

Findings

1.0 CEQA FINDINGS

- 1.1 Staff reviewed the project and found it exempt, without exception, from the California Environmental Quality Act (CEQA) pursuant to Section 15303, New Construction and Conversion of Small Structures. Class Three exemptions consist of the construction and location of limited numbers of new, small facilities or structures including, as stated in Section 15303(c), “A store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.” The amount of hazardous material anticipated for the proposed use would not be significant.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department, Planning Division, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 identifies that the purpose of the Commercial (C) land use designation is to provide a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County. Lands designated as C can be located in Community Regions, Rural Centers, and Rural Regions.

Rationale: Development of the battery storage facility is consistent with this policy as the use is allowed by approval of a Conditional Use Permit in the General Commercial (CG) zone district. The site is within the Pollock Pines Rural Center. The proposed project is compatible with the land use designation.

2.2 The project is consistent with General Plan Policy 2.2.5.2.

This policy requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Staff has prepared this section on General Plan findings to document the project’s consistency with the policies of the General Plan.

2.3 The project is consistent with General Plan Policy 2.2.5.21.

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: The southern portion of the project site is developed with a small commercial center. The adjoining properties on all sides includes a mix of commercial, residential, and industrially zoned properties. The project as proposed is consistent with Zoning Ordinance standards including setbacks, height, and density. Therefore, the project has been located and designed to be compatible with adjoining land uses.

2.4 General Plan Policy TC-Xa does not apply to the project.

(1) Traffic from residential development projects of five (5) or more units or parcels of land shall not result in, or worsen, Level of Service (LOS) F (gridlock, stop-and-go) traffic congestions during weekday, peak-hour periods on any highway, road, interchange, or intersection in the unincorporated areas of the county.

Rationale: The project will not create residential units; therefore, this policy does not apply.

(2) The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at LOS F without first getting the voter's approval.

Rationale: This is not applicable as the project is not requesting any modifications to Table TC-2.

(3) and (4). Intentionally blank as noted in the General Plan.

(5) The County shall not create an Infrastructure Financing District unless allowed by a 2/3rds majority vote of the people within that district.

Rationale: This is not applicable as the project is not requesting the County create an Infrastructure Financing District.

(6) Intentionally blank as noted in the General Plan.

(7) Before giving approval of any kind to a residential development project of five (5) or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

Rationale: This project will not result in five (5) or more units or parcels of land for residential development.

2.5 General Plan Policy TC-Xb does not apply to the project.

Policy TC-Xb ensures that potential development in the County does not exceed available roadway capacity.

Rationale: This policy is not applicable as this policy refers to the county preparing a Capital Improvement Program (CIP), preparing a Traffic Impact Mitigation (TIM) Fee Program, and monitoring traffic volumes.

2.6 General Plan Policy TC-Xc does not apply to the project.

Policy TC-Xc directs that developer paid Traffic Impact Fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development.

Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity.

2.7 The project is consistent with General Plan Policy TC-Xd.

LOS for County-maintained roads and State highways within the unincorporated areas of the County shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ratio specified in that table. LOS will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual.

Analysis periods shall be based on the professional judgement of the County's Department of Transportation (DOT) which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes."

Rationale: This project will not worsen LOS for any County-maintained road or State highway.

2.8 The project is consistent with General Plan Policy TC-Xe.

For the purposes of this Transportation and Circulation Element, "worsen" is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- (1) A two-percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily,
or

- (2) The addition of 100 or more daily trips, or
- (3) The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This project will not generate more than 10 trips in the peak hour, nor more than 100 daily trips. The thresholds in criteria A, B, and C have not been met. Therefore, this project will not worsen the LOS from the current baseline and is not subject to a traffic study. Therefore, the project is consistent with this condition.

2.9 **The project is consistent with General Plan Policy TC-Xf.**

At the time of approval of a tentative map for a single family residential subdivision of five (5) or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at ten-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County's ten-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element; or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Rationale: The project will not create residential units and will not worsen traffic on the County road system. Therefore, this policy does not apply.

2.10 **The project is consistent with General Plan Policy TC-Xg.**

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: Per DOT review, the project will not worsen traffic. Therefore, the project is consistent with this policy.

2.11 The project is consistent with General Plan Policy TC-Xh.

All subdivisions shall be conditioned to pay the Traffic Impact Fees in effect at the time a building permit is issued for any parcel created by the subdivision.

Rationale: This project would pay any necessary Traffic Impact Fees at the time a building permit is issued.

2.12 General Plan Policy TC-Xi does not apply to the project.

General Plan TC-Xi directs the County to coordinate and work with other agencies to plan for the widening of U.S. Highway 50.

Rationale: This policy is not applicable to the project as it is directed to the County to coordinate with other agencies.

2.13 The project is consistent with General Plan Policy 5.1.2.1

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utilities to be impacted by that development.

Rationale: The project does not propose to connect into El Dorado Irrigation District (EID) water and sewer services. EID water and sanitation is not required of this project as the facility is unmanned and on a site which includes water access. Therefore, the project is consistent with this policy.

2.14 The project is consistent with General Plan Policy 5.2.1.2.

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The project was reviewed by the El Dorado County Fire Protection District, and EID for adequate public services capacity. The proposed project would be developed on a site which includes existing water service adequate for the commercial uses of the site. The site does not need installation into EID facilities. Therefore, the project is consistent with this policy.

2.15 The project is consistent with General Plan Policy 5.7.1.1.

General Plan Policy 5.7.1.1 (Fire Protection in Community Regions) requires the applicant to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection would be provided concurrent with development.

Rationale: The El Dorado County Fire Protection District currently provides fire protection service to the project site. The El Dorado County Fire

Protection District has imposed Conditions of Approval to ensure proper fire safety standards and site access for fire protection remains adequate for the project. Therefore, the project is consistent with this policy.

2.16 The project is consistent with General Plan Policy 6.2.3.2.

Policy 6.2.3.2 (Adequate Access for Emergencies) requires the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Rationale: El Dorado County Fire Protection District reviewed the application materials and provided project Conditions. Therefore, the project is consistent with this policy.

3.0 ZONING FINDINGS

3.1 The project is consistent with Section 130.22.030.

Section 130.22.030 (Commercial Zone Development Standards) prescribes site-specific development standards for new lots, allowed uses, and associated structures within the CG Zone District.

Rationale: The proposed use of a battery storage facility (Public Utility Service Facilities: Intensive) is allowed within the CG zoning designation with approval of a Conditional Use Permit.

Conditions of Approval

- 1. This Conditional Use Permit is based upon and limited to compliance with the project description, Conditions of Approval set forth below, and the hearing exhibits marked:

- Exhibit ESite Plan
- Exhibit F.....Grading Plan
- Exhibit G.....Photosimulation

Any deviations from the project description, exhibits, or Conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval would constitute a violation of permit approval.

The project description is as follows:

A Conditional Use Permit request for the development and ongoing operation of a Battery Energy Storage System (BESS) that would be constructed within the northerly undeveloped portion of the project site. Site access would be provided from an encroachment onto Pony Express Trail.

The BESS would consist of approximately six (6) Tesla Megapack alternate current (AC) coupled modular battery storage system enclosures measuring approximately 23 feet long, five (5) feet wide, and eight (8) feet high for a total of 690 square feet of enclosure space. Each enclosure would be installed on individual concrete pads and would be at least five (5) feet away from one another and at least 10 feet from lot lines. BESS enclosures are not designed for occupancy and would be remotely controlled with periodic inspections/maintenance performed as necessary.

The project site would contain a network of access roads. An all-weather gravel access road would be up to 20 feet wide and capable of supporting emergency apparatus vehicles. The access point from Pony Express Trail would be gated and keyed to prevent unauthorized access to the site. Interior roads would have a minimum width of 14 feet. A network of unpaved roads would run between power blocks for operations and maintenance. Turnaround areas would run around each of the inverters and/or equipment pads. In addition, unpaved perimeter roads would surround the facility.

The facility's perimeter would be secured with a six-foot-tall chain link fence with barbed wire added on top for a total height of eight (8) feet. Perimeter fencing would screen the project from view. Controlled-access gates would be located at the main entrance to the site. These would either be swinging or sliding gates, with a minimum width of 20 feet. A Knox Box would be installed at the gate for access by emergency personnel.

Warning signage citing 18 USC 1366 would be placed along the fence perimeter to warn against trespassing. No landscaping is proposed. There would be no lighting at the site, except for portable lighting brought onsite by personnel as needed. No potable water supply or sanitation service/facilities are proposed for the project. The project would result in no cut/fill.

The development, use, and maintenance of the property, the size, shape and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and Conditions of Approval below. The property and any portions thereof shall be developed and operated in compliance with this project description and the approved hearing exhibits and Conditions of Approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Division

- 2. Permit Implementation:** In Compliance with County Code Section 130.54.060, implementation of the project must occur within 24 months of approval of this Conditional Use Permit, or the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with the Conditions of Approval.

3. **Notice of Exemption (NOE) Recording Fee:** The applicant shall submit to the Planning Division a \$50.00 recording fee for the County Recorder to file the Notice of Exemption. Checks shall be payable to El Dorado County. No permits shall be issued until said fees are paid.
4. **Exterior Finish:** Each of the BESS enclosures shall be painted in an earth tone similar to the surrounding environment.
5. **Facility Maintenance:** All improvements associated with the energy storage facility - including enclosures, fencing, internal access routes, and warning signage - shall be properly maintained at all times. The color of the enclosures, fencing, and other equipment visible to the public shall be maintained to ensure the appearance remains consistent.
6. **Archeological Resources:** In the event of the discovery of human remains, all work shall cease, and the County coroner shall be immediately notified pursuant to subdivision(c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two (2) working days from the time the person responsible for the excavation, or in his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged, or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

7. **Indemnity:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and landowner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a Conditional Use Permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

8. **Change in Ownership:** In the event of any change of ownership of the subject parcel (APN 009-330-064) or any change in primary or accessory use, it is the responsibility of the future property owners to ensure all changes are consistent with this Conditional Use Permit, the El Dorado County General Plan, Zoning Ordinance, and all applicable standards in place at such time.

County Surveyor's Office

9. **Boundary Monuments:** All boundary monuments disturbed during project construction shall be reset by a Professional Land Surveyor or Qualified Engineer as defined by Section 8771 of the California Business and Professions Code (Land Surveyors Act).
10. **Addressing:** Applicant will be required to coordinate with the County Surveyor's Office to ensure that all buildings on the subject parcel are addressed in compliance with County Code, Chapter 110.04. Compliance is required within 30 days of approval.

Air Quality Management Department (AQMD)

11. **Fugitive Dust:** A Fugitive Dust Mitigation Plan (FDP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to start of project construction. If during the course of the project a grading permit is required from the Building Division, dust control measures shall comply with the requirements of AQMD Rule 223 Fugitive Dust – General Requirements and Rule 223.1 – Construction, Bulk Handling, Blasting, Other Earthmoving Activities and Trackout Prevention.
12. **Paving:** Road construction shall adhere to AQMD Rule 224, Cutback and Emulsified Asphalt Paving Materials.
13. **Painting/Coating:** The application of architectural coatings shall adhere to AQMD Rule 215, Architectural Coatings.
14. **Open Burning:** Burning of waste vegetation that results from "Land Development Clearing" must be permitted through the AQMD. Only dry vegetative waste materials originating from the property may be disposed of using an open outdoor fire. Burning shall adhere to AQMD Rule 300, Open Burning.

15. **Construction Emissions:** During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall follow the California Air Resources Board (CARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). Questions on applicability should be directed to CARB at 1.866.634.3735. CARB is responsible for enforcement of this regulation.
16. **New Point or Stationary Source:** Prior to construction/installation of any new point/stationary source emissions units (e.g., emergency standby engine greater than 50 horsepower, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emissions estimates, and shall adhere to AQMD Rules 501, General Permit Requirements and 523, New Source Review.
17. **Portable Equipment:** All portable combustion engine equipment with a rating of 50 horsepower or greater shall be registered with CARB. A copy of the current portable equipment registration shall be with said equipment. The applicant shall provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment, and daily hours of operations of each piece of equipment.
18. **Electric Vehicle (EV) Charging – Non-Residential:** The project shall comply with the non-Residential Mandatory Measures identified in the 2022 Cal Green Building Code to facilitate future installation and use of EV Chargers.

Environmental Management Department (EMD)

19. **Setback Requirements:** Any development must be located at least eight (8) feet away from septic leach lines and at least five (5) feet away from a septic system. Building permit site plans must include the setback distance of proposed site improvements from the existing septic sanitation on site.
20. **Waste Requirements:** This project would be subject to a variety of State and local laws regarding waste hauling, waste recycling, temporary signage, and waste collection enclosure requirements. Compliance with these solid waste standards is required for the approval and continued validity of a Conditional Use Permit. Consistency with these standards would be determined prior to building permit issuance.

El Dorado County Fire Protection District

21. **Fire Hydrants:** If this development requires a fire hydrant, it shall be a Dry Barrel Fire Hydrant which conforms to the El Dorado Irrigation District (EID) specifications for the purpose of providing water for fire protection. The location and spacing between hydrants in this development shall be determined by the fire department.

22. **Fire Flow:** The California Fire Code (CFC), as amended locally, requires the minimum fire flow for the commercial development to meet the current CFC and Local Ordinances.
23. **Storage of Sensitive Materials:** Storage of flammable and combustible liquids in containers and tanks shall be in accordance with, but not limited to, the current CFC and National Fire Protection Act (NFPA) Standards.
24. **Immediate 911 Emergency Call:** The fire department shall be notified via a 911 emergency call immediately, upon receipt of a signal at the Tesla 24/7 reporting location that a thermal runaway incident has been determined at the facility.
25. **Fire Department Access:** Approved fire apparatus access roads and driveways shall be provided for every facility, building, or portion of a building. The fire apparatus access roads and driveways shall comply with the requirements of El Dorado County Fire Protection District as well as State Fire Safe Regulations as stated below (but not limited to):
 - a. All roadways shall be a minimum of 20 feet wide, providing two (2) 10-foot traffic lanes, not including shoulder and striping.
 - b. The fire apparatus access roads and driveways shall extend to within 150 feet of all portions of each facility and all portions of the exterior of the first story of the building as measured by an approved route around the exterior of the building or facility.
 - c. Driveways and apparatus access shall have unobstructed vertical clearance of 15 feet and a horizontal clearance providing a minimum of two (2) feet on each side of the required driveway or roadway width. Fuel hazard reduction should be at least 10 feet wide on both sides of the roadway and driveways.
26. **Roadway Surface:** Roadways shall be designed to support the imposed load of fire apparatus weighing at least 75,000 pounds and provide all-weather driving conditions. All-weather surfaces shall be asphalt, concrete or other approved driving surface. Project proponent shall provide engineering specifications to support design if requested by the local authority having jurisdiction.
27. **Roadway Grades:** The grade for all roads, streets, private lanes, and driveways shall not exceed 16 percent if paved or concrete.
28. **Turning Radius:** The required turning radius of a fire apparatus access road/driveway shall be determined by the fire code official. Current requirements are 40 feet inside and 56 feet outside.
29. **Parking and Fire Lanes:** All parking restrictions as stated in the current CFC and the current El Dorado County Fire Protection District Ordinances shall be in effect. All

streets with parking restrictions will be signed and marked with red curbs as described in the El Dorado County Regional Fire Protection Standard titled “No Parking – Fire Lane”. All curbs in the parking lot(s) that are not designated as parking spaces will be painted red and marked every 25 feet “No Parking – Fire Lane.” This shall be white letters on a red background. There shall be a designated plan page that shows all Fire Lanes as required by the El Dorado County Regional Fire Protection Standard B-004 “No Parking – Fire Lane” and the fire code official.

30. **Traffic Calming:** This development shall be prohibited from installing any type of traffic calming device that utilizes a raised bump/dip section of roadway. All other proposed traffic calming devices shall require approval by the fire code official.
31. **Building Access and Gates:** Access shall meet the El Dorado County Fire Protection District requirements, including an approved Knox access.
32. **Fencing:** Lots that back up to wildland open space shall be required to use non-combustible type fencing.
33. **Addressing:** Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property and shall meet all addressing requirements.
34. **Landscaping:** The landscaping plan shall be reviewed by the fire department to ensure that trees, plants, and other landscaping features proposed to be adjacent to the Fire Apparatus Access roads, Fire and Life Safety equipment, and near address locations on buildings and monuments will not impede fire apparatus access or visual recognition.
35. **Improvement (Civil) Plans:** A Fire Plan Sheet shall be included in the improvement plans that shows or lists all requirements from the fire department as they relate to design of the commercial development. These requirements include, but are not limited to, Fire Lanes (and how they relate to allowed parking), Hydrants, Turning Radius of all turns, Slope Percentage of Roads/Driveways, Points of Egress for the Public and Emergency Personnel, Underground Water Mains, Road Widths, Gates, etc.
36. **Training:** Provide onsite training for emergency responses for fire department personnel.

El Dorado Irrigation District (EID)

37. **Hazardous Materials Containment Plan:** Incorporate a Hazardous Materials Containment Plan with Building application materials, to be reviewed by EID prior to permit approval.
38. **Fire Prevention and Response Plan:** Incorporate a Fire Prevention and Response Plan with Building application materials, to be reviewed by EID prior to permit approval.