



Arapahoe County

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Board Summary Report

File #: 25-253

Agenda Date: 5/13/2025

Agenda #: 7.b.

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:

UASI23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 - Use by Special Review/1041

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 Use by Special Review (USR) and 1041 (Areas and Activities of State Interest) application on a 19.10-acre parcel located at the southwest corner of E. Quincy Avenue and S. Harvest Road to build a battery energy storage facility 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 for security and safety.

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 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 located in Section 7, which allows retail, warehouse/distribution, flex, and utility services. The proposed land use associated with this application 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 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. Please refer to the attached Planning Commission staff report, which explains the application's compliance with the review criteria for both a Use by Special Review as well as a 1041 application.

The Planning Commission held a public hearing regarding this application on December 17, 2024. They recommended approval of the proposed battery storage facility on a 6-1 vote. The dissenting commissioner asked several questions about managing electrical fires but did not state his reason for not recommending approval. One member of the public, representing the Lowry Trust, spoke in favor of the project. Please see the attached Planning Commission Minutes from the December 17, 2024, 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 Use by Special Review/1041 with Conditions of Approval as recommended by staff or with changes.
2. Continue to a date certain for more information.
3. Deny the Use by Special Review/1041.

Alignment with Strategic Plan:

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

Staff Recommendation: Considering the findings and other information provided herein, staff recommends approval of Case No. UASI23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 - 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 the Arapahoe County Planning Division if raptors are present.
4. If there are prairie dogs present on the subject site when earthmoving occurs between March 15th and August 31st, a burrowing owl survey shall be conducted. Contact the Colorado Parks and Wildlife (303) 291-7227 and the 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 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 Use by Special Review/1041 on a 6-1 vote, at their December 17, 2024, public hearing.