



Skagit County  
Planning & Development Services

1800 CONTINENTAL PLACE, MOUNT VERNON, WA 98273 | PHONE (360) 416-1320  
EMAIL: pds@co.skagit.wa.us

**SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES  
FINDINGS OF FACT**

**SPECIAL USE PERMIT NUMBER PL23-0408**

For

**NEXTERA ENERGY MOUNT VERNON BATTERY ENERGY STORAGE SYSTEM (BESS)**

**HEARING AUTHORITY:** Skagit County Hearing Examiner

**HEARING DATE:** December 20, 2024

**APPLICATION NUMBER:** Special Use Permit (SUP) Application  
**#PL23-0408**

**LANDOWNERS:** Sierra Pacific Real Estate LLC  
c/o Gary Blanc  
P.O. Box 496028  
Redding, CA 96049  
[GBlanc@spi-ind.com](mailto:GBlanc@spi-ind.com)

Puget Sound Energy  
c/o Holly Mouser  
P.O. Box 97034  
Bellevue, WA 98009  
[Holly.Mouser@pse.com](mailto:Holly.Mouser@pse.com)

**APPLICANT/CONTACT:** NextEra Energy Resources Development LLC  
c/o David Lawlor  
700 Universe Boulevard, E5E  
Juno Beach, FL 33408  
[David.lawlor@nexteraenergy.com](mailto:David.lawlor@nexteraenergy.com)

**RECOMMENDATION:** Skagit County Planning and Development Services recommends **APPROVAL** of the requested Special Use Permit for the proposed Mount Vernon BESS project, with the conditions listed within this report on page 44.

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# **NextEra Energy Resources Mount Vernon Battery Energy Storage System Project Special Use Permit #PL23-0408**

## **Acronyms and abbreviations:**

AC	Alternating Current
ACZ	Airport Compatibility Zone
AEO	Airport Environs Overlay
AHJ	Authority Having Jurisdiction
Applicant	NextEra Energy Resources Development, LLC
AUG	Future Augmentation
BMS	Battery Management System
BESS	Battery Energy Storage System
BMP	Best Management Practices
BOL	Beginning of Life
BR-HI	Bayview Ridge Heavy Industrial zoning designation
CAO	Critical Areas Ordinance
CETA	Clean Energy Transition Act
CFR	Code of Federal Regulations
DC	Direct Current
DI	Diameter
ESS	Energy Storage System
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
FPC	Forest Practice Conversion
Gen-tie	Generation-tie (electrical connection with the substation)
GPM	Gallons Per Minute
GSU	Generator Step-Up
HVAC	Heating, Ventilation, and Air-Conditioning
ID	Identifier
IFC	International Fire Code
kV	kilovolt
LHG	Licensed Hydrogeologist
LOS	Level of Service
MDNS	Mitigated Determination of Nonsignificance
MW	Megawatt
NFPA	National Fire Protection Association
NPDES	National Pollutant Discharge Elimination System
O&M	Operations and Maintenance
PCS	Power Conversion System
PNNL	Pacific Northwest National Laboratory
POI	Point Of Interconnection
PSE	Puget Sound Energy

PSI	Pounds per Square Inch
PUD	Public Utility District
SCC	Skagit County Code
SEPA	State Environmental Policy Act
SME	Subject Matter Expert
SUP	Special Use Permit
RCW	Revised Code of Washington
UGA	Urban Growth Area
UL	Underwriters Laboratories
USACE	U.S. Army Corps of Engineers
WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation

## Skagit County Code References:

### Unified Development Code Title 14:

SCC 14.02.050	Vesting
SCC 14.04.020	Definitions
SCC 14.06.100	Determination of completeness
SCC14.06.150	Public notice requirements
SCC 14.16	Zoning
SCC 14.16.190	Bayview Ridge Heavy Industrial (BR-HI)
SCC 14.16.210	Airport Environs Overlay (AEO)
SCC 14.16.215	Bayview Ridge Urban Growth Area
SCC 14.16.800	Parking
SCC 14.16.820	Signs
SCC 14.16.830	Landscaping
SCC 14.16.835	Pipeline safety
SCC 14.16.840	Performance standards
SCC 14.16.900	Special use permit requirements
SCC 14.22	Land Disturbance
SCC 14.24	Critical Areas Ordinance
SCC 14.24.040	Applicability, jurisdiction and coordination
SCC 14.32	Stormwater Management

### Skagit County Title 16 - Environment

SCC 16.12	State Environmental Policy Act (SEPA)
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### Washington Administrative Codes and Revised Codes of Washington

WAC 197-11	SEPA Rules
RCW 43.21C	State Environmental Policy
WAC 173-60	Maximum Environmental Noise Levels
WAC 173-200	Water Quality Standards for Groundwaters of the State of Washington
WAC 173-201A	Water Quality Standards for Surface Waters of the State of Washington

**GENERAL PROJECT DESCRIPTION:**

Special Use Permit application (#PL23-0408) submitted on August 26, 2023, by David Lawlor, on behalf of NextEra Energy Resources, LLC, to allow for the construction of a new utility-scale Battery Energy Storage System (BESS). The proposed BESS would be situated on 22.55 acres of an approximate 31.29-acre site with the capability of storing up to 200 megawatt-hours (AC) of energy by a 4-hour duration inside the power conversion system (PCS) units. The PCS units contain one BESS inverter and one transformer. The Mount Vernon BESS Project includes a 115-kilovolt (kV) overhead gen-tie line, on wood or steel poles up to 120 feet in height, which would extend approximately 1,750 feet northwest to interconnect to the Puget Sound Energy (PSE) Fredonia substation. The use is classified as a Major utility development per Skagit County Code (SCC) 14.16.190(5)(c) as defined in SCC 14.04.020 (Utility development).

**PROJECT LOCATION:**

The proposed project is located on P129949 and P21265 along the west side of McFarland Road (Fredonia Road P131483), south of Ovenell Road. The adjacent easterly properties are addressed as 14658, 14660 and 14662 Ovenell Road (P117970, P129950, and P129951 respectively). The BESS will connect to the existing PSE substation site which is located immediately to the west and northwest addressed at 13085 and 13235 Ball Road (P21272 and P21273). Located in Mount Vernon within a portion of Section 9, Township 34N, Range 3E W.M., situated within Skagit County, Washington.

**PARCEL NUMBERS/LEGAL DESCRIPTION: (P129949 and P21265)**

**P129949:** LOT 1 OF SIERRA PACIFIC BINDING SITE PLAN, RECORDED UNDER AF#200911160068, SE1/4 SEC 9 TWP 34 RGE 3. SURVEY AF#201003170060

**P21265:** LOT B OF BOUNDARY LINE ADJUSTMENT ON QUIT CLAIM DEED RECORDED UNDER AF#200903180106, DESCRIBED AS FOLLOWS: LOT 'B' AS CREATED BY BOUNDARY LINE ADJUSTMENT QUIT CLAM DEED RECORDED MARCH 4, 2008, UNDER COUNTY AUDITOR'S FILE NO. 200803040059, SAID LOT BEING A PORTION OF TRACT 2 OF SKAGIT COUNTY SHORT PLAT NO. 44-87, APPROVED DECEMBER 29, 1987, AND OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 34 NORTH, RANGE 3 EAST W.M EXCEPT THAT PORTION LYING SOUTHERLY OF THE CENTERLINE OF THAT CERTAIN 50-FOOT WIDE OIL PIPELINE EASEMENT CONVEYED TO TRANS MOUNTAIN OIL PIPELINE CORPORATION BY INSTRUMENT DATED JULY 9, 1954 AND RECORDED SEPTEMBER 16, 1954 UNDER COUNTY AUDITOR'S FILE NO. 506571 IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE. SURVEY AF#201003170060

**ZONING/COMPREHENSIVE PLAN:** The proposed project is located within the Bayview Ridge Urban Growth Area within the Bayview Ridge Heavy Industrial (BR-HI) zoning/comprehensive plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps adopted July 5, 2016, and as thereafter amended.

**VESTING:** The application was determined complete on September 12, 2023, and is vested to Skagit County Codes (SCC) adopted July 5, 2016, and as thereafter amended, pursuant to SCC 14.02.050.

## EXHIBITS:

1. Staff Report and Departmental Findings 1-14 dated December 12, 2024.
2. Special Use Permit application received August 26, 2023.
3. Special Use Permit application narrative received August 26, 2023.
4. "Appendix B Figures" Vicinity Map/Site plan packet received August 26, 2023.
5. State Environmental Policy Act (SEPA) checklist received August 26, 2023.
6. Wetland Delineation Report received August 26, 2023.
7. Hydrogeological Site Assessment Report prepared by associated earth sciences incorporation dated June 2, 2023, received August 26, 2023.
8. Cultural Resources Survey Report summary and associated Inadvertent Discovery Plan Procedures received August 26, 2023\*<sup>i</sup>.
9. Conceptual Landscape Plan dated June 28, 2023, received August 26, 2023.
10. Notice of Development Application published on October 5, 2023, and associated affidavit of publication and Certification of Posting.
11. Letter to the applicant requesting additional information dated November 16, 2023.
12. Response received from applicant March 15, 2024, addressing the items requested within the Department's November 16, 2024, information request.
13. Revised Special Use Permit application narrative received March 15, 2024.
14. "Critical Areas Review for Parcel P129949" received March 15, 2024.
15. Spire BESS Wetland Delineation Report dated February 17, 2021 (Jacobs Memorandum for Wetland W1) received March 15, 2024.
16. Spire BESS Wetland Delineation Report dated March 2023 (Jacobs Memorandum for Wetland W2 – W7 on P21265) received March 15, 2024.
17. Wetland Mitigation Bank Use Plan dated August 2023 received March 15, 2024.
18. Spire Wildlife and Habitat Survey dated March 5, 2021 (Jacobs Memorandum for P129949) received March 15, 2024.
19. Spire Wildlife and Habitat Survey dated January 31, 2023 (Jacobs Memorandum for P21265) received March 15, 2024.
20. Department of the Army (USACE) letter dated March 23, 2021 (Jurisdictional determination for Wetland W1 and Ditch E on P129949) received March 15, 2024.
21. Department of the Army (USACE) letter dated January 5, 2024 (Jurisdictional determination for Wetland W3 and Ditches D, E, and F on P21265) received March 15, 2024.
22. Joint Aquatic Resources Permit Application (JARPA) Form signed by the applicant August 24, 2023, received March 15, 2024.
23. SEPA checklist received March 15, 2024.
24. Development Standards Summary Table received March 15, 2024.
25. County Correspondence 2020 – 2023 document received March 15, 2024.
26. Skagit PUD Statement of Fire Flow Capacity dated March 7, 2024, received March 15, 2024.
27. NextEra Battery Energy Storage Description informational document received March 15, 2024.
28. Commissioning Plan received March 15, 2024.



29. Decommissioning and Site Restoration Plan received March 15, 2024\*ii.
30. Hazard Mitigation Analysis for Outside Ground Mounted Battery Energy Storage Systems draft report dated February 19, 2023, received March 15, 2024\*iii.
31. Fire Protection Technical Assistance Report dated March 8, 2024, received March 15, 2024\*iv.
32. Fire Emergency Response Procedure received March 15, 2024.
33. SEPA Mitigated Determination of NonSignificance (MDNS) issued June 11, 2024, and published June 13, 2024.
34. Affidavit of publication, confirmation of receipt and publishing by, and to, the State Department of Ecology website, and Certificate of Posting on-site attached on June 13, 2024.
35. Email correspondence and “No Conflict” letter from Olympic Pipe Line Company dated and received July 17, 2004.
36. Additional information coversheet addressing project revisions received July 30, 2024.
37. Revised Special Use Permit application narrative received July 30, 2024.
38. Updated site plan prepared by Coffman Engineers dated July 2024, received July 30, 2024.
39. Additional information coversheet addressing project revisions/amendments received October 17, 2024.
40. Revised Special Use Permit application narrative received October 17, 2024.
41. Revised/updated JARPA and updated Wetland Mitigation Bank Use Plan dated October 7, 2024, based on Department of Ecology comments regarding wetland impacts, received October 17, 2024.
42. Updated/Revised site plan prepared by Coffman Engineers dated September 2024, received October 17, 2024.
43. Spill/Contingency Plan example.
44. Nextera Energy Mount Vernon Battery Storage Project informational flyer
45. Assessors Section Map
46. Skagit County IMap “Pipeline Transmission Systems” map.
47. Skagit County IMap Aerial Photos and Airport Environs Overlay maps.
48. Pacific Northwest National Laboratory (PNNL) reference document dated October 2023.
49. Assessor’s Office property information sheets.
50. Copy of recorded Sierra Pacific Binding Site Plan (Auditors File #20091116068).
51. Record of Survey for Puget Sound Energy (Auditors File #201008300121).
52. Notice of public hearing published November 28, 2024.
53. List of Neighbors and Parties of record who were mailed the Notice of Public Hearing.

**DETAILED PROJECT INFORMATION:**

The applicant has provided the below information within the application materials. The following are quoted excerpts from parts of Sections 1 and 2 of the application narrative updated/received July 30, 2024 (*Exhibit #37*).

*“The Mount Vernon BESS Project would be situated on 22.55 acres on parcels P129949 and P21265 in Bayview Ridge Industrial Area to store up to 200 megawatt-hours of energy. The Mt. Vernon BESS Project also includes a 115-kilovolt overhead generation tie line (gen-tie line), which would extend approximately 1,750 feet<sup>1</sup> northwest across parcels P21273 and P21272 to connect to the Puget Sound Energy’s (PSE) Fredonia Substation. The BESS Project would provide local power capacity and grid resiliency in the nearby communities of Bay View, Avon, Mt. Vernon, Burlington, and the greater Skagit County area.”*

*“The Applicant is constructing the Project, a utility-scale BESS facility with associated power transformers, inverters, fencing, internal roads, control systems, and an overhead gen-tie line, in the Bayview Ridge Heavy Industrial District (BR-HI) in Skagit County, Wash.”*

*“The Project site is entirely privately owned and encompasses parcels P129949 and the southern half of parcel P21265 in T34N R3E, Section 9 as well as small portions of tax lots P21272 and P21273” (See Exhibit’s #4 & #42). “All four project parcels are in Township 34 North, Range 3 East, Section 9, the BR-HI zoning district, and the Airport Environs Overlay (AEO)” (See Exhibit #45).*

*“The Project would be contained within a fenced area of 17.7 acres. The Bess would store up to 200 megawatt-hours of energy as a 200-megawatt by 4-hour BESS facility inside up to 92 Power Conversion System (PCS) units situated in up to 368 cabinets. PCS units contain one BESS inverter and one transformer. The Mount Vernon BESS Project also includes a 115-kilovolt overhead gen-tie line, which would extend approximately 1,750 feet northwest to interconnect to the PSE Fredonia Substation.”*

***“Lithium-Ion Batter Storage Technology”***

*“Lithium-ion batteries are a type of solid-state rechargeable battery where lithium-ions, suspended in an electrolyte, move from negative to positive electrodes and back when recharging. Typically, lithium-ion batteries are used in utility-scale applications when rapid, short-term deployments of power are needed. For example, lithium-ion batteries can smooth the intermittent generation from solar modules to deliver consistent and predictable power to the grid. The most common lithium-ion battery chemistries for energy storage applications are lithium-ion phosphate and nickel-manganese-cobalt. The Mounty Vernon BESS Project would contain up to 368 BESS cabinets and up to 92*

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<sup>1</sup> The introduction within the revised application materials dated July 2024 still referenced the original 2,240-foot distance that the gen-tie would span from the site to the substation. The correct revised distance is 1,750 feet as reflected in the revised application materials and site plan received October 17, 2024 (*Exhibit #40*).

*Power Conversion System (PCS) units composed of BESS inverter and transformer. The life of the battery and various related components is approximately 20 years.”*

***“BESS Components”***

*“The BESS will be designed to include the following components:*

- Battery energy storage equipment, including battery cells and racks (similar to common computer server racks) within an enclosure or container structure, direct current-alternating current (DC-AC) converters, and DC switchboards.*
- Balance of plant equipment, which may include a battery management system (BMS), fire alarm and suppression systems, heating, ventilation, and air-conditioning (HVAC) systems, and building auxiliary electrical systems.*
- Cooling system (either air – or liquid-cooled), which may include a separate chiller or condenser unit location outside the battery racks with chillers, pumps, and heat exchangers.*
- Enclosures for enclosing and protecting the energy storage batteries; typically, enclosures are approximately the same dimensions as standard truck shipping containers and will be set on a concrete slab or other type of foundation located within the arrays in proximity to the associated PCS. Each enclosure protects the batteries, the BMS, fire alarm and suppression systems, HVAC systems, and building auxiliary electrical systems.”*

*“A BESS can be scaled to the desired capacity by increasing the number of enclosures. The Mount Vernon BESS will contain up to 368 enclosures.”*

***“Mount Vernon Energy Center Supporting Facilities”***

*“The facilities supporting the Mount Vernon BESS Project include the 34.5 kilovolt (kV) collector lines, aboveground gen-tie transmission line, main power transformer/substations, point of interconnection (POI) switching station, service roads, perimeter security fencing, and gates.”*

***“34.5-kV Collector Lines”***

*“The Mount Vernon BESS Project’s 34.5-kV medium-voltage collector lines will carry power from the switchyard to the proposed POI switching station. The 34.5-kV medium-voltage conductors typically are directly buried at a depth of approximately 3 feet; however, some portion of the conductors may also be aboveground. The exact collector line routing is still being determined.”*

***“Aboveground Gen-Tie Transmission Line”***

*“The aboveground gen-tie transmission line will connect the Mount Vernon BESS Project substation to the POI switching station at the PSE Fredonia Substation. The transmission line will be approximately 1,750 feet long, with poles typically spaced 200 to 600 feet apart. The poles would be made of steel or wood and no more than 120 feet tall.” “The*

*FAA determination of No Hazard will be requested when the precise pole alignment is determined during final design.”*

***“Main Power Transformer/Substation”***

*“Transformers and switchgear will be located in the southwest corner of parcel P21265, adjacent to the enclosures. Inverters will invert and step up the voltage of electricity to 230 kilovolts for transmission to the PSE substation or invert from alternating current to direct current for storage in the BESS.”*

**Employees/Hours of operation:**

No employees will permanently work on-site after the completion of construction. Operations and maintenance personnel will visit the site periodically and monitoring will be performed remotely. The applicant has supplied the following excerpts in response to employees and hours of operation:

*“The BESS facility will not be open to the public; it operates 24 hours every day.” “Up to three O&M employees will travel to the site periodically to work on maintenance issues.” “O&M employees will conduct inspections of the battery cabinets and site according to the manufacturer’s recommendations, which are assumed to be semiannual inspections.” “Employees typically travel to the site to perform O&M activities during the hours of 8 am and 5 pm and after hours in the event an issue arises outside of normal work hours.” “Up to four NextEra employees would monitor the site remotely.” “The Applicant would operate the battery storage facility remotely. Monitoring equipment immediately detects system abnormalities, allowing the Applicant to dispatch technicians or employees as appropriate, including in the event of an emergency.”*

*“The operations and maintenance (O&M) activities will mainly consist of minimal procedures that do not require tampering with the battery cell components. BESS components will be stored in environmentally rated enclosures. O&M staff will conduct inspections of the BESS according to the manufacturer’s recommendations, which are assumed to be semiannual inspections.”*

**Construction Schedule:**

*“Construction of the new Mount Vernon BESS Project on Fredonia Road is scheduled to begin in second quarter 2025 and will be completed with facilities operations in early 2027. There may be project phasing and the design would accommodate future augmentation.”*

*“Grading work will be limited within the Mount Vernon BESS Project boundary and extend as far as the perimeter fence with specific areas of wetland and wetland buffer protection. After grading is complete, construction on the battery pads will commence, along with the installation of the substation, underground cabling, and collector lines buried to a depth of at least 3 feet.”*

*“Project operation is anticipated to commence by 2027. There may be more than one construction period, depending on how much capacity is purchased by PSE initially.”*

*“Project work during the approximate 13-month construction period will involve the following high-level summary of tasks:*

- *Dust and erosion control*
- *Site Grading and fence installation*
- *Foundation installation*
- *Battery enclosure installation*
- *Electrical installation*
- *Project commissioning*
- *Final erosion control and site cleanup and landscaping”*

*“The general construction activities and schedule for the Mount Vernon BESS Project 13-month construction period are as follows:”*

**Mount Vernon BESS Project - 200 megawatt-hours Storage**

<b>Site clearing and grubbing, dust, and erosion control</b>	Quarter 2 2025
<b>Site grading and fence installation</b>	November 2025 to January 2026
<b>Foundation &amp; cabinet installation</b>	February to April 2026
<b>Electrical installation</b>	May to July 2026
<b>Project commissioning</b>	August to October 2026
<b>Final erosion control, site clean-up</b>	November to December 2026
<b>Landscaping/planting</b>	Spring 2027

*“During construction, temporary laydown areas within the Mount Vernon BESS Project boundary will be used to stage construction activities and organize equipment and supplies. Temporary construction trailers will be installed onsite, consisting of an office space, storage, and breakroom facilities. A gravel parking and storage area will be located adjacent to the construction trailers.”*

**Traffic:**

*“During construction, there would be up to 75 construction workers per day. The maximum average daily worker trips would be 150 trips per day and the maximum*

average daily vendor truck trips would be 40 on-way trips per day. An example of vehicle trips during construction of a typical 200MW battery storage site is provided in Table 1.”

**Table 1. Typical BESS Construction Vehicle Trips**

Construction Phase	Duration (weeks)	Construction Workforce (Number of Workers)	Average Daily Worker Trips (One-Way)	Average Daily Vendor Truck Trips (One-Way)
Site Preparation	4	20	40	4
Grading	4	20	40	2
BESS Cabinets Installation	25	60	120	20
Power Transformer Installation	16	30	60	40
Gen-tie Foundation and Tower Erection	1	20	40	4
Gen-tie Stringing and Pulling	2	30	40	4

*“There is no expected impact to the level of service for Ovenell Road, classified a “major collector,”<sup>2</sup> or its intersection with Fredonia Road, a private road. The low trip generation expected from the Mount Vernon BESS Project is in line with Policy 3A-4.3 of the Bayview Subarea Plan to minimize level of service (LOS) impacts to roads and intersections and not curtail additional development (Skagit County 2014). Private roads are designed for*

<sup>2</sup> As per the Federal Functional Classification System and a Washington State Department of Transportation WSDOT Freight and Goods Transportation System classified of T3 representing 300,000 to 4 million tons, annual gross tonnage hauled per year. WSDOT classifies Ovenell Road as a Non-State Highway, Urban Minor Arterial (FCID 7330)

*an average daily traffic county (ADT) of 160 or less vehicles per day (Skagit County 2000)."*

**DEPARTMENTAL FINDINGS:**

1. **ZONING/COMPREHENSIVE PLAN DESIGNATION:** The proposed project is located within the Bayview Ridge Urban Growth Area within the Bayview Ridge Heavy Industrial (BR-HI) zoning/comprehensive plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps adopted July 5, 2016.
2. **PROCESSING:** Pursuant to SCC 14.06.100(2) the application was deemed complete on September 12, 2023. Subsequently, a Notice of Development Application was posted on the subject property, published in a newspaper of general circulation on October 5, 2023, and mailed to all of the adjacent property owners within 300 feet of the subject property lines as required by SCC Section 14.06.150 (*Exhibit #10*). Additionally, the Public Notice was routed to all applicable local and State agencies, and the Army Corps. of Engineers, who may have interest in the proposal, similar to the routing typically completed with the SEPA review process. The Notice of Development Application included a fifteen (15) day comment period which ended on October 20, 2023. No "public" comments were received within the official comment period.

After the close of the "Notice" comment period, "staff" review comments were compiled and on November 16, 2023, a letter requesting additional information was mailed to the applicant (*Exhibit #11*).

The applicant supplied a response to the request for additional information on March 15, 2024. The response included a resubmittal of the application and associated application materials, including updated exhibits and studies (labeled by the applicant as *Attachments 1a – 4, revised SEPA checklist, and Appendices A – L*) (Provided herein as *Exhibit(s) #'s 12 – 32*).

The revised documents were circulated to Departmental staff for review and discussion. In lieu of a second letter requesting additional information, a meeting was held with NextEra representatives on April 24, 2024, to discuss the revisions and gain clarification on a few outstanding questions. The meeting resulted in NextEra offering to provide a revised site plan over the coming weeks to clarify existing fire hydrant locations, access changes, certain structure location changes, and clarification for an arbitrary setback line shown on the initial site plan figures.

As a result of the meeting, the department determined that enough environmental information had been received in order to proceed with the SEPA review and that the forthcoming site plan would not change the environmental review.

3. **STATE ENVIRONMENTAL POLICY ACT:** The application was reviewed in accordance with

the State Environmental Policy Act (SEPA) guidelines (WAC 197-11 and RCW 43.21C). A Mitigated Determination of Nonsignificance (MDNS) was issued on June 11, 2024 and published on June 13, 2024. The MDNS included a fifteen (15) day comment period that ended on June 28, 2024 and a fourteen (14) day appeal period which ended on July 12, 2024 (*Exhibit #33*). No public comments or appeals were received. The following eighteen (18) mitigation conditions were placed on the threshold determination:

- Temporary erosion/sedimentation control measures, as approved by the Skagit County Planning and Development Services, must be in place prior to the placement of any fill material. The applicant must maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Stormwater Management Ordinance. Said measures must remain in place until the completion of the project.
- The applicant must comply with Northwest Clean Air Agency (NWCAA) requirements.
- The applicant must comply with the provisions of Chapters 14.22 and 14.32 of the Skagit County Code, the Skagit County Stormwater Management Ordinance, as it relates to increased runoff resulting from additional impervious surfaces. Best Management practices shall be utilized throughout the life of the project.
- The applicant must comply with Fire Code Standards, NFPA'S, NEC, and IFC Codes.
- All installed systems, equipment, and components must be listed as UL 9540 and 9540A compliant.
- The applicant must provide a hazard mitigation, emergency response plan and training.
- The applicant must provide a maintenance, repair, and decommissioning plan.
- An engineered soils compaction report must be required for all structures placed on fill material.
- The applicant must comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).
- The proposal, and site development, must comply with all applicable requirements of SCC 14.16, and specifically SCC 14.16.190 (BR-HI), SCC 14.16.210 (Airport Environs), SCC 14.16.215 (Bayview Ridge UGA), SCC 14.16.800 (Parking), SCC 14.16.830 (Landscaping), SCC 14.16.835 (Pipeline safety), and SCC 14.16.840 (Performance Standards).
- Pursuant to SCC 14.16.210(3)(c)(iii), stormwater management features, including stormwater detention or retention ponds, must be designed in accordance with the WSDOT Airport Stormwater Guidance manual.
- Possible intrusions into the imaginary surface contours established for the airport environs must be considered with any new development. Per FAA 14 CFR 77, the applicant is required to submit FAA Form 7460-1 Notice of Proposed Construction or Alteration. This form must be submitted at least 45 days before the start date of the proposed construction or alteration or the date an application or a construction permit is filed, whichever is earliest. Additional requirements may apply. The Port advises the applicant to consult the FAA for more information.



- The applicant must comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-201A as required to prevent surface water quality and groundwater impacts. Best Management Practices must be utilized to prevent interference and/or degradation of water quality.
  - An approved/issued Class IV General Forest Practice Permit shall be obtained from the Washington State Department of Natural Resources prior to harvest of any trees onsite. A copy of the DNR issued Class IV General Forest Practice Permit must be provided to Skagit County's Planning & Development Services Department.
  - No track out of dirt, debris, or rocks onto county road/rights-of-way is permitted. For the duration of construction activities, the applicant must sweep, as needed, track out off the county roadways adjacent to the ingress and egress associated with the proposed site.
  - Structures must meet current I-Codes including Washington State Energy Codes.
  - This project may be subject to one of Ecology's National Pollutant Discharge Elimination Systems (NPDES) permits. A Construction Stormwater General or Industrial Permit may be required by the Department of Ecology (WSDOE) for this project. Contact the WSDOE Bellingham Field Office at (360) 927- 4900.
  - Should any human remains, archaeological, historic or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.
4. **FLOOD AREA REVIEW:** The subject property is located within the "Zone C" flood hazard area as identified by FEMA on Flood Insurance Rate Map (FIRM) panel number 530151 0250 C with the effective date of January 3, 1985.
5. **NATURAL RESOURCE REVIEW:** The proposal was routed to the Skagit County Natural Resource Team (Critical Areas staff) for review. Critical Areas staff indicated the following with their initial review:

*"Based on the information provided, all onsite wetlands will be at least partially impacted with fill requiring review and permitting by Ecology and possibly the Army Corps of Engineers. With approval by another agency with jurisdiction, the project appears to be allowed pursuant to SCC 14.24.040(3). We will need to review those other approvals and include any conditions necessary to ensure compliance with the intent of SCC 14.24."*

*“I do not see that we have received a copy of the JARPA or the wetland mitigation plan. We’ll need those submitted for review.”*

*“A Forest Practice Conversion permit is required. The SEPA checklist will need to be revised to include the board feet of timber proposed for removal. DNR will require the FPC and land disturbance permit be approved/issued before they will approve removal of the timber from the site.”*

Upon review of the updated information supplied March 15, 2024, the following review comments were received:

*“Wetland site assessment for parcel P21265 located in officelink. Permitting is required through Dept. of Ecology and Army Corps. This project will continue with jurisdictional substitution per SCC 14.24.040(3). Applicant must send us applicable agency approvals and proof of purchase for any mitigation bank credits.”*

The applicant submitted an “Addendum” to the SUP application on October 17, 2024 (Exhibit #'s 40 - 42). The Addendum materials were in response to the County’s Request for Additional information letter dated November 16, 2023, and the ongoing reviews that were being completed with the Washington State Department of Ecology and the Army Corps. of Engineers regarding the impacts to the onsite wetlands resulting from the project. The revised information provided included, in part, the following:

ID	SUP Page/Section	Revisions
1.	8, 9, 12, 20, 50 and Appendix B Figures	<p>A new Site Plan by Coffman Engineers is provided, dated September 2024. Notable changes are:</p> <ul style="list-style-type: none"> <li>• Change of overall wetlands from 5.70 acres to 6.05 acres</li> <li>• Change of overall wetland fill from 3.36 acres to 4.68 acres</li> <li>• Change of wetland W3 from 0.59 acres to 0.93 acres</li> <li>• Site layout modifications will fill 0.09 acres of U.S. Army Corps regulated wetland W3 and completely fill wetland W4.</li> <li>• The SCADA module at the power transformers was shifted a few feet to accommodate the 50-ft rear setback.</li> </ul> <p>The Coffman Engineers Preliminary Site Plan is replaced in the Figures Appendix B.</p>
2.	Appendix D	<p>Department of Ecology provided comments to the JARPA on April 12, 2024. Ecology conducted a site visit on August 6, 2024. NEER revised and resubmitted the JARPA and corresponding Mitigation Plan per Ecology’s comment letter on October, 2024.</p>
3.	25, Table 2, Table 3	<p>Wetland fill acres and volumes are adjusted to match the updated site plan and updated boundaries of W3.</p>

ID	SUP Page/Section	Revisions
4.	25, Appendix B	Revised Wetland Overview Figure 5 from SEPA Checklist to include in Appendix B – Figures.
5.	29, Bayview Ridge Subarea Plan Policy 9A-2.2	Ecology comments to the wetland delineations were received April 12, 2024. A field visit occurred August 6, 2024 which resulted in a change to W3 boundary.
6.	Appendix Q	NEER BESS brochure was augmented with an additional Fact Sheet. This was also transmitted directly via email on October 8, 2024.

Exhibit #40 - Revised SUP Application received October 17, 2024.

Exhibit #41 - Revised JARPA application and associated Wetland Mitigation Bank Use Plan received October 17, 2024.

Exhibit #42 – Revised/updated site plan packet received October 17, 2024

For additional reference, the studies/reports submitted regarding critical areas review have been provided as exhibits (listed as *Exhibits #'s 15 - 21 and #41*).

6. **AQUIFER RECHARGE REVIEW:** The application was routed to Planning and Development Services Natural Resource staff for review under, and in compliance with, the Aquifer recharge section of the Skagit County Critical Areas Ordinance (SCC 14.24). Natural Resource staff indicated that the Hydrogeological Report (*Exhibit #7*) was reviewed and approved with no additional requirements needed at this time.
  
7. **HEALTH DEPARTMENT REVIEW:** The application was routed to the Skagit County Environmental Health Department for review. No comments or concerns were received as there is no plumbing proposed for the project.
  
8. **PUBLIC UTILITY DISTRICT/SKAGIT PUD:** The application was routed to Skagit Public Utility District (PUD) #1. PUD supplied the following comments:
 

*“After review of all the documents and the property, PUD will not have additional comments for the county. The property is fronted with a 12” DI waterline and has the required fire flow to support almost any commercial building.”*
  
9. **PUBLIC WORKS DEPARTMENT REVIEW:** The application was routed to Skagit County Public Works Development Review staff for comment. Public Works indicated that there were no comments or any conditions regarding this review.
  
10. **STORMWATER REVIEW:** The application was routed to Skagit County Stormwater review staff for review and comment. Stormwater staff submitted the following comments and conditions:

- *“The project will require a land disturbance (grading) and/or building permit.”*
- *“The project will be required to meet all applicable requirements of SCC 14.22, 14.32, and Skagit County’s NPDES requirements.”*
- *“The project site is located within Skagit County’s NPDES permit (coverage area) and subject to the requirements of the NPDES permit and DOE Stormwater Management Manual.”*
- *“Based on the extent of proposed site improvements a drainage plan and report prepared by a civil engineer licensed in the State of Washington will be required.”*

11. **BUILDING OFFICIAL:** The application was routed to the Skagit County Building Official for review. The Building Official supplied the following condition:

*“Structures must meet current I-Codes including Washington State Energy Codes.”*

12. **FIRE MARSHAL:** The application was routed to the Skagit County Fire Marshal’s Office for review.

The Fire Marshals Office recommended the following conditions:

*“The applicant must comply with Fire Code Standards, NFPA’S, NEC, and IFC Codes.”*

*“All installed systems, equipment, and components must be listed as UL 9540 and 9540A compliant.”*

*“The applicant must provide a hazard mitigation, emergency response plan and training.”*

*“The applicant must provide a maintenance, repair, and decommissioning plan.”*

13. **ZONING CODE ANALYSIS (Current Planning Review:** The Department classifies the use as a *“Major Utility Development”* requiring a Hearing Examiner Special Use Permit. Skagit County Code contains a definition of Utility Development and the three (3) types. They are defined in SCC 14.04.020 as follows:

*“Utility development: includes, but is not limited to, facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. A utility development is one of the following types:*

*(1) Minor utility development: an unmanned utility development designed to serve a small local community that would be considered a normal utility service for the area.*

*(2) Major utility development: a utility development that is not a minor utility development or a major regional utility development.*

*(3) Major regional utility development: a utility development that is designed to serve a region.”*

The subject site is located within the Bayview Ridge Heavy Industrial (BR-HI) zoning district (SCC 14.16.190). The “Purpose” of the district states, in part: “...to allow for industrial developments that have the potential for more than a minimal level of disturbance to adjacent properties.” The BR-HI zone lists “Major utility developments” as a Hearing Examiner Special Use permit within SCC 14.16.190(5)(c). The “Dimensional Standards” listed for the BR-HI zone within SCC 14.16.190(7) are as follows:

*“(a) Setbacks.*

*(i) Front: 35 feet.*

*(ii) Side: shall be in conformance with the adopted building code of Skagit County if adjacent to other commercial/industrial zoning designations, and 50 feet if adjacent to other zoning designations.*

*(iii) Rear: shall be in conformance with the adopted building code of Skagit County if adjacent to other commercial/industrial zoning designations and 50 feet if adjacent to other noncommercial/industrial zoning designations.*

*(iv) Accessory: same as principal buildings.*

*(v) Setbacks from NRL lands shall be provided per SCC 14.16.810(7).”*

*“(b) Maximum height: 50 feet or shall conform to the applicable Federal Aviation Administration regulations concerning height restrictions when located within the Airport Environs Overlay, SCC 14.16.210, whichever is less.”*

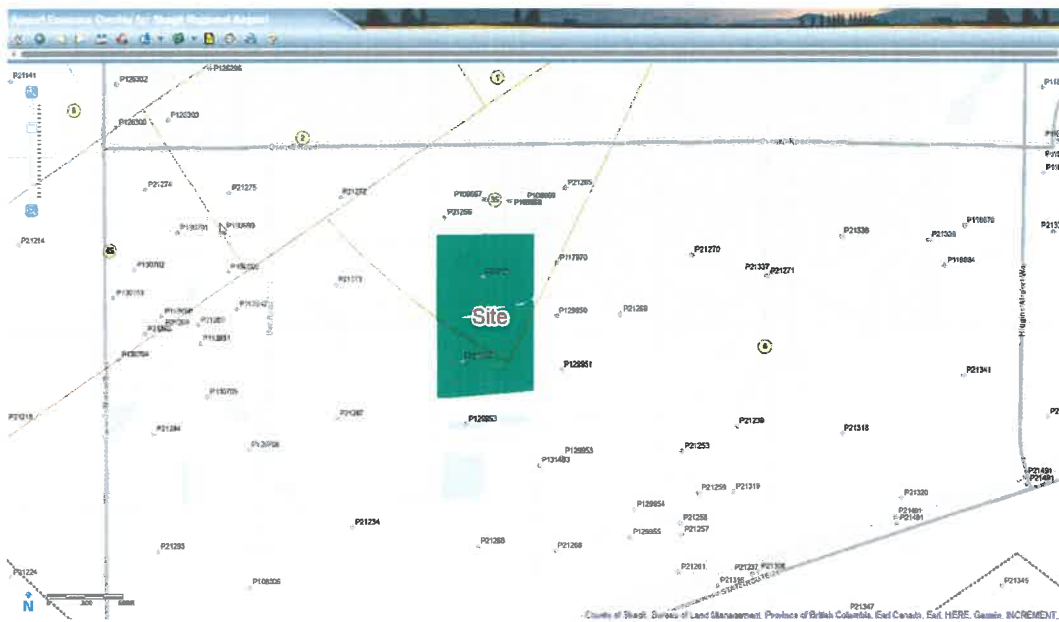
**Analysis of Dimensional Standards:** The application and site plan accurately depict compliance with the setbacks for the BR-HI zone. Regarding the Maximum height, the project description states that the gen-tie poles will not exceed 120 feet in height. The code allowance is a maximum of 50 feet, or shall conform to the FAA regulations, whichever is less. It is unclear if the applicant has made a final determination as to whether the gen-tie can be buried underground, can be routed to attach to the existing PSE poles, or will in fact need a pole that exceeds the 50-foot maximum height limit. If the only alternative is to exceed the maximum height limit, a variance would need to be

approved providing the acceptable justification for such. This would require a separate application review process and Hearing Examiner Variance approval and would be difficult for the Department to support knowing that other alternatives exist. The Departments' preferred option is to bury the line underground. Burying the line is encouraged by the existing Skagit County Comprehensive Plan Utility Element<sup>3</sup> (Element 9) and is compatible with the proposed Comprehensive Plan update addressing the policies for resiliency and climate change.

**Airport Environs Overlay (AEO) and Bayview Ridge UGA:**

The subject property proposed for the BESS facility is also located within the two zoning overlay areas: **1)** the Airport Environs Overlay (SCC 14.16.210) for the Skagit Regional Airport operated by the Port of Skagit; and **2)** the Bayview Ridge Urban Growth Area (SCC 14.16.215).

**1) The AEO intent is to ensure that development does not conflict with aircraft or airport operations and that development complies with the Airport Compatibility Zone (ACZ) in which the development is located. The BESS facility site is located within two ACZ's, the 3S and 6 ACZ as depicted below, with the terminus (POI) of the gen-tie extending into ACZ 2 located at the existing PSE substation (See also site plan Exhibit #42).**



SCC 14.16.210(3) details the “Compatibility Requirements” and the ACZ “Use Restrictions/Required Open Space” table as follows:

<sup>3</sup> Comprehensive Plan Utilities Element 9: Goal A-4, Undergrounding. Policies 9A-4.1 through 9A-4.3.

**“Compatibility Requirements.”**

**“(a) Prohibited Uses. The following land uses are prohibited in all airport compatibility zones:**

*(i) Public and institutional uses, including hospitals, nursing homes, K-12 schools, stadiums, and any other land use where the people occupying the space have limited ability to move out of harm’s way in a safe and rapid manner.*

*(ii) Aboveground bulk storage of flammable or hazardous materials that are not incidental to the permitted use.*

*(iii) Manufactured home parks.*

**(b) Additional Compatibility-Zone-Specific Restrictions. To protect the safety of both pilots and people on the ground in the event of an airplane crash, uses within the Airport Compatibility Zones are subject to the restrictions shown in the following table in addition to the restrictions imposed by the applicable zoning districts. Required open space must be maintained as vegetation not more than four feet in height, mowed lawn, or pavement.**

<b>ACZ</b>	<b>Additional Use Restrictions</b>	<b>Required Open Space</b>
1	No new structures or uses allowed (except aviation-related Port uses).	100%, except airport structures
2	No multifamily dwellings, accessory dwelling units, temporary manufactured homes, day care, co-housing, churches, or bed and breakfasts allowed.	30%
3S	n/a	15%

<b>ACZ</b>	<b>Additional Use Restrictions</b>	<b>Required Open Space</b>
3L	No accessory dwelling units, temporary manufactured homes, co-housing, or bed and breakfasts allowed.	15%
4S	n/a	10%
4L	n/a	10%
5	n/a	30%
6	Public and institutional uses (including churches) may not exceed a density of 100 people/acre.	10%

(c) *Other Compatibility Requirements.*

(i) *Trees. The owner of any tree that grows tall enough to impede the height restriction contours as depicted on the AEO Building Heights Restriction map must permit the maintenance or removal of the tree by the Port of Skagit to prevent hazards to air navigation.*

(ii) *Exhaust Plumes.*

(A) *Background. Heated exhaust plumes can originate from any number of sources, including but not limited to chimneys, elevated smoke stacks at power generating stations, boilers, smelters, combustion sources, and flares created by an instantaneous release from a pressurized gas system. When exhaust plumes have significant vertical exit velocities, they may cause damage to an aircraft airframe, or upset an aircraft when flying at low levels, such as during approach, landing, and take off operations. The FAA is currently developing guidance on the hazard of thermal plumes surrounding airports. Australian aviation authorities have studied exhaust plumes near airports and determined that gusts in excess of 4.3 m/s present a hazard to aviation.*



*(B) Requirement.*

*(I) Any proposal that includes construction or alteration of a significant exhaust-producing element must provide to the County and Port of Skagit an assessment of the vertical velocity of the exiting exhaust using a recognized plume rise equation or equivalent source testing.*

*(II) When results indicate that a vertical exhaust plume will exceed 4.3 m/s velocity at the height of the corresponding height restriction contour as depicted on the AEO Building Heights Restriction map, the project proponent must evaluate mitigating design measures in consultation with the County and Port of Skagit.*

*(iii) Stormwater management features, including stormwater detention or retention ponds, must be designed in accordance with the WSDOT Airport Stormwater Guidance Manual, except that mandatory provisions of Chapter 14.32 SCC control over conflicting provisions of the WSDOT manual.*

*(iv) Solar Panels.*

*(A) Solar panels can have varying degrees of reflectivity depending on the type of solar technology used. Reflectivity can cause glint and glare to pilots, which can cause a brief loss of vision constituting a hazard to air navigation.*

*(B) Solar panels must be constructed with an anti-reflective layer to reduce glare.”*

The required open space for ACZ 3S is 15% and 10% for ACZ 6. The applicant has calculated the total open space area after construction to be 6.25 acres of the total 22.55-acre site, which equates the open space area to be 28%, exceeding the required area for ACZ 3S and 6.

Additionally, the proposed stormwater pond will be constructed in accordance with the Washington State Department of Transportation (WSDOT) *Airport Stormwater Guidance Manual* to prevent attracting birds. As proposed, the project will have no proposed impacts to the AEO.

**2) The Bayview Ridge Urban Growth Area** sets forth development standards for streets, waster service, stormwater, and sanitary sewer service for the independent UGA to ensure that development patterns are consistent and that adequate urban services are provided and compatible for the use. As such, the roadway serving the site is already constructed with curb, gutter and sidewalk already existing along the property frontage. Water service provided by Public Utility District #1 exists along the frontage with adequate quantity, quality, and fire flow for the site/use. Although, there is no intent to provide drinking water for the proposed use.

A stormwater pond is proposed to manage the sites stormwater consistent with the Skagit County Stormwater Management Manual (SCC 14.32), the Bay View Watershed Stormwater Management Plan, Washington Department of Ecology 2024 Stormwater Management manual, Low Impact Development Technical Guidance Manual for Puget Sound, as well as the WSDOT Airport Stormwater Guidance Manual to prevent attracting birds. Adequate sanitary sewer is also available, although no sanitary sewer service will be needed or installed to the site for this proposed use.

As proposed, the project will have no proposed impacts to the Bayview Ridge Urban Growth Area or negatively impact utility services to the area.

**Parking:** As a utility development use, with no permanent employees or public coming to the site, the minimum parking space requirements are not specifically defined in code such as with other listed uses (e.g., single-Family, retail, manufacturing, etc.). SCC 14.16.800(1)(b) requires *“Off-street parking for other than residential use shall be either on the same lot or within 200 feet of the building it is intended to serve, except for those cases where parking plans have been developed for a specific area.”* For projects such as Utility Developments and Wireless tower facilities, the Department relies on the use table of SCC 14.16.800(2)(a)(20) classifying the use as *“Other uses not specified above”* wherein the required number of off-street parking spaces are based on the anticipated parking demand for the use. The anticipated demand is very low for this use. Access to the site will entail employees visiting the site periodically for maintenance and monitoring (O&M), and for general site inspection purposes.

The site will be accessed through four (4), 40-foot wide, swing gates for access to the 20-foot-wide access road system that runs around the perimeter of the facility and between cabinet clusters. Based on the site plan and anticipated parking demand, there is ample room on site for O & M employee vehicles and emergency vehicles if necessary.

As proposed, the use will not create a parking demand for the area that cannot be accommodated on site.

**Signs:** The intent of sign code provisions of SCC 14.16.820 is to preserve and enhance the rural character, unique scenic beauty and the business, recreational, educational, and tourism potential of the County. The sign code regulates the construction, erection,

maintenance, electrification, illumination, type, size, number and locations of signs in order to protect the health, safety, property and welfare of the public as well as to ensure that Skagit County retains a neat, orderly and attractive appearance. The applicant has indicated the following regarding signage:

*“There will be no free-standing signs, but a painted metal sign may be attached to the fence at one or more of the driveway entrances.”*

*“There will be a wall-mounted painted metal sign on each cabinet structure, in conformance with SCC 14.16.820. Signs will be constructed and maintained according to building code.”*

*“Additionally, fire safety and hazardous materials signage for the site, including the deflagration and or pressure panels, will meet Washington State Fire Code 2021 edition, 2021 International Fire Code (IFC) and National Fire Protection Association (NFPA) 704 standards. More detail on fire safety and signage are included in the Fire Protection Technical Assistance Report” (Exhibit #31).*

Detailed review of the proposed signage in accordance with the sign code will take place with future building permits to ensure compliance with the Fire Code and the specific zoning sign requirements related to size, location, and appearance.

**Landscaping:** Landscaping is essential to provide an aesthetically pleasing balance between the built and natural environment. An approved landscape plan is required for any change of use, new or replacement commercial, industrial or institutional building, special use, or subdivision application per SCC 14.16.830(2)(a). The applicant has supplied a Conceptual Landscape Plan (*Exhibit #9*) demonstrating compliance with the Type III “Street Frontage” requirements of SCC 14.16.830(4)(c). The Conceptual Landscape Plan will be re-evaluated during the Development Permit review process to ensure that it continues to comply with the Type III requirements and the General Standards of SCC 14.16.830(6). Installation will be required prior to final building permit inspection and occupancy certificate, unless Performance assurance bonding is allowed, and approved, for a specific reason. Ongoing monitoring and maintenance will be required per SCC 14.16.830(6)(f). Broken or dead landscaping shall be replaced.

As proposed, the conceptual landscape plan is acceptable and meets the requirements of SCC 14.16.830.

**Pipelines:** There are three main oil and/or natural gas pipelines located within the project vicinity and surrounding area. Cascade Natural Gas maintains a pipeline located approximately 625 feet to the north of P21265 paralleling Ovenell Road (running east and west). BP Olympic Pipeline operates a pipeline located approximately 1,050 feet to the east of the project site (running north and south). And Trans Mountain (Kinder Morgan) pipeline operates and maintains a pipeline which runs east and west between P21265 and P129949 (Project site) situated within a 50’ pipeline corridor easement (see

*Exhibit #'s 42 and 46*). SCC 14.16.835 “*Pipeline Safety*” discusses Pipeline safety and the Consultation area when development is proposed with 100 feet of any hazardous liquid or natural gas transmission pipeline. The applicant had initiated consultation with Trans Mountain Pipeline on February 2, 2023, to discuss the project and the potential to cross the pipeline easement with access roads. The initial design has since been modified to remove access roads from crossing the easement. The applicant will continue to communicate with Trans Mountain and will submit a “Notice of Construction” after a decision is issued on the Special use permit request. Further, the applicant has indicated that the contractor will comply with State “call-before-you-dig” laws. A condition of approval indicating such has been added to this request if approval is granted.

All three pipeline companies were initially forwarded a copy of the application materials as part of the consultation process, in accordance with SCC 14.16.835, as well as provided the SEPA Threshold Determination (MDNS) published June 13, 2024. Although, no comments were received during the open public comment periods, on July 17, 2024, correspondence was received by the Department from BP Olympic Pipe Line Company LLC, (“*No Conflict Letter*”) stating that their records indicate there are no active pipelines owned or operated by their company within the scope area of the referenced project (*Exhibit #35*). No correspondence was received from Cascade Natural Gas Company.

Further, in accordance with SCC 14.16.835(2)(c), prior to the issuance of Development permits for the proposed project, the applicant will be required to record a Title Notice with the Skagit County Auditor’s Office that includes the following language:

*“The above-referenced property is located wholly or partially within the Skagit County Pipeline Consultation Area, defined by Skagit County Code as the area within 100 feet of any hazardous liquid or natural gas transmission pipelines.”*

14. **SPECIAL USE CRITERIA:** SCC 14.16.900 Special Uses indicates that certain items will be reviewed when approving or denying Special Use permits. Those items are as follows:

**A. The proposed use will be compatible with existing and planned land use.**

The property is currently owned by Sierra Pacific Real Estate LLC (Sierra Pacific Industries) who operates a family-owned forest products company, and associated wood products processing facility (Lumber Mill) immediately south of the proposed BESS location. The proposed BESS location, and surrounding properties, are zoned Bayview Ridge Heavy Industrial with a variety of existing heavy industrial uses located within the immediate vicinity. Puget Sound Energy (PSE) operates the Fredonia Substation located immediately to the west/northwest of the proposed facility. The proposed use is compatible with the heavy industrial zone and the location is compatible with the proximity to the existing PSE

substation. The current and planned land use for the area is to accommodate heavy industrial uses which have the potential for more than a minimal level of disturbance to adjacent properties and which can often require greater amounts of electricity for their operations.

The Skagit County Comprehensive Plan states the following Goals and Policies within the Utilities Element (#9):

*“Goal A”*

*“Ensure the provisions of high quality, cost effective and environmentally sensitive utility services in cooperation with public and private providers.”*

*“Goal A-3, Utility Facility Siting”*

*“Site facilities consistent with the policies of the Land Use Element.”*

*“Policy 9A-3.2”*

*“Siting of Major Facilities – Outdoor installations of transfer and distribution stations providing electrical power, communications, and natural gas, should, where practicable, be located in industrial or commercially zoned areas. Stations should be reasonably compatible with the surrounding uses. Where system design or economics necessitate location of such installations in residential or rural areas, installations shall be suitably screened or enclosed so as to eliminate or substantially reduce the visual impact. This may be achieved through appropriate setbacks and screening, such as, buildings, natural topography, landscaping, and vegetation.”*

*“Goal A-4, Undergrounding”*

*“Encourage underground utility distribution lines to reduce visual and safety impacts of overhead lines where economically feasible.”*

*“Policy 9A-4.1”*

*“Planning – Utility providers shall be encouraged to plan for underground installation of utility lines, and private developers shall be required to underground utilities as directed during permit review.”*

The applicant has provided the following response to the compatibility criteria:

*“The Mount Vernon BESS Project is surrounding by BR-HI zoned properties that were subdivided in 2009 and developed in accordance with the Bayview Ridge Subarea Plan.*

Property ownership is shown on the Figure 1 Vicinity Map and Zoning is shown on Figure 3 in Appendix B.<sup>4</sup>

- Between parcels P21265 and P129949 is a buried natural gas pipeline
- The gen-tie line is planned to run between parcels P21265 and the PSE Fredonia Substation P21273/P21272
- To the east:
  - Parcel P117970 is owned by CPC Materials Inc. for concrete production.
  - P129950, owned by Yacht Properties Inc., is a truck-to-rail transfer facility for propane tanks to the rail line on the east side of the property.
  - P129951 and P129953 owned by West Coast Reduction USA Inc is intending to develop its parcels into a transfer facility for propane tanks.
  - To the south, P129963, owned by Sierra Pacific Industries for lumber processing contains a water reservoir Protected Critical Area (SCC 14.24.090) that will store stormwater runoff from parcel P129949.
  - To the southwest a large parcel P21287, owned by Silver Spirit Inc, is currently undeveloped.”

*“There are no offsite impacts associated with BESS so there would be no incompatibility with current or future heavy industrial land uses on neighboring properties.”*

Further, the applicant has provided the following in response to the project compliance with the Bayview Ridge Subarea Plan:

*“The Bayview Ridge Subarea Plan was adopted in 2014 to help plan for development within the 3,600-acre nonmunicipal urban growth area that allows for industrial opportunities that remain compatible with existing residential areas and the Skagit Regional Airport. Puget Sound Energy provides energy to the Bayview Ridge Subarea by both 230 kV and 115 kV transmission lines on the south and east borders of Bayview Ridge. The Mount Vernon BESS Project manages fluctuations in energy demand for the region, which is a critical function of a sustainable electrical grid, all without significant environmental impacts.”*

***“Policy 5A-1.1 The planned level of service is not to exceed level of service standards for streets and intersections as adopted in the Skagit County Comprehensive Plan. The concurrency requirements do not apply to transportation facilities and services of statewide significance, e.g., SR 20.”***

***“Response: The Mount Vernon BESS Project will not generate traffic volumes that would exceed LOS standards for Fredonia Road or Ovenell Road and its intersection. Bringing additional energy capacity to the community would not***

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<sup>4</sup> References to “Figures” and Appendices within the applicants’ responses refer to the application submittal documents filed by NextEra. The documents have since been provided County Exhibit numbers for the record. See page 8 for specific exhibits. Refer to Exhibit #42 for the current site plan figures.

generate traffic because it is monitored remotely. For more detail, also refer to Question #11 (page 2-2).”

**“Policy 5A-5.5 Any existing streets constructed to less than the full urban standard, provision shall be made for future improvement to the urban standard.”**

**“Response:** Fredonia Road already meets the urban road standard.”

“The project is near the vicinity of the trail system (specifically, the portion that extends along the north side of Ovenell Road). The Mount Vernon BESS Project would not change the characteristics of the trail.”

**“Policy 9A-1.2 Low impact development tools should be considered for implementation in sensitive environments. Tools include reducing the amount of impervious surface on each development site, minimizing soil disturbance and erosion, and discouraging vegetation removal during site development and construction.”**

**“Policy 9A-1.3 The use of native species in a natural setting should be required for all commercial and industrial landscape buffers.”**

**“Policy 9A-2.1 Encourage enhancement of wetland buffer areas through appropriate plantings of native vegetation.”**

**“Response:** Battery shelters are not fully enclosed buildings. This allows for more equipment to be contained on a property without a poured foundation. The project will meet impervious surface requirements for the BI-HI zone. Wetlands were avoided as much as feasible in the site layout. The Conceptual Landscape Plan incorporates native species (see Appendix G). A Temporary Erosion and Sediment Control plan will be developed before the request for the Grading permit. Before site clearing, wetland buffers would be fenced and marked to avoid disturbance.”

**“Policy 9A-2.2 Require a detailed assessment of wetlands on all properties proposed for development, including delineation and classification of wetlands by a wetlands professional.”**

**“Response:** The wetland delineations were conducted by a wetland professional. A Joint Permit Application with the U.S. Army Corps of Engineers and Washington Ecology is included as Appendix E. It was submitted to USACE and Ecology on September 15, 2023. The USACE jurisdictional determination was received on January 5, 2024. Comments from Ecology were received April 12, 2024, and a site visit occurred in August 2024 changing the boundaries of Wetland 3. A modified JPA will be submitted due to the new site plan layout. The applicant will notify the Planning Department when the Ecology concurrence is received.”

**“Policy 9A-2.3 Encourage restoration of wetlands that have been degraded as a result of previous developments within the Subarea.”**

***“Response:*** *The limited area on the parcels for development are not conducive for wetland restoration. Impacted wetlands and wetland buffers will be mitigated through a Wetland Mitigation Bank. This is described further in the Joint Aquatic Resources Permit Application, Wetland Mitigation Plan attached to the SEPA Checklist (Appendix D).”*

***“Policy 9A-2.4 If it appears a development project will contribute runoff to a wetland, require the evaluation and mitigation of the potential impacts of stormwater runoff on wetlands,”***

***“Policy 9A-2.5 The County shall provide adequate enforcement and inspection services to protect wetlands during, and after, the development process, to ensure compliance with County critical areas regulations.”***

***“Response:*** *The Conceptual Landscaping Plan will address the requirements for landscaping along the front entrance to the Mount Vernon BESS Project (see Appendix F). It will also include plantings to enhance the remaining wetland buffers. The Applicant is unaware of prior wetland degradation. In fact, Wetland 7 was established as part of a prior mitigation effort. The Site Plan indicates runoff will not go into wetlands but will be directed stormwater to the detention basin on parcel P21265 or the stormwater ponds south of parcel P129949.”*

*“More detail about the wetlands, the Wetland Delineation Reports, the JARPA permit, and Wetland Mitigation Plan are discussed in Question #28 (page 3-2), Section 3.2-the response to SCC 14.24.080 (page 3-7) and are provided in Attachment 1 to the SEPA Checklist (Appendix D).”*

***“Policy 9A-3.1 Cooperate with the Washington State Department of Fish and Wildlife to identify sites that contain snags, nesting and roosting sites for state or federally listed threatened or endangered bird populations.***

***Policy 9A-3.2 Establish buffer zones around identified critical habitats that are sized per Skagit County Critical Area Regulations and/or federal Endangered Species Act requirements.”***

***“Policy 9A-4.3 Require (or increase) penalties for native growth disturbance or removal within protected critical areas.”***

***“Response:*** *Wildlife and habitat field surveys occurred on August 31, 2020, and November 3–4, 2022. Surveys focused on identifying potential habitat for state and federally listed species, suitable habitat for raptors, Washington Priority Habitat and Species, and Skagit County critical areas. Both reports are included in the SEPA Checklist (Appendix D).”*

*“Five federally listed species, “that may occur or could potentially be affected by” the project, were not observed and are unlikely to occur within the study area based on an absence of documented occurrences and an absence of habitat within and immediately surrounding the study area.”*



*“There are no documented occurrences of Washington State-listed or special-status species in the study area or immediate vicinity, but there are seven wetlands delineated within the project area. Category IV wetlands have established buffers. Discussion of wetland avoid and mitigation for impacts is discussed in response to SCC14.24.080.”*

*“No raptor nests were identified within the study area. Two potential eagle nests were observed approximately 0.3 mile west of the project area. Several small nests were identified throughout the study area, but they were not active at the time of observation in November 2022.”*

*“Nesting bird surveys were conducted in April 2024 in advance of geotechnical studies. For site construction, vegetation clearing of the site will occur outside bird nesting windows. If vegetation clearing occurs during the bird nesting window, a biologist would survey for nests with 24 hours of the clearing activity.”*

The proposed BESS use, and location, have been determined to be compatible with the existing and planned land use for the zone and surrounding uses. Further, the use is compatible with the existing County Comprehensive Plan Goals and Policies, as well as the expanded Goals and Policies being proposed within the draft Comprehensive Plan update to meet the resiliency and climate change policies. Additionally, the use will help PSE with greater electrical reliability for their service area and, although not a County Code requirement, it is the Departments understanding that BESS facilities additionally help PSE meet their Clean Energy Transition Act (CETA) directive signed into law by the Governor on May 7, 2019 (SB 5116).

**B. The proposed use complies with Skagit County Code.**

As discussed within Departmental Finding #13 (page 20), the Department has classified the use as a *“Major Utility Development”* requiring a Hearing Examiner Special Use Permit. Skagit County Code contains a definition of Utility Development and the three (3) types. They are defined in SCC 14.04.020 as follows:

*“Utility development: includes, but is not limited to, facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. A utility development is one of the following types:*

*(1) Minor utility development: an unmanned utility development designed to serve a small local community that would be considered a normal utility service for the area.*

*(2) Major utility development: a utility development that is not a minor utility development or a major regional utility development.*

*(3) Major regional utility development: a utility development that is designed to serve a region.”*

The subject site is located within the Bayview Ridge Heavy Industrial (BR-HI) zoning district (SCC 14.16.190). The “Purpose” of the district states, in part: “...to allow for industrial developments that have the potential for more than a minimal level of disturbance to adjacent properties.” The BR-HI zone lists “Major utility developments” as a Hearing Examiner Special Use permit within SCC 14.16.190(5)(c).

The applicant has supplied the following “Response” statements within the application materials:

*“The Mount Vernon BESS Project is sited entirely in the BR-HI zone (as demonstrated on Figure 3 of Appendix B). Battery storage and energy transmission equipment are utility services that are permitted in the BR-HI zone. BESS systems have a no disturbance to adjacent properties (described further in Question #29 on page 3-9), but the BR-HI zone allows for more than a minimal level of disturbance to adjacent properties.”*

*“None of the components of the Mount Vernon BESS Project are detailed in the definition of Accessory Uses (e.g., no retail sales, offices, or storage of materials planned onsite).”*

*“The Mount Vernon BESS Project is an unmanned utility development designed to serve a region, which means it falls between a “minor utility development” and “major regional utility development;” therefore, the best description is a “major utility development” that is an approved Hearing Examiner Special Use special use in BR-HI zoning district 14.16.190(5)(c).”*

*“The Mount Vernon BESS Project does not consist of buildings but does involve the construction of a cluster of approximately 92, one-story (10-foot-high) PCS units (BESS inverter and transformer units) and approximately 368 BESS cabinets as primary structures within a 17.7-acre area demarcated by an 8-foot chain-link perimeter security fence.”*

*“The primary structures (cabinets) are setback 35 feet from the front property line, and 50 feet from the side and rear property lines.”*

*“There is no maximum lot coverage in the BR-HI zone, but there is an open space requirement for AEO zone SCC 14.16.210. Open space is defined as vegetation not more than 4 feet in height, mowed lawn, or pavement. As shown on Figure 4 of Appendix B, the project overlaps Compatibility Zones 6, 2, and 3C. The gen-tie line overlaps Zone 2, but gen-tie poles would not contribute to a change in open space. Zone 6 open space minimum is 10%; Zone 3S minimum is 15%.”*

*“Calculating open space using just the area of the internal road surface, mowed pipeline easement, and detention pond in parcels P21265 and P129949, the total open space is 6.25 acres of a total 22.55 acres for a 28% open space value.”*

*“The gen-tie poles may be up to 120 feet tall and will comply with FAA aviation hazard requirements. A Determination of No Hazard will be provided when the gen-tie height and alignment is finalized, meeting BR-HI zone and AEO standards.”*

*“The BESS must connect to the PSE substation via above-ground gen-tie poles. The gen-tie poles will not exceed 120 feet. Due to the height of the poles and proximity to the airport, a Notice of Proposed Construction application is required to be submitted to FAA to confirm the gen-tie line will not be an aviation obstruction. (FAA 14 CFR Part 77). The Port of Skagit County will be copied on the application requests.”*

*“Curb, gutter, and sidewalk are already installed on the frontage of the private road Fredonia Road in front of the BESS Project meeting current street standards.”*

*“There is no intent to request drinking water from the Public Utility District (PUD) No. 1 water system. Question #26 (page 2-5) addresses fire flow.”*

*“Stormwater from parcel P21265 will be discharged to the proposed detention pond in the southwest corner of the parcel, following the slope of the ground, consistent with SCC 14.22, 14.32, and 14.34, the Bay View Watershed Stormwater Management Plan, Washington Department of Ecology 2024 Stormwater Management Manual, Low Impact Development Technical Guidance Manual for Puget Sound, and Washington State Department of Transportation (WSDOT) Airport Stormwater Guidance Manual to prevent attracting birds.”*

*“Stormwater from parcel P129949 will be discharged to the regional stormwater facility (ponds) to the south through the existing storm sewer.”*

*“No sanitary sewer service will be installed to the site.”*

*“It is requested that there be no minimum off-street parking required for this use because there is no public access to the property. It is requested there be no*

*designated internal parking and no handicap parking because the Mount Vernon BESS Project does not have employees onsite; the facility is unoccupied. The Site Plan (Figure 2 of Appendix B) demonstrates there is sufficient maintenance vehicle parking throughout the site on the internal access roads and sufficient driveway space for emergency vehicles.”*

*“The perimeter fence is setback 20 feet from the front of Fredonia Road. The PCS units are setback further than required per SCC 14.16.190 BR-HI zone requires. Vision clearance is not an issue because the fence is chain-link, and this is not a corner lot.”*

*“The Site Plan indicates the locations for Type III landscaping on the frontage of Fredonia Road. The landscaping plan for the northern parcel is to retain existing vegetation and enhance the existing wetland, while meeting Type III requirements SCC 14.16.830(6)(a). On the southern parcel, the Conceptual Landscape Plan will indicate tree species that are no more than 50% deciduous and will grow no taller than 50 feet to comply with the Airport Environs Overlay.”*

*“The pipeline easement is already recorded on the titles. Consultation was initiated with Trans Mountain Pipeline starting on February 2, 2023. An initial design with access roads over the pipeline easement were removed based on early consultation. A notice of construction will be submitted to Trans Mountain after approval of the SUP Application and SEPA Checklist (Appendix D). The construction contractor will comply with State call-before-you-dig-laws.”*

*“The SEPA Mitigated Determination of Nonsignificance was issued October 10, 2007, for the Sierra Pacific Industries property land division (now identified as the Bayview Ridge-Heavy Industrial area) Binding Site Plan PL08-0315. The SEPA Determination became final with the acceptance of the Binding Site Plan on November 16, 2009.”*

*“Appendix D provides a SEPA checklist for the Mount Vernon BESS Project. A Mitigated Determination of Non-Significance was issued for the Mount Vernon BESS Project on June 11, 2024 (included in Appendix D).”*

*“The 2008 Binding Site Plan Package (Skagit County 2008) contains the Standard Critical Areas Review that applies to parcel P129949. This was confirmed through the October 1, 2020, Pre-Development Meeting comments and via email with the Skagit County Planning & Development Services on January 18, 2022. Both items are attached as Appendix C, verifying Critical Areas Review is complete for parcel P129949. Senior Planner Leah Forbes, AICP, stated that no critical areas were shown on the Binding Site Plan.”*

*“The wetlands and vegetation assessments were conducted for both parcels by a qualified professional on December 21, 2020, and November 3 and 4, 2022. The wetland reports found that six Category IV wetlands (limited resource value) and one Category III wetland encompassing 6.05 acres of the 22.55-acre parcels P129949 and P21265 (Jacobs 2021a, Jacobs 2023, and Figure 5 Wetlands Overview in Appendix B). Table 2 provides a summary of the wetland sizes and fill estimates. Table 3 provides an estimate of wetland buffers and impacts.”*

**Table 2. Wetland Fill Estimate for Mount Vernon BESS Project**

Wetland ID	Wetland Size (acres)	Proposed Permanent Fill (acres)	Estimated Fill <sup>1</sup> (cubic yards)
W1	2.98	2.80	45,142
W2	0.04	0.02	322
W3	0.93	0.09	1,548
W4	1.53	1.53	24,657
W5	0.09	0.09	1,451
W6	0.08	0.06	967
W7	0.39	0.09	1,451
<b>Total all Wetlands</b>	<b>6.05</b>	<b>4.68</b>	<b>73,990</b>
<b>Total USACE Jurisdictional Wetlands (W3)</b>	<b>0.93</b>	<b>0.09</b>	<b>1,548</b>
<b>State jurisdictional wetlands (W1, W2, W3, W4-W-7)</b>	<b>6.05</b>	<b>4.68</b>	<b>322</b>

ID = identifier

USACE = U.S. Army Corps of Engineers

- 1) Conservative estimate that each wetland is cut and filled to depth up to 10 ft. based on preliminary foundation design.

*“Great care went into avoiding wetlands in the northern parcel P21265. A total of 4.68 acres of state jurisdictional wetlands would be filled. W1 on the southern parcel P129949 and W4 on parcel P21265 covers the center of each parcel so filling most of these were unavoidable. Corps jurisdictional wetland W3 covers 0.93 acres. Due to careful positioning of the perimeter, 0.09 acres would be filled, and the majority would be avoided.”*

*“The Wetland Mitigation Plan (which is attached to the JARPA Application, Appendix D) is provided as Attachment 1c in the SEPA Checklist (Appendix E, Jacobs 2023b). A 50-foot-wide buffer was used for Category IV wetlands based on the high land use intensity of industrial use and a 150-foot-wide buffer was used for the Category III wetland (SCC 14.24.210). There would be 7.90 acres of*

*permanent wetland buffer impacts associated with the project (see Table 3). Wetland buffer quantities were not included for wetlands that would be completely or nearly completely filled because there would be no ecological benefit to isolated buffers.”*

**Table 3. Wetland and Wetland Buffer Impacts**

Project Area Parcels	Wetland ID	Size <sup>1</sup> (acres)	Ecology Rating Category (Score)	Cowardin Classification/ Hydrogeomorphic Classification	Dominant Vegetation	Proposed Wetland and Buffer Impacts <sup>2</sup> (acres)
P21265	W1	2.98	IV (13)	PEM/slope	Reed canary grass	2.80
	W1 buffer	1.99				N/A <sup>3</sup>
P129949	W2	0.04	IV (14)	PFO/depressional	Red alder, slough sedge	0.02
	W2 buffer	0.0				N/A <sup>3</sup>
	W3	0.59	IV (15)	PFO/slope	Red alder, slough sedge	0.09
	W3 buffer	1.00				1.11
	W4	1.53	III (16)	PFO/depressional	Salmonberry, slough sedge	1.53
	W4 buffer	7.11				N/A <sup>3</sup>
	W5	0.09	IV (14)	PFO/depressional	Red alder, Salmonberry	0.09
	W5 buffer	0.11				N/A <sup>3</sup>
	W6	0.08	IV (14)	PFO/depressional	Red alder, Salmonberry	0.07
	W6 buffer	0.19				N/A <sup>3</sup>
	W7	0.39	IV (13)	PFO/depressional	Red alder, slough sedge	0.09
W7 buffer	0.14	0.05				
<b>22.5 acres</b>	<b>Total Wetlands</b>	<b>5.71</b>	<b>Total Wetland Impacts</b>			<b>4.69</b>
	<b>Total Buffers</b>	<b>10.54</b>	<b>Total Buffer Impacts</b>			<b>1.16</b>

Notes:

- 1) The wetland and buffer sizes are within the parcel boundary and do not include the roadway or an adjacent parcel.
- 2) The standard buffer width for a Category IV Wetland with high intensity land use is 50-feet and 150-feet for Category III Wetland.
- 3) The U.S. Army Corps clarified on May 22, 2023 that buffers for wetlands that are completely filled (or nearly completely filled) do not need to be mitigated because there is no ecological value. This would be buffers for wetlands W1, W2, W4, W5 and W6.

*“The Mount Vernon BESS Project would not occur within the 0.5-mile stream buffer of a Category 1 area in the County’s aquifer recharge area map (Skagit County 2010).”*

*“In a Pre-application response letter dated October 1, 2020 and January 12, 2023, the County Planning & Development Services Senior Water Resources Planner requested a hydrogeological site assessment report amendment for the area surrounding the proposed activity would be required, pending non-proprietary information on battery composition and the amount that would be stored onsite. The 2023 letter is provided in Appendix H Pre-Application Meeting Results.”*

*“It was further clarified by Erin Langley on March 28, 2023, to amend the Hydrogeologic Site Assessment for the Sierra Pacific Industries Binding Site Plan (AF#200911160068) to include parcel P129949 and include information on the*

*contingency plan to prevent a release of lithium to the groundwater. The Hydrogeological Site Assessment is attached as Appendix G. The Hazard Mitigation Analysis is provided as Appendix O. The report explains that a pre-assembled, non-walk-in style BESS container with lithium iron phosphate prismatic cells do not require spill control or neutralization because the electrolyte is sealed.”*

*“The Mount Vernon BESS Project would not occur in an area with potential landslide, erosion, and geomorphic hazards areas and does not appear on the Skagit County’s mapped geologically hazardous areas.”*

*“There are no frequently flooded areas within the Mount Vernon BESS Project area.”*

The Department finds that the proposal can adequately comply with the relevant provisions of Skagit County Code as proposed and conditioned. More discussion can be found in Departmental Finding #13 under “Zoning Code Analysis” (*Current Planning Review*) beginning on page 20. The one area in question is if the proposal includes a gen-tie line that requires the installation of a pole, or poles, which exceeds the maximum height limit for the zone, 50 feet. A condition has been added to the Departments recommendation to either bury the line underground, as encouraged by the Skagit County Comprehensive Plan, utilize the existing PSE poles currently in place, and/or a combination of underground and use of existing poles. If new poles are required for the gen-tie line, they must not exceed the 50 maximum height limit for the BR-HI zone unless a height variance is approved by the Skagit County Hearing Examiner in a separate proceeding.

**C. The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.**

The proposal will not create undue impacts on the performance standards outlined within SCC 14.16.840. The site and surrounding areas are designated as heavy industrial with existing industrial uses and activities currently present. During construction there will be increased construction traffic and typical construction noise, however, this activity will not be long term and is not expected to impact surrounding industrial uses or adjacent properties.

The applicant has supplied the following responses regarding compliance with the Performance Standards:

*“BESS facilities manage heat with a standard heating, ventilation, and HVAC system inside the battery rack enclosure and potentially a separate chiller or condenser unit located outside the battery racks with chillers, pumps, and heat exchangers. BESS facilities are quiet and meet local and state noise control*

*regulations (SCC 9.50.040(4) – maximum permissible noise levels, RCW 70A.20 Noise Control, WAC 173-60 – Maximum Environmental Noise Levels)."*

*"BESS facilities do not emit odors because lithium-ion/lithium iron phosphate batteries are sealed and there is no combustion of organic compounds."*

*"BESS facility vibration would not be perceptible within the parcel or outside the BR-HI zoning district."*

*"BESS facilities do not create a new point source of air emissions as regulated by Washington Administrative Code (WAC) 173-400 or federal Clean Air Act. Potential non-point source emissions, e.g., fugitive dust from construction, are regulated by local and state code: SCC), WAC 173-400-040(3, 4-4a, 5, and 9a) Fallout, Fugitive emissions, Odors, Fugitive Dust."*

*"The Mount Vernon BESS Project will avoid degradation of water quality in ground and surface waters, in compliance with Washington State WAC levels (WAC 173-200 and 173-201A). There is no discharge from BESS facilities. There are containment measures in place in case of battery leak."*

The Department has not identified any impact to the Performance Standards that will be generated from the installation or operation of the proposed BESS facility at this location that cannot be mitigated. One source referenced to evaluate possible impacts of other facilities, outside of the Skagit County Code, was a report prepared October 2023 by Pacific Northwest National Laboratory (PNNL), authored by Jeremy B. Twitchell, Devyn W. Powell, and Matthew D. Paiss, titled *"Energy Storage in Local Zoning Ordinances"*<sup>5</sup> (Exhibit #48). The report prepared for the U.S. Department of Energy, evaluated community impacts regarding sound, odor and emissions, visual, and environmental aspects of BESS. No negative impacts were discussed that could not be mitigated. One of the predominant concerns discussed in the document centered around impacts to the environment in the event of a failure, or battery leakage, and the potential to contaminate local watersheds. Containment systems, and Contingency Plans, are important to ensure contamination does not leave the site. The Hydrogeologic Site Assessment Report dated June 2, 2023, prepared by Associated earth sciences inc. (Exhibit #7), discusses that the batteries will be installed in cabinets which will provide secondary containment measures for any leakage. Further stating that *"In the event of a contaminant release onsite, the facility operator would respond to the spill in accordance with the Spill/Contingency Plan (SCP)."* A condition has been added to ensure the Spill/Contingency Plan is updated regularly, accurate and accessible at all times to facility staff, emergency responders and Skagit County.

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<sup>5</sup> Pacific Northwest National Laboratory (PNNL), Jeremy B. Twitchell, Devyn W. Powell, Matthew D. Paiss, Energy Storage in Local Zoning Ordinances, October 2023 (prepared for the U.S. Department of Energy).



**D. The proposed use will not generate intrusions on privacy of surrounding uses.**

The proposed BESS site is surrounded by Heavy Industrial uses and located within both the Bayview Ridge Urban Growth Area (UGA) and the Airport Environ for the Port of Skagit Regional Airport. The surrounding uses in the immediate adjacent area include a Metal Fabricator (EDCO, Inc.) located to the north. Skagit Readymix concrete supplier, VanderYacht Propane supplier, and West Coast Reductions USA (rendering plant) are located immediately to the west along the east side of McFarland Road (Fredonia Road). Sierra Pacific Industries lumber mill is located to the south. A vacant parcel owned by Silver Spirit Inc. is located to the west and southwest and the PSE Fredonia substation is located to the west and northwest of the proposed BESS site.

Other industrial operations in the vicinity include Lautenbach Recycling and the Skagit County waste transfer station. Skagit Soils Inc (topsoil, bark, recycle/supplier), Hughes Farm agricultural processor, vacant Washington Alder lumber mill, and Euclid Chemical (manufacturer). PACCAR Inc. and the Port of Skagit are located to the north on the north side of Ovenell Road.

Based on the physical site location and the zoning designation of Bayview Ridge Heavy Industrial, the project will not generate an intrusion on the privacy of existing surrounding uses. The site will not be staffed on a daily basis, will contain fencing and landscaping for security and to blend in with the surrounding industrial uses, and the security lighting will not cause glare outside of the boundary lines of the property.

The applicant has supplied the following response:

*“Adjacent land uses do not require privacy. The battery storage facility would not generate intrusions on privacy of surrounding uses because adjacent land uses are industrial (BR-HI) and the battery storage facilities does not maintain onsite workers.”*

**E. Potential effects regarding the general public health, safety, and general welfare.**

There will be no negative effects on the general public health, safety or general welfare from the proposed project provided the site is appropriately maintained and all local, state and federal guidelines are adhered to.

The applicant has supplied the following response:

*“BESS projects have minimal environmental impacts. As described in Questions #10–11 on page 2-2, BESS components would be stored in environmentally rated enclosures, designed to comply with strict code criteria:*

- *SCC 14.16.840(3) Performance standards*
- *National Fire Protection Association (NFPA) 855 Standards for the Installation of Stationary Energy Storage Systems*
- *Fire-Extinguishing (IFC 1206.2.11.1)*
- *Alarm Systems – 24/7 Monitoring (IFC 1206.2.11.3.2)*
- *Site Security and Signage (IFC 1206.2.8.7.3 & 1206.2.8.6)*
- *Explosion Proof Venting (IFC 1206.2.11.31)*
- *Spacing Requirements and Location (IFC 1206.2.8.7.1)*
- *Hazardous Materials Containment (IFC 1206.3.5.4)*
- *Testing and Maintenance and Repair (IFC 1206.2.7)*
- *Thermal Runaway Prevention (IFC 1206.10.7)”*

*“Risk of fire hazard is rare. Explosion control and thermal runaway compliance methods will be detailed in the Hazard Mitigation Analysis and Fire Protection Technical Assistance Report once the energy storage system type and configuration have been specified and the cabinet test data is available for engineering review (see Appendix O and Appendix P).”*

*“Aside from the sealed lithium-ion batteries, there will be no storage of chemicals onsite. The operation of BESS projects would emit no heat, noise odors, smoke, dust, or vibrations detectable offsite. Aside from construction, there is very little traffic generated by the site due to offsite monitoring.”*

The project will continue to be reviewed during the development permit application process and the facility will be monitored once operational by the Skagit County Fire Marshal’s Office and the emergency response providers in accordance with the conditions of approval.

**F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, Agricultural – Natural Resource Lands, and Rural Resource – Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.**

Not applicable. The site is not located within a Natural Resource designated area. There are no Natural Resource zoned lands located immediately adjacent to the proposed site and this proposal will create no impact to natural resource properties or the long-term management and production of NRL lands overall.

The applicant has supplied the following response:

*“There are no adjacent special uses.”*

**G. The proposed use is not in conflict with the health and safety of the community.**

The approval of a Special Use permit for the proposed use will not negatively impact the health and safety of the community provided that Best Management Practices are followed, and all jurisdictional requirements are maintained as conditioned. Proper management of a BESS can support clean, reliable, energy and facilitate the initiatives for the furtherance of resiliency and climate change goals.

The applicant has supplied the following response:

*“The Mount Vernon BESS Project will not have permanent onsite staff so there is no anticipated effect on traffic, police, or emergency services. BESS facility fire risk is low and managed with strict IFC criteria, described in more detail in Question #26 (page 2-5). The Mount Vernon BESS Project will not cause a change in population or employment to the area affecting the health or safety of the community. BESS facilities provide critical support to the power grid, which would benefit community health and safety.”*

**H. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.**

The site will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area. The proposal will not require public water, sanitary sewer, create a level of traffic uncommon to the area, or create an unnecessary impact to emergency service providers. The site is located within the Fire District #2 service area and several hydrants are located along the street frontage with adequate fire flow capacity.

The applicant has supplied the following response:

*“The Mount Vernon BESS Project will not require onsite staff so there is no anticipated effect on police or emergency services. The Mount Vernon BESS Project would not use water or generate sewage. The properties are currently served with a 12-inch ductile iron water main on the west side of Fredonia Road, and five fire hydrants located along the north and south property line. The Mount Vernon BESS Project will not cause a change in population or employment to the area affecting schools or other social services.”*

**I. The proposed use will maintain the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operation via special use permit shall be reviewed and considered for cumulative impacts.**

The proposed use will maintain the character, landscape and lifestyle of the rural area. The area is heavy industrial in nature with existing industrial uses. This proposal will not change the character of the existing uses, or the area in general, and will be constructed to adhere to the performance standards. Additionally, the project will install landscaping to enhance the site and blend in with the surrounding area. The project will benefit the surrounding area by helping to provide reliable, clean, energy to the electrical grid.

The applicant has supplied the following response:

*“The Mount Vernon BESS Project is proposed within a heavy industrial rural area. It would be visually similar to other types of existing electrical infrastructure, such as the Fredonia Substation, and the battery enclosures/cabinets are generally low height, painted in muted colors, and require minimal security lighting. Battery energy storage would not change the industrial uses of adjacent parcels.”*

*“The Mount Vernon BESS Project will incorporate landscaping standards (SCC 14.16.830) as required and security lighting standards (SCC 14.16.840(3)) as well as aesthetic concerns covered by State Environmental Policy Act (SEPA, SCC 16.12). The perimeter security fence will be an 8-foot chain-link and not site obscuring. Perimeter security fences in the BR-HI zoning district do not have a designated setback requirement (SCC 14.16.190 (7)(a)(iii)) but it is planned at least 20 feet from Fredonia Road right-of-way line, but closely follows the property line on the southern, western and northern boundary as demonstrated by Figure 2c Site Plan in Appendix B. The Mount Vernon BESS Project has been sited and designed so that no project components are within 100 feet of rivers, streams, lakes, or reservoirs, as demonstrated by Figure 1 Vicinity Map. Therefore, the Mount Vernon BESS Project complies with this criterion.”*

### **DEPARTMENTAL RECOMMENDATION**

Based on a review of the application, all associated environmental studies, special use criteria and the above findings, the Planning and Development Services Department recommends **APPROVAL** of the requested Special Use Permit for the proposed Mount Vernon BESS project, with the following conditions:

1. The applicant must obtain all necessary permits and approvals.
2. The applicant/proposal must comply with all relevant provisions of Skagit County Code 14.16 the Zoning Ordinance.
3. The applicant/proposal must comply with WAC 173-60 and SCC 14.16.840, Performance Standards for noise, vibration, and light conditions.
4. The project will require a land disturbance (grading) and/or building permit.
5. The project will be required to meet all applicable requirements of SCC 14.22, 14.32, and Skagit County’s NPDES requirements.
6. The project site is located within Skagit County’s NPDES permit (coverage area) and

subject to the requirements of the NPDES permit and DOE Stormwater Management Manual.

7. Based on the extent of proposed site improvements a drainage plan and report prepared by a civil engineer licensed in the State of Washington will be required.
8. The proposal must comply with the mitigation conditions listed within the SEPA Threshold Determination (MDNS) issued on June 11, 2024.
9. Development is limited to those activities described in the SEPA checklist, issued development permit approvals, and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.
10. Since permitting is required by both the Washington State Department of Ecology and the US Army Corps of Engineers, compliance with the Critical Areas Ordinance is being completed using Jurisdictional Substitution pursuant to SCC 14.24.040(3). Skagit County Planning and Development Services will need to review those other agency approvals and include any conditions necessary to ensure compliance with the intent of SCC 14.24. The applicant must provide our Department with the applicable agency approvals and proof of purchase for required mitigation bank credits prior to the issuance of any Land Disturbance Permits.
11. The applicant, and contractors, must always comply with the Inadvertent Discovery Plan in conjunction with the Cultural Resources Survey.
12. The site owner/operator must provide a hazard mitigation plan, emergency response plan, and training on an Annual basis for local emergency responders. The plan must include an on-site emergency response coordinator as a central point of contact for all involved responding emergency agencies, including any required subject matter experts (SMEs).
13. At a minimum, the site owner/operator must also provide this documented emergency response plan annually for review by the Authority Having Jurisdiction (AHJ). The plan shall also be reviewed and amended whenever a change in facility design, construction, operation, or any maintenance affecting emergency response planning.
14. A copy of the SEPA MDNS, approved special use permit and issued Forest Practice Conversion must be kept onsite and made available to inspecting agencies. Failure to comply with any of these conditions will result in all work on the site being stopped until the condition is remedied.
15. Spill Containment/Contingency Plan (SCP) must be prepared and kept on site. Per the recommendations within the (Hydro-geo) report: the facility operator must designate an employee, or employees, to implement the SCP, to include keeping the SCP updated and performing the required monthly inspections. Copies of the SCP document and inspections forms must be maintained by the facility operator and made available to Skagit County upon request. In the event of an emergency, all emergency response agencies listed in the Spill Management plan, including DEM, must be immediately notified.
16. Emergency Routes: an evacuation sheet shall be posted and orally communicated to on-site personnel. The evacuation procedures must be discussed at periodic safety meetings and covered during new employee orientation.

17. Contractors must be notified of the acceptable truck route to and from the site. The Truck Route during construction shall be via Ovenell Road to State Route 20. If truck traffic needs to travel north, the truck route shall utilize Farm To Market Road to Josh Wilson Road to connect to Interstate 5.
18. The maximum height within the BR-HI zone is 50 feet. The gen-tie line must either be buried underground or utilize existing PSE pole infrastructure. If new poles are required, the height of the gen-tie poles must not exceed the maximum height of 50 feet without the approval of a variance.
19. Compliance with the State call-before-you-dig laws (811) must be adhered to.
20. Prior to the issuance of Development permits for the proposed project, the applicant will be required to record a Title Notice with the Skagit County Auditor's Office that includes the following language: *"The above-referenced property is located wholly or partially within the Skagit County Pipeline Consultation Area, defined by Skagit County Code as the area within 100 feet of any hazardous liquid or natural gas transmission pipelines."*
21. Landscaping per SCC 14.16.830 shall be installed prior to final construction permit approval and occupancy/operation unless Performance assurance bonding is allowed, and approved, for a specific reason. Ongoing monitoring and maintenance will be required per SCC 14.16.830(6)(f). Broken or dead landscaping shall be replaced.
22. An Avigation Easement and Title Notice may be required by the Port of Skagit at the time of Development permit review, if not already completed.
23. All special uses shall require a development project be commenced for the entire parcel within 2 years of the permit approval.
24. If approved, a copy of the decision shall be submitted with the first Development Permit application and referenced within future permit application submittals.
25. All outstanding planning review fees shall be paid prior to final approval.

**APPEAL RIGHTS:** The applicant and/or a party of record may appeal the decision of the Hearing Examiner to the Skagit County Board of Commissioners pursuant to the provisions of Section 14.06.120(11) and the provisions of SCC 14.06.170. Parties with standing to appeal must submit the appeal form and appeal fees to the Planning and Development Services Department within 14 calendar days of the date of the Decision. A party to a hearing before the Hearing Examiner may seek reconsideration pursuant to SCC 14.06.180 only of a final decision by filing a written request for reconsideration at Planning and Development Services within 10 calendar days of the date of decision.

**Prepared By:** BB

**Reviewed By:** AR

**Dated:** December 12, 2024

## Document References:

Pacific Northwest National Laboratory (PNNL), Jeremy B. Twitchell, Devyn W. Powell, Matthew D. Paiss. Energy Storage in Local Zoning Ordinances (prepared for the U.S. Department of Energy), October 2023.

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- i \* Entire document not included within the record per the applicants' instructions due to "Confidentiality."
  - ii \* Entire document not included within the record per the applicants' instructions due to "Confidentiality."
  - iii \* Entire document not included within the record per the applicants' instructions due to "Confidentiality."
  - iv \* Entire document not included within the record per the applicants' instructions due to "Confidentiality."