BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY

In the Matter of the Application of	)	NO. 2024104116
	)	
Convergent Energy & Power	)	**Convergent Energy**
	)	**Battery Energy Storage System**
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Special Use Permit	)	AND DECISION ON
	)	RECONSIDERATION
	)	

SUMMARY OF DECISION ON RECONSIDERATION

The request for a special use permit to construct a lithium iron phosphate (LFP) lithium-ion battery energy storage system at 7505 183rd Avenue SW in Rochester is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Convergent Energy & Power (Applicant) requested a special use permit (SUP) to construct a 5.4-megawatt LFP lithium-ion battery energy storage system (BESS) at 7505 183rd Avenue SW in Rochester, Washington. The facility would include two transformers and two power conversion systems and would have a development footprint of approximately 16,000 square feet.

Procedural History:

The Thurston County Hearing Examiner conducted a virtual open record public hearing on the request on October 14, 2025. The Examiner issued a decision on November 10, 2025 denying SUP approval. On November 20, 2025, an attorney for the Applicant timely requested reconsideration and specifically asked that the public hearing be reconvened to allow for questioning of witnesses on additional information to be provided. The request for reconsideration was granted on December 2, 2025, reopening the record to receive new evidence on three topics: fire and life safety, groundwater impacts, and compatibility with the rural surroundings and rural character of the vicinity. Notice of the reconvened hearing was sent to surrounding property owners and all parties of record, and the public was invited to provide additional comment.

The virtual open-record hearing on the reconsideration was held on February 3, 2026. [1] The record was held open through February 5, 2026 to allow members of the public who were unable to participate in the virtual hearing due to technology issues to submit written comments. The record was held open through February 18, 2026 for written responses from the Applicant and Staff to the pre-hearing written public comments, responses to verbal comment at hearing, and responses to any post-hearing comment from people unable to testify at hearing due to technology problems. At hearing, the Applicant agreed to extend the decision deadline to March 6, 2026; however, circumstances beyond the control of the undersigned resulted in a slight additional delay.

No in-person site visit was conducted, but the Examiner viewed the subject property and its surroundings on Google Maps.

Testimony:
At the October 14, 2025 hearing, the following individuals presented testimony under oath:

Maya Teeple, Senior Planner, Thurston County Community Planning and Economic Development Department

Arthur Saint, Civil Engineer, Thurston County Public Works Department

Kyle Overton, Senior Environmental Health Specialist, Thurston County Public Health and Social Services Department

Dennis Duffin, Project Development Manager, Convergent Energy (Applicant)

Laura Behrer, Vice President, Environmental Health and Safety, Convergent Energy

Alex White, Civil Engineer, Core States Group

Cheryl Ebsworth, Senior Planner, Core States Group

Nathan Drake, Fire Chief, West Thurston Regional Fire Authority

Natalie White

Jesus Mendoza

Jeff Merryman

Tamara Haight

Conrad Neudorf

Debbie Neudorf

Brian Haight

Ryan Mercier

Jan Nielsen

Christine Johnson

Susan Ness

[1] Findings on the reconvened hearing on reconsideration begin at Finding 45 on page 16.

Josh Hovda

Angela Robinson

At the February 3, 2026 reconvened hearing on reconsideration, the following individuals presented testimony under oath:

Maya Teeple, Senior Planner, Thurston County Community Planning and Economic Development Department

Dennis Duffin, Project Development Manager, Convergent Energy (Applicant)

Laura Behrer, Vice President, Environmental Health and Safety, Convergent Energy

Nathan Drake, Fire Chief, West Thurston Regional Fire Authority

Natalie White

Jeff Merryman

Tamara Haight

Debbie Neudorf

Brian Haight

Jan Nielsen

Susan Ness

Josh Hovda

Stan Allison

Kyle Hooper

Casey Taylor

Bonnie Helms

Jessica Pickernell

Chris Weaver

Attorney Representation:
William T. Lynn and Reuben Schutz, Gorden Thomas Honeywell, PLLC, represented the Applicant at the hearing on reconsideration. No other parties were represented by legal counsel.

Exhibits:
The exhibits in Appendix A were admitted in the record through both virtual open record hearing processes.

Procedural Documents:
- Hearing Examiner's Decision, issued November 10, 2025
- Applicant Request for Reconsideration, dated November 20, 2025

- Planning Staff's Response to Request for Reconsideration (requested by the Examiner), dated November 24, 2025
- Ruling Granting Reconsideration, issued December 2, 2025

Based on the record developed through the open record hearing process, the following findings and conclusions are entered in support of the decision of the Hearing Examiner.

Note that the original findings, from the November 10, 2025 decision, have been retained largely unchanged, aside from scrivener corrections and minor additions clarifying procedural points, going from numbers 1 through 44. Additional findings entered following the reconvened hearing start at Finding 45. The conclusions in the instant decision on reconsideration are based on evidence and testimony admitted through both hearings.

FINDINGS

October 14, 2025 Hearing

1. Convergent Energy & Power (Applicant) requested a special use permit (SUP) to construct a 5.4-megawatt lithium iron phosphate (LFP) lithium-ion battery energy storage system (BESS) at 7505 183rd Avenue SW in Rochester, Washington. The facility would include two transformers and two power conversion systems and would have a development footprint of approximately 16,000 square feet. *Exhibits 1, 1.B, 1.C, 1.D, 1.F, and 6.*

2. The purpose of a BESS is to store energy already present in the electrical grid and discharge the energy back into the grid when demand warrants. For the proposed BESS, energy would be taken from and discharged back to a Puget Sound Energy (PSE) substation located across the street from the subject property. The potential benefits of battery storage include a reduced need by PSE to import or generate energy during peak demand.[2] *Exhibits 1.C and 1.E; Dennis Duffin Testimony.*

3. The proposed 5.4-megawatt system would provide sufficient energy storage capacity to run the electrical grid at full capacity for four hours. The completed facility would be owned by the Applicant, a private company, but operated by PSE under a lease agreement. *Dennis Duffin Testimony.*

4. The expected life span of the facility is 20 years, due to degradation of the energy storage capacity of the batteries, after which point the Applicant would decommission the facility and restore the site. The batteries would be removed from the site and recycled. *Dennis Duffin Testimony.*

5. The SUP application was received on September 19, 2024 and deemed complete on October 1, 2024. *Exhibit 1.O.* The County considers the project vested to the regulations

[2] Given that the Applicant is not the utility provider/biller, and PSE did not participate in the hearing, the Hearing Examiner finds that Applicant testimony suggesting that PSE's reduced need to generate power would benefit the public through reduced power bills is speculative. *See Dennis Duffin Testimony.*

in effect at the time of complete application, which regulations do not explicitly address BESS facilities. *Maya Teeple Testimony; Exhibit 1.* The County is currently engaged in the process of developing BESS-specific regulations, which are expected to be complete in December of this year. *Exhibit 1.* If adopted, these new regulations could apply if the Applicant were to seek changes to the site plan or equipment in the future. *Maya Teeple Testimony.*

6. The subject property is approximately 11.5 acres in area (per submitted boundary and topographic survey) and developed with two commercial buildings, associated parking, a single-family residence, and several small sheds/temporary buildings. Commercial uses on the site include a school bus storage facility. *Exhibits 1.G and 1.V.*

7. Access to the subject property is from 183rd Avenue SW, which runs along the northern property boundary, and Sargent Road SW, which runs along a portion of the eastern property boundary. *Exhibit 1.G.*

8. The existing development is clustered in the central portion of the subject property, leaving the northern and southern ends undeveloped. The northern end of the property is where development of the BESS is proposed. This area is generally flat and contains few trees. The southern end of the property, which is more densely vegetated, would remain undisturbed. *Exhibits 1.F and 1.G.*

9. Surrounding properties are developed with single-family residential, agricultural, commercial, and utility land uses. There is a PSE substation across Sargent Road SW from the subject property. There is a veterinary clinic to the northeast, across the intersection of 183rd Avenue SW and Sargent Road SW from the site. The parcel immediately southeast of the subject property's Sargent Road SW frontage is developed with a single-family residence.[3] *Exhibits 1 and 3; Tamara Haight Testimony; Google Maps site view.*

10. The subject property contains two zoning designations. The northern 7.63 acres of the property, where development is proposed, are zoned Rural Commercial Center (RCC).[4] Adjacent properties to the north and south along the Sargent Road SW corridor, and to the east along 183rd Avenue SW, are also zoned RCC. *Exhibits 1 and 1.T2.* The purpose of the RCC zone is "to provide for commercial uses which are oriented toward an identified rural community and serve the everyday needs of the community." *Thurston County Code (TCC) 20.24.010.* Primary permitted uses in the RCC zone include a variety of commercial uses, such as retail uses, services, restaurants, and veterinary clinics. Single-family residences are allowed in conjunction with another listed use. *TCC 20.24.020.* "Major energy transmission and generating facilities" are allowed in the

[3] This parcel, at 18443 Sargent Road SW, is shown as including "Cobblefield Lavender Farm" in addition to the residence, although according to Google Maps, the lavender farm is temporarily closed. *Google Maps site view.*

[4] This acreage is based on the zone split indicated on page 1 of the Staff Report. It is approximate, as the numbers in the Staff Report add up to only 11.2 acres, whereas the property survey indicates approximately 11.5 acres. *Exhibits 1 and 1.G.*

RCC zone with SUP approval, subject to the use-specific standards of TCC 20.54.070(20). *TCC 20.54, Table 1.*

11. The southern 3.59 acres of the property are zoned Rural Residential Resource One Dwelling Unit per Five Acres (RRR 1/5).[5] Adjacent properties to the west (including to the west of the proposed development area) and south are also zoned RRR 1/5. *Exhibits 1 and 1.T2.* The adopted purposes of the RRR 1/5 zone include: "to encourage residential development that maintains the County's rural character; provide opportunities for compatible agricultural, forestry, and other rural land uses; to be sensitive to the site's physical characteristics; provide greater opportunities for protecting sensitive environmental areas and creating open space corridors; enable efficient road and utility systems; and not to create demands for urban level services." *TCC 20.09A.010*. Primary permitted uses in the RRR 1/5 zone include single-family and two-family residences, agriculture, accessory farm housing, and home occupations. *TCC 20.09A.020*. "Major energy transmission and generating facilities" are allowed in the RRR 1/5 zone with SUP approval, subject to the use-specific standards of TCC 20.54.070(20). *TCC 20.54, Table 1.*

12. Although the special use standards of TCC 20.54 note that major energy transmission and generating facilities may qualify as essential public facilities (see notes to Table 1), the Community Planning and Economic Development Director issued an administrative interpretation on August 29, 2024 that the proposed BESS does not qualify as an essential public facility. *Exhibit 1.N.*

13. The applicable use-specific standards require that the Applicant demonstrate "the need for the particular location proposed…to the satisfaction of the approval authority, including a full accounting of alternative locations and sites." *TCC 20.54.070(20)(b)*. Although the Applicant submitted that 150 sites were initially reviewed, which yielded five potential sites based on environmental factors, and that PSE wants a site in this service area (*see Dennis Duffin Testimony*), a "full accounting" of the site selection process was not submitted for the Hearing Examiner's review.[6] The proposed location across from the PSE substation is desirable because it would allow for an underground connection between the sites, avoiding the need for a long-distance overhead line. *Dennis Duffin Testimony.*

14. The Comprehensive Plan current at the time of application contains the following language regarding Rural Commercial Centers.

> Purpose:
>
> To provide for the commercial needs of an identified rural community. To provide for redevelopment and infilling of rural commercial areas in a unified

[5] As explained in the previous footnote, this acreage is approximate.

[6] No citation to an exhibit containing this information was provided to the Hearing Examiner at the initial hearing. The application materials entered into the record as Exhibits 1.B, 1.C, 1.D, and 1.E did not contain alternate siting review information. More adequate details addressing the site selection process were provided during the reconvened reconsideration hearing.

center configuration, not as strip commercial development. To provide for limited expansion of a commercial center to serve the growth of the surrounding rural community over time, contained within the logical outer boundary of the commercial center.

Definition and Characteristics:

Rural Commercial Centers serve an identified rural community and have a range of uses to meet the everyday needs of the community. Development within these centers shall be functionally and visually compatible with the surrounding rural area and uses in order to protect the rural character. Typical uses in Rural Commercial Centers are small offices, retail sales, grocery stores, drug stores, video stores, garden supplies, nurseries, hardware, lumber sales, service stations, taverns, boat and auto sales, mini storage facilities, and public facilities and services….

Locational Guidelines:

…

Existing Land Use. Uses within the Rural Commercial Center designation shall be compatible with rural character, which includes both functional and visual components. The functional component describes land put to uses that are dependent on a rural setting. For example, localized commercial uses that serve a rural population or other rural activities are dependent upon a rural location close to their constituencies. On the other hand, a commercial business that is oriented to a larger than rural market or service area is not dependent upon a rural location. If a proposed commercial business will interfere with the surrounding rural area or uses by significant traffic, light, noise, etc., then that business is incompatible with rural character. The visual component describes the visual attributes of the traditional rural landscape. If the visual character of the rural landscape is unduly disrupted or altered by a proposed commercial use, then that use is incompatible with rural character.

Thurston County Comprehensive Plan (adopted December 2020), Chapter 2, pages 2-26 to 2-28; Exhibit 1, page 12. Planning Staff did not identify any adopted Comprehensive Plan policies addressing BESS facilities; the quotations in the Staff Report relating to BESS uses are from a draft Comprehensive Plan update that is still under review.[7] *Exhibit 1.*

15. The LFP lithium-ion batteries would be stored in cabinets, which would be mounted on a concrete pad and enclosed by a six-foot fence topped with barbed wire. The battery

[7] It is unclear what the final language for these policies will be (if adopted), as the version quoted by Planning Staff in the Staff Report has already been modified to reflect proposed changes. *See draft Chapter 2, page 2-29, found at: https://s3.us-west-2.amazonaws.com/thurstoncountywa.gov.if-us-west-2/s3fs-public/2025-09/cped-cp-docs-Thurston2045-BOCC-hearing-02-climate-clean.pdf.* The cited policies, as they appear in the draft most recently posted online, are intended to "advance development efforts of local microgrid solar and battery storage facilities" (CL-1.D(4)) and "facilitate the development of community-owned and driven renewable energy generation projects and prioritize placement in historically underserved communities" (CL-1.D(3)). As noted in public comment, the quoted policy regarding renewable energy generation projects is not applicable because the proposal does not generate energy. *See Exhibit 2.D.*

cabinets would also contain HVAC systems. Inverters (to convert the energy) and transformers (to decrease the voltage when taking power off the grid and to increase the voltage when discharging it back to the gid) would be provided within the fenced compound. Although no building elevations of the proposed facility were provided, the photo included on slide 12 of the Applicant's hearing presentation (Exhibit 6) generally illustrates the appearance of the site components. *Exhibits 1.F and 6; Dennis Duffin Testimony.*

16. The building setback standards applicable to the use require a minimum street setback of 10 or 20 feet depending on the street classification and location, a non-street side yard setback of five feet, and a rear yard setback of five feet. The proposed facility would far exceed these minimum standards. The facility would be approximately 100 feet from the nearest property line. *Exhibits 1 and 1.A; Alex White Testimony.*

17. The maximum hard surface coverage limit of the RRR 1/5 zone, for lots 2.5 acres in area and greater, is 10%, and the maximum hard surface coverage limit of the RCC zone is 75%. *TCC 20.24.010; TCC 20.09.060; Exhibit 1.* Most of the preexisting and all of the proposed new hard surfaces are within the RCC portion of the site. The preexisting hard surfaces total 172,344 square feet, and 15,989 square feet of new hard surfaces are proposed. On a site-wide basis, the hard surface coverage would be approximately 38%. Compliance with the hard surface coverage standard would be confirmed during building permit review.[8] *Exhibits 1 and 1.H.*

18. After construction is complete, one to two employees would visit the site periodically for facility maintenance. *Exhibit 1.V.* The existing parking lot on-site would be adequate for this usage. *Exhibits 1.F and 1.R.* The existing access to the site would be retained. *Exhibit 1.A; Maya Teeple Testimony.*

19. Although the proposed facility would not be manned, it would be monitored remotely 24 hours per day, seven days per week, through use of sensors and human-monitored cameras. The batteries would have remote "stop" buttons. The use of a concrete slab would help prevent the spread of heat. *Dennis Duffin Testimony.*

20. The completed facility is expected to emit a humming noise that would be audible at the property boundaries. While the sound levels are expected to be as high as 75 dBA one meter from the equipment, this level would fall with distance, and the Applicant expects that the sound levels would not exceed 45 dBA at the property lines, consistent with State noise limitations for residential properties during evening hours.[9] However, no noise study was submitted into the record to confirm these assumptions. *Exhibits 1.V and 6; Dennis Duffin Testimony; Washington Administrative Code (WAC) 173-60-040.* To

[8] It is evident based on rough calculations that compliance with the hard surface allowance would be achieved. The RCC portion of the site is approximately 7.63 acres, yielding a hard surface allowance of 5.72 acres (75% of 7.63 acres). After the proposed development is complete, hard surfaces would total 188,333 square feet on a site-wide basis, or 4.32 acres. *See Exhibits 1 and 1.H.*

[9] These standards allow different noise levels depending on the use classification of the adjacent "receiving" property, with residential properties receiving the highest level of protection (*see WAC 173-60-030*).

address noise, Planning Staff recommended that the Applicant demonstrate compliance with State noise levels requirements prior to final building permit inspection, with noise testing to be done under the supervision of a licensed environmental noise consultant. *Exhibit 1; Dennis Duffin Testimony.* Although the recommended condition, as drafted, does not specify which specific standard would need to be achieved, Staff clarified at the hearing that the residential standard would apply. *Maya Teeple Testimony.*

21. With respect to other potential sources of noise, once construction is complete there would not be a generator on-site. Some of the cabinets would contain lead acid batteries to serve as a back-up power source to ensure communications are maintained. *Laura Behrer Testimony.*

22. The Applicant proposes to install a 10-foot landscape buffer along the western, northern, and eastern sides of the facility. The landscape buffer would be planted with trees (shore pine and Douglas fir), shrubs, and groundcover. No landscaping would be installed on the southern side of the facility, where the access gate would be located. The southern side of the facility would face the interior of the site, including the parking lot and bus barn building. Although there is residential property to the southeast of the project area, the area without landscaping would be slightly oriented to the southwest, and there is an existing building between the project area and the residential property line, such that the residence to the southeast would be expected to have a view of the BESS facility that would be partially screened by the proposed landscaping and the existing building. *Exhibits 1.F and 1.L; Google Maps site view.*

23. The subject property does not contain any steep slopes, wetlands, wetland buffers, or flood hazards. *Exhibits 1.T5, 1.T7, and 1.T8.* While the subject property is outside of mapped high groundwater hazard areas, there is a high groundwater hazard area on the opposite side of 183rd Avenue SW from the subject property, and the northern end of the subject property is designated as a high groundwater review area. *Exhibit 1.T6.* The subject property and all surrounding parcels are within a Category I Critical Aquifer Recharge Area (CARA). *Exhibits 1 and 1.T9.* A Category I CARA refers to an area of "extreme aquifer sensitivity;" the designation is applied to "areas which provide very rapid recharge with little protection," wellhead protection areas, and "aquifers in subsurface geologic formations that are extremely vulnerable to contamination." *TCC 24.10.010.A*.

24. With respect to the high groundwater review area, the applicable standards specify a "no development zone" of 50 feet from the edge of the high groundwater hazard area, or the distance required to achieve two vertical feet in ground elevation above base flood elevation, whichever is less, and a "restricted development zone" extending from the edge of the "no development zone" to the distance required to achieve two vertical feet above base flood elevation. *Exhibit 1; TCC 24.20.020; TCC 24.20.025.* The proposed development area is approximately six feet above base flood elevation and therefore outside of the zones where development is prohibited or restricted. The horizontal distance between the proposed development area and the high groundwater hazard area would be approximately 200 feet. *Exhibits 1, 1.F, 1.G, and 1.T6.*

25. With respect to the CARA, TCC Table 24.10-1 lists various land uses and indicates whether they are allowed in each CARA type. While the proposed land use is not included in the list, the "utility substation" land use is listed and is allowed in Category I CARAs. Another similar listed land use is "industrial uses - other," which explicitly includes battery processing, reprocessing, and storage. Such industrial uses, when they generate less than 220 pounds of hazardous waste per month, are allowed in Category I CARAs, as long as the site is not within a one-year time of travel wellhead protection area. When such uses generate more than 220 pounds of hazardous waste per month, they are not allowed in any Category I CARA. *TCC Table 24.10-1.* The subject property is not within a one-year time of travel wellhead protection area (see Exhibit 1.M1), nor is it expected to generate hazardous waste during normal operations.[10] *Exhibits 1.M1 and 1.V; Kyle Overton Testimony.*

26. With respect to protected species of plants and animals, the subject property does not contain a sufficient density of prairie plant species to be classified as prairie habitat. The few Oregon white oaks that are present are located at the southern end of the subject property, where no development is proposed. Based on soil mapping, the species of concern that is potentially present is the Mazama pocket gopher. The subject property contains soils that are "more preferred" habitat for Mazama pocket gophers. *Exhibits 1.J, 1.S, and 1.T4.* Potential impacts to the Mazama pocket gopher would be addressed through the County's Habitat Conservation Plan application process (TCC 17.40) prior to issuance of a grading or building permit. *Exhibit 1*.

27. Other sensitive areas in the project vicinity include Scatter Creek, a tributary of the Chehalis River, and the associated Scatter Creek Wildlife Recreation Area. *Exhibits 1.P5 and 2.D.*

28. The existing structures on-site are served by individual on-site sewage disposal systems and by the Bailys IGA Group A public water system. Because the proposed facility would not be manned, no water or sewage disposal connections are proposed or required. *Exhibit 1.P7.* The proposed facility would be constructed outside the 100-foot sanitary control radius of the on-site well. *Exhibit 1.G; Kyle Overton Testimony*.

29. The project area would be graded such that stormwater runoff would flow into a bioretention facility to be located on the northern side of the facility. The bioretention facility would be lined with 18 inches of amended soil so as to provide treatment prior to infiltration. If there were a fire, the fire suppression runoff would also enter the bioretention facility, and the soil would be tested after the fire to see if replacement is needed. With respect to concerns raised by the Confederated Tribes of the Chehalis Reservation that the batteries would leach metals such as lead, cobalt, and nickel into groundwater in the event of a fire, which is the primary drinking water source for the area (*see Exhibit 1.P5*), the Applicant's engineer submitted that the bioretention would meet metal treatment requirements. *Alex White Testimony.* However, it should be noted that

[10] While the batteries contain hazardous materials, under normal operating conditions those materials would remain fully contained in the batteries, which would be removed from the site at the end of the project's 20-year life cycle to be recycled and/or disposed at approved off-site locations. *Laura Behrer Testimony.*

the submitted stormwater report concludes that water quality treatment is not required for the use and does not include details of the bioretention facility's treatment capacity. *Exhibit 1.H.*

30. The application materials do not include any technical reports addressing potential impacts resulting from electromagnetic frequencies or electromagnetic fields (EMF) emitted by the BESS. According to the document submitted to address EMF concerns, EMF emitted by transformers and inverters (presumably the primary generators of EMF at the proposed facility) at a solar farm would be within maximum exposure limits for individuals standing next to the equipment. At a distance of 150 feet, the EMFs generated by such equipment would be similar to background levels and less than common sources of household exposure. For example, an individual standing 150 feet from a utility-scale inverter would have EMF exposure of 0.5 milligauss (mG), whereas an individual standing three feet from a refrigerator would have EMF exposure of 6 mG, and an individual standing three feet from a microwave would have EMG exposure of 50 mG. *Exhibit 8; Dennis Duffin Testimony.* Of note, this document, submitted at the invitation of the undersigned after the hearing, is a "false claims" refutation prepared by an unidentified source and addresses EMF from photovoltaic solar farms and not BESS facilities. The document provides links to studies conducted in 2012, 2015, and 2017 addressing EMF from solar farms.

31. Thurston County Public Works reviewed the proposal against the requirements of Thurston County Road Standards and the Drainage Design and Erosion Control Manual and did not identify any issues of concern. The site would meet emergency vehicle access requirements. Public Works recommended approval of the application, subject to the conditions listed in a memorandum dated November 22, 2024. *Exhibit 1.P2; Arthur Saint Testimony.*

32. The primary issue of concern raised in the extensive public comment on the application was the risk of fire associated with LFP lithium-ion batteries and the attendant public health and environmental risks if a fire were to occur, including degradation of air and water quality. *Exhibits 1.Q1 through 1.Q64, 2.A through 2.AA, 4.A, and 4.B.* The concern regarding fire is not speculative; the Applicant testified that there have been 35 reported fires associated with the technology (out of "more than 2,000" grid-scale systems), and that there have been four fires associated with systems owned by the Applicant. With respect to fires associated with Applicant's facilities, there were no injuries and no fire extended beyond the site perimeter. The fires were associated with moisture intrusion into the equipment cabinets. *Dennis Duffin Testimony*.

33. West Thurston Regional Fire Authority (WTRFA), the agency responsible for fire suppression in the project area, provided detailed comments on the fire risks associated with BESS, as well as fire response issues specific to the subject property, including the following:

> "Lithium-ion batteries, especially at large scale, present a heightened fire risk due to thermal runaway, which can result in uncontrolled fires that are difficult to extinguish…. Fires caused by lithium-ion batteries can be extremely challenging

to control and may lead to significant hazards, including the release of toxic gases and potential damage to nearby properties.

Lithium-ion battery fires require specialized training, equipment, and knowledge to safely respond. West Thurston Fire currently lacks adequate resources and training specifically tailored to managing large-scale battery storage fires. This may result in increased difficulty in effectively and safely managing an emergency situation.

Given the size and nature of a lithium-ion battery energy storage system, there is a risk that standard fire suppression systems may not be adequate. There are no fire hydrants in this proposed area. This means that the vast amount of water needed for firefighting activities and containment would have to be trucked in using water tender operation. West Thurston Fire and our mutual aid partners do not have the capacity to keep up with these water flow requirements. We urge the Applicant to provide detailed plans for advanced fire detection, suppression systems, and additional infrastructure improvements to ensure safe operation.

As battery systems age, the risk of malfunction and failure increases. Given the long operational lifespan of these systems, ongoing safety assessments, maintenance, and oversight are crucial to mitigate risks."

Exhibit 1.P6. The Fire Chief recommended denial of the application unless the issues described could be addressed. *Exhibit 1.P6.*

34. In its July 2025 review of the application, the Environmental Health Division of the County's Public Health and Social Services Department requested additional information on hazardous materials, including: what components would be used in the transformers; what kind of fire suppression would be used, and how potentially hazardous materials would be managed; how toxic constituents released during a fire, such as hydrofluoric acid, would be managed to protect workers and the environment; and how burned batteries would be disposed of. *Exhibit 1.R.* In response to these questions, the Applicant noted that an emergency response plan (ERP) would be developed to address fire suppression and referred Environmental Health to a letter to the community it had prepared for answers to the other questions (Exhibit 1.E, described in the finding below). Environment Health accepted this response as "adequate to address hazardous materials handling and storage requirements" (Exhibit 1.P7), even though not directly responsive to the questions originally posed. The individual who reviewed the hazardous materials element of the proposal was not present at the hearing to provide more detailed information about the County's hazardous materials review. *Exhibit 1.P7; Kyle Overton Testimony; see also Exhibit 2.G.*

35. The Applicant's letter to the community (undated), which was intended to address issues of concern, is not technical in nature and has a marketing tone. In response to the concerns expressed by the public, it asserts the following: that the Applicant would provide training to the local fire department, including training relating to the equipment and access routes; that the system would be monitored all day, every day to allow for rapid response; that the air quality risk associated with a battery fire in a remote area is "minimal;" that in previous fire incidents, the Applicant has reimbursed the local fire

department for costs associated with response; that most safety incidents relating to lithium-ion batteries are from consumer products; that the batteries used in the proposed BESS would be "designed, manufactured, and certified in accordance with internationally recognized engineering and safety standards;" that "smoke emanating from a battery fire is no worse than other smoke present during a fire;" and that the industry best practice for fire suppression is "to maintain a safe distance and let combustible material deteriorate." *Exhibit 1.E.*

36. The Thurston County Community Planning and Economic Development Department acted as lead agency for review of the environmental impacts of the proposal under the State Environmental Policy Act (SEPA) and issued a mitigated determination of non-significance (MDNS) on August 14, 2025. The MDNS included the following conditions:

    1. Prior to final inspection and occupancy, the Applicant must submit an Emergency Operations Plan (EOP) that includes incident response protocols, emergency contact procedures, and site-specific firefighting tactics. The EOP must be developed in collaboration with the local fire authority having jurisdiction (West Thurston Fire Authority for Parcel No. 13503110301), and applicable staff must receive site-specific emergency response training.
    2. Prior to final inspection and before or concurrent with fire permits, the Applicant shall submit a Fire Safety Compliance Plan signed and sealed by a Fire Protection Engineer (FPE) licensed in Washington State. The plan must demonstrate compliance with NFPA 855, UL 9540A, and IFC Chapter 12, including thermal runaway prevention, ventilation, and spatial separation requirements.
    3. A third-party certified Hazard Mitigation Analysis (HMA) must be submitted and approved prior to final inspection. The analysis must assess thermal event propagation, adjacent equipment interaction, toxic gas release, and compliance with IFC and WAC 51-54A.
    4. A Decommissioning Plan is required prior to final inspection and approval. At a minimum, the decommissioning plan must comply with requirements in WAC 51-54A and include a plan for: removal of all energy storage system components; hazardous materials handling and transport in compliance with all applicable federal, State, and local laws; additional protective measures that will be applied during removal; site restoration; and financial assurance in the form of a performance bond or letter of credit from a licensed financial institution.
    5. The Applicant and subsequent property owners must comply with all requirements of State and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources discovered on-site during development.

    Exhibit 1.U. During the comment period on the MDNS, the Confederated Tribes of the Chehalis Reservation and the Washington Department of Archaeology and Historic Preservation (DAHP) requested that an inadvertent discovery plan be implemented during construction. The Washington Department of Ecology submitted a letter identifying general solid waste management and toxics cleanup requirements, and the

Olympic Region Clean Air Agency (ORCAA) submitted a general letter describing its own permitting process. Neither the Department of Ecology nor ORCAA provided specific substantive comments on the SUP application. The MDNS was not appealed, and it became final after the close of the appeal period ending September 4, 2025. County Planning Staff incorporated the SEPA mitigation measures, a requirement that the Applicant comply with other agency permitting requirements, and a recommendation to post an inadvertent discovery plan, into the recommended conditions of SUP approval. *Exhibits 1 and 1.W.* At the hearing, Planning Staff clarified that, due to the nature of the use, the timing of compliance with MDNS/SUP Condition No. 1 should be "prior to final building permit inspection" instead of "prior to final inspection and occupancy." *Maya Teeple Testimony.*

37. In addition to the SEPA mitigation measures relating to fire set forth above, Planning Staff recommended the following condition of SUP approval to address ongoing monitoring.

> Condition 9:
> A Periodic Safety Inspection and Testing Report to Thurston County and the Fire Marshal at the time of each annual fire operational permit renewal or at intervals not to exceed 12 months, whichever is sooner. The report shall be prepared by a Washington State-licensed Professional Engineer or other qualified third-party inspector experienced in energy storage systems and shall:
>
> a. Evaluate the condition of battery modules, racks, inverters, thermal management, and fire suppression systems.
>
> b. Identify any degradation, corrosion, or malfunction that could increase fire, electrical, or chemical hazards.
>
> c. Verify continued compliance with NFPA 855, UL 9540/9540A, IFC Chapter 12, and the originally approved Hazard Mitigation Analysis.
>
> d. Recommend corrective actions where deficiencies or risks are identified.
>
> e. All recommended corrective actions must be implemented and verified by the inspector prior to re-issuance of the fire operational permit.

Exhibit 1.

38. Notice of the open record hearing was mailed to the owners of properties within 500 feet of the site on October 1, 2025 and published in *Nisqually Valley News* on October 2, 2025. *Exhibit 1.A.*

39. Testifying during public comment at hearing, the Fire Chief maintained his recommendation of denial of the SUP due to the following concerns:

- The potential for "catastrophic" impact to air quality in the event of fire.
- The potential for contamination of firefighter gear, as the fire department cannot afford to replace all of the gear.

- The potential for groundwater contamination due to the shallow aquifer and porous soils.
- The impact that fighting a BESS fire would have on department resources, because it would be long-duration incident (potentially lasting several days), during which time the department would be limited in its ability to respond to other events.

Fire Chief Nathan Drake Testimony.

40. In written and verbal public comment on the application, members of the public expressed concerns regarding air quality and groundwater contamination, fire, impacts to property values, and the lack of local benefit from the proposed use. *Exhibits 1.Q1 through 1.Q64, 2.A through 2.AA, 4.A, and 4.B.* Groundwater contamination was a concern because of the sensitive nature of the aquifer and the surrounding community's reliance on wells for drinking water. Articles submitted during public comment on fires at other BESS facilities and the environmental issues discovered in their aftermath suggest that the potential risks with respect to air and water quality are much higher than disclosed by the Applicant. Due to the dry prairie landscape, residents were also concerned that a fire would spread beyond the project boundaries, particularly if allowed to burn out over time. A wildfire could damage the buses stored on-site, the PSE substation across the street (jeopardizing the provision of power in the area), and the nearby Scatter Creek Wildlife Area. Residents were also concerned that there would be inadequate water to fight fires, that they would not receive timely evacuation notices, and that they would not be able to evacuate livestock. Several comments expressed concern that if a fire should occur, there is no contingency plan for replacing their water supply if contaminants enter the aquifer. *See e.g., Testimony of Natalie White, Jesus Mendoza, Jeff Merryman, Susan Ness, and Angela Robinson; Exhibits 2.D, 2.G, 2.J, 2.Z, and 2.AA*. Numerous residents argued that the project should not be approved prior to preparation and review of the ERP. Neighbors submitted that "having an emergency response plan in place [would] only help to prevent the spread of the fire if an incident occurs [but would] do nothing to prevent the off-gassing of heavy metal vapors that occur prior to and during the fire, nor…prevent the pollution of the sensitive aquifer with heavy metals, fire retardants, and other toxic chemicals that result from fighting a fire that can last 3 or more days…." *See e.g., Testimony of Brian Haight, Jan Nielsen, Christine Johnson, and Susan Ness; quoted comments from Exhibit 2.G.*[11] Several residents argued that the use would be more appropriate in an industrial area, and not the rural residential/rural commercial area. *Testimony of Conrad Neudorf, Ryan Mercier, and Angela Robinson; Exhibits 2.H, 2.J, 2.L, and 2.W*. Residents questioned whether and/or how the special use would benefit the local community, as the benefit to the electrical grid would serve a larger area, while the most severe impacts would be borne by the nearest neighbors. *See e.g., Exhibits 2.G and 2.J.*

[11] This neighbor submitted, "The EPA recommends fire fighters maintain a 330-foot exclusion zone when attempting to contain a BESS fire. My home is within a 330-foot radius of this property. My children would be exposed to the toxic vapors that these systems vent before the fire alarms even go off. My land would be polluted and unfit to produce food. And my property value would be destroyed so that I could not even afford to move away from it." *Exhibit 2.G*.

41. In response to questions relating to firefighting methodology, the Applicant clarified that the protocol would not involve deluging the fire to extinguish it, nor would it involve the use of aerosols, gels, or foams. If water were used, it would be applied as a mist to cool the air between the cabinets. *Laura Behrer Testimony.*

42. The ERP would address evacuation routes in case evacuation of the neighborhood were to become necessary. The routes identified would address factors such as wind direction. *Laura Behrer Testimony.*

43. The Applicant submitted that if there is a runaway thermal event, the radius of greatest air quality concern would be within 300 feet of the equipment containers. First responders would need to wear gas masks. *Laura Behrer Testimony.* The proposed facility would be located approximately 100 feet from the eastern property line at its closest point (Sargent Road SW), 150 feet from the northern property line (183rd Avenue SW), and 135 feet from the western property line. *Alex White Testimony.* The subject property's southern property line varies, but the distance between the proposed BESS facility and the nearest southern property line, a residential property, is approximately 250 feet.[12] *Exhibits 1.F and 1.G.* The owner of the adjacent residential property expressed concern that they would be exposed to toxic fumes yet not have access to protective gear. *Tamara Haight Testimony*.

44. Addressing other concerns, an Applicant agent testified that there are no air quality permit requirements that are applicable to the use. The applicable air quality standards relate to operations and not to emergencies. However, the ERP would provide for air quality monitoring during and for 48 hours after a thermal event. With respect to the water quality, the ERP would include water quality testing after a thermal event to confirm that there is no contamination. In addition, the Applicant submitted that the system must meet the National Fire Protection Association's (NFPA) 855 standards (standards for the installation of stationary energy storage systems) and Underwriters Laboratories' (UL) 9540A testing and certification. *Laura Behrer Testimony.*

February 3, 2026 Hearing

General

45. Notice of the reconvened hearing was mailed on December 4, 2025 and published in *Nisqually Valley News* on December 11, 2025. Consistent with the Hearing Examiner's December 2, 2025 *Ruling Granting Reconsideration*, the notice specified that comment would be accepted on (1) fire and life safety; (2) groundwater impacts; and (3) compatibility with the rural surroundings and rural character of the vicinity. *Exhibit 12; Ruling Granting Reconsideration.*

46. Public comment during the reconsideration process largely reiterated the concerns raised in the initial hearing, with residents arguing: that the use is still inconsistent with the Comprehensive Plan; that airborne contaminants released during a BESS fire would adversely affect salmon; that the hydrogen fluoride and other gases emitted during

[12] Because the site plan (Exhibit 1.F) does not show the southern site boundary, this number is estimated based on the boundary survey (Exhibit 1.G).

thermal runaway events would be hazardous to human and livestock health; that the proposed air quality monitoring during an event would not reduce or prevent exposure; that domestic water supplies of properties in the affected area would be at risk; that the BESS fires elsewhere in the nation indicate ongoing risk at the subject property if approved; and that compliance with Fire codes does not eliminate risk because the codes are reactive in nature (i.e., are updated after a problem is identified during an incident). Residents questioned: whether there would be notice to residents within 330 feet (the "isolation zone" suggested by the Environmental Protection Agency (EPA) for "large commercial BESS" systems[13]); whether the community would benefit from the stored power during a power outage if the power lines were down; and why more detailed planning documents are not available now. *Testimony of Stan Allison, Kyle Hooper, Casey Taylor, Natalie White, Bonnie Helms, Tamara Haight, Debbie Neudorf, Brian Haight, Jessica Pickernell, Susan Ness, Chris Weaver, and Jan Nielsen; Exhibits 13 (including subparts) and 21.A.*

47. At the reconvened hearing on reconsideration, the WTRFA Fire Chief continued to oppose the project for the same reasons as explained previously, including the risk of groundwater contamination, the burden on fire district resources in the event of a multi-day fire, and the lack of BESS-specific Thurston County regulation. *Exhibit 13.C; Fire Chief Nathan Drake Testimony.* Of note, the Fire Chief did not provide any specific recommendations, when requested, regarding how the Applicant's plans or operations could be improved to satisfy his concerns. *Exhibit 22; Laura Behrer Testimony*. Additionally, while the Fire Chief's understanding of his unit's ability to respond to an emergency at the facility is of particular relevance, it is the County Fire Code Official who is appointed to sign off on the project's required hazard mitigation analysis and fire safety/emergency response plan. The County Fire Code Official did not submit written or verbal comments on the proposal at either the initial or reconvened hearing.

48. Planning Staff recommended that the SUP be approved on reconsideration, recommending that the Hearing Examiner consider imposing the following three additional conditions of approval to address issues of concern raised during the reconsideration hearing process:

…

11. Prior to energizing the BESS facility, the Applicant shall provide the approved Hazard Mitigation Analysis and Fire Safety/Emergency Response Plan to the serving Fire District/Regional Fire Authority. The Applicant shall coordinate with the District to conduct at least one pre-incident planning walk-through and training session for responding personnel, including explanation of system layout, shut-down procedures, access routes, and water supply. Documentation of this coordination shall be provided to the Fire Code Official.

12. If the applicable Fire District believes in good faith that the County impact fee schedule does not accurately describe or capture the project's impacts on fire services, the Applicant shall, upon written request, provide project

[13] *https://www.epa.gov/electronics-batteries-management/battery-energy-storage-systems-main-considerations-safe*.

information reasonably necessary for the District to prepare an independent fee calculation. The Fire District may submit its independent fee calculation and supporting documentation to the County Director for consideration under TCC 25.04.050.B. Any alternative fire impact fee shall be effective only if and when the County Director issues a written determination imposing alternative fees based on the District's calculation (or the department's calculation), consistent with TCC 25.04.050.B. The Applicant shall pay the imposed fee prior to building permit issuance.

13. The Decommissioning Plan required by the MDNS shall explicitly address post-event cleanup following a major fire or damage incident, including coordination with the Washington Department of Ecology, US EPA, and other agencies, as appropriate, and shall provide a framework for:

    (a) Characterization and removal of damaged modules;

    (b) Investigation and remediation of any on-site soil contamination; and

    (c) Restoration of the site to pre-project conditions or better with respect to groundwater protection.

Exhibit 14.A. The Applicant agreed to the three additional conditions. *Dennis Duffin Testimony; Exhibit 16.A.*

49. The Applicant argued that the SEPA environmental review process addressed the elements of the environment listed under WAC 197-11-444, including - among other items - air (including air quality), water (including groundwater quality), and environmental health (including noise, risk of explosion, and releases of toxic materials). *WAC 197-11-444.* The conclusion of the review conducted by the SEPA Responsible Official was that, with the mitigation measures imposed by the MDNS, the project would not have a probable, significant, adverse effect on the environment. The Applicant noted that the MDNS was not appealed and argued that the project would be further mitigated through compliance with existing codes, including the fire code. *Exhibits 1.U and 10.*

Fire and Life Safety

50. In December 2025, after the Hearing Examiner's original SUP decision in this case and prior to the hearing on reconsideration, there was a runaway thermal event at a BESS facility operated by the Applicant in Warwick, New York, known as the Church Street facility. This was not the first fire incident at the Church Street facility; there had been a previous fire at the same facility in 2023, believed to have been caused by water intrusion. The Applicant did not identify a cause for the 2025 incident, but Applicant agents submitted that it was believed the prior damage was a factor in the most recent fire, and that water intrusion was not a factor. *Laura Behrer Testimony; Exhibit 15.*

51. The Applicant submitted that the December 2025 incident is an example of how compliance with modern codes such as NFPA 855 improves outcomes in worst-case scenarios, citing the following factors: an alarm went off; the ERP was followed; a Convergent response team was on-site within an hour; the thermal event was resolved without application of water or active firefighting activities; the fire did not spread

between battery containers; and air quality monitoring (including within 25 feet of the affected container) did not reveal levels of hazardous gases reaching exposure limits. There was no need to evacuate the underlying commercial site or the surrounding community. *Laura Behrer Testimony.*

52. Based on data reported by the EPA, while there continue to be BESS failures, these failures occur in the context of significant increases in deployment of the technology. The rate of BESS failure, based on the number of incidents per Gigawatt-hour (GWh), has decreased substantially since 2020.[14] *Exhibit 14.A (article at note 3).*

53. The decrease in BESS failure rate corresponds to improvements in BESS regulation, including adoption of NFPA 855. A 2019 battery explosion that injured four firefighters in Arizona, for example, involved a facility that had no barriers to prevent thermal runaway from propagating from cell to cell (which would be required today), inadequate ventilation, and an ERP that did not address fire extinguishing and entry procedures. *Exhibit 14.A (article at note 4).*

54. Exhibit 14.C summarizes the applicable provisions of NFPA 855 (2023 version). To highlight a few of the items:

    4.3.1: Emergency planning and training for emergency responders is required, including preparation of an emergency operations plan and annual refresher training.

    4.4.3: A hazard mitigation analysis must be provided, which evaluates the consequences of a thermal runaway or mechanical failure condition in a single ESS unit, failure of an energy storage management system or protection system that is not covered by the product listing failure modes and effects analysis (FMEA), and failure of a required protection system including, but not limited to, ventilation (HVAC), exhaust ventilation, smoke detection, fire detection, fire suppression, or gas detection.[15]

    4.6.11: ESS shall not release toxic or highly toxic gases during normal charging, discharging, and use.

    4.8.3: Smoke and fire detection systems must have a secondary power supply.

    9.1.5.2: Fire and explosion testing must be conducted on a representative system in accordance with UL 9540A.[16]

[14] A simple internet search revealed that a Gigawatt-hour (GWh) is a unit of energy representing one billion (1,000,000,000) watt-hours, or one million kilowatt-hours.

[15] ESS is an abbreviation for energy storage system.

[16] This provision of the American National Standards Institute, Controller Area Network, and Underwriters Laboratories (ANSI/CAN/UL) fire code establishes a test method for evaluating thermal runaway fire propagation in battery energy storage systems. *See Exhibits 19 and 22.*

9.1.5.1.2: Testing must be conducted or witnessed and reported by an approved laboratory to characterize the composition of the gases generated and must show that a fire involving one ESS unit will not propagate to an adjacent unit.

Exhibit 14.C.

55. The hazard mitigation analysis, which looks at worst-case scenarios including potential thermal runaway events, would be based on the specific equipment used on-site and tested through the UL 9540A process. *Laura Behrer Testimony; Exhibit 22.* Consequently, the hazard mitigation analysis cannot be completed at the special use permit stage of the permitting process. As is typical, it would be reviewed during the future fire permit process. *Exhibit 22.*

56. As part of its NFPA 855 compliance, the Applicant would provide training for local firefighters, which would include classroom, field, and drill components. The classroom component would include review of the ERP and site maps/aerial photography. The field training would include viewing the equipment and site features and a walkthrough of the site access route. Drill exercises would incorporate local fire and rescue and Convergent staff. *Exhibit 14.D*.

57. A draft ERP was submitted in conjunction with the request for reconsideration. Per the draft, Convergent would coordinate emergency response, to include the following steps. Upon receiving an alarm, Convergent would: activate its emergency response team, which would include a Convergent representative being dispatched to the site, and contact local emergency responders; in a fire emergency, Convergent's network operations center (NOC) would remotely disconnect the facility from PSE power; call WTRFA dispatch (the dispatch instructions would direct responders not to enter the facility or attempt to save the equipment); monitor security cameras until emergency responders arrive; and have emergency responders stay on-site to monitor the facility until Convergent representative arrives. Emergency responders would be expected to look for hazards, monitor for potential reignition and toxic fumes, and use positive pressure breathing apparatus. *Exhibit 14.B.*

58. Although the draft ERP had certain gaps and cut-and-paste errors, the Applicant submitted that the final version would contain more detail following further collaboration with the local fire district. *Exhibit 14.B; Laura Behrer Testimony.* For example, the draft ERP does not explicitly state that water should not be applied to the BESS, although the protocol for the type of facility proposed is for the fire to be allowed to burn itself out without direct application of water.[17] Equipment-specific and site-specific fire management recommendations would be provided. *Exhibit 14.B; Laura Behrer Testimony.*

[17] Although not expected to be applied directly to the batteries, water might be applied to preemptively dampen the perimeter or to address flames outside the enclosure. *Laura Behrer Testimony.*

59. The draft ERP also does not contain a plan relating to community evacuation, or what the threshold for evacuation would be in the event of an emergency. While Ms. Behrer's testimony that the 330-foot "isolation zone" referenced on the EPA website[18] relates simply to "crowd control" was not supported by any specific evidence - and appeared to conflict with her testimony at the October 2025 hearing that a radius of 100 to 300 feet corresponded to an area of air quality concern - no standard or code establishing 330 feet as a minimum safe distance has been identified. Ms. Behrer testified that she has been closer than 300 feet to a BESS fire without protective gear. The EPA's isolation zone recommendation is for "large commercial BESS," but large commercial BESS is not defined in the record or easily searchable online resources. Of note, the EPA discusses a fire at a facility in Moss Landing, California on the same page. The proposed facility would be considerably smaller than the Moss Landing facility and designed with safety features that were not present at Moss Landing. *Exhibits 14.B and 22; Laura Behrer Testimony.*

60. The fire at Moss Landing started on January 16, 2025 and resulted in the evacuation of 1,200 people and the detection of battery chemicals up to three kilometers from the site. *Exhibits 14.A (articles at notes 3 and 9) and 15.* A literature review conducted by American Clean Power Association, dated August 21, 2025, describes the Moss Landing facility as so anomalous and inconsistent with modern standards that it was addressed in an appendix instead of incorporated into the findings in the main body of the report. In the appendix of that review, the facility is described as follows:

> "… Moss Landing's design was "unique, globally, as a facility," given the design choice to concentrate rows of battery racks totaling 300 MW of capacity indoors in a 1950 era building and the use of nickel-manganese-cobalt (NMC chemistry) instead of the more common lithium-iron phosphate (LFP) chemistry. As noted, nearly all grid batteries installed over the past several years involve outdoor installations of modular containerized BESS designed with safety features to ensure that if a fire breaks out in one individual container it won't propagate to neighboring units.
>
> In the soon-to-be-released 2026 edition [92] of NFPA 855, a new requirement for large-scale fire testing addresses a worst-case fire scenario, in which a developed fire condition is established in one battery unit and is not allowed to result in thermal runaway in adjacent units. Individual container sizes vary (typically 20 to 40 feet) with a capacity ranging from one to five MWh per container, as compared to the 300 MWh concentration of battery racks at Moss Landing."

Exhibit 15, Appendix B.

61. The key differences between the Moss Landing facility and the proposed facility include:

- The Moss Landing facility is substantially larger than the proposed facility. The capacity of the Moss Landing facility is 750 MW/3,000 MWh, of which only Phase 1 (300 MW/1,200 MWh) was impacted by fire. The proposed facility would have a capacity of 5.4 MW/21.6 MWh, or 1.8% of the Phase 1 portion of

[18] *https://www.epa.gov/electronics-batteries-management/battery-energy-storage-systems-main-considerations-safe.*

Moss Landing. *Exhibit 19*. Based on the information presented in the 2025 American Clean Power Association literature review, gas emissions during thermal runaway increase with increased cell capacity. *Exhibit 15, pages 29 and 31.*

- The battery chemistry used at Moss Landing differs from the proposed battery chemistry. The Moss Landing batteries used a nickel: manganese: cobalt (NMC) cathode chemistry, whereas the proposed batteries would use lithium: iron: phosphate (LFP). *Exhibit 19.*[19]
- The Moss Landing facility predated NFPA 855. The proposed facility would be subject to NFPA 855, which is updated every three years, as well as UL 9450A testing. *Exhibit 19.*

62. The project would be subject to the requirements of the 2021 International Fire Code (IFC), as adopted/amended by the State of Washington and Thurston County. *Exhibit 14.A; TCC 14.32.010.* The Washington regulations explicitly incorporate NFPA 855. *WAC 51-54A-1201; Exhibit 16.A.* The applicable fire code standards/submittal requirements are summarized in Exhibit 14.A. To highlight a few of these requirements, the Applicant would be required to do the following: identity numerous features of the project within its construction documents, including manufacturer's specifications of equipment used and details on fire detection and ventilation; provide a hazard mitigation analysis addressing failure scenarios, such as thermal runaway events and failure of external protection systems, demonstrating to the satisfaction of the Fire Code Official that a fire can be contained within its enclosure and that occupants or the general public can be evacuated to a safe location; provide large-scale fire testing per UL 9540A; provide commissioning and decommissioning plans; and provide a fire safety plan. The MDNS incorporates and elaborates on many of these requirements. *Exhibits 1.U and 14.A; WAC 51-54A-1207.*

63. A County fire code permit would be required for the project, which is administered by the Fire Code Official's office (not the local fire district). The fire code permit process would include review of required plans against IFC, State requirements, County requirements, the MDNS conditions, and the SUP conditions. Inspections would be performed prior to permit issuance. *Exhibit 14.A.*

64. The fire code permit process does not require the approval of the WTRFA, although the Fire Code Official may coordinate with the fire district and incorporate conditions addressing fire district needs into the fire permit conditions. The new conditions recommended by Planning Staff are designed to ensure coordination of plans with the fire district. *Exhibit 14.A.*

[19] Staff and Applicant materials from both hearings frequently discuss "lithium-ion" batteries, which a basic internet search reveals can be made with varying chemistries including NMC (nickel manganese cobalt), NCA (nickel cobalt aluminum), lithium manganese oxide, lithium cobalt dioxide, and presumably others. The Applicant's Exhibit 19, provided through the reconsideration hearing, commits to use of LFP (lithium iron phosphate, or LiFePO4) batteries on-site. Because of this, all references to "lithium-ion" in this decision (aside from quotes) are specified to be "LFP."

65. The Applicant asserted that a multi-day fire watch would not burden the local fire department because a Convergent team would provide relief. *Laura Behrer Testimony.* However, the Fire Chief submitted that, in an active fire, there would have to be firefighting personnel on-site, even with the presence of Convergent personnel. *Fire Chief Nathan Drake Testimony.*

66. The project would be subject to payment of fire impact fees pursuant to TCC 25.04. TCC 25.04.050 provides an opportunity for the fire district to propose an independent fee calculation if it believes in good faith that the adopted fee schedule does not accurately describe or capture the impacts of the development. Planning Staff recommended a condition of SUP approval (provided in detail above) referencing the independent fee calculation provisions to address concerns raised regarding fire district funding and preparedness. *Exhibit 14.A; TCC 25.04.*

Groundwater Impacts

67. One of the primary risks to groundwater quality in the event of a fire would be from fire suppression runoff if water is applied directly to the BESS. *Exhibits 14.A and 15.* As described previously, the best practice for the type of facility proposed is to let the fire burn itself out without direct application of water. *Laura Behrer Testimony.*

68. One of the concerns raised in public comment on the proposal was that particulate fallout from a fire would adversely affect ground and surface water. Shortly after the Moss Landing fire in California, scientists found higher than background concentrations of manganese, cobalt, and nickel (battery materials) in Elkhorn Slough, approximately one to three kilometers downwind of the facility. *Exhibit 14.A (including articles at notes 9[20] and 10).* Based on research published in *Scientific Reports,* the metals were confined to a shallow surface layer of less than five millimeters, and the surface concentrations declined rapidly after precipitation and tidal inundation. There were not significant differences in the subsurface concentrations of the minerals, comparing pre-fire, post-fire, and later post-fire (approximately one month later) values, suggesting that the minerals did not percolate into the soil. *Exhibit 14.A (article at note 9).* Due to the use of LFP chemistry, the proposed batteries would not release nickel, manganese, or cobalt into the environment if damaged by fire. *Exhibit 19.*

69. With respect to impacts to the CARA I, which is the most protected aquifer classification, Planning Staff emphasized that battery processing industrial uses that generate less than 220 pounds per month of waste are allowed within the critical area pursuant to TCC 24.10-1. Further, Staff submitted that battery processing implies ongoing handling, disassembly, manufacturing, or refurbishing of batteries, which are activities that could result in spills and waste. Under normal operating conditions, the proposed BESS use would pose less threat of impact to the CARA than the allowed battery processing use, because the batteries would be fixed in place and no waste would be generated. *Exhibits 14.A and 17; Maya Teeple Testimony.* In addition, the development site would not be considered pollution-generating for purposes of stormwater management under normal operating conditions. *Exhibit 1.H.*

[20] See https://www.nature.com/articles/s41598-025-25972-8/tables/1 for the metal concentrations detected.

70. With respect to distance to groundwater, a geotechnical investigation was conducted during the dry season, with several test pits excavated in the project vicinity in the northern portion of the site on July 30, 2024. No groundwater was detected in the test pits, which ranged in depth from seven to 10 feet below existing grade (to bottom depths of 168 to 161 feet). *Exhibit 1.I.* During the last half of January 2026, the Applicant monitored groundwater levels beneath the site at three locations. The groundwater levels ranged from approximately 157.5 to 159 feet. This level is higher than the bottom of the proposed stormwater system (173.25 feet) and would meet minimum separation requirements.[21] *Exhibits 1.F and 20.*

71. The 2025 literature review conducted by American Clean Power did not identify air or water public health issues resulting from BESS fire incidents for which environmental impacts were measured and reported. Some of the findings included the following:

- 2024 fire in Escondido, CA: Hazmat team began air monitoring 90 minutes after fire started. Normal products of combustion were detected, and emissions were within regulatory limits. Hydrofluoric acid was not detected with fluoride reactive test strips. Runoff from firefighting water was within acceptable limits.
- 2023 fire at Convergent facility in Lyme, NY: No contaminants associated with the fire were detected in groundwater samples or nearby wells.
- 2023 fire in East Hampton, NY: No discernible difference in concentration of tested metals between sprinkler discharge area and nonaffected area.
- 2023 fires at Convergent facilities in Warwick, NY: No elevated levels of toxic contaminants detected through hazmat air testing.

Exhibit 15, pages 47-49.

Compatibility with Rural Surroundings/Rural Character

72. In favor of the project's consistency with the rural area, Planning Staff and the Applicant submitted that the project would have a similar visual impact (if not a lesser impact) than storage and other uses allowed in the zone. Uses allowed outright in the RCC zone include mini-storage, warehousing and storage when adjoining a railroad right-of-way, vehicle sales, service stations, and automotive repair. While a photo of a storage use presented by Staff in Exhibit 17 is of a facility that is approximately three miles from the subject property, Staff submitted that it is located within the same RCC zone and is illustrative of uses allowed in the zone. Addressing a comment from a member of the public who contended that the photo was not representative of site conditions and was therefore misleading, it appears, based on the materials provided at the first hearing (see Exhibit 6), that the proposed facility would be more visually similar to the storage facility than to the electrical substation across the street. Additionally, the subject property already contains a storage use (i.e., bus storage). Thus, Staff's photograph is not overtly

[21] No specific testimony was provided on the minimum separation requirement, but page 2-32 of the Drainage Design and Erosion Control Manual suggests that the minimum would be 10 feet. *https://s3.us-west-2.amazonaws.com/thurstoncountywa.gov.if-us-west-2/s3fs-public/2023-01/cped-storm-docs-ThurstonDDECM-VolumeIII-2022.pdf.*

misleading. *Maya Teeple Testimony; Exhibits 6 (slide 1), 17 (slide 11), 16.A, and 18 (multiple slides); TCC 20.24.020(1).*

73. The Applicant submitted photosimulations of the proposed facility that depicted how it would appear from various off-site vantage points when screened by proposed vegetation (which would include Douglas firs, shore pines, and shrubs) at "approximate maturity." Based on the notable height and mass of the trees depicted in the photosimulations and the lack of information on when maturity would occur, it is not obvious that the vegetation planted would resemble the trees depicted in the photosimulations prior to the end of the life span of the facility. However, with the dimensions of the screening vegetation presented, the proposed facility would be screened from view from the intersection of 183rd Avenue SW and Sargent Road SW such that the nature of the use would be difficult to discern. The facility would also be screened from other vantage points along the surrounding streets, with the storage containers partially visible but not prominent in areas where existing buildings do not provide screening. The extent to which the facility would be screened over a shorter time horizon cannot be discerned from the materials submitted. *Exhibits 1.L, 18, and 20.*

74. While the Applicant is willing to be flexible as to the landscape plan, no landscaping is proposed along the south side of the BESS facility in order to ensure access to the equipment. As described previously, at least some screening would be provided by an existing building located between the facility and the nearest residence. *Dennis Duffin Testimony.* Of note, there is little information in the record addressing safe distances between the proposed BESS facility and potentially flammable vegetation. Additional landscaping could be added around the site perimeter by the property owner and/or the Applicant, and off-site by adjacent property owners if additional screening were desired.

75. On reconsideration, the Applicant contended that the noise levels generated by the facility would be compatible with the surrounding rural area. The Applicant submitted a noise study, prepared by a qualified professional engineer, which predicted sound levels from the proposed equipment at the nearest receiving property lines. The results of the study were that the sound generated by the equipment would be less than the 45 dBA nighttime limit for residential receiving properties at the nearest receiving property lines (determined to be the western and northern property lines, at 43 and 40 dBA, respectively). Additionally, the study measured existing ambient noise and reached a result of 50 to 52 dBA. Because sound would diminish with distance, sound levels at receiving uses farther from the shared property lines evaluated would also be compliant. *Exhibits 16.A and 16.C.*

76. With respect to community need, the Applicant emphasized that to interpret the purpose of the RCC zone as meaning that the special use must serve the immediate neighborhood (but nowhere else) would be contrary to code, as major energy transmission facilities by their nature serve a larger area but are allowed in the RCC zone with SUP approval. The community is served by the electrical grid, and the proposal would be an addition to that grid. *Exhibit 16.A.* The need for the use can also be inferred from the fact that the proposal was developed in response to a request for proposals issued by PSE, and PSE

accepted the Applicant's proposal. The Applicant evaluated approximately 150 potentially suitable sites against PSE's criteria, narrowing down the list based on factors such as environmental constraints, zoning, infrastructure, and the willingness of the landowner to enter into a lease. The subject property was determined to be most suitable given these constraints. *Exhibits 16.A and 16.B.*

77. Additionally, the Applicant submitted that the special use permit cannot be denied solely on the basis of impacts to rural character, because that would mandate denial of all similar facilities contrary to the permitted uses established in the zoning ordinance. *William Lynn Argument.* The Applicant argued that the factors supporting denial under the SUP criteria must be specific to the site and the proposed use, and that site- and use-specific factors do not exist. In this case, relevant conditions specific to the proposed use on the subject property include the following: there are both a fire station and a PSE substation near the subject property; the use would not add significant traffic to the surrounding streets; the use would be screened by landscaping, and setbacks between the facility and surrounding property lines would exceed minimum standards; and noise generated by the use would comply with adopted standards. *Exhibit 10; William Lynn Argument.*

CONCLUSIONS

Jurisdiction:
The Hearing Examiner is granted jurisdiction to hear and decide special use permit applications pursuant to TCC 2.06.010 and 20.54.015(2).

Criteria for Review:
The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 20.54.040 are satisfied:

1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan, and all applicable federal, state, regional, and Thurston County laws or plans.
2. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback, and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.
3. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
    1. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety, and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are

taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though said adverse effects may occur.

2. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

Conclusions Based on Findings:

1. The record on reconsideration adequately demonstrates consistency of the proposed use at the proposed location with the adopted Thurston County Comprehensive Plan. While BESS systems are neither defined nor expressly addressed in the current County Comprehensive Plan, nor in existing zoning regulations, the Community Planning and Economic Development Director issued a Code Interpretation on August 29, 2024 that was not timely appealed and cannot now be challenged or set aside. The code interpretation concluded that, while the proposal does not meet the criteria to be considered an essential public facility, it is most like/similar to the definition of a major energy transmission and generating facility as established in TCC 20.54.070(20). Such use is expressly allowed in both the RRR 1/5 and RCC zones pursuant to TCC 20.54.065, Table 1. Based on the record developed through the reconvened hearing, the Applicant has demonstrated that it is not required that the use be intended solely to meet the everyday needs of the immediately adjacent areas. Proposed facility setbacks exceed the minimum setbacks required by the underlying RCC zone. Credible evidence from a qualified professional establishes that the proposed BESS would result in sound levels at the two nearest sensitive receiving property lines (to the west and north) that would be below the noise limits established in State and County regulations, as well as lower than existing ambient sound levels. The photosimulations in the reconsideration record make clear that, from most vantage points, the facility would be either barely visible, or, to the extent it would be visible, it would resemble other uses allowed in the RCC zone. That the use has industrial characteristics is of note; however, the undersigned is persuaded that standard operations of the use would create fewer potential impacts to the land underlying the use than would other uses allowed in the zone and allowed within designated critical aquifer recharge area (CARA) I locations, including, in particular, battery handling and recycling facilities. For these reasons, the record as a whole demonstrates that the proposed use could maintain consistency with the Comprehensive Plan and zoning code in the location proposed, so long as the following additional conclusions can be affirmatively entered. *Findings 1, 2, 3, 5, 6, 8, 10, 11, 14, 20, 21, 22, 25, 31, 34, 36, 37, 48, 72, 72, 74, 75, 76, and 77*.

2. As concluded above, the Community Planning and Economic Development Director concluded that the proposed use should be handled like a major energy transmission and generating facility, which is expressly allowed in both the RRR 1/5 and RCC zones with SUP approval pursuant to TCC 20.54.065, Table 1. All proposed improvements would be installed in the northern portion of the site zoned RCC across from the existing PSE substation, separated from the residences to the south by existing buildings and bus parking on-site. The submitted photographs of similar installations show a facility that is as, or less, "industrial" in appearance as the PSE substation, which is also allowed in the zone with SUP approval. The

photosimulations submitted in the reconsideration record show that the facility would not be highly visible from the adjacent rights-of-way once the proposed landscaping reaches maturity. Before the screening landscaping reaches maturity, the facility would more closely resemble a storage facility than an industrial facility in that the equipment would be enclosed in orderly rows of cabinets. The BESS development footprint would comprise approximately 15,989 square feet. The facility would be placed on a concrete slab that would drain into a bioretention facility north of the BESS, which would be improved with 18 inches of amended soils. The proposed facility, together with existing impervious surfaces within the RCC zoned portion of the site, would fall well within the 75% impervious surface limit in the RCC zone. The BESS would connect to the existing PSE substation by an underground line. At its closest, the new facility would be setback 100 feet from the site perimeter. Compliance with applicable height restrictions would be reviewed through the building permit process. As conditioned, all zoning standards are shown to be satisfied. *Findings 1, 6, 9, 10, 13, 14, 15, 16, 17, 22, 36, 37, 48, 72, 73, 74, 75, 76, and 77*.

3. As supplemented at the reconvened hearing on reconsideration, the record as a whole demonstrates that, as conditioned, the special use can be appropriate operated in the location proposed.

   a. As conditioned, the use would be similar in nature and impact to the more "industrial" uses allowed either outright or with SUP approval in the RCC zone, including service stations and automotive repair facilities, major energy transmission/generating facilities, and mineral extraction. With respect the category I critical aquifer recharge area underlying the site, the County's critical areas ordinance allows battery processing, reprocessing, and storage uses in CARA I sites so long as they are designed to generate fewer than 220 pounds of hazardous waste per month, which is the case for the proposal, and so long as the site is not within a one-year time of travel wellhead protection area, which is the case for the subject property. The BESS is not expected to generate hazardous waste during normal operations; the project is designed such that the materials inside the batteries would remain fully contained in the batteries, which would be removed from the site at the end of the project's 20-year life cycle to be recycled and/or disposed of at approved off-site locations. *Findings 2, 4, 10, 11, 20, 21, 22, 23, 25, 40, 46, and 69*.

   b. While the surrounding community remains understandably concerned about the fire risk associated with LFP lithium-ion battery installations, the record on reconsideration addresses these concerns more credibly and in more detail than was provided at the October 2025 hearing. It is true that BESS fires, including some at Applicant-owned facilities, continue to occur; however, the current fire codes contain provisions addressing many of the previously unaddressed hazards. These updated codes, in particular NFPA 855 and UL 9540A, decrease the public safety risks associated with potential fires. As a timely example, while any BESS fire is of concern, the December 2025 fire incident at the Convergent Church Street BESS facility demonstrates how compliance with current codes can minimize if not eliminate risk to the surrounding community. For the instant proposal, the primary

gap in the record relates to whether there is a specific unaddressed risk to adjacent neighbors. Ms. Behrer's testimony suggested that the determination of whether there was a particular risk to adjacent neighbors, and the most appropriate means of addressing any such risk, would be worked out as part of the hazard mitigation assessment, because part of that analysis and the UL 9540A testing would identify gases that could be emitted by the specific equipment to be used and measures needed to ensure public safety in the event of a fire, including but not limited to potential evacuation routes. In order to demonstrate compliance with the requirement that the use be appropriate in the location proposed, a condition will be added that, based on gas emissions encountered during the UL 9540A testing, the ERP needs to identify a safe perimeter and a procedure for notice and evacuation. The public's desire to review the hazard mitigation analysis and emergency response plans at the time of the land use hearing is understandable; however, these and other plans would be required to be developed in accordance with NFPA 855, UL 9540A, and other applicable regulations prior to operation of the facility. Due to their technical nature, it is not with the Examiner's authority to determine the adequacy of the required plans. The County Fire Code Official is the official charged with determining that all necessary plans satisfy the applicable technical code requirements, and the conditions of approval require that determination to be affirmatively made by said official prior to construction. *Findings 29, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, and 71*.

c. With respect to concerns about impacts to groundwater, the design of the facility would direct stormwater runoff and any fire flows applied to the BESS into the proposed bioretention facility. Of note, the hazards to land and surface/groundwaters that resulted at the Moss Landing incident are not anticipated to be present at the proposed BESS, both because its size is so much smaller and any resulting fire would impact a smaller radius, and more significantly because the battery chemistry at Moss Landing was the more hazardous NMC chemistry, while the instant proposal would use the relatively safer LFP battery chemistry. Further, it is of note that the Moss Landing facility was developed before adoption of current code NFPA 855. The record includes a 2025 literature review conducted by American Clean Power that did not identify air or water public health issues resulting from BESS fire incidents, and nothing in the record serves as a basis to assume the instant proposal would result in unique risks to the public. Conditions of approval would require the Applicant to provide: large-scale fire testing consistent with UL 9540A; commissioning and decommissioning plans; a fire safety plan; a hazard mitigation analysis assessing (among other items) thermal event propagation, adjacent equipment interaction, and toxic gas release; and an emergency operations plan – all of which would be implemented through the fire permit process. Other conditions would require the Applicant to: restore the subject property in the event of an incident; provide a financial assurance in the form of a performance bond or a letter of credit; to operate the facility in compliance with State and County noise regulations; to undergo new SUP or other appropriate review if proposed battery chemistry or BESS design changes; and to submit periodic safety inspection and testing reports to the Thurston County Fire Code Official at the time of each annual fire operational permit renewal. On reconsideration, the record adequately addresses the life safety concerns raised in

public comment. *Findings 23, 24, 25, 29, 32, 33, 36, 39, 40, 41, 47, 48, 49, 67, 68, 69, and 70*.

d. As conditioned, the use would not pose an undue risk to public services or facilities. As an unstaffed facility, no water or sewer provisions are required. While the local Fire Chief maintained his concerns at the reconvened hearing on reconsideration, the record was supplemented with more detail about how and when the emergency response and hazardous materials plans would be developed, and additional conditions have been added that would ensure the plans address public safety in the event of a fire on site. Conditions of approval require the Applicant to collaborate with the local fire district in a manner and to an extent that satisfies the County Fire Code Official that the needs of the local fire district have been adequately provided for. Finally, a condition of approval has been added that would allow the fire district to submit an independent fee calculation and supporting documentation to the County Director for consideration under TCC 25.04.050.B. On reconsideration, the undersigned is persuaded that, as conditioned, the use would not impose an undue burden on the local fire district. *Findings 28, 33, 36, 39, 40, 46, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, and 66*.

DECISION

Based on the preceding findings and conclusions, on reconsideration, the request for a special use permit to construct a lithium iron phosphate (LFP) lithium-ion battery energy storage system at 7505 183rd Avenue SW in Rochester is **APPROVED** subject to the following conditions.

MDNS Mitigation Measures:

1. Prior to final building permit inspection, the Applicant must submit an Emergency Operations Plan (EOP) that includes incident response protocols, emergency contact procedures, and site-specific firefighting tactics. The EOP must be developed in collaboration with the local fire authority having jurisdiction (West Thurston Fire Authority for Parcel No. 13503110301), and applicable staff must receive site-specific emergency response training.

2. Prior to final inspection and before or concurrent with fire permits, the Applicant shall submit a Fire Safety Compliance Plan signed and sealed by a Fire Protection Engineer (FPE) licensed in Washington State. The plan must demonstrate compliance with NFPA 855, UL 9540A, and IFC Chapter 12, including thermal runaway prevention, ventilation, and spatial separation requirements.

3. A third-party certified Hazard Mitigation Analysis (HMA) must be submitted and approved prior to final inspection. The analysis must assess thermal event propagation, adjacent equipment interaction, toxic gas release, and compliance with the IFC and WAC 51-54A.

4. A Decommissioning Plan is required prior to final inspection and approval. At a minimum, the decommissioning plan must comply with requirements in WAC 51-54A and include a plan for removal of all energy storage system components; hazardous

materials handling and transport in compliance with all applicable federal, State, and local laws; additional protective measures that will be applied during removal; site restoration; and financial assurance in the form of a performance bond or a letter of credit from a licensed financial institution.

5. The Applicant and subsequent property owners must comply with all requirements of State and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on-site during development.

Planning Conditions:

1. All future development shall meet the requirements of the Thurston County Sanitary Code and associated policies. Required horizontal setbacks to all on-site sewage system components shall be maintained.

2. Prior to or in conjunction with the issuance of any building permit, all applicable regulations and requirements of the Thurston County Public Health and Social Services Department, Public Works Department, Fire Marshal, and Thurston County Community Planning and Economic Development Department shall be met.

3. The Applicant is responsible for compliance with other jurisdictional permitting requirements, including State and federal requirements.

4. The one-hour average noise generated from the battery energy storage system, components, and associated ancillary equipment shall not exceed a noise level as established in WAC 173-60-040, as measured at the property line of the subject property. The Applicant shall submit a post-installation operational noise verification prior to final inspection for the building permit. All such tests must be performed by or under the supervision of a licensed environmental noise consultant competent to perform such tests and interpret the data gathered. The report must account for background noise and other noise sources and demonstrate the noise levels emitted by the facility, including any air conditioning or ventilation equipment contained therein. Such report must address standards set forth within noise reduction measures under State law in RCW 70A.20.060 and under any applicable standards in Thurston County code.

5. A habitat conservation plan (HCP) application and approval for Mazama pocket gopher (MPG) review is required prior to ground disturbance.

6. An inadvertent discovery plan is recommended to be posted on-site for all phases of site development.

7. The Applicant must comply with all requirements of State and/or federal law to avoid disturbance and alteration of artifacts, remains, or other cultural resources on-site during development. In the event of inadvertent disturbance or alteration, the Applicant must immediately stop work and contact the Confederated Tribes of the Chehalis Reservation and the State Department of Archaeology and Historic Preservation (DAHP).

8. Any change in battery chemistry (away from lithium iron phosphate, LFP), container design, or system layout triggers County review for continued compliance with IFC, NFPA 855, and UL 9540/9540A.

9. A Periodic Safety Inspection and Testing Report to Thurston County and the Fire Marshal at the time of each annual fire operational permit renewal or at intervals not to exceed 12 months, whichever is sooner, is required. The report shall be prepared by a Washington State-licensed Professional Engineer or other qualified third-party inspector experienced in energy storage systems and shall:

    a. Evaluate the condition of battery modules, racks, inverters, thermal management, and fire suppression systems.

    b. Identify any degradation, corrosion, or malfunction that could increase fire, electrical, or chemical hazards.

    c. Verify continued compliance with NFPA 855, UL 9540/9540A, IFC Chapter 12, and the originally approved Hazard Mitigation Analysis.

    d. Recommend corrective actions where deficiencies or risks are identified.

    e. All recommended corrective actions must be implemented and verified by the inspector prior to re-issuance of the fire operational permit.

10. All development on the site shall be in substantial compliance with the approved SUP 8application, as conditioned. Any alteration to the proposal will require approval of a new or amended Special Use Permit. The Community Planning and Economic Development Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

11. Prior to energizing the BESS facility, the Applicant shall provide the approved Hazard Mitigation Analysis and Fire Safety/Emergency Response Plan to the serving Fire District/Regional Fire Authority. The Applicant shall coordinate with the District to conduct at least one pre-incident planning walk-through and training session for responding personnel, including explanation of system layout, shut-down procedures, access routes, and water supply. Documentation of this coordination shall be provided to the Fire Code Official.

12. If the applicable fire district believes in good faith that the County impact fee schedule does not accurately describe or capture the project's impacts on fire services, the Applicant shall, upon written request, provide project information reasonably necessary for the district to prepare an independent fee calculation. The fire district may submit its independent fee calculation and supporting documentation to the County Director for consideration under TCC 25.04.050.B. Any alternative fire impact fee shall be effective only if and when the County Director issues a written determination imposing alternative fees based on the district's calculation (or the department's calculation), consistent with TCC 25.04.050.B. The Applicant shall pay the imposed fee prior to building permit issuance.

13. The Decommissioning Plan required by the MDNS shall explicitly address post-event cleanup following a major fire or damage incident, including coordination with the Washington Department of Ecology, US EPA, and other agencies, as appropriate, and shall provide a framework for: (a) characterization and removal of damaged modules; (b) investigation and remediation of any on-site soil contamination; and (c) restoration of the site to pre-project conditions or better with respect to groundwater protection.

Additional Conditions Added by the Examiner:

14. To the extent possible, post-incident remediation shall include a plan to ensure that stormwater does not come into contact with post-fire debris, so that such debris is not swept into the bioinfiltration facility, and/or the amended soil in the bioinfiltration facility shall be tested after the fire to see if replacement is needed.

15. Based on gas emissions identified during UL 9540A testing, the ERP shall establish a safe perimeter and a procedure for notice and evacuation of people on and off the site as appropriate.

Public Works - Development Review Conditions:

Roads

16. A construction permit shall be acquired from the Thurston County Public Works - Development Review Section prior to any construction.

Drainage

17. The stormwater management system shall conform to the Drainage Design and Erosion Control Manual.

18. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner, and/or the Property Owners Association.

19. Stormwater runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.

General Conditions

20. No work shall take place until a construction permit has been issued by Thurston County Public Works - Development Review Section.

21. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code, and the Drainage Design and Erosion Control Manual.

22. When all construction/improvements have been completed, contact the Thurston County Public Works - Development Review Section at (360) 867-2051 for a final inspection.

23. This approval does not relieve the Applicant from compliance with all other local, State and/or federal approvals, permits, and/or laws necessary to conduct the development

activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a permit is required and the application can be found at: http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html. Any additional permits and/or approvals shall be the responsibility of the Applicant.

Project-Specific Conditions

24. Once the Planning Department has issued the official approval, submit two complete full-size sets of construction drawings, the final drainage and erosion control report, and all applicable checklists, along with an electronic copy, to Thurston County Public Works - Development Review Section for review and acceptance. The Final Drainage Report shall address all comments in the Stormwater Scoping Report Response dated October 30, 2024, which can be found at: https://weblink.co.thurston.wa.us/dspublic/0/doc/19111380/Page1.aspx.

25. Prior to construction, the Applicant shall:

    a. Pay outstanding construction review and inspection fees,*

    b. Receive erosion and sediment control permit,

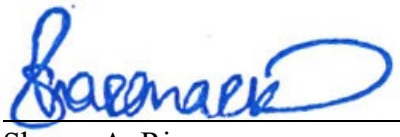
    c. Have the erosion and sediment control inspected and accepted,

    d. Receive a construction permit, and

    e. Schedule a pre-construction conference with County staff.

    * The current fee schedule can be found online at http://www.co.thurston.wa.us/permitting/fees/fees-home.html or by contacting Ruthie Padilla with Thurston County Public Works - Development Review Section by phone at (360) 867-2050 or e-mail at ruthie.moyer@co.thurston.wa.us.

Decided March 9, 2026.



Sharon A. Rice
Thurston County Hearing Examiner

APPENDIX A

Exhibit 1 Community Planning and Economic Development Department Staff Report for the October 14, 2025 hearing, including the following attachments:

A. Notice of Public Hearing, issued October 2, 2025

B. Master Application, received September 19, 2024

C. Special Use Permit Application (revised), received April 28, 2025

D. Applicant Narrative, received September 19, 2024

E. Letter to the Community from Applicant, received April 28, 2025

F. Site Plan, received September 19, 2024

G. Topographic Survey (revised), received April 28, 2025

H. Drainage Report, Alex White, Barghausen Consulting Engineers, Inc., received September 19, 2024

I. Geotechnical Report, John M. Neer and Scott S. Riegel, Earth Solutions NW, LLC, received September 19, 2024

J. Regulated Prairie Report, Barghausen Consulting Engineers, Inc., received September 19, 2024

K. Arborist Inventory, received September 19, 2024

L. Landscape Plan, Bradley Design Group, Inc., received September 19, 2024

M. Pre-submission Conference Notes 2024100639:

1. Environmental Health Notes
2. Public Works Notes
3. Land Use Notes

N. Code Interpretation, dated August 29, 2024

O. Notice of Application, dated December 20, 2024

P. Agency Comments:

1. Memorandum from Thurston County Water Resources, recommending approval, dated October 30, 2024
2. Memorandum from Thurston County Development Review Section, dated November 22, 2024
3. Letter from Nisqually Indian Tribe, dated January 2, 2025
4. Email from Squaxin Island Tribe, dated January 3, 2025
5. Letter from Confederated Tribes of the Chehalis Reservation, dated January 8, 2025
6. Memorandum from West Thurston Regional Fire Authority, dated

January 8, 2025

7. Memorandum from Thurston County Environmental Health, recommending approval, dated May 15, 2025

Q. Public Comments, during Notice of Application period:

1. Email from Tamara Haight, dated January 3, 2025
2. Email from Eric Olsen, dated January 4, 2025
3. Email from J. Applebury, dated January 4, 2025
4. Email from Susan N., dated January 4, 2025
5. Email from Terry Ann Adamo, dated January 4, 2025
6. Email from Erin Davis, dated January 5, 2025
7. Email from Erin Ruminski, dated January 8, 2025
8. Email from Francis M. Allen, dated January 5, 2025
9. Email from Taea Fluetsch, dated January 6, 2025
10. Email from Brandon Clark, dated January 6, 2025
11. Email from Cynthia Freeman, dated January 7, 2025
12. Email from Evelyn Berkey, dated January 6, 2025
13. Email from Jenny LaFond, dated January 6, 2025
14. Email from Mary McClaflin, dated January 6, 2025
15. Email from Michael Krisch, dated January 6, 2025
16. Email from Natalie W., dated January 6, 2025
17. Email from Dustin Fitch, dated January 7, 2025
18. Email from Kathryn Kane, dated January 7, 2025
19. Email from Tamara Haight, dated January 7, 2025
20. Email from William L. Julian, dated January 8, 2025
21. Email from Brian Haight, dated January 8, 2025
22. Email from Christine Johnson, dated January 8, 2025
23. Email from Chris Weaver, dated January 8, 2025
24. Email from Colin Macduff, dated January 8, 2025
25. Email from Conrad Neudorf, dated January 8, 2025
26. Email from Debbie Neudorf, dated January 8, 2025
27. Email from Deni Filmore, dated January 8, 2025
28. Email from Elizabeth Cooper, dated January 8, 2025
29. Email from Denise Hinkle, dated January 8, 2025

30. Email from J. Merryman, dated January 8, 2025
31. Email from Jennette Bishop, dated January 8, 2025
32. Email from Jeremy Kemp, dated January 8, 2025
33. Email from Curtis and Kathy Johnson, dated January 8, 2025
34. Email from Lowell Deguise, dated January 8, 2025
35. Email from Marcia Benton, dated January 8, 2025
36. Email from Marilyn Vos, dated January 9, 2025
37. Email from Mark Weaver, dated January 9, 2025
38. Email from Mielkeshauna, dated January 8, 2025
39. Email from Rhonda and Gavin Gaudin and George and Deborah Gaudin, dated December 26, 2024
40. Email from Rob and Lorraine Johnson, dated January 5, 2025
41. Email from Sampson Spencer, dated January 8, 2025
42. Email from Sarah Hill, dated January 8, 2025
43. Email from S. Turner, dated January 8, 2025
44. Email from Alisha King, dated January 9, 2025
45. Email from Caitlin Coleman-Hulbert, dated January 9, 2025
46. Email from Carrie Kitley, dated January 9, 2025
47. Email from Casey Taylor, dated January 9, 2025
48. Email from Clayton Hill, dated January 9, 2025
49. Email from Crystal Bell, dated January 9, 2025
50. Email from Dana Phillips, dated January 9, 2025
51. Email from Don Laurance, dated January 9, 2025
52. Email from Ellen Jo Dorfman, dated January 9, 2025
53. Email from Heather Lapham, dated January 9, 2025
54. Email from Jan Nielsen, dated January 9, 2025
55. Email from Kendra Driver, dated January 9, 2025
56. Email from KLM Tree Farm, dated January 9, 2025
57. Email from Lorraine James, dated January 9, 2025
58. Email from Myah Nedrow, dated January 9, 2025
59. Email from Sue Brown, dated January 9, 2025
60. Email from Teri Blankinship, dated January 9, 2025
61. Email from Tim Carper, dated January 8, 2025

62. Email from Wayne Moen, dated January 9, 2025
63. Email from Marjie Olmstead, dated January 9, 2025
64. Email from Niki Kane, dated March 22, 2025

R. Communication Matrix (revised with Applicant responses), dated July 22, 2025

S. County Prairie Screening of Parcel No. 13503110301, dated April 24, 2025

T. Informational maps - Staff provided, from GeoData:
1. Aerial map
2. Zoning and Land Use map
3. United States Department of Agriculture (USDA) soils map
4. Mazama pocket gopher soils map
5. Federal Emergency Management Agency (FEMA) flood zones map
6. High groundwater and 300-foot buffer map
7. Wetlands and wetlands buffer map
8. Steep slopes map
9. Critical Aquifer Recharge Areas map

U. State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance (MDNS), issued August 14, 2025

V. Environmental Checklist, submitted July 22, 2025

W. State Environmental Policy Act-related Comments:
1. Email from Olympic Region Clean Air Agency (ORCAA), dated August 18, 2025
2. Letter from Department of Archaeology and Historic Preservation (DAHP), dated August 25, 2025
3. Letter from Department of Ecology, dated August 27, 2025
4. Email from Confederated Tribes of the Chehalis Reservation, dated August 28, 2025

Exhibit 2 Public Comments, after publication of Staff Report:

A. Email from Susan Ness, dated October 3, 2025

B. Email from Merry Katt, dated October 9, 2025

C. Email from Wayne White, dated October 11, 2025

D. Email from Clayton Hill, dated October 11, 2025

E. Email from Conrad Neudorf, dated October 12, 2025

F. Email from Debbie Neudorf, dated October 12, 2025

G. Email from Brian Haight, dated October 12, 2025
H. Email from Frauke DePetter, dated October 12, 2025
I. Email from Ciara Morales, dated October 13, 2025
J. Email from Tamara Haight, dated October 13, 2025
K. Email from Craig Clark, dated October 13, 2025
L. Email from Mark A. Barable, dated October 13, 2025
M. Email from Denise Hinkle, dated October 13, 2025
N. Email from Fran Allen, dated October 13, 2025
O. Email from John Hinkle, dated October 13, 2025
P. Email from Cindy Wills, dated October 13, 2025
Q. Email from Thomas R. Martin, dated October 13, 2025
R. Email from Cindy Cavanagh, dated October 13, 2025
S. Email from Joseph Haight, dated October 13, 2025
T. Email from Cynthia and Dale Bradrick, dated October 13, 2025
U. Email from Elizabeth Currier, dated October 13, 2025
V. Email from Mary D'Avanzo, dated October 13, 2025
W. Email from Jessica Kirby and Dannie Applebury, dated October 13, 2025
X. Email from Julie Newby, dated October 13, 2025
Y. Email from Jeff Merryman, dated October 13, 2025
Z. Email from Chris Weaver, dated October 14, 2025
AA. Letter from Fire Chief Nathan Drake, dated October 14, 2025

Exhibit 3 Staff PowerPoint Presentation, dated October 10, 2025

Exhibit 4 Public Comments, post-hearing:
A. Email from Bonnie Helms, dated October 14, 2025
B. Email from Desiree Williams, dated October 14, 2025

Exhibit 5 Staff Response to post-hearing Public Comments, including:
A. Email from Maya Teeple, dated October 17, 2025
B. Email from Arthur Saint, dated October 17, 2025

Exhibit 6 Applicant PowerPoint Presentation, dated October 14, 2025

Exhibit 7 American Clean Power Association Summary, Research on Property Values, received October 20, 2025

Exhibit 8 Document excerpt (source not cited), re: electromagnetic fields from solar farms

Exhibit 9 Email from Dennis Duffin, dated October 20, 2025

Exhibit 10 Request for Reconsideration, dated November 20, 2025

Exhibit 11 Staff Response to Request for Reconsideration, dated November 24, 2025

Exhibit 12 Notice of Public Hearing for Reconvened Hearing, dated December 4, 2025

Exhibit 13 Public Comments, prior to the February 3, 2026 Reconvened Hearing:

A. Email from Marsha Lang, dated December 5, 2025

B. Email from Shirley Owens, dated January 5, 2026

C. Letter from Fire Chief Nathan Drake, West Thurston Regional Fire Authority, dated January 14, 2026

D. Email from Thomas Trott, dated January 22, 2026

E. Email from Austin Rocks, dated January 22, 2026

F. Email from Kyle Hooper, dated January 23, 2026

G. Email from Crystal Moore, dated January 24, 2026

H. Email from Roger Hickey, dated January 26, 2026

I. Email from Judy and Tom Smiley, dated January 27, 2026

J. Email from Susan Ness, dated January 27, 2026

K. Email from Jessica Kirby, dated January 28, 2026

L. Email from Gloria Wolslegel, dated January 28, 2026

M. Email from Kyle Hooper, dated January 29, 2026

N. Email from Chris Weaver, dated January 29, 2026

O. Email from Deborah Gaudin, dated January 29, 2026

P. Comment from Sheriann Anthony, dated January 30, 2026

Q. Comment from Katrina Smith, dated January 30, 2026

R. Comment from Brian Haight, dated January 30, 2026

S. Comment from Lewis Zipperer, dated January 30, 2026

T. Comment from Judy Weaver, dated January 31, 2026

U. Comment from Kathy Hoiland, dated January 31, 2026

V. Comment from Kyle Garrison, dated January 31, 2026

W. Comment from Jeremy Mason, dated February 1, 2026

X. Comment from Susan Porath, dated February 1, 2026

Y. Comment from David Porath, dated February 1, 2026

Z. Comment from Mike Kirsch, dated February 1, 2026

AA. Comment from Zac Small, dated February 1, 2026

BB. Comment from Garrett Rawson, dated February 1, 2026

CC. Comment from Rose Palmer, dated February 1, 2026

DD. Comment from Gary Peterson, dated February 1, 2026

EE. Comment from Nancey Peterson, dated February 1, 2026

FF. Comment from Billie Ann Almanzor, dated February 1, 2026

GG. Comment from Tamara Haight, dated February 1, 2026

HH. Comment from Gary Wildhaber, dated February 1, 2026

II. Comment from Casey Taylor, dated February 2, 2026

JJ. Comment from Debra Paul, dated February 2, 2026

KK. Comment from Lori Beebe, dated February 2, 2026

LL. Comment from Margie Weaver, dated February 2, 2026

MM. Comment from Conrad Neodorf, dated February 2, 2026

NN. Comment from Sarah Hill, dated February 2, 2026

OO. Comment from Mel Wedvik, dated February 2, 2026

PP. Comment from Debbie Neudorf, dated February 2, 2026

QQ. Comment from Jessica Wood, dated February 2, 2026

RR. Comment from Paul Ferrell, dated February 2, 2026

SS. Comment from Kyle Hooper, dated February 2, 2026

TT. Comment from Desiree Williams, dated February 2, 2026

UU. Comment from Natalie, dated February 2, 2026

VV. Comment from Tad Santino, dated February 2, 2026

WW. Comment from Bonnie Helms, dated February 2, 2026

XX. Comment from Marilyn Vos, dated February 2, 2026

YY. Comment from Tamara Haight, dated February 2, 2026

ZZ. Comment from Jennifer Hovda, dated February 2, 2026

AAA. Comment from Erin Ruminski, dated February 2, 2026

BBB. Comment from Josh Hovda, dated February 2, 2026

CCC. Comment from Julie Newby, dated February 2, 2026

Exhibit 14 Staff and Applicant Exhibits:

A. Supplemental Information from Staff for Reconsideration Hearing

B. Applicant's Emergency Response Plan, revision number 1.2, dated January 14, 2026

C. Applicant's memorandum to Fire Chief Nathan Drake, re: NFPA 855 Compliance, received January 14, 2026

D. Applicant's memorandum to Fire Chief Nathan Drake, re: Training Offered, received January 14, 2026

Exhibit 15 Assessment of Potential Impacts of Fires at Bess Facilities, dated August 21, 2025

Exhibit 16 Applicant exhibits on Reconsideration:

A. Convergent Energy & Power's Pre-Hearing Brief for Reconvened Hearing, dated January 27, 2026

B. Applicant's memorandum, re: Site Selection Process, with attached 2023 DSS RFP: Proposal Summary, dated April 21, 2023

C. Convergent Energy Rochester Property Line Noise Report, Alan Burt, PE, SSA acoustics, dated January 26, 2026

Exhibit 17 Staff PowerPoint Presentation, dated January 28, 2026

Exhibit 18 Convergent Rochester Visual Simulations, dated February 2, 2026

Exhibit 19 Memorandum from Convergent, re: Moss Landing, dated February 2, 2026

Exhibit 20 Applicant PowerPoint Presentation, dated February 3, 2026

Exhibit 21 Post-hearing Public Comment from Mary Nelson-Dotson, dated February 4, 2026

Exhibit 22 Applicant Response to Public Comments, dated February 18, 2026

Exhibit 23 Staff Response to Public Comments, dated February 18, 2026

APPEAL AND RECONSIDERATION

Staff Use Only	Label	Date Stamp/Staff Initials

1. Application Submittal Checklist - All items listed are required at the time of application. Incomplete applications will not be accepted.

- ☐ Property Information Sheet
- ☐ Application Fee. Refer to the current fee schedule.
- ☐ Hearing Examiner Deposit, if applicable.
- ☐ Copy of the Decision Being Appealed
- ☐ Appellant Narrative (see page 2 for details)

Project Number: _____

Property Address: _____

Tax Parcel #: _____

Decision Date (Appeal *Needs to be within the number of days shown below (##)*): _____

Appeal Type: ☐ Administrative Land Use Decision (14); ☐ SEPA Determination (21); ☐ Hearing Examiner Decision (14) ☐ Request for Reconsideration of Hearing Examiner Decision (10); ☐ Appeal to BoCC after Hearing Examiner Reconsideration (10); ☐ Code Compliance (14); ☐ Building Permit (20)

APPEAL DISCLAIMER

This appeal is limited to the specific project decision identified in this application and to the issues expressly raised herein. Appeals are reviewed for alleged errors in the application or interpretation of applicable law. An appeal is not an opportunity to submit a new or revised project, expand the scope of review, introduce new issues, or request changes to adopted county policy.

All appeals are subject to applicable filing fees in accordance with the current Thurston County fee schedule. Appeal filing fees are non-refundable regardless of the outcome of the appeal. If the appeal proceeds to a hearing before the Hearing Examiner or another authorized hearing body, additional costs may be incurred. These costs may include, but are not limited to, Hearing Examiner fees, administrative and staff costs, notice and publication costs, record preparation, and transcript expenses. The appellant is responsible for all costs and fees assessed by the County that are associated with the appeal process, whether the appeal is granted, denied, modified, or dismissed.

Failure to comply with applicable procedural requirements, deadlines, or payment obligations may result in dismissal of the appeal without further review.

APPEAL AND RECONSIDERATION

APPELLANT INFORMATION

Appellant's Relationship to Property:_____

Appellant Name: _____

Mailing Address: _____ City: _____ State:_____ Zip Code: _____

Phone: _____ Email:_____

Appellant's Signature: _____ Date:_____

REQUIRED APPELLANT NARRATIVE AND SUBMITTALS

Appellants shall submit a copy of the decision being appealed as well as a separate written narrative responding to all questions below associated with this application. Responses must be complete, clear, and directly address each question individually.

The narrative shall be submitted as a standalone PDF and clearly organized to correspond to each question, providing sufficient factual detail, analysis, and explanation to demonstrate compliance, with references to supporting materials (plans, reports, studies, or exhibits) where applicable.

1. **Which portion(s) of the decision are you appealing? (check all that apply).**
   ☐ Entire decision ☐ One or more conditions of approval ☐ A specific interpretation or determination
   ☐ A specific finding or conclusion
2. **Standing**
   Describe the specific direct and adverse impact of the decision that establishes your legal standing to appeal. Generalized concerns or policy disagreement are insufficient.
3. **Project-Specific Issues on Appeal**
   Identify each project-specific issue you believe was decided incorrectly. List each issue separately and explain how the decision affects your property.
4. **Code Application to the Project**
   Identify the specific Thurston County Code sections or adopted policies that you believe were incorrectly applied to this project. General disagreement with policy or code is not sufficient.
5. **Explanation of Correct Code Application**
   Explain how you believe the cited code section(s) should apply to your project based on the site conditions, proposal, or facts in the record.
6. **Explanation of Correct Code Application**
   Are the facts relied upon in your appeal already contained in the administrative record?
   ☐ Yes ☐ No
   If no, identify the project-specific facts you believe were not adequately considered and explain why.
7. **Requested Relief**
   Describe the specific change to the decision you are requesting as it relates to this project (e.g., removal or modification of a condition, reversal of denial, revised interpretation). If the requested relief is granted, explain how it would change the project.