

54. Defer to on or before September 9, 2025, report back on the Energy Storage Combining District Ordinance ()



## **County of Santa Cruz Board of Supervisors**

### **Agenda Item Submittal**

**From:** Community Development and Infrastructure

**Subject:** Defer report back on Energy Storage Combining District

**Meeting Date:** April 8, 2025

**Formal Title:** Defer to on or before September 9, 2025, report back on the Energy Storage Combining District Ordinance

### **Recommended Actions**

Defer to on or before September 9, 2025, the report back on the Energy Storage Combining District Ordinance.

### **Executive Summary**

On August 13, 2024, the Board of Supervisors directed staff to prepare an ordinance to allow and regulate battery energy storage system (BESS) facilities within a new combining district or zoning overlay to be applied to property in all zoning designations within a specified proximity to existing electricity transmission centers (substations).

On October 29, 2024, Community Development and Infrastructure staff returned with a draft ordinance, and the Board of Supervisors directed staff to further refine the ordinance, adding minimum storage capacity and lot size requirements to focus on utility scale projects, and proceed with conducting environmental review, and return on or before April 25, 2025 with the final draft ordinance.

Following the January 16, 2025, Vistra Power Plant Fire at Moss Landing, the Board heard a report on the Moss Landing incident at its January 28, 2025 meeting and directed the Chair to write to the California Public Utilities Commission and the California Energy Commission requesting that they evaluate similar energy battery storage systems throughout the state and consider requiring immediate safety improvements to prevent similar events.

Staff is recommending postponing further action on this new ordinance in order to gather additional information related to the Moss Landing fire, including possible further guidance from the state or any post-incident reports, and integrate any findings into the ordinance to improve public health, safety and response actions.

### **Discussion**

On August 13, 2024, the Board of Supervisors directed staff to prepare an ordinance to allow and regulate battery energy storage system (BESS) facilities within a new combining district or zoning overlay to be applied to property in all zoning designations within a specified proximity to existing electricity transmission centers (substations).

Energy storage systems are necessary to help the County and state meet climate resiliency and clean energy goals by providing electrical energy storage to be used during times when renewables are not meeting supply needs, most often overnight. The need for utility-scale energy storage as a key component of the renewable electric grid infrastructure and has become increasingly necessary to facilitate the transition to clean energy, ensure electrical transmission system reliability, and help prevent electricity outages in the face of continued demand and climate change. Additional

information is provided in the August 13, 2024, agenda item [HERE](#).

The purpose of the draft ordinance would be to retain local control over the siting of a new facility. Currently, there is an available approval process provided by state law (Public Resources Code sections 25545-25545.13) through the California Energy Commission, which allows that agency to over-ride local ordinances when approving these facilities based on a finding of public convenience and necessity. The California Energy Commission must also find that there is an overall net positive economic benefit to the local government and must approve the application within 270 days after the application is complete, among other requirements. However, a local ordinance can better define and respond to the community's individual siting needs.

On October 29, 2024, Community Development and Infrastructure staff returned with a draft ordinance, and the Board of Supervisors directed staff to further refine the ordinance and proceed with conducting environmental review, and return on or before April 25, 2025 with the final draft ordinance.

On January 16, 2025, a lithium-ion battery fire started at the Moss Landing Vistra Battery Energy Storage facility in Monterey County. The event included burning of lithium batteries within an old building, damage to private property on the facility grounds, smoke and potentially hazardous fumes. The incident resulted in evacuations and road closures in the Moss Landing area. The fire resulted in plumes of smoke with unknown concentrations of hazardous substances across the region. On the first night of the incident the plume did extend north into Santa Cruz County. The direction of the plume headed away from Santa Cruz County in subsequent days; however, reports of impacts to the community were recorded. The Board of Supervisors heard a report on the Moss Landing event on January 28, 2025, and directed testing of soils and water within Santa Cruz County. Preliminary results from this testing are available here: <https://www.santacruzcountyca.gov/Government/Pressreleases.aspx>.

#### 90 Minto Road Application Status

On December 17, 2024, the County received an application for the proposed development of an 800-megawatt hour BESS facility on 14 acres adjacent to an existing transmission substation. To date, the application has been deemed incomplete, with additional application materials required. Once the application is deemed complete, this application, along with the regulating ordinance that the Board of Supervisors directed, will be analyzed under the California Environmental Quality Act. Public hearings at both the County Planning Commission and the Board of Supervisors would be conducted prior to permit approval. The timeline for approval is unknown, but preparation of an Environmental Impact Report document typically requires a year or more to prepare. The Community Development and Infrastructure Department maintains a "Major Projects" webpage, where further information on the proposal is available and status will be updated regularly (<https://cdi.santacruzcountyca.gov/UPC/GetInvolved/MajorProjectApplications.aspx>).

In the aftermath of the Moss Landing event, planning for a community meeting regarding the Minto Road BESS proposal is underway, which will provide additional opportunities for community input.

The Moss Landing incident will serve to inform and ideally improve land use policy, safety and response protocols for any future BESS facilities state wide because additional information, such as soil, water, organic material testing results and after-action report(s) regarding the cause and impact from the events at Moss Landing are

still pending. Additional guidance or legislation may be forthcoming from the state as well. Therefore, staff recommends postponing further activity on this item until additional information is available for consideration and potential improvement to the ordinance, environmental review or land use approval process.

**Financial Impact**

Deferral of this item does not involve a financial impact to the General Fund.

**Strategic Initiatives**

Climate Action - Energy

**Submitted By:**

Matt Machado, Deputy CAO / Director of Community Development and Infrastructure

**Recommended By:**

Carlos J. Palacios, County Administrative Officer

**Artificial Intelligence Acknowledgment:**

Artificial Intelligence (AI) did not significantly contribute to the development of this agenda item.

**Land Use & Community Services**

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<b>Name</b>	<b>Comment - 04/08/2025 10:49 AM : (No Vote)</b>
Nina Audino	<p>Good morning,</p> <p>My name is Nina Audino. I am a resident of Santa Cruz County.</p> <p>I am encouraged to see on today’s agenda a deferral of Board review of the BESS Battery Energy Storage District Ordinance to on or before September 9, 2025.</p> <p>I want to thank you for your right action in slowing down our county’s adoption of a BESS Ordinance. And I urge you to act further to protect the best interests of your constituents – of all of us who live together in this county. Convene an impartial Technical Advisory Committee that is not limited to the BESS developer’s hired hands, which have prepared reports that represent the developer’s best interests, tied first and foremost to their business profits. We need all stakeholders, including the public, assisting with a transparent process of crafting a BESS Ordinance that makes health and safety a priority for our communities and environment. We need fire experts, battery engineers and former BESS developers on our Technical Advisory Committee.</p> <p>We live within a few dozen miles of an iconic, global tech hub – our community hosts a University of California campus and San Jose State is nearby. We have the resources to identify and vet experts who will work impartially to represent the best interests of our community, which are tied <i>not</i> to the developer’s conflicting, profit-driven agenda but first and foremost to the health and safety of our community and its environment.</p> <p>We are dealing with an unproven, new technology whose only actually proven results have been repeated malfunctions and fires. It is not enough to invoke the CEQA process. I urge you not to relegate the ways the public’s best interests are represented to a 30-day EIR review window.</p>

We need experts advising transparently on safety regulations codified by our BESS ordinance. The developer's submitted reports are shortcutting safety and endangering the public. The reports claim a wildly manipulated worst case scenario of a fire limited to one rack or module in a container. 1/40 of a container. We need a BESS ordinance that requires the developer to assess the hazards of an actual worst-case scenario – when an entire container or several burn. The reports make no mention of hydrogen fluoride gas. We need a BESS ordinance that requires a full assessment of HF risk. We need a BESS ordinance that requires the safest threshold of offsite toxicity, which is defined as “notable discomfort, irritation, but not necessarily irreversible damage” and not the 2<sup>nd</sup> level, which is the distance threshold when irreversible or long-lasting effects happen. We need a BESS Ordinance that requires the most aggressive plume modeling, which to date is, ironically as it turns out, Vistra's 2024 modeling, or a more restrictive one.

I urge you again to act on behalf of our community's highest good. It will take a committee of impartial experts to take on these challenges and many more to craft a BESS Ordinance that actually protects our communities and our environment.

Sincerely,  
Nina Audino