EnerSmart™

City of Pomona Planning Commission

City Hall 505 S. Garey Avenue Pomona, CA 91766

January 05, 2025

Re: **Justification Letter, Appeal of Denial of Determination of Similarity (DOS-000687-2025)**

Site Addresses: 1474 E. Franklin Avenue (AIN: 8328014040) and 1158 East End Avenue (AIN: 8327024012)

Decision Date: December 10, 2025

Dear Planning Commission Members:

We are formally appealing the Development Services Director's denial of DOS-000687-2025 for a stand-alone Battery Energy Storage System (BESS) at the above sites in Workplace Districts 2 [LM4-G2-I3] and 3 [LM4-G2-I2].

Introduction

This appeal requests reversal to find the BESS similar to "Public Utility Substation/Facility" under 530.A.2, permitting it as a principal use without a zoning amendment. This aligns with PZDC intent for essential utility infrastructure supporting grid reliability and renewables.

This appeal demonstrates alignment with the definition, encompassing electrical substations, power generation, and supporting storage/control equipment.

Analysis of Similarity Criteria

The following addresses each of the 13 criteria under PZDC Section 530.A.2, demonstrating substantial similarity between the proposed BESS and the "Public Utility Substation/Facility" use.

1. **The actual or projected characteristics of the proposed use.** The BESS involves storing electrical energy from the grid and discharging it as needed, functioning as integral utility infrastructure for grid stabilization, similar to electrical substations that transform, control, and distribute electricity. Both handle high-voltage energy flows and include supporting equipment for control and transmission, as contemplated in the PZDC definition.

2. **The relative amount of lot area or floor area and equipment devoted to the proposed use.** The BESS will occupy the site with modular battery containers, inverters, and transformers, comparable to the footprint of electrical substations or small power generation facilities, which often span similar areas with equipment enclosures and minimal building structures.

3. **Relative amounts of sales.** Neither the BESS nor typical Public Utility Substation/Facility uses involve direct retail sales; both operate as wholesale utility services providing energy to the grid or end-users through regulated utilities, with revenue derived from grid services rather than on-site transactions.

4. **The customer type.** Customers for both are primarily utility providers and grid operators serving the broader public through energy distribution and reliability, without direct interaction with retail consumers.

5. **The relative number of employees.** The BESS will have 1-2 personnel for occasional maintenance, akin to many modern electrical substations that are remotely monitored with minimal on-site staffing. The PZDC definition notes "often including on-site staff," but does not require it, allowing for unmanned operations common in contemporary utility infrastructure.
6. **Hours of operation.** Both operate 24/7 to ensure continuous grid support, with automated systems handling charging/discharging or voltage transformation, and human intervention limited to maintenance or emergencies.
7. **Building and site arrangement.** The BESS features enclosed battery units, fencing, and setback buffers, similar to substations with transformers, switchgear, and security perimeters. Site plans comply with industrial zoning standards, emphasizing equipment-centric layouts over occupied structures.
8. **Types of vehicles used and their parking demands.** Maintenance vehicles (vans or light trucks) will visit sporadically, requiring minimal parking, comparable to substation servicing that involves utility trucks without daily on-site parking needs.
9. **The number of vehicle trips generated.** The BESS anticipates 1-2 trips per week for maintenance, similar to or less than substations, which generate low traffic volumes focused on periodic inspections and repairs rather than daily operations.
10. **How the proposed use is advertised.** Neither is advertised to the public; both are promoted through utility regulatory filings, industry reports, and grid planning documents, emphasizing their role in energy infrastructure rather than commercial marketing.
11. **The likely impact on surrounding properties.** Impacts such as noise (from HVAC, mitigated to allowable levels for the zoned area (generally between 60 and 75dBA or below at boundaries) and safety risks (addressed via robust fire suppression and management systems) are Substations' have electromagnetic fields and high-voltage hazards. Both require setbacks and screening, with BESS offering grid benefits that offset potential effects.
12. **The amount of outdoor storage that might be anticipated.** Minimal outdoor storage is expected for the BESS (e.g., spare parts in secure areas), similar to substations that store limited equipment outdoors within fenced compounds, without large-scale warehousing.
13. **The amount of truck traffic that might be generated.** Truck trips will be infrequent (e.g., 1-2 per month or less for deliveries), akin to substation maintenance involving occasional heavy equipment transport, far below levels associated with industrial storage or manufacturing.

Counter to Director's Key Findings

The Director's denial relies on perceived differences in characteristics, operations, and impacts. These are addressed below with evidence supporting similarity.

Characteristics

The Director distinguishes BESS as storage-focused rather than "pass-through" like substations, asserting that energy storage is only contemplated as an accessory use under "on-site supporting storage" (e.g., solar with battery backup), and claims BESS functions as a disconnected industrial commodity storage

rather than integral utility infrastructure for generation, treatment, control, distribution, or transmission. However, this interpretation imposes restrictions not found in the PZDC definition, which inclusively lists "passive energy generation such as wind turbine, geothermal system, and solar photo-voltaic system with supporting on-site storage, control and transmission equipment" without mandating that storage be accessory to on-site generation or excluding stand-alone applications.

Stand-alone BESS fulfills a comparable utility role by providing grid-wide supporting storage—absorbing surplus energy and discharging it during peaks to stabilize distribution and transmission, functions integral to modern substations that also manage energy flow beyond mere pass-through, including frequency regulation, voltage support, and load shifting as a dispatchable power source. Far from "disconnected," BESS is inherently grid-connected, charging from and discharging to the electrical grid to enhance control, distribution, and transmission efficiency, akin to how substations transform and distribute electricity without primary generation.

This broad scope is supported by precedents such as Los Angeles County's Subdivision and Zoning Ordinance Interpretation Memorandum No. 2021-03, which deems utility-scale BESS "most similar to [Electrical Distribution Substations]" due to equivalent size, bulk, and use, enabling ministerial review in industrial zones. California's GO-Biz Draft BESS Model Ordinance and Guide recommends treating stand-alone BESS as essential energy infrastructure with ministerial permitting in industrial zones, aligning standards with those for "public utility or other energy infrastructure" without accessory requirements. Orange County's ordinance includes BESS in utility facilities like "electric substations," further affirming standalone BESS as comparable. Zoning Practice reports note standalone BESS as "high-capacity systems deployed at substations or occasionally as a standalone land use," sharing similar footprints and grid functionality with electrical substations.

Operations & Number of Employees:

The Director contrasts the unmanned BESS with facilities that "often includes on-site staff," but the term "often" does not mean "always," as the PZDC language plainly contemplates variability in staffing models for utility infrastructure, including unmanned operations common in modern electrical substations that rely on remote monitoring with only occasional on-site maintenance visits—directly paralleling the proposed BESS's 1-2 personnel model. This efficient approach reduces land use burdens such as traffic while maintaining safety and reliability. The asserted "distinct land use challenges" related to emergency response, security, and public oversight are not unique to BESS and are comprehensively addressed through industry standards and regulatory requirements that often exceed those for traditionally staffed facilities: advanced Battery Management Systems (BMS) enable continuous remote monitoring, early anomaly detection, automatic shutdowns, and direct alerts to operators and first responders, facilitating faster intervention than manual oversight; NFPA 855 compliance mandates integrated fire/thermal detection and site-specific emergency plans; LACoFD's rigorous requirements—exceeding prescriptive NFPA 855 allowances—include a detailed Hazard Mitigation Analysis (HMA) to evaluate all credible failure modes and an Alternative Materials or Methods Review (AMMR) process that mandates layered mitigations to achieve equivalent or superior safety without on-site staff; security is ensured via 24/7 remote CCTV, intrusion alarms, secure fencing, and real-time alerts, mirroring protocols used at unmanned substations; and public oversight is strengthened through LACoFD's case-by-case technical reviews and approvals, which involve transparent submissions and fire marshal determinations focused on site-specific safety. These measures demonstrate that unmanned BESS aligns with, and often advances, contemporary utility practices.

Impacts on Surrounding Properties:

The Director asserts that BESS impacts are fundamentally different and uniquely hazardous compared to traditional substations, citing risks of fire, explosion, chemical hazards, noise, and perceived effects on property values and insurance, while claiming the PZDC is not equipped to evaluate or mitigate them under the Public Utility classification. However, these impacts are effectively mitigated through modern design and stringent regulatory compliance, rendering them consistent with the definition's acknowledgment of "considerable impacts."

- **Risk of Fire and Explosion:** While thermal runaway presents challenges, EPRI's BESS Failure Incident Database shows global utility-scale fire incident rates have declined dramatically (97% from 2018-2023 despite deployment growth), with safer chemistries like LFP contributing to low overall rates—comparable to or below substation arc-flash and electrical fault risks, which remain permitted uses.
- **Chemical Hazards:** BESS electrolytes are contained within sealed units, with no routine releases; potential off-gassing is managed via venting and suppression systems.
- **Noise:** BESS HVAC cooling generates sound levels typically 40-55 dBA at boundaries (mitigated via screening/enclosures), akin to the constant transformer hum (45-55 dBA) common in substations both tonal but manageable to below urban ambient thresholds. We have done Acoustic studies for comparable BESS projects and routinely demonstrate compliance with local noise ordinances through site-specific modeling and mitigation, as required by authorities having jurisdiction.
- **Perceived Risks (Property Values/Insurance):** No empirical studies confirm significant devaluation or insurance hikes for neighboring properties.

Although the PZDC predates widespread BESS deployment and lacks specific provisions, authorities having jurisdiction, including in Los Angeles County, routinely defer to specialized fire department expertise for mitigation. Pomona, served by LACoFD, benefits from some of the nation's most rigorous standards: LACoFD mandates a site-specific Hazard Mitigation Analysis (HMA) evaluating all credible failure modes (including single-fault scenarios), an Alternative Materials or Methods Review (AMMR) for variances from prescriptive codes, and layered protections that exceed NFPA 855 baselines ensuring safety equivalence without on-site hazards beyond those of traditional utilities. These processes, applied case-by-case, provide robust safeguards tailored to modern infrastructure, supporting similarity under the existing classification.

Precedents and Policy Considerations

Los Angeles County's 2021-03 Memorandum classifies utility-scale BESS as most similar to Electrical Distribution Substations, enabling ministerial review in industrial zones. AB 205 (2022) recognizes BESS as essential infrastructure for grid reliability and GHG reductions. CPUC mandates project 52,000 MW of BESS by 2045. GO-Biz's 2025 Draft Model Ordinance and Guide recommends treating BESS as utility infrastructure with streamlined industrial-zone permitting.

Community and Policy Benefits

This project represents a forward-thinking opportunity for Pomona, aligning with the City's recent zoning code revamp aimed at curbing undesirable industrial expansions like warehouses and heavy manufacturing that have burdened communities. Unlike those uses, this BESS facility introduces clean, sustainable energy infrastructure on currently vacant, underutilized parcels challenged by their odd shapes and existing encumbrances, which have hindered traditional development. We are not opportunistic

developers exploiting the area; rather, this initiative genuinely enhances Pomona by bolstering local grid reliability, reducing reliance on fossil fuels, and contributing to California's clean energy transition—all with minimal operational footprint, no emissions, and low traffic. By approving this similarity determination, the Commission can transform these overlooked sites into assets that support economic vitality, environmental stewardship, and community resilience.

Conclusion

The proposed BESS aligns with the "Public Utility Substation/Facility" use under PZDC Section 530.A.2, based on the criteria analysis, counterarguments to the Director's findings, and supportive precedents. We'd like to request a public hearing pursuant to PZDC procedures, reversal of the denial, and approval of the similarity determination.

Attachments:

- Original DOS Application (DOS-000687-2025)
- BESS Enersmart Project Introduction Packet
- FERC Public Utility Status Determination
- Preliminary Site Plans

Thank you,

Christian Gonzales

Christian Gonzales

EnerSmart Storage

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