



CITY OF ARLINGTON NOTICE OF DECISION

Snohomish County PUD Battery Energy Storage System Conditional Use Permit

The City of Arlington has issued a Notice of Decision for a Conditional Use Permit as required by Arlington Municipal Code. The following project has been **APPROVED**, with the conditions listed in the attached Hearing Examiner Decision.

Project Name: Snohomish County PUD Battery Energy Storage System

Proponent: Ameresco, Jason Griffin

Project Number: PLN #1311

Description of Proposal: The applicant is proposing to construct a 25-megawatt Battery Energy Storage System (BESS) on approximately 1.5 acres of a 12.39-acre partially developed parcel located at 17601 63rd Avenue NE. The total Snohomish County PUD site consists of 25.69 acres on two parcels (31052200405400 and 310522005500). The battery energy storage system is proposed to be constructed within an area that was formerly occupied by the four northernmost rows of the existing solar array. The utility-scale battery energy storage system will provide stored electrical energy for the Snohomish County Public Utility District to use as additional capacity to the Arlington electrical grid. The project will connect to the Crosswinds substation, currently under construction in the southeast corner of the site.

The BESS system is comprised of 38 Tesla Megapack 2XL batteries with 12 associated transformers, an auxiliary transformer, and a Power Control House, located east of the 63rd Avenue public right-of-way. To create the BESS, each battery measuring 28.87 feet (W) x 9.14 feet (H) x 5.41 feet (D) will be installed in groups of one, two, and four. Each group will have its own transformer and concrete pad and will be spaced 15 feet between groupings.

The site improvements include grading, trenching, and concrete pad installation to support the installation and interconnection of the BESS system. Installation of security fencing, cameras, monitoring systems, pole-mounted lighting, and stormwater and spill containment infrastructure for the batteries and transformers. The grading work includes approximately 353 cubic yards of cut and 1,703 cubic yards of fill and will be performed for proper function of the stormwater/spill containment infrastructure and the trenching activities will facilitate the electrical duct bank, controls and communications cabling, power, security, and interconnection requirements for the project.

The BESS includes the Power Control House, which is a small, single-wide manufactured building to accommodate BESS monitoring, controls, SCADA, and maintenance activities for the life of the BESS. An additional auxiliary transformer will be installed next to the Power Control House. A second manufactured building will be dedicated to Tesla for battery and inverter maintenance activities.

Location: 17601 63rd Avenue NE

Hearing Examiner Decision: Approved, with Conditions

Notice of Decision Date: June 19, 2025

End of Appeal Period: July 10, 2025

Conditional Use Permit Expiration Date: June 19, 2027

Appeals: A Party of Record may file an appeal of this decision within twenty-one (21) calendar days from issuance of this Notice of Decision. Appeals shall be delivered to Snohomish County Superior Court at 3000 Rockefeller Avenue M/S 502, Everett, WA 98201, pursuant the Land Use Petition Act, Chapter 36.70 RCW, by **Thursday, July 10, 2025**.

Staff Contact: Amy Rusko, Deputy Director, arusko@arlingtonwa.gov, 360-403-3550

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ARLINGTON**

In the Matter of the Application of)	No. PLN#1311
)	
Ameresco, Inc., on behalf of)	Snohomish County PUD BESS CUP
Snohomish County PUD)	
)	FINDINGS, CONCLUSIONS,
<u>For a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to allow for the construction of a 25-megawatt Battery Energy Storage System (BESS) on an approximately 1.5-acre portion of a 12.39-acre partially developed parcel, located at 17601 63rd Avenue NE, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed use.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on June 5, 2025, using remote technology.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Amy Rusko, City Deputy Director of Community and Economic Development
Scott Wentworth, Applicant Representative
Jason Griffin, Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report
2. Land Use Application, dated February 3, 2025
3. Arlington BESS Project Narrative, dated February 3, 2025
4. Preliminary Site Plan, dated January 31, 2025
5. Vicinity map
6. Legal Description
7. SEPA Environmental Checklist, submitted February 3, 2025
8. Unanticipated Discovery Plan
9. Geotechnical Engineering Report, Zipper Geo Associates, LLC, dated August 2, 2023
10. Draft Drainage Report, Perteet, dated November 2024
11. Statement of Compliance with AMC 20.114.150

*Findings, Conclusions, and Decision
City of Arlington Hearing Examiner
Snohomish County PUD BESS CUP
No. PLN#1311*

12. Calculations or Modeling Data to Determine Compliance with NFPA 68 and NFPA 69 (AMC 20.114.100)
13. Hazard Mitigation Analysis, dated February 3, 2025
14. Commissioning and Decommissioning Plan
15. Operations and Maintenance Manual, dated February 3, 2025
16. Fire and Explosion Testing Data (AMC 20.114.100)
17. Megapack 2 Datasheet
18. Components Explorer – Tesla Megapack 2XL Datasheet
19. Public Notice Mailing Labels and Radius Map
20. Notice of Public Hearing, published May 20, 2025, with Affidavit of Posting, dated May 20, 2025, and publication request and confirmation emails, dated May 15, 2025, for publication in *The Daily Herald*, on May 20, 2025
21. Applicant Response to Comment from Stillaguamish Tribe of Indians, dated April 15, 2025
22. Applicant Response to Comment from Washington State Department of Transportation (WSDOT) – Aviation Division, dated April 29, 2025
23. Comment from Stillaguamish Tribe of Indians, dated March 21, 2025
24. Comment from WSDOT – Aviation Division, dated March 12, 2025
25. Neighborhood Meeting Notes and Presentation Slides
26. Notice of Application, Neighborhood Meeting, and SEPA Mitigated Determination of Nonsignificance, published March 7, 2025, with Affidavit of Posting, dated March 7, 2025; notice emails, dated March 7, 2025; and publication request and confirmation emails, dated March 5, 2025, for publication in *The Daily Herald*, on March 7, 2025
27. Notice of Complete Application, dated March 4, 2025

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Jason Griffin, of Ameresco, on behalf of Snohomish County PUD (Applicant), requests approval of a conditional use permit (CUP) to allow for the construction of a 25-megawatt Battery Energy Storage System (BESS), which would provide stored electrical energy, affording additional capacity for the City of Arlington’s electrical grid.¹ The proposed BESS facility would be located within an approximately 1.5-acre portion of a

¹ Arlington Municipal Code (AMC) 20.114.155 defines *Battery Energy Storage System* in relevant part as: “A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls and associated electrical equipment designed to provide electrical power to a building. The system is typically used to provide standby or emergency power, an uninterruptable power supply, load shedding, load sharing or similar capabilities.”

12.39-acre parcel²—in an area that was formerly occupied by the four northernmost rows of an existing solar array—and would be connected to a new substation that is currently under construction at the southeast corner of the site. The BESS facility would be comprised of 38 Tesla Megapack 2XL batteries with 12 associated transformers and an auxiliary transformer for a Power Control House consisting of a single-wide building to accommodate BESS monitoring, controls, supervisory control and data acquisition, and maintenance activities for the life of the BESS facility. In addition, a second manufactured building would be dedicated to Tesla for battery and inverter maintenance activities. Each battery would measure 28.87 feet wide by 9.14 feet high by 5.41 feet deep and would be installed in groups of one, two, and four. Each group would have its own transformer and concrete pad, with 15 feet of space provided between the groupings. Associated site improvements would include grading, trenching, and the installation of concrete pads to support the installation and interconnection of the BESS, as well as the installation of security fencing, cameras, monitoring systems, pole-mounted lighting, and stormwater and spill containment infrastructure for the batteries and transformers. The subject property is located at 17601 63rd Avenue NE.³ *Exhibit 1, Staff Report, pages 1 through 3; Exhibits 2 through 6; Exhibits 13 through 18.*

2. The City of Arlington (City) determined that the application was complete on March 4, 2025. On March 7, 2025, the City provided notice of the application and associated neighborhood meeting by mailing or emailing notice to property owners within 500 feet of the site and to reviewing departments and agencies; publishing notice in *The Herald*; and posting notice on-site, on the City website, and at designated City locations, with a comment deadline of March 21, 2025. On May 20, 2025, the City provided notice of the open record hearing associated with the application in the same manner. *Exhibit 1, Staff Report, page 6; Exhibit 19; Exhibit 20; Exhibits 25 through 27.*
3. The City did not receive any public comments in response to its notice materials, and no members of the public attended the March 25, 2025, neighborhood meeting. The City received the following agency comments in response to its notice materials:
 - The Stillaguamish Tribe of Indians stated that it did not have any concerns about the project, noting that the project proponent had previously conducted a cultural resource survey for the property. The Stillaguamish Tribe of Indians requested, however, that the Applicant provide it with notification about when ground disturbing activities would occur and that there be an inadvertent discovery plan in place. In response a response letter to the Stillaguamish Tribe of Indians, the

² The subject parcel is one of two continuous parcels that comprise the 25.69-acre Snohomish County PUD campus. *Exhibit 1, Staff Report, page 2.*

³ The 12.39-acre subject property is identified by tax identification number 31052200405400. *Exhibit 1, Staff Report, page 3.* A legal description of the property is included with the application materials. *Exhibit 6.*

Applicant provided an estimated timeline for beginning work and an unanticipated discovery plan.

- The Washington State Department of Transportation (WSDOT) – Aviation Division stated that it supported the proposal, noting that the proposed use would be compatible with the Arlington Airport but that the Applicant’s plans should be reviewed to ensure that the project would not create airspace hazards. WSDOT - Aviation Division further noted that the subject property may experience nuisances associated with low-flying aircraft. In a response letter to WSDOT – Aviation Division, the Applicant noted that it had submitted an obstruction evaluation request to the FAA for associated transmission line structures and received a “no effect” determination on April 11, 2025. The Applicant further noted that it did not anticipate any impact to the BESS project from aircraft noise, vibrations, or fumes.

Exhibit 1, Staff Report, pages 6 and 28; Exhibits 21 through 25.

State Environmental Policy Act

4. The City acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), chapter 43.21C Revised Code of Washington (RCW). The City reviewed the Applicant’s environmental checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) for the proposal on March 5, 2025. On March 7, 2025, the City provided notice of the MDNS together with the notice of application and associated neighborhood meeting. As described above, the City received comments in response to its notice materials from the Stillaguamish Tribe of Indians and from WSDOT – Aviation Division. The MDNS was not appealed and includes mitigation measures that are detailed in full in the conditions for project approval provided in this decision, below. *Exhibit 1, Staff Report, pages 2, 6, 7, 14, 28, 29, and 31 through 33; Exhibit 7; Exhibit 26*

Comprehensive Plan and Zoning

5. The subject properties and all surrounding properties are designated “General Industrial” under the City Comprehensive Plan. City staff reviewed the proposal and determined that it would be consistent with the City Comprehensive Plan, identifying the following Comprehensive Plan goals and policies as relevant to the proposal:
 - Mitigate climate impact by reducing greenhouse gas emissions and prepare for climate change impacts. [Goal E-4]
 - Pursue the development of energy management technology as part of meeting the city’s energy needs. [Policy E-4.4]
 - Minimize the adverse impacts of industrial uses to adjacent and abutting incompatible uses, including residential properties. [Goal LU-5]
 - Concentrate manufacturing, industrial, and warehouse/distribution uses in the vicinity of the Arlington Airport and the Cascade Industrial Center to

- ensure appropriate services for the use are provided and to reduce impact on existing residential and commercial areas. [Policy LU-5.1]
- Support industrial development proposals that are consistent with the Arlington-Marysville Manufacturing Industrial Center Subarea Plan. [Policy LU-5.2]
- Actively cooperate with other agencies and local businesses to support economic development. [Goal ED-3]
- Collaborate with businesses to identify specialized infrastructure, building design, transportation, or other needs required to maintain business operations. [Policy ED-3.2]
- Minimize health and safety impacts related to the use, storage, manufacture, transport, and disposal of hazardous materials. [Goal PS-6]
- Promote responsible energy use and energy facilities that do not significantly affect public safety or the natural environment. [Policy PS-6.4]
- Promote demand management and the conservation of natural resources, services, and facilities prior to developing new facilities. [Goal CFU-5]
- Strive to reduce the rate of energy consumption and increase energy efficiency through conservation and alternative energy forms to extend the life of new and existing facilities and infrastructure. [Policy CFU-5.2]
- Partner with Snohomish County Public Utilities District No. 1 to promote and support programs designed to decrease load on the power grid during times of peak use. [Policy CFU-5.4]
- Promote the use of renewable energy resources to meet Arlington’s energy needs. [Goal CFU-6]
- Promote the use and investment in renewable and alternative energy sources to meet energy needs. [Policy CFU-6.2]
- Support permitting processes related to energy efficiency upgrades. [Policy CFU-6.5]
- Partner with Snohomish County Public Utilities District No. 1 to effectively meet rapidly increasing electrical demand by adopting codes that support siting existing and new technologies and maintain grid capacity and reliability. [Policy 6.7]

City staff also identified the following countywide and multi-county goals and policies as relevant to the proposal:

- Jurisdictions should collaborate with businesses and organizations to develop economic development plan elements and analyze the land use designations, infrastructure and services needed to support businesses. [CPP-ED-8]
- The County and cities shall support the Cascade Industrial Center as a Manufacturing/Industrial Center (MIC), recognizing that it is a major,

existing regional employment area of intensive, concentrated manufacturing and industrial land uses. [CPP-ED-17]

- Jurisdictions should promote the use and investment in renewable and alternative energy sources to meet the local and countywide energy needs. [CPP-PS-12]
- Pursue the development of energy management technology as part of meeting the region's energy needs. [MPP-CC-5]
- Promote the use of renewable energy resources to meet the region's energy needs. [MPP-PS-13]
- Reduce the rate of energy consumption through conservation and alternative energy forms to extend the life of existing facilities and infrastructure. [MPP-PS-14].

Exhibit 1, Staff Report, pages 5 and 6.

6. The subject property and all surrounding properties are located in the City's General Industrial (GI) zoning district. Properties further to the east, across 67th Avenue NE and more than 550 feet from the project site, are located in the "Residential Low Capacity" (RLC) zoning district and are developed with single-family residences. Arlington Municipal Code (AMC) 20.36.030 describes the City's manufacturing districts as follows:

The general industrial (GI) and light industrial (LI) districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment. The performance standards set forth in Chapter 20.44 place limitations on the characteristics of uses located in these districts. The light industrial district is distinguished from the general industrial district in that the light industrial district is intended to be a cleaner, more business park-like area, whereas the general industrial district allows more resource-based manufacturing [and] has a greater tolerance of the nuisances that typically accompany such manufacturing. Furthermore, the limitations in the light industrial district are more restrictive than those in the general industrial district.

The property is also located within Subdistrict C of the Airport Protection (AP) District Overlay. "The purpose of the AP district overlay is to protect the viability of the Arlington Municipal Airport as a significant resource to the community by encouraging compatible land uses and densities, reducing hazards to lives and properties, and ensuring a safe and secure flying environment." *AMC 20.38.010(a)*. The Applicant would ensure that the project complies with requirements for development within Subdistrict C of the AP district overlay. *Exhibit 1, Staff Report, pages 3 through 5, 10, and 11.*

7. Alternative Energy Systems are allowed in the GI zoning district, subject to the Energy Storage Systems regulations and permitting requirements of chapter 20.114 AMC. *AMC 20.40.140*. These regulations classify a BESS as within one of three tiers and provide specific permitting requirements depending on the appropriate classification. The Applicant proposes an industrial-scale Tier 3 BESS, which is defined in pertinent part as a BESS “having an aggregate energy capacity greater than six hundred [kilowatt hours] (kWh), up to, but not exceeding two hundred mega-watt hours (MWh).” *AMC 20.114.155*. A Tier 3 BESS is allowed only within the GI zone and only in conjunction with a conditional use permit. *AMC 20.114.150*. The requirements of the City’s Energy Storage Systems regulations are discussed in further detail later in this decision. *Exhibit 1, Staff Report, pages 11 and 25 through 28*
8. Table 20.48-1 AMC provides dimensional standards for development within the GI zoning district. These standards specifically require minimum lot sizes of 10,000 square feet, minimum lot widths of 70 feet, minimum building setbacks of 25 feet from street rights-of-way, minimum building setbacks of 5 feet from lot boundary lines or alleys, minimum rear lot boundary line building setbacks of 20 feet for primary structures and 5 feet for accessory structures, maximum building heights of 50 feet, and 100 percent maximum lot coverage. The Applicant’s preliminary site plans demonstrate that the proposed development would comply with these dimensional requirements. City staff reviewed the proposal and determined that, with conditions, it would comply with applicable street and sidewalk standards under chapter 20.56 AMC, including standards related to lot access (*AMC 20.56.030*), entrances to streets (*AMC 20.56.050*), and construction standards and specifications (*AMC 20.56.130*), noting:
- The proposed development would provide vehicle, pedestrian, and bicycle access from 63rd Avenue NE to internal private drive aisles.
 - The proposed drive aisles would not pose a danger to vehicle, pedestrian, or bicycle ingress or egress from the site.
 - The proposed driveway entrances would be in an area that does not interfere with surrounding streets.
 - The Applicant does not propose any double-width driveways.
 - The proposed development would be subject to a civil permit meeting City Public Works Construction Standards and Specifications prior to the installation of site improvements.
- Exhibit 1, Staff Report, pages 12 and 13; Exhibit 4.*
9. City staff reviewed the proposal and determined that it would comply with the City’s utilities regulations under chapter 20.60 AMC, including utilities regulations related to lighting requirements (*AMC 20.60.400*), excessive illumination (*AMC 20.60.410*), and underground utilities (*AMC 20.60.450*), noting:
- The proposed development would be required to provide sufficient lighting throughout the site, with LED or similar lamp-type outdoor lighting to be down

shielded to prevent light pollution and to prevent unnecessary illumination onto neighboring properties or rights-of-way.

- The Applicant's final lighting plans would be reviewed for compliance with applicable lighting requirements at the civil permit stage.
- All proposed utilities to and on the site would be required to be located underground, except for transmission lines and connections to the substation.
- All required utility lines would be required to be shown on the plans and approved by the City prior to construction activities on the site.

City staff further determined that there are no critical areas on or near the project site and that screening of the proposed BESS facility would not be required because the project site is surrounded by existing Snohomish County PUD facilities. *Exhibit 1, Staff Report, pages 13 and 14.*

10. The Applicant would be required to manage stormwater on-site in compliance with the requirements of the most current edition of the Washington State Department of Ecology Stormwater Management Manual for Western Washington and the City of Arlington Public Works Standards and Specifications. *AMC 13.28.070*. Perteet prepared a draft drainage report for the proposed development, dated November 2024. Stormwater runoff on-site would sheet flow to the south to catch basins on an access road, which would direct runoff to a Modular Wetland for water quality treatment before entering an infiltration trench. City staff reviewed and preliminarily approved the proposed stormwater management design. The City would review the Applicant's final drainage plan for compliance with applicable regulations at the civil permit stage. *Exhibit 1, Staff Report, pages 28 and 33; Exhibit 10.*

Energy Storage System Regulations

11. As noted above, the proposed development is subject to the Energy Storage Systems regulations and permitting requirements of chapter 20.114 AMC. The stated purpose and intent of these regulations are as follows:

Although this code addresses numerous types of energy storage systems, the city of Arlington is currently only permitting battery energy storage systems. The purpose and intent of this code is to ensure that energy storage systems are installed and maintained to the most current International Building Code, International Residential Code, National Electric Code, International Fire Code and NFPA Standards that are available. This code provides a regulatory framework for the safe installation and use of energy storage systems with the following objectives:

- (a) To ensure the public health, safety, welfare and quality of life of citizens is maintained.

- (b) To provide for the correct designation of properties allowing for the construction, operation and maintenance of energy storage systems.
- (c) To ensure compatible land uses in the vicinity of the areas that may be affected by energy storage systems.
- (d) To mitigate the potential impacts of energy storage systems on environmental resources such as [aquifers], critical areas, forests, wildlife or other protected resources.
- (e) To support the transition to renewable energy sources.

AMC 20.114.015.

In furtherance of this purpose, Part 1 of these regulations address the requirements for all forms of energy storage systems, including general requirements (AMC 20.114.020), plan and specification submittal requirements (AMC 20.114.025), additional required information (AMC 20.114.030), operation and maintenance manual requirements (AMC 20.114.035), system maintenance (AMC 20.114.040), system training (AMC 20.114.045), system testing (AMC 20.114.050), commissioning plan (AMC 20.114.055), commissioning test (AMC 20.114.060), commissioning report (AMC 20.114.065), decommissioning plan (AMC 20.114.070), decommissioning process (AMC 20.114.075), decommissioning report (AMC 20.114.080), recommissioning of existing systems (AMC 20.114.085), emergency planning and training (AMC 20.114.090), installation (AMC 20.114.095), hazard mitigation analysis (AMC 20.114.100), and signage (AMC 20.114.115). The Applicant submitted several documents and reports to show compliance with these regulations. City staff reviewed the Applicant's submissions and determined that they were sufficient to demonstrate compliance with the regulations, noting:

- The proposal is for a Tesla Megapack 2 XL battery storage system, which would provide an all-in-one system containing battery modules, bidirectional inverter, thermal management system, and AC main breaker, all pre-installed and pretested within a single enclosure.
- The Applicant has provided a site plan, location, and layout diagram of the area for the energy storage system. The Applicant has also provided manufacturer's specifications, ratings, signage, and fire suppression through the submitted site plans, operations manual, and manufacturer's specifications, consistent with the submittal requirements of AMC 20.114.025.
- The Applicant has provided fire and explosion testing data, a hazard mitigation analysis, data meeting compliance with National Fire Protection Association (NFPA) 68 and NFPA 69, and other testing data, consistent with the submittal requirements of AMC 20.114.030.
- The Applicant's submitted a project narrative detailing how the proposed energy storage system and its components are intended to operate. Pursuant to AMC 20.114.035, the Applicant or authorized agent and systems operator would be required to have an operation and maintenance manual in place before the system

is put into operation and would be required to maintain a service record log listing the service and maintenance schedule. The Applicant would also be required to post all safety data sheets for hazardous materials within sight of the disconnecting means of the energy storage system. The operations and maintenance manual would be approved with this permit decision and would be required to be made available to the City and to North County Fire and EMS upon request.

- The Applicant would be required to comply with the system manufacturer's instructions and to have maintenance documentation consistent with the requirements of AMC 20.114.040.
- Pursuant to AMC 20.114.045, the Applicant would be required to provide training from the system owner or their designated agent to all personnel responsible for the operation and maintenance of the energy storage system.
- Pursuant to AMC 20.114.050, the Applicant would need to perform system testing when required by the operating instructions or maintenance documentation. The Applicant would also be required to keep a record of the tests and to make the tests available electronically.
- The Applicant has submitted a written commissioning plan providing a description of the means and methods to document and verify that the BESS is in proper working condition, consistent with the requirements of AMC 20.114.055.
- Pursuant to AMC 20.114.060, the Applicant would be responsible for adequate commissioning testing in accordance with the manufacturer's specification prior to on-site operations.
- Pursuant to AMC 20.114.065, the Applicant would be required to provide the City Building Official with a commissioning report prior to on-site operations.
- The Applicant has submitted a written decommissioning plan, consistent with the requirements of AMC 20.114.070.
- Pursuant to AMC 20.114.075, the Applicant would be required to notify the City prior to decommissioning the energy storage system and would be required to follow the decommissioning plan instructions.
- Pursuant to AMC 20.114.080, the Applicant would be required to prepare and to provide the City with a decommissioning report summarizing the decommissioning process and its results.
- Any recommissioning of the existing system would require an application for a new building permit, consistent with the requirements of AMC 20.114.085.
- The Applicant has provided a description of emergency planning and training in the submitted operations and maintenance manual, commissioning and decommissioning plan, and hazard mitigation analysis, consistent with the requirements of AMC 20.114.090.
- Regarding the installation requirements of AMC 20.114.095, the proposed BESS would be contained within a cabinet and would not be within a building, on a building rooftop, or within an open parking garage. The project would utilize a

lithium-ion battery energy storage system, which, per the Megapack 2 Data Sheet, would not exceed the maximum allowable amount of stored energy. The batteries would be installed in groups of one, two, and four, with each group having its own transformer and concrete pad, and 15 feet of space would be provided between the groupings.

- The Applicant has provided a hazard mitigation analysis, consistent with the requirements of AMC 20.114.100.
- The Applicant has proposed signage that would comply with the signage requirements of AMC 20.114.115.

Exhibit 1, Staff Report, pages 15 through 24; Exhibit 3; Exhibit 4; Exhibits 12 through 18.

12. Part 2 of the City’s Energy Storage Systems regulations address BESS requirements, including general requirements (AMC 20.114.135) and permitting requirements specific to a Tier 3 BESS (AMC 20.114.150). City staff reviewed the project proposal and determined that it would comply with these regulations, noting:

- The Applicant has submitted a land use permit for the proposed Tier 3 BESS and would be required to obtain an electrical permit from the Washington State Department of Labor and Industries.
- The proposed Tier 3 BESS would be located outside within cabinets as shown on the approved site plan sheet. The BESS system would be required to meet all International Building Code (IBC), International Fire Code (IFC), and National Electrical Code (NEC) regulations.
- The Applicant’s submitted documents demonstrate that the proposed BESS would meet all fire control and suppression requirements. The Tesla Megapack 2XL is equipped with a number of protection systems—including a deflagration control system consisting of overpressure vents and sparker system, battery management system control, and electrical shutdowns and disconnects—which are anticipated to effectively manage all applicable fault conditions required under NFPA 855 4.1.4 and IFC 1207.1.4.1.
- The footprint of the proposed BESS would be located a minimum of 550 feet from residentially zoned property.
- The proposed BESS would comply with the numerous IFC, NFPA, IEC, and Underwriters Laboratories (UL) provisions listed under AMC 20.114.150.

Exhibit 1, Staff Report, pages 25 through 27; Exhibit 3; Exhibit 4; Exhibits 11 through 18s

Conditional Use Permit

13. As noted above, the Applicant requests a CUP to allow for the development of a Tier 3 BESS. City staff reviewed the application materials and determined that, with conditions, the criteria for a CUP would be satisfied, noting:

- The subject property is within the city limits and is zoned GI. AMC 20.40.140 lists Battery Energy Storage Systems as a permissible use in the GI zone.
- The City determined the application to be complete on March 4, 2025.
- The proposed BESS and accompanying site plan comply with all required sections of Title 20 AMC.
- The City issued an MDNS on March 5, 2025, which was not appealed. The proposed project would not impact aquifers, critical areas, forests, wildfire risks, or other protected environmental resources.
- The requested CUP, with conditions, would be consistent with all adopted plans, regulations, policies, and Title 20 AMC requirements.
- The project would not materially endanger public health or safety. The application materials include specific manufacturing documents that show that the proposed Tier 3 BESS has been tested for compliance. The project would support renewable energy sources and would provide increased electrical power sources for customers within the City and Snohomish County.
- The proposed Tier 3 BESS would not materially harm adjoining properties per the approved site plan. The proposed site plan shows that the BESS would not affect property owners and would be a compatible land use with the surrounding industrial uses.
- The proposed project is allowed per chapter 20.40 AMC permissible uses within the GI zoning district.
- The proposed project would be in conformity with the City zoning map, Title 20 AMC, and applicable City plans adopted by the City Council.

Exhibit 1, Staff Report, pages 29 and 30.

Testimony

14. City Deputy Director of Community and Economic Development Amy Rusko testified generally about the proposal and how, with conditions, it would comply with the City Comprehensive Plan, zoning ordinances, energy storage system regulations, and the specific criteria for approval for a CUP. She provided a detailed description of the project site and of the overall Snohomish County PUD property, noting that the solar arrays previously occupying the project site have been relocated to the west and that the new substation to the east is under development. Ms. Rusko also provided a detailed description of the proposed BESS facility, consistent with the findings above. She explained that the City recently enacted extensive regulations addressing energy storage systems in anticipation of this type of project, and she asserted that the Applicant's various submittals demonstrate that the proposed BESS facility would comply with these regulations. Ms. Rusko stressed that the City's energy storage system regulations were designed to ensure protection of public health and safety. She further stressed that the proposed BESS facility would be centrally located within an industrial site and would therefore be compatible with surrounding industrial uses and not detrimental to residential uses further to the east. *Testimony of Amy Rusko.*

15. Applicant Representative and Construction Manager Scott Wentworth, of Ameresco, testified that the Applicant agrees with City staff's analysis of the proposal, as presented in the staff report and Ms. Rusko's testimony. He stated that the Applicant has reviewed City staff's recommended conditions and would have no issue complying with those conditions. *Testimony of Scott Wentworth.*
16. Applicant Representative and Lead Project Engineer Jason Griffin, of Ameresco, provided a summary of some of the safety features that would be included with the project. He noted that the overall BESS facility would include a fire detection system to notify personnel of any need to respond to an on-site hazard. Mr. Griffin further noted that each battery would have its own system to mitigate fire hazards, as detailed in the Applicant's submittals, as well as electrical protective devices designed to interrupt any electrical hazards. In addition, he explained that the site would include several security features, including a fence to prevent unauthorized access to the facility. *Testimony of Jason Griffin.*

Staff Recommendation

17. City staff, having determined that the proposed development would comply with the City Comprehensive Plan and all applicable development regulations, recommends approval of the Applicant's request for a CUP, with conditions. *Exhibit 1, Staff Report, pages 29 through 35.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted the authority to hear and decide the applications for a conditional use permit. *AMC 20.12.230; AMC 20.16.100; AMC 20.16.225; AMC 20.16.255.*

Criteria for Review

In considering whether to approve an application for a conditional use permit, the hearing examiner shall proceed according to the following format:

- (1) The hearing examiner shall consider whether the application is complete. If no evidence is presented that the application is incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the hearing examiner that the application is complete.
- (2) The hearing examiner shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect can be made, the hearing examiner need not make further findings concerning such requirements. If such a finding cannot be made then a finding shall be made that the application be found not in compliance with

one or more of the requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. Separate findings may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the hearing examiner to be unsatisfied through this process.

- (3) If the hearing examiner concludes that the application fails to comply with one or more requirements of this title, the application shall be denied. If the hearing examiner concludes that all such requirements are met, he shall issue the permit unless he denies the application for one or more of the reasons set forth in Section 20.16.225 (Special Use Permits and Conditional Use Permits). Specific findings for such a denial must be made, based upon the evidence submitted, justifying such a conclusion.

AMC 20.16.255(e).

Subject to Subsection (d) [of AMC 20.16.225], the designated decision-maker shall issue the requested permit unless it concludes, based upon the information submitted at a hearing if there is a hearing or by signed letter if there is not, that:

- (1) The requested permit is not within its jurisdiction according to the table of permissible uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those the applicant is not required to comply with under the circumstances specified in Chapter 20.32, Nonconforming Situations); or
- (4) The proposed project has not complied with SEPA; or
- (5) The proposed project is not in conformance with the comprehensive plan, transportation plan, or other adopted plans, regulations, or policies.

AMC 20.16.225(c).

Even if the permit-issuing authority finds that the application complies with all other provisions of this title, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety; or
- (2) Will materially harm adjoining or abutting property;
- (3) In terms of design and use will not be compatible with the area in which it is located.

AMC 20.16.225(d).

Conclusions Based on Findings

With conditions, the proposal would satisfy the requirements for approval of a conditional use permit. Alternative Energy System uses are allowed in the General Industrial (GI) zoning district, subject to the Energy Storage Systems regulations and permitting requirements of chapter 20.114 AMC. *AMC 20.40.140.* The Applicant proposes to develop a Tier 3 Battery Energy Storage System (BESS), which is a use allowed exclusively within the GI zoning district and only with approval of a conditional use permit. *AMC 20.114.150.* The elements necessary for a complete application are defined by the City, and the City has discretion to suit the requirements to the specific project. *AMC 20.16.200; AMC 20.16.205.* The City deemed this application complete on March 4, 2025.

The City provided reasonable notice of the application and opportunity to comment on the proposal. The City did not receive any comments from members of the public, and no members of the public attended the associated open record hearing. Comments on the proposal from the Stillaguamish Tribe of Indians and from WSDOT – Aviation Division have been fully addressed by the Applicant, confirming that the project would be subject to an inadvertent discovery plan and would not present any conflict with the Arlington Airport operations.

City staff reviewed the proposal and determined that, with conditions, it would comply with all dimensional standards and development regulations generally applicable to projects within the GI zone, including standards and regulations related to minimum lot sizes, minimum lot widths, minimum structural setbacks, maximum building heights, maximum lot coverage, streets and sidewalks, utilities, screening, and stormwater management. The Hearing Examiner has independently reviewed the Applicant’s project plans and concurs with City staff’s assessment that, as conditioned herein, the project would comply with all applicable general zoning code standards and regulations.

As noted above, the proposed Tier 3 BESS is subject to the City’s extensive Energy Storage Systems regulations and permitting requirements of chapter 20.114 AMC. These regulations provide a framework for the safe installation and use of energy storage systems, with the goals of ensuring public health, safety, and welfare; compatibility with surrounding land uses; and mitigating potential impacts on environmental resources. *AMC 20.114.015.* City staff conducted a thorough review of the Applicant’s submitted responses to the requirements of these regulations and determined that, with conditions, the project would fully comply with the regulations. The Hearing Examiner again concurs with City staff’s assessment and determines that the Applicant’s submitted materials address the City’s Energy Storage Systems regulations, including, but not limited to, installation; operation and maintenance manual requirements; system maintenance, training, and testing; commissioning planning, testing, and reporting; decommissioning planning, processing, and reporting; emergency planning and training; and hazard mitigation analysis, as well as regulations specific to Tier 3 BESS facilities requiring compliance with provisions of the International Building Code, International Fire Code, National Electrical Code, National Fire Protection Association, and Underwriters Laboratories.

The City analyzed the environmental impacts of the proposal and determined that, with mitigation measures, it would not have a probable significant adverse impact on the environment. Accordingly, the City issued an MDNS for the proposal on March 5, 2025, which was not appealed. The mitigation measures imposed with the MDNS have been included as conditions of approval for this permit, as detailed in full below. No critical areas or associated buffers have been identified on the property or in the vicinity. The proposed Tier 3 BESS project site would be centrally located within the industrial-zoned subject property and would be surrounded by permitted industrial uses, a minimum of 550 feet from the nearest residential development to the east. As proposed and conditioned herein, the proposal would be consistent with several goals and policies of the City Comprehensive Plan, as well as several countywide and multi-county goals and policies, including goals and policies concentrating industrial uses in appropriate locations and promoting alternative energy sources to meet the city's and region's energy needs.

The Hearing Examiner determines that the proposal's compliance with the City's extensive Energy Storage Systems regulations, and with the conditions detailed in full below, would ensure that the proposed use would not materially endanger the public health or safety and that the siting of the proposed BESS facility would be compatible with surrounding industrial uses and would not materially harm residential uses located more than 550 feet from the project site. As detailed below, conditions are necessary to ensure that the proposal complies with MDNS mitigation measures and with all requirements associated with approval of a conditional use permit.

Findings 1 – 17.

DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit to allow for the construction of a 25-megawatt Battery Energy Storage System on an approximately 1.5-acre portion of a 12.39-acre partially developed parcel, located at 17601 63rd Avenue NE, is **APPROVED**, subject to the following conditions:

General Conditions:

1. All development shall be in substantial conformance with the approved site plan received on February 4, 2025, and signage information received on May 1, 2025. The project shall also comply with the Hazard Mitigation Analysis, Operations and Maintenance Manual, Fire and Explosion Testing Data, Calculations or Modeling Data to Determine Compliance with NFPA 68 and NFPA 69, Commissioning and Decommissioning Plan and Megapack 2 Data Sheet also submitted on February 4, 2025, subject to any conditions or modifications that may be required as part of the permit review or product installation.
2. The Applicant shall meet all local, state, or federal code requirements. Please refer to the Arlington Municipal Code for a complete list of code requirements for your project type.

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3. The Applicant shall comply with all permits and conditions thereof from the City of Arlington and other government agencies with jurisdiction.
4. The property owner or authorized agent and systems operator is required to have the manual before the system is put into operation and to maintain a service record log that lists the schedule for all required service and maintenance actions.
5. The property owner shall keep the operations and maintenance documentation on-site, and it shall be made available to the City of Arlington and North County Fire & EMS upon request.
6. The property owner shall comply with the system manufacturer's instructions, and maintenance documentation shall include a detailed maintenance schedule covering all affected equipment. The maintenance documentation shall record information on repairs, renewal, or renovations made to the energy storage system.
7. The property owner is required to provide training from the system owner or their designated agent to all personnel responsible for the operations and maintenance of the energy storage system.
8. The property owner shall perform system testing as required per the battery energy storage manufacturer, keep a record of all tests, and make the tests available electronically.
9. The property owner is responsible for the adequate commissioning testing per the manufacturer's specifications and shall provide the City of Arlington a commissioning report prior to becoming operational on the site. This report is required to be submitted to the Building Official.
10. The property owner shall notify the City of Arlington Community and Economic Development Department prior to decommissioning the energy storage system and follow the decommissioning instructions. The property owner shall also prepare a decommissioning report that summarizes the decommissioning process, results of the decommissioning process, and provide the report to the City of Arlington upon request.
11. The property owner shall submit an application for a new building permit with the City of Arlington prior to recommissioning an existing system. The application shall include the entire system, commissioning report, identification of any new issues and resolutions, and any revisions, alterations, additions, repositioning, or renovations to the system.

SEPA MDNS Conditions:

The Applicant or developer shall comply with all conditions of the SEPA MDNS issued on March 5, 2025.

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12. **(B)(1) Earth:** The Applicant proposes an estimated 353 cubic yards of cut and 1,703 cubic yards of fill. To mitigate for potential earth impacts, the Applicant shall implement Best Management Practices per Department of Ecology for Stormwater Pollution Prevention and TESC Controls to prevent erosion during and after construction.
13. **(B)(2) Air:** To mitigate for potential air impacts, the Applicant shall implement dust control measures to reduce fugitive dust emissions during construction. A Construction Management Plan shall be submitted to the City prior to commencement of construction to ensure these measures. Construction equipment emissions shall comply with all State and Federal regulations for emissions.
14. **(B)(3)(b) Ground Water:** To mitigate potential impacts to ground water the Applicant shall follow a Spill Prevention, Control, and Countermeasure Plan developed for the site as part of the Clean Water Act section 401 compliance and employ best design practices meeting the current Department of Ecology's Stormwater Management Manual for Western Washington.
15. **(B)(3)(c) Water Runoff:** To mitigate for potential impacts to water runoff the Applicant shall follow an approved Stormwater Pollution Prevention Plan and the current edition of the Department of Ecology's Stormwater Management Manual for Western Washington and Best Management Practices used to protect groundwater. Stormwater shall be controlled by routing surface runoff to vegetated areas designed to treat and infiltrate runoff into the existing subgrade. Secondary and/or additional containment shall be provided for any battery or transformer contaminants.
16. **(B)(7)(A) Environmental Health:**
 - **BESS Facility:** The Applicant shall provide security fencing with warning signs and locked entry gates to prevent access by unauthorized persons. System remote surveillance equipment shall be installed to reduce hazards from battery thermal runaway. Regular monitoring, inspections, and maintenance shall be performed, which will help prevent hazardous conditions. The station's grounding system shall be installed to protect people within or adjacent to the fence from shock or explosion.
 - **Oil and Hazardous Material Spills:** The Applicant shall provide a facility that is designed to contain the release of non-toxic transformer oil, battery coolant, and electrolyte during routine operations and emergency conditions. Spill response procedures shall be developed to address spill situations in the Spill Prevention, Control and Countermeasures Plan, required by federal oil use regulations and shall in accordance with all local, State and Federal policies. The Plan shall

provide response procedures, and utilization of an emergency spill response contractor if initial response resources are not sufficient.

17. **(B)(7)(b) Noise:** City of Arlington noise standards found in AMC 9.20.060 shall be complied with. Specifically, in section 9.20.060(8) noises resulting from any construction or development activity or the operation of heavy equipment from 7:00 pm to 7:00 am Monday through Saturday shall be prohibited. The project will generate short-term noise associated with construction activities. Construction hours will conform to City requirements. Low noise transformers will be utilized in the facility with the project completion.
18. **(B)(10)(c) Aesthetics:** The Applicant shall provide a security/screening wall to obscure ground-level visibility of the system from the 63rd Avenue NE public right-of-way.
19. **(B)(11)(a) Light and Glare:** To mitigate potential light pollution the Applicant will be required to install light fixtures that are down shielded. The property is located within the Arlington Airport Protection District – Subdistrict C.
20. **(B)(13) Historic and Cultural Preservation:** The Applicant submitted an Unanticipated Discovery Plan. If historical, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the community and economic development director. The property owner also shall notify the Washington State Department of Archaeology and Historic Preservation and affected tribes. The Applicant shall provide ground disturbance notification to the Stillaguamish Tribe of Indians and allow for monitoring on the site.
21. **(B)(16)(a) Utilities:** The Applicant shall receive approval and connect to the City of Arlington water system, extend utility lines as necessary, and pay water and sewer connection fees. All improvements shall be installed during the Civil Construction phase of the project.

Civil Construction Conditions:

22. Prior to any construction activities, the Applicant shall file and receive approval of a Civil Construction Permit that complies with all requirements of the Land Use Code, International Building Code, International Fire Code, and Public Works Construction Standards and Specifications. Said plans shall address all site improvements, either required or voluntarily provided.
23. All stormwater is required to meet the Department of Ecology’s 2024 Stormwater Management Manual for Western Washington and Chapter 3 of the City’s Design and

Construction Standards and Specifications manual. The final drainage plan shall be approved with the Civil permit.

24. The Applicant is required to obtain a Department of Ecology Construction Stormwater General Permit.
25. The Applicant shall submit a Stormwater Pollution Prevention Permit (SWPPP) with the Civil Construction Permit.
26. The Applicant is required to obtain utility permits from the City of Arlington for water and sanitary sewer connections.
27. The Applicant shall fulfill all performance and maintenance bond requirements of the subject project.
28. The Applicant shall provide as-builts of water, sanitary sewer, and storm systems installed with the subject project.

Building Permit Conditions:

29. A building permit application shall be reviewed and approved prior to building construction on the site.
30. The battery energy storage system shall meet the most current edition of the International Building Code, International Fire Code, and the National Electrical Code regulations.
31. The Applicant is required to obtain an electrical permit from the Washington State Department of Labor and Industries.

Other Conditions:

32. All contractors working on the site are required to obtain a Washington State Business License and a City of Arlington Endorsement.

DECIDED this 19th day of June 2025.



PEREGRIN K. SORTER
Hearing Examiner
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