

# CITY OF ALBUQUERQUE

## PLANNING DEPARTMENT ADMINISTRATION

600 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Floor  
Albuquerque, NM 87102  
Tel: (505) 924-3339



### INTER-OFFICE MEMORANDUM

January 31, 2022

**TO:** Alan M. Varela, Interim Planning Director

**FROM:** James M. Aranda, Deputy Director and Zoning Enforcement Officer (ZEO)

**SUBJECT:** Declaratory Ruling regarding Battery Electric Storage Facilities

Consensus Planning has made a request for a Declaratory Ruling regarding the allowed use status approval process for Battery Electric Storage Facilities pursuant to the Integrated Development Ordinance (IDO).

#### BACKGROUND

Consensus Planning is the agent for the developer of a proposed standalone Battery Electric Storage System (BESS) project, referred to in this Declaratory Ruling as Battery Electric Storage Facilities—to be located at 7800 and 7850 Jacs Lane NE. The subject property is zoned NR-GM (Non-residential, General Manufacturing) and is not subject to any Overlay Zones or other Small Area standards. A PRT review was conducted on April 16, 2021 (PA# 21-049) and a sketch plat review and comment on June 30, 2021 (PR-2021-005627).

The purpose of this Declaratory Ruling request is to confirm the interpretations, IDO amendments, and other discussions the applicant has had since these original reviews and provide concrete direction for the current Battery Electric Storage Facility project, as well as any future BESS projects that may be developed under the current IDO definitions and procedures.

#### DEFINITIONS

IDO Section 14-16-7-1, Definitions, Electric Utility: A facility used or designed to provide electricity services to the city or part of the city that is regulated as a public utility by the New Mexico Public Regulation Commission. Back-up generators and battery storage are incidental to this use. See also *Geothermal Energy Generation*, *Major Utility*, *Solar Energy Generation*, and *Wind Energy Generation*.

IDO Section 14-16-7-1, Definitions, Major Utility: A facility sized or designed to serve the entire city, or a wide area of the city, and regulated as a public utility or common carrier by the State or other relevant jurisdiction or agency, including but not limited to major telephone facilities, natural gas facilities, water treatment plants, sewage treatment plants, and similar public services, but not including mass transit or railroad depots or terminals or any similar traffic generating activity, any facility that provides wireless telecommunications services to the public, or any use listed separately in Table 4-2-1. See also *Drainage Facility*, *Electric Utility*, and *Major Public Infrastructure*.

IDO Section 14-16-7-1, Definitions, Utility: See *Drainage Facility*, *Electric Utility*, *Major Public Infrastructure*, and *Major Utility*.

# CITY OF ALBUQUERQUE

## PLANNING DEPARTMENT ADMINISTRATION

600 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Floor  
Albuquerque, NM 87102  
Tel: (505) 924-3339



### ANALYSIS

“Battery storage” is not a listed use in IDO Table 4-2-1. However, “Battery Storage” is listed in IDO Part 7 definitions as “incidental” to several listed uses, including: Electric Utility, Geothermal Energy Generation, Solar Energy Generation, and Wind Energy Generation.

In conducting a thorough review of the provisions, defined land uses, and definitions contained in the Integrated Development Ordinance, 2010 Electric System Transmission and Generation Facility Plan, and common language definitions and descriptions of battery electric storage facilities, it has been determined that the IDO-defined and regulated use that is most similar to battery electric storage facilities in terms of function, operation, and impacts on surrounding property is Electric Utility.

The Use-Specific Standard for Electric Utilities, IDO Subsection 14-16-4-3(E)(8)(e), states in regard to battery storage facilities: *“All uses and associated facilities shall be subject to the terms and conditions in the Facility Plan for Electric System Transmission and Generation, as amended, except that battery storage facilities are not considered electric generation facilities and may be a primary activity in association with the electric utility use in the NR-BP, NRLM, and NR-GM zone districts.”*

The language as constructed in IDO Subsection 14-16-4-3(E)(8)(e) clearly considers battery electric storage facilities as uses that are distinct from electric generation facilities. The referenced subsection also considers Battery Electric Storage Facilities as primary activities in association with the overall electric utility use. This standard also provides for standalone battery storage facilities to be a primary use when associated with an electric utility use and is a permissive use in the NR-BP, NR-LM, and NR-GM zone districts.

The second purpose of this Declaratory Ruling is to determine the appropriate Site Plan review process in accordance with IDO Part 14-16-6 Administration and Enforcement. Prior to the 2020 IDO Annual Update, all electric utility approvals were approved per the 2010 Electric System Facility Plan. With new technologies and projects being proposed that further the region’s renewable energy goals, the IDO was updated to allow for more administrative approvals for electric utility uses. As a result of those IDO changes, Battery Electric Storage Facilities are not considered electric generation facilities, and are no longer subject to the approval processes as prescribed in Table I and II of the 2010 Electric System Facility Plan.

IDO Section 14-16-6-5(G) Site Plan – Administrative, provides for administrative approvals for certain types of projects, regardless of size, based on use or zoning, if the use meets one of two criteria. The allowance for administrative approval contained in IDO 14-16-6-5(G)(1)(e) states, in part:

- 6-5(G)(1)(e) This Subsection 14-16-6-5(F) applies to any development that meets any of the thresholds in Subsections 1 or 2 below:
2. Any of the following:
    - d. All electric utilities except Electric Generation Facilities, as defined by the Facility Plan for Electric System Transmission and Generation, as amended, which require a Site Plan – DRB pursuant to Subsection 14-16-6-6(I).

# CITY OF ALBUQUERQUE

## PLANNING DEPARTMENT ADMINISTRATION

600 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Floor  
Albuquerque, NM 87102  
Tel: (505) 924-3339



As previously established in IDO 14-16-4-3(E)(8)(e) and clarified in this Declaratory Ruling, Battery Electric Storage Facilities are not considered electric generation facilities. Therefore, standalone Battery Electric Storage Facilities are subject to Site Plan – Administrative review and approval pursuant to the criteria and procedures in IDO Section 6-5(G) Site Plan – Administrative.

### CONCLUSION

It is my official determination as ZEO that Battery Electric Storage Facilities—also referred to as BESS—are considered an Electric Utility land use under the IDO. In making this determination, Battery Electric Storage Facilities are subject to all Electric Utility Use-Specific Standards in IDO Subsection 14-16-4-3(E)(8), as well as all applicable Development Standards in Part 5 of the IDO – specifically all edge buffer landscaping requirements included in IDO Section 14-16-5-6(E). Standalone Battery Electric Storage Facilities are subject to Site Plan – Administrative review and approval pursuant to the criteria and procedures in IDO Section 6-5(G) Site Plan – Administrative.

Respectfully,

James M. Aranda, MCRP  
Deputy Director and Zoning Enforcement Officer  
Albuquerque Planning Department