

RESOLUTION NO. _____ It was moved by Commissioner _____ and duly seconded by Commissioner _____ to adopt the following Resolution:

WHEREAS, an application has been made by Front Range Energy Storage, LLC (applicant) on behalf of the property owner, Lowry Environmental Protection Cleanup Trust Fund, for a Use by Special Review/1041 Major Amendment, Case No. UASI23-001, for certain property hereinafter described to-wit:

A parcel of land in the northeast quarter of Section 7, Township 5 South, Range 65 West of the 6th P.M., County of Arapahoe, State of Colorado.

and

WHEREAS, after public hearing on this matter, the Arapahoe County Planning Commission recommended that the application be approved subject to certain recommended conditions of approval; and

WHEREAS, following said Planning Commission hearing, public notice of hearing before the Board of County Commissioners for Arapahoe County, Colorado ("the Board") was made for a hearing on such proposed Use by Special Review/1041 by publication on April 24, 2025 in The Centennial Citizen, The Englewood Herald, and The Littleton Independent, newspapers of general circulation within Arapahoe County, by posting of said property, and by mail notification of adjacent property owners in accordance with the Arapahoe County Land Development Code; and

WHEREAS, pursuant to applicable law and the Arapahoe County Land Development Code, a public hearing was held as noticed before the Board at the Arapahoe County Administration Building, 5334 S. Prince St., Littleton, Colorado on the 13th day of May 2025 at 9:30 A.M., at which time evidence and testimony were presented to the Board concerning said Use by Special Review amendment request: and

WHEREAS, pursuant to the authority vested unto the Board by Article 28 of Title 30 and Article 20 of Title 29, C.R.S. as amended, the Board has concluded that the public health, safety, convenience, and general welfare, as well as, good zoning practice, justifies granting the request to amend the Use by Special Review/1041 for the above-described property, subject to the conditions precedent and/or stipulations as hereinafter delineated.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Arapahoe County as follows:

1. The Board of County Commissioners for Arapahoe County hereby grants and approves the application for Use by Special Review/1041, Case No. UASI23-001, Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 – Use by Special Review/1041 Major Amendment for the property described in this Resolution, subject to the stipulations and / or conditions precedent as hereinafter delineated.
2. Approval of this Use by Special Review is based upon the following understandings, agreements, and/or representations:
 - a) The applicant's assent and / or agreement to make all modifications to the final version of the documents that are necessary to conform the documents to the form and content requirements of the County in existence at the time the documents are submitted for signature.

- b) The representations, statements, and positions contained in the record that were made by or attributed to the applicant and its representatives, including all such statements contained in materials submitted to the Board by the applicant and County staff.
3. Approval of this Use by Special Review/1041 shall be and is subject to the following stipulations and / or conditions precedent, which the applicant has accepted and which the applicant is also deemed to accept by preparing a mylar for signature by the Chair of the Arapahoe County Board of County Commissioners within sixty (60) days of this date and by continuing with the development of the property:
- a) The applicant's compliance with the stipulations of the Arapahoe County Planning Commission as set forth in the record of its proceedings, except as modified in this Resolution.
 - b) The applicant's compliance with all conditions of approval recommended by the staff case managers in the written staff reports presented to the Board and any conditions stated by staff on the record.
 - c) The applicant's compliance with all additional conditions of approval stated by the Board, including:
 - 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 15th and August 31st, 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 – Lowry Environmental Protection Cleanup Trust Fund Subdivision Filing No. 1 – 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.

- d) The applicant's performance of all commitments and promises made by the applicant or its representatives and stated to The Board on the record or contained within the materials submitted to The Board.
- 4. Upon the applicant's completion of any and all changes to the revised Use by Special Review mylar as may be required by this Resolution, the Chair of the Board of County Commissioners is hereby authorized to sign same.
- 5. That the Zoning Map of Arapahoe County shall be and the same is hereby amended to conform to and reflect said change.
- 6. County planning, engineering, and legal staff are authorized to make any changes to the mylar form of the approved document as may be needed to conform the documents to the form and content requirements of the County in existence at the time the documents are submitted for signature, and to make such other changes that are expressly stated by staff before The Board, or are recommended by staff in the written staff reports, or are referred to by the movant Commissioner. No other deviation or variance from the form and content of the documents submitted for The Board's consideration are approved except to the extent stated in this Resolution.
- 7. The County Attorney, with the concurrence of the planning and / or engineering case managers, is authorized to make appropriate modifications to the Resolution and plan documents as needed to accurately reflect the matters presented to The Board and to record and clarify, as necessary, other aspects and ramifications of The Board's action.

The vote was:

Commissioner Baker, ____; Commissioner Campbell, ____; Commissioner Fields, ____; Commissioner Summey, ____; Commissioner Warren-Gully, ____.

The Chair declared the motion carried and so ordered.