minor Subdivision Plat shall be approved and recorded before the signing of the final copy of the Use by Special Review final plans.
7. The applicant shall make a one-time payment to the County of \$50,000.00 for the purchase and installation of landscaping for a buffer at the Arapahoe County Fairgrounds. This payment shall be made at the time of issuance of the first building permit for the installation of foundations or vertical improvements on the subject property. The amount of the one-time payment shall be adjusted upward for inflation annually following the date of approval of Case No. UASI23-001 – Front Range Energy Storage - Use by Special Review/1041, until paid by an amount equal to the annual cost of living increase from the Denver-Aurora-Lakewood consumer price index, cost of living.

### **CONCURRENCE**

The Public Works and Development Planning and Engineering Services Divisions have reviewed the application, and the Arapahoe County Public Works and Development Department is recommending approval of this case.

The Planning Commission has alternatives that include the following:

1. Approve the proposed Use by Special Review/1041.
2. Continue to a date certain for more information.
3. Deny the proposed Use by Special Review/1041.

## **PLANNING COMMISSION DRAFT MOTIONS -UASI23-001, FRONT RANGE ENERGY STORAGE**

### **Conditional Recommendation to Approve**

In the case of UASI23-001, Front Range Energy Use by Special Review/1041, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any 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 must address Public Works and Development staff's comments and concerns.
2. Prior to the signature of the final copy of these plans, the applicant shall provide an avigation and hazard easement.
3. If site disturbance is to occur between February 15 and August 31, a nesting raptor study shall be conducted. If an active raptor nest is observed, appropriate buffers should be maintained until the young are no longer dependent on the nest. Contact the Colorado Parks and Wildlife (303) 291-7227 and Arapahoe County Planning Division if raptors are present.
4. If there are prairie dogs present on the subject site when earthmoving occurs between March 15<sup>th</sup> and August 31<sup>st</sup>, a burrowing owl survey shall be conducted. Contact the Colorado Parks and Wildlife (303) 291-7227 and Arapahoe County Planning Division if burrowing owls are present.
5. The Decommissioning Plan Agreement shall be signed and bonded before the issuance of a Certificate of Completion by the County. The Decommissioning Plan cost estimate shall be reviewed every five years by the Planning and Building Divisions commencing from the year of the issuance of the Certificate of Completion. This cost estimate shall be submitted by December 31st every five years.
6. The Minor Subdivision Plat shall be approved and recorded before the signing of the final copy of the Use by Special Review final plans.
7. The applicant shall make a one-time payment to the County of \$50,000.00 for the purchase and installation of landscaping for a buffer at the Arapahoe County Fairgrounds. This payment shall be made at the time of issuance of the first building permit for the installation of foundations or vertical improvements on the subject property. The amount of the one-time payment shall be adjusted upward for inflation annually following the date of approval of Case No. UASI23-001 – Front Range Energy Storage - Use by Special Review/1041, until paid by an amount equal to the annual cost of living increase from the Denver-Aurora-Lakewood consumer price index, cost of living.

***Staff provides the following Draft Motions listed below as general guidance in preparing an alternative motion if the Planning Commission reaches a different determination:***

Recommendation to Deny

In the case of UASI23-001, Front Range Energy Storage Use by Special Review/1041, I have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the hearing and hereby move to recommend denial of this application based on the following findings:

1. State new findings in support of denial as part of the motion.

Continue to Date Certain

In the case UASI21-001, Front Range Energy Storage Use by Special Review/1041, I move to continue the hearing to [*date certain*], 6:30 p.m., to obtain additional information and to further consider the information presented.

Attachments:

Engineering Staff Report

Referral Comments and Applicant's Response

Approval Criteria

Exhibit