

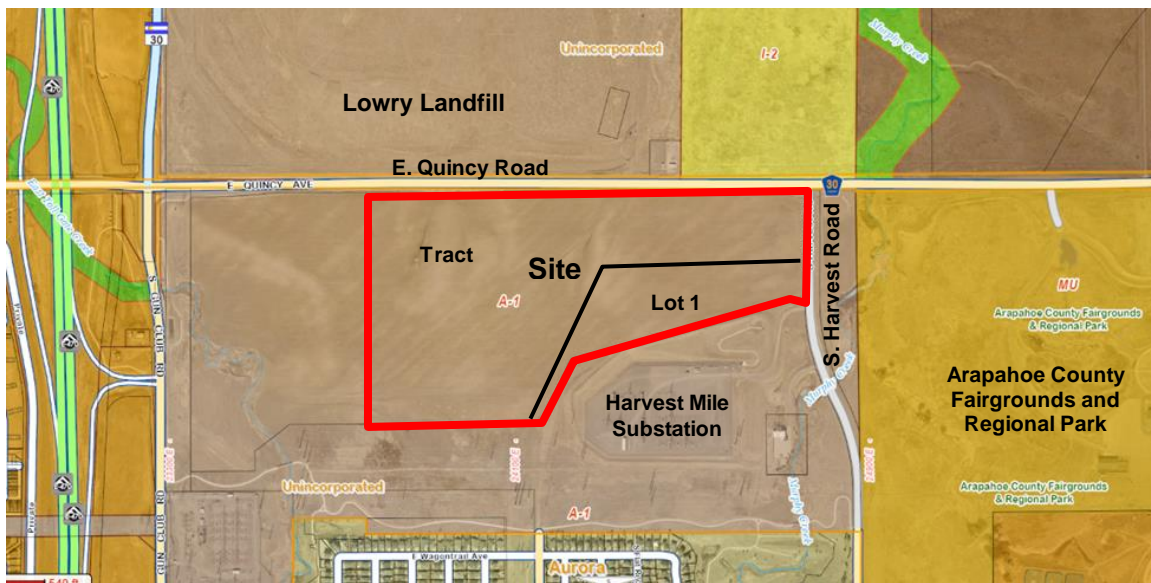
**ARAPAHOE COUNTY PLANNING COMMISSION**  
**PUBLIC HEARING**  
**April 15, 2025**  
**6:30 P.M.**

**SUBJECT: PM23-001 – LOWRY ENVIRONMENTAL PROTECTION CLEANUP TRUST FUND SUBDIVISION FILING NO. 1 / MINOR SUBDIVISION**

**MOLLY ORKILD-LARSON, PRINCIPAL PLANNER**

**LOCATION:**

The subject property is located at the southwest corner of E. Quincy Avenue and S. Harvest Road and is in Commissioner District No. 3. The property is zoned A-1.



Subject Property (show in red above)

**ADJACENT SUBDIVISIONS, ZONING, AND LAND USES**

- North - Lowry Landfill, zoned A-1, and future recycling and waste collection facility, zoned I-2.
- South - Harvest Mile Electrical 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 and Smoky Hill Substation, zoned A-1.

**PROPOSAL 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 102.75 acres. 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 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.

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**

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. The proposed land use associated with this subdivision request is in alignment with the Lowry Trust Master Plan in that it is a 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.

## **ANALYSIS OF THE MINOR SUBDIVISION APPLICATION**

Staff review of this application included a comparison of the proposal to: 1) applicable policies and goals outlined in the Comprehensive Plan; 2) Minor Subdivision Regulations; and, 3) 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 applicant is proposing to develop Lot 1 of this plat with an unmanned battery storage facility. This 19.10-acre parcel is in conformance with the Plan's goals for Section 7, which identifies the property's use as utility services.

This proposal also complies with the Comprehensive Plan as follows:

*GOAL PSF 1 – Ensure an Adequate Water Supply in Terms of Quantity and Quality for Existing and Future Development*

No water service is proposed for Lot 1 since it's unmanned.

*Policy PFS 4.3 - Require Adequate Wastewater Treatment*

No sanitary sewer service is proposed for Lot 1 since it's unmanned.

*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.

*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 this development.

### **2. Land Development Code Review**

Section 5-6.6 of the Land Development Code states a Minor Subdivision is any subdivision that:

*A. Creates no more than four parcels.*

This application is proposing one lot and one tract.

*B. Does not require the extension of municipal/public facilities or the creation of significant public improvements as determined by the PWD Department.*

This development does not propose the extension of public facilities or the creation of significant public improvements.

*C. Fronts an existing street and does not involve any new streets.*

The subject property fronts two existing streets (E. Quincy Avenue and S. Harvest Road) and does not involve any new streets.

*D. Does not adversely affect the remainder of the parcel or adjoining property.*

This subdivision does not adversely affect the remainder of the parcel or adjoining property. The proposed battery facility is located adjacent to other industrial uses such as the Harvest Mile Substation and Lowry landfill parcels.

*E. Is not in conflict with any provisions of the Arapahoe County Comprehensive Plan, Zoning Resolution, or these regulations.*

This application is generally consistent with the Arapahoe County Comprehensive Plan, as stated earlier in this report.

A Minor Subdivision follows the Final Plat process, as outlined in Section 5-6.3 of the Land Development Code. A Minor Subdivision may be approved upon the finding by the Board that the application meets the following criteria:

*A. The Applicant has provided evidence that provision has been made for a public water supply system, and if other methods of water supply are proposed, adequate evidence that a water supply is sufficient in terms of quantity, quality and dependability for the type of subdivision proposed [Section 30-28-133(6)(a) C.R.S.].*

No water service is proposed for Lot 1 since it's unmanned.

*B. The Applicant has provided evidence that provision has been made for a public sewage disposal system, and, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with State and local laws and regulations [Section 30-28-133(6)(b) C.R.S.].*

No sanitary sewer service is proposed for Lot 1 since it's unmanned.

*C. The Applicant has provided evidence to show that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions. [Section 30-28-133 (6) (c) C.R.S.]*

The property does not have any soil or topographic conditions on-site that will create a hazard.

- D. The application is in compliance with all applicable zoning regulations governing the property as adopted by the Board of County Commissioners.*

The proposed application complies with the zoning regulations. The minimum lot size is met.

- E. The application is in compliance with the Mineral Resource Areas in the Regulations for Areas of Special Interest as adopted in the Arapahoe County Zoning Regulations.*

The subject parcel is not located within a mineral resource area as per the Mineral Resource Map (Map B-8).

- F. For property zoned for residential uses, written evidence must be presented to show that the applicable school district can adequately serve the student population expected to be generated from the development. The Board may deny a subdivision request for which the evidence shows that the applicable school district cannot adequately serve the student population generated by the development.*

The property is not zoned for residential uses, is not proposed for residential uses, and will not generate any students that would add to the student population in the school district.

### 3. 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.

### **STAFF FINDINGS**

Staff has visited the site and reviewed the plans, supporting documentation, and referral comments in response to this application. Based on the review of applicable policies and goals, as set forth in the Comp Plan, review of the subdivision regulations, and analysis of referral comments, our findings include:

1. The proposed Minor Subdivision generally complies with the Arapahoe County Comprehensive Plan.
2. The proposed Minor Subdivision complies with the Approval Standards contained in Section 5-6.3, enumerated in the Arapahoe County Land Development Code.
3. The proposed Minor Subdivision complies with the Intent Requirements contained in Section 5-6.6, enumerated in the Arapahoe County Land Development Code.

### **STAFF RECOMMENDATION**

Considering the findings and other information provided herein, the staff recommends approval of Case No. PM23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 / Minor Subdivision, with the following conditions of approval:

1. Prior to 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.

### **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.

### **PLANNING COMMISSION DRAFT MOTIONS**

#### **Conditional Recommendation to Approve**

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.
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.

#### **Recommendation to Deny**

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 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 of PM23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 / Minor Subdivision, I move to continue the hearing to [*date certain*], 6:30 p.m., to obtain additional information and to further consider the information presented.

Engineering Staff Report  
Application Materials  
Referral Comments/Applicant's Responses  
Exhibit