

**SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES  
BEFORE THE ADMINISTRATIVE OFFICIAL**

**ADMINISTRATIVE DECISION  
AOI 2023-02**

**Findings, Conclusion and Decision**

**Hearing Authority:** Skagit County Planning Director

**Application Number:** #PL22-0536

**Applicant:** Sounder Energy Storage, LLC  
C/O Collin Ramsey  
800 Taylor Street, #200  
Durham, NC 27701

**Contact:** Chmelik Sitkin & Davis P.S.  
C/O Tim Schermetzler  
1500 Railroad Avenue  
Bellingham, WA 98225

**Property Owner:** Fruitdale Property LLC  
P.O. Box 836  
Mount Vernon, WA 98273

**1. SUMMARY**

Sounder Energy Storage, LLC (“Sounder”), a subsidiary of Strata Clean Energy, LLC, requests an Administrative Official Interpretation of SCC 14.04.020’s definition of “utility development,” specifically what type of utility development the Skagit County Planning and Development Services (“County” or “Department”) would categorize the battery energy storage system (“BESS”) they have proposed. Sounder asks that the proposed project be classified as a major utility development and not a major regional utility development. As set forth below, consistent with the decision set forth in AOI 2013-01, the Administrative Official agrees that the proposed BESS would be most appropriately categorized as a major utility development.

**2. AUTHORITY**

Administrative Official Interpretations are authorized by SCC 14.06.040(3), which grants the administrative official the authority to issue decisions “as to the meaning, application, or intent of any of the provisions of SCC Title 14.” SCC 14.06.040(3)(a); *see also* SCC 14.16.020(2) (“it shall be the responsibility of the Administrative Official, or designated representative, to interpret and apply the provisions of this Chapter pursuant to SCC

14.06.040.”); SCC 14.06.040(1) (“The Administrative Official is responsible for administering the provision of SCC Title 14”). An Administrative Official Interpretation is a Level I decision under SCC 14.06.050(1)(a)(xii).

### **3. PROPOSED PROJECT**

Sounder proposes to develop 11.3 acres of a 46.07-acre site to locate a Battery Energy Storage System (BESS) to support Puget Sound Energy’s (PSE’s) grid. This site, 10121 Fruitdale Road, Sedro-Woolley, is located approximately 2,500 feet south of Puget Sound Energy’s Sedro-Woolley Substation. The property is zoned Agricultural-Natural Resource Lands (“Ag-NRL”). Sounder would consist of energy storage enclosures with racks of lithium-ion batteries, other electrical and communication equipment, and a ½ mile general transmission line to connect it to the substation.

### **4. DEPARTMENTAL FINDINGS AND ANALYSIS**

This project is substantially similar to the proposed BESS considered in AOI 2023-01.<sup>1</sup> In that decision, the Administrative Office determined that a 200MW/800MWh BESS, proposed for a similar location, connecting to the same substation, was a major utility development.

Given the clear similarity on material facts, AOI 2023-01 controls the outcome in this matter. The Department, for purposes of this AOI, incorporates by reference the findings and analysis set forth in AOI 2023-01.

### **5. CONCLUSIONS**

1. The use of the facility to store power generated elsewhere meets the definition of utility development. This use, as is proposed here, is ancillary to the substation in that the use helps supplement the PSE utility output during times of additional needed energy supply.
2. After reviewing the Applicant’s proposal and associated “use” request, the Skagit County Comprehensive Plan, and Skagit County Code Title 14, the Administrative Official hereby concludes that the BESS project proposed here should be classified as a major utility development.
3. This AOI should not be interpreted as a determination that every BESS that may be developed will be considered a major utility development. Each BESS project will be reviewed on its own merits and any decision on whether a project “serves a region” will be consistent with this AOI.
4. This AOI is limited to the specific question of what type of utility development the proposed project would be. Other concerns, such as safety, environmental, siting,

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<sup>1</sup> This decision is attached as Exhibit A.

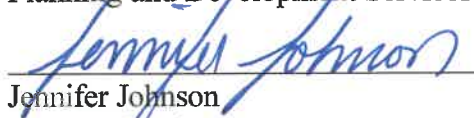
and other aspects of the proposed project have not been considered. These concerns would be addressed as part of the special use permit process.

## 6. DECISION

The Director, as Administrative Official, hereby **APPROVES** the request to allow consideration of the proposed BESS project as a major utility development.

Prepared By:   
Brandon Black  
Current Planning Manager

Reviewed By:   
Jack Moore  
Planning and Development Services Assistant Director

Approved By:   
Jennifer Johnson  
Interim Planning Director

**Date of decision:** February 22, 2023

Notice of this decision will be published in the newspaper of record and will be posted on the Skagit County's website. The applicant or a party of record may appeal the decision of the Administrative Official to the Skagit County Hearing Examiner pursuant to the provisions of SCC 14.06.040(3)(d) and SCC 14.06.110(7). An appeal must submit the appeal form and appeal fees to Planning and Development Services within 14 calendar days of the date the Notice of Decision was issued.

**Appeals must be submitted by:** March 8, 2023

**SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES  
BEFORE THE ADMINISTRATIVE OFFICIAL**

**ADMINISTRATIVE DECISION  
AOI 2023-01**

**Findings, Conclusion and Decision**

**Hearing Authority:** Skagit County Planning Director

**Application Number:** #PL22-0460

**Applicant:** Goldfinch Energy Storage, LLC  
C/O Tommy Nelson  
412 W. 15<sup>th</sup> Street, 15<sup>th</sup> Floor  
New York, NY 10011

**Contact:** Goldfinch Energy Storage, LLC  
C/O Tommy Nelson  
14302 Fnb Parkway  
Omaha, NE 68154-5212

**Property Owner:** John and Stephanie Grinder  
25080 Minkler Road  
Sedro-Woolley, WA 98284

**1. SUMMARY**

Goldfinch Energy Storage, LLC (“Goldfinch”) requests an Administrative Official Interpretation of SCC 14.04.020’s definition of “utility development,” specifically what type of utility development the Skagit County Planning and Development Services (“County” or “Department”) would categorize the battery energy storage system (“BESS”) they have proposed. Goldfinch asks that the proposed project, which they call Goldeneye, be classified as a major utility development and not a major regional utility development. As set forth below, based on the information known to the County, the Administrative Official agrees that the proposed BESS would be most appropriately categorized as a major utility development.

**2. AUTHORITY**

Administrative Official Interpretations are authorized by SCC 14.06.040(3), which grants the administrative official the authority to issue decisions “as to the meaning, application, or intent of any of the provisions of SCC Title 14.” SCC 14.06.040(3)(a); *see also* SCC 14.16.020(2) (“it shall be the responsibility of the Administrative Official, or designated representative, to interpret and apply the provisions of this Chapter pursuant to SCC

14.06.040.”); SCC 14.06.040(1) (“The Administrative Official is responsible for administering the provision of SCC Title 14”). An Administrative Official Interpretation is a Level I decision under SCC 14.06.050(1)(a)(xii).

### 3. PROPOSED PROJECT

Goldfinch proposes to develop Goldeneye on 8–10 acres of parcel P40030’s 14 acres. This site, 25080 Minkler Road, Sedro-Woolley, is located next to Puget Sound Energy’s Sedro-Woolley Substation. The property is zoned Agricultural-Natural Resource Lands (“Ag-NRL”).

Goldeneye would consist of energy storage enclosures with racks of lithium-ion batteries and other electrical and communication equipment. The site would be fenced and outfitted with security cameras and motion activated lights. The proposed project would be unmanned. According to Goldfinch, the project would have a peak power discharge of 200 megawatts (which amounts to 60% of Skagit County’s peak energy demand) and an energy storage capacity of 800 megawatt hours.<sup>1</sup>

### 4. DEPARTMENTAL FINDINGS:

A battery energy storage system, or BESS, is a collection of rechargeable batteries connected to the power grid. When there is excess power, the batteries are charged, and when power is needed, they feed power back to the grid. A BESS can be used to balance the electric grid, provide backup power, and improve grid stability. This is particularly important as our power system moves towards renewable energy (e.g., solar and wind energy) and away from fossil fuels as our primary source of power.<sup>2</sup> Since the wind does not blow and the sun does not always shine when that energy is needed a BESS provides means to store that energy until needed.

BESS projects are being developed at an incredible rate: between 2003 and 2010 only 50 megawatts of capacity was installed, and between 2010 and 2019 a 1,000 megawatts of capacity was installed, and from 2021 to 2023 it is estimated an additional 10,000 megawatts of capacity will have been installed.<sup>3</sup> While a 200MW/800MWh BESS would

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<sup>1</sup> The *power* capacity is the total possible instantaneous discharge capability, or the maximum rate of discharge that the BESS can achieve, starting from a fully charged state. The *energy* capacity is the maximum amount of stored energy. The storage duration is the amount of time storage can discharge at its power capacity before depleting its energy capacity. Thus, the BESS proposed by Goldfinch would have 200 megawatts of power capacity, 800 megawatt-hours of usable energy capacity, and a storage duration of four hours.

<sup>2</sup> National Renewable Energy Laboratory, Grid-Scale Battery Storage: Frequently Asked Questions, T. Bowen, I. Chernyakhovskiy, P. Denholm (2019), available at <https://www.nrel.gov/docs/fy19osti/74426.pdf>.

<sup>3</sup> Battery Storage in the United States: An Update on Market Trends, U.S. Energy Information Administration, P. 5 (Aug. 2021), available at: [https://www.eia.gov/analysis/studies/electricity/batterystorage/pdf/battery\\_storage\\_2021.pdf](https://www.eia.gov/analysis/studies/electricity/batterystorage/pdf/battery_storage_2021.pdf); *see also*

have been one of largest facilities in the world just a year or so ago,<sup>4</sup> the largest is now twice that size,<sup>5</sup> and a 5,000MW/20,000MWh BESS is planned in Morocco.<sup>6</sup>

Goldfinch asks the County to consider their proposed BESS as a “Major Utility Development.” Any development of a major utility development would be reviewed under the Special Use Permit criteria of SCC 14.16.400(4)(h) and SCC 14.16.900(1)(b)(v) with a decision by the Skagit County Hearing Examiner.

## 5. DEPARTMENTAL ANALYSIS:

This AOI concerns utility developments and the application of the definitions provided by the Code for the types of utility development to the BESS proposed by Goldfinch. The Code defines “utility development” as:

*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.<sup>7</sup>

A BESS is a utility development as it is a facility that stores electrical energy. But it is unclear the BESS proposed by Goldfinch is a *major* or a *major regional* utility development.<sup>8</sup>

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Cameron Murray, US installs 5GWh of Battery Storage in H1 2022 but Overall Clean Power Deployment Falls, Energy Storage News (July 27, 2022), available at: <https://www.energy-storage.news/us-installs-5gwh-of-battery-storage-in-h1-2022-but-overall-clean-power-deployments-fall/>.

<sup>4</sup> Energy Storage System Location Study for: Puget Sound Energy, T. Rolstad, Power Systems Consultants at p. 3 (June 25, 2021) (noting the largest lithium-ion BESS in the world being 100MW/129MWh).

<sup>5</sup> Andy Colthorpe, World’s Biggest Battery Storage System Comes Back Online After months of Shutdown, Energy Storage News (July 12, 2022), available at: <https://www.energy-storage.news/worlds-biggest-battery-storage-system-comes-back-online-after-months-of-shutdown/>.

<sup>6</sup> Alice Grundy, Morocco-UK Power Project: Solar, Wind and 5GW of Battery Energy Storage, Energy Storage News (Sept. 29, 2021), available at <https://www.energy-storage.news/morocco-uk-power-project-solar-wind-and-5gw-of-battery-energy-storage/>.

<sup>7</sup> SCC 14.04.020 (emphasis added).

<sup>8</sup> The BESS that is proposed here clearly does not fit the definition of *minor* utility development (it does not “serve a small local community”), and Goldfinch makes no assertion that it does.

The type of utility development is a critical definition that dictates how any application for a utility development will be processed. Major utility developments are allowed within almost all zoning designations with a special use permit. But no zoning designation lists “major regional utility development” as a permitted use. Consequently, any major regional utility development could only be permitted under SCC 14.16.020(3)<sup>9</sup> or as an essential public facility (“EPF”) under SCC 14.16.600.<sup>10</sup>

Goldfinch asked that their proposed BESS be classified as a major utility development because the proposed project:

1. Lacks regionality—will provide local storage: “Regional”, as used in the Code, describes projects serving more than Skagit County, and “the proposed project’s main function will be to provide local support to the electrical grid demands only within Skagit County.”
2. Is of a relatively small scale: The proposed project lacks the scale of other clearly major regional utility developments.
3. Will not have large impacts: Compared to the impacts of other major regional utility developments, the proposed BESS will be minimal.<sup>11</sup>

The proper starting point is with the text of the Code, which provides that a major regional utility development is “designed to serve a region.” A major utility development is any development that is not minor nor major regional. Therefore, the question is whether Goldeneye would serve a region, if not it cannot be considered a major regional utility development.

The Code does not define what constitutes a region. However, the Code does define “regional” as something beyond just Skagit County. For example, a regional essential public facility serves “more than one county,”<sup>12</sup> and regional parks “serve the residents of the entire County as well as residents from outside the immediate region”.<sup>13</sup> Words are presumed to be

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<sup>9</sup> As a general rule, to be permitted a use must be specifically provided for a particular zone. SCC 14.16.020(3) (“Only those uses listed within a given zoning district shall be allowed”). However, the Code “recognize[s] that not every conceivable use can be identified” and so an unlisted use may be permitted based on similarity to a listed use. *Id.*

<sup>10</sup> An essential public facility is a “facility[y] that [is] typically difficult to site,” SCC 14.04.020, and generally are “regional uses that will have potentially significant built and natural environmental impacts that can adversely affect the rural character of the surrounding area.” SCC 14.16.600(1). As such, review of a proposed EPF is subject to higher scrutiny as set forth in SCC 14.16.600.

<sup>11</sup> Level I Administrative Interpretation Narrative Goldeneye Energy Storage Project, prepared by Dudek (Sept. 2022).

<sup>12</sup> SCC 14.16.600(3)(a).

<sup>13</sup> SCC 14.04.020.

used consistently throughout the Code.<sup>14</sup> And here there is nothing to suggest this multi-county definition of regional should not also apply to utility developments.

To be a major regional utility development a BESS must serve more than Skagit County, it must also provide service to other counties as well. To be sure, the proposed BESS would not be physically limited to Skagit County. It will be tied to the PSE grid and the PSE service area is not confined to only Skagit County. Furthermore, the PSE grid is part of a larger electrical grid. Thus, there can be no guarantee that energy stored in the proposed BESS, when discharged into the electrical grid, will remain in Skagit County.

But regionality is not determined on whether it may provide a benefit outside of Skagit County. Rather the determinative fact is the intent: is the proposed project *designed* to also serve other counties. For example, that non-Skagitonians enjoy a particular park is not enough to make it a regional park. The same is true here too. The information provided to the County is that the proposed project intends to primarily serve Skagit County. That it could benefit people outside of Skagit County does not defeat the intention of the project.

According to Goldfinch, “[t]he Goldeneye project will directly interconnect into the Puget Sound Energy (PSE) Sedro-Woolley Substation (point of interconnection)” and “will support and provide a buffer for the County’s electrical grid by receiving energy (charging) from the PSE Sedro-Woolley Substation, storing energy on the site, and then later delivering energy (discharging) back to the point of interconnection when needed.”<sup>15</sup> Furthermore, Goldfinch attests that the “proposed project’s main function will be to provide local support to the electrical grid demands only within Skagit County.”

As mentioned above the nature of the electrical grid is such that the intention to only serve a particular geographical area does not itself limit where the power goes. In the case of a proposed BESS development, to determine whether it is designed to serve a region we must consider the capacity of the BESS to the peak load of the County. Here, it appears that the Goldeneye project’s 200-megawatt peak discharge rate would account for 60% of Skagit County’s peak electric demand of 326 megawatts. As such it lacks the regionality needed to be considered a major regional utility development, and is necessarily a major utility development.

## 6. CONCLUSIONS

1. The use of the facility to store power generated elsewhere meets the definition of utility development. This use, as is proposed here, is ancillary to the substation in that the use helps supplement the PSE utility output during times of additional needed energy supply.

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<sup>14</sup> *Timberline Air Services, Inc. v. Bell Helicopter—Textron, Inc.*, 125 Wn.2d 305, 313, 884 P.2d 920, 925 (1994).

<sup>15</sup> Level I Administrative Interpretation Narrative Goldeneye Energy Storage Project, prepared by Dudek, at 1 (Sept. 2022).



2. After reviewing the Applicant's proposal and associated "use" request, the Skagit County Comprehensive Plan, and Skagit County Code Title 14, the Administrative Official hereby concludes that this specific BESS project request should be classified as a major utility development.
3. This AOI should not be interpreted as a determination that every BESS that may be developed will be considered a major utility development. Each BESS project will be reviewed on its own merits and any decision on whether a project "serves a region" will be consistent with this AOI.
4. The Administrative Official recognizes, from comments received from this and other proposed BESS projects, that there are concerns about safety, environmental, siting, and other aspects of the proposed project. As this AOI is limited to the specific question of what type of utility development the proposed project would be, these concerns have not been considered. These concerns would be addressed as part of the special use permit process.

## 7. DECISION

The Director, as Administrative Official, hereby **APPROVES** the request to allow consideration of the proposed BESS project as a major utility development.

Prepared By:   
Brandon Black  
Current Planning Manager

Reviewed By:   
Jack Moore  
Planning and Development Services Assistant Director

Approved By:   
Jennifer Johnson  
Interim Planning Director

**Date of decision:** February 1, 2023

Notice of this decision will be published in the newspaper of record and will be posted on the Skagit County's website. The applicant or a party of record may appeal the decision of the Administrative Official to the Skagit County Hearing Examiner pursuant to the provisions of SCC 14.06.040(3)(d) and SCC 14.06.110(7). An appeal must submit the appeal form and appeal fees to Planning and Development Services within 14 calendar days of the date the Notice of Decision was issued.

**Appeals must be submitted by:** February 15, 2023