

MOTION BY SUPERVISOR KATHRYN BARGER

DECEMBER 19, 2023

DEVELOPING A LOS ANGELES COUNTY ORDINANCE FOR RENEWABLE ENERGY ZONING, STANDARDS, AND REQUIREMENTS

On June 6, 2023, the Los Angeles County Board of Supervisors issued directives to the Los Angeles County Department of Regional Planning, in collaboration with various County Offices, Departments, and Energy Utility Partners. Their task was to present best practices for permitting Battery Energy Storage Systems (BESS).

The Los Angeles County Department of Regional Planning (Planning) has granted approval for a small number of BESS projects. These include three where battery storage serves as the primary use and four where it functions as an accessory to another land use. The review of these BESS projects was conducted under the Zoning Code. Notably, BESS is not explicitly defined in the County’s Zoning Code, and the most analogous use is identified as an Electric Distribution Substation (EDS). EDS was deemed the most similar use to BESS based on various factors, including the purpose of BESS and its integration into the larger network for distributive purposes. This is important as a BESS receives energy from the grid for storage in on-site batteries and returns energy to the grid when needed.

Currently, the Zoning Code defines EDS as "a facility that contains an assembly of equipment that is part of a system for the distribution of electric power, where electric energy is received at a sub-transmission voltage and transformed to a lower voltage for distribution for general consumer use." EDS projects can undergo ministerial review processes in all industrial and most commercial zones but require a discretionary review process, i.e., Conditional Use Permit (CUP), in all residential and agricultural zones.

The review process for accessory use BESS projects varies depending on the primary use with which they are associated. Notably, all approved primary use BESS projects are situated within industrial or commercial zones where EDSs are permitted under a ministerial review process. Thus far, only land use approvals, not building permits, have been issued for primary use BESS projects approved by the county.

-MORE-

MOTION

SOLIS _____

MITCHELL _____

HAHN _____

BARGER _____

HORVATH _____

Before commencing construction and operation of a primary use BESS project, additional County reviews and permits are mandated, including assessments by Fire and Public Works Building and Safety. Other agency approvals may also be necessary, including interconnection agreements regulated by the California Independent State Operator (CAISO) and franchise agreements regulated by the Board.

In its report to the Board, LA County Planning sought information from various agencies regarding pending or anticipated BESS projects in the County's unincorporated communities. However, obtaining this information proved challenging for several reasons, including the confidentiality of detailed information for projects applying for interconnection. This confidentiality encompasses proposed site locations. Moreover, projects may apply for interconnection through CAISO without site control, leading to competing proposals for the same property.

This lack of site control at the time of interconnection application makes it difficult to accurately predict or plan for the number of future projects in a given area. LA County Planning has also been informed of a high degree of attrition in the interconnect application process, with only 15 to 20% of proposed projects materializing.

Among the four primary use BESS projects currently approved or in the process of being approved by LA County Planning, one is situated in the unincorporated community of Acton, two in Castaic, and one in Florence-Firestone. This suggests that population densities are just one aspect of the consideration. The analysis reveals that distinct geographic areas within the County will experience varying and potentially significant impacts from BESS projects, with a notable concentration skewing toward the County's 5th District.

Currently, BESS developers have specific locational criteria, including proximity to electric substations and the availability of vacant or underdeveloped land in commercial or industrial zones where these facilities are permitted or conditionally permitted. These locational criteria may overlap in areas with higher equity indicator scores.

The Governor and the State Legislature have implemented various measures to attain the State's greenhouse gas reduction goals and streamline the development of resources that bolster electrical grid reliability. Recognizing this, the State has emphasized the significance of BESS as a critical component of the infrastructure necessary to achieve renewable energy objectives. With the construction of more BESS projects across the State, emerging lessons and best practices have prompted the state to enact new laws aimed at enhancing the safety and operation of these sites.

In response to the fire at the Elkhorn Battery Energy Storage System in Moss Landing, California Senate Bill 38 was signed into law. This legislation mandates BESS facilities to establish safety and communication standards, underscoring the necessity of allowing opportunities to promptly amend local renewable energy zoning. This flexibility is crucial as the legislature and other governing bodies introduce new legislation or requirements for BESS facilities and other renewable energy projects.

The County has recognized the impact of climate change on physical infrastructure, such as the power grid, and on vulnerable populations, including low-income communities, communities of color, linguistically-isolated communities, rural communities, outdoor and essential workers, among others. Those goals of promoting local production of clean energy are articulated in the Our County Sustainability Plan and the draft Climate Action Plan.

The "Report Back on Los Angeles County's Energy Resiliency Policy and the Impact on Disadvantaged Communities," dated February 1, 2021, provides an overview of the County's energy sector and the intricate interplay between the energy system, changing climate, and impacts on vulnerable communities. The report indicates the need for additional system capacity by 2060, suggesting that distributed energy resources may be a more cost-effective solution than new substations or transmission lines.

Several jurisdictions employ processes similar to LA County Planning for permitting BESS projects. The City of Los Angeles categorizes BESS as an "electrical receiving or transforming station" use, permitted in manufacturing zones. Most surveyed jurisdictions currently require a CUP, as exemplified by the City of Menifee's recently adopted ordinance and the ongoing zoning regulation updates in the County of Alameda, which includes renewable energy projects, including solar and BESS projects, still requiring a CUP. This indicates the need for the County to develop an ordinance to clearly and appropriately regulate new energy storage systems.

I, THEREFORE, MOVE that the Board of Supervisors direct the Director of the Los Angeles County Department of Regional Planning to amend Title 22 (Zoning Code) to regulate BESS, with definitions, permitting structure, and development and operational standards, with the following considerations:

1. Discretionary (CUP) process for BESS projects depending on their size and if they are primary or accessory uses;
2. Appropriate siting criteria, including proximity to critical infrastructure and sensitive land uses, such as residences and schools;
3. Differentiation of primary use projects by size, such as storage capacity or project acreage, and consideration of scale in relation to the surrounding area;
4. Overconcentration of larger, primary use BESS projects as evaluated by existing infrastructure and the number of grid interconnection points in a particular area;
5. Potential hazards, such as Very High Fire Hazard Severity Zones, and safety measures for BESS installations, including emergency response protocols, technologies and chemistries proposed, and proper storage and disposal of battery components;
6. Noise impacts measures, such as perimeter wall/fencing requirements and maximum decibel ratings;
7. Emerging technologies;
8. Decommissioning protocols to facilitate the recycling and disposal of batteries at the end of the project life and to restore the property; and
9. Any amendments to related energy storage systems and renewable energy facilities provisions in Title 22.

I FURTHER MOVE, that the Board of Supervisors direct the Department of Regional Planning to convene meetings with key energy, labor, and community stakeholders to seek feedback on policy design. Stakeholders should include at a minimum the California Energy Storage Alliance, Southern California Edison, City of Los Angeles Department of Water and Power, Clean Power Alliance, the Los Angeles-Orange County Building Trades, environmental and environmental justice groups involved in clean energy, and community groups such as local Town Councils based in all five Supervisorial Districts.

#

KB:aso