

Attention Property Owner: A land use proposal has been submitted for property near where you live or near property you own elsewhere. State law requires that the county notify property owners within a certain distance from this property. The proposal and address of the property is described in the "Application" section below. The decision in this case does not directly affect the zoning or use of your property. If you object to the decision, refer to the "Appeal" section. If you have questions, contact the staff person listed at the end of this report.

NOTICE OF DECISION

ADMINISTRATIVE REVIEW CASE NO. 25-015

APPLICATION: Application of Remington BESS, LLC, on behalf of the Neils Paul Jensen and Irma L. Jensen Joint Revocable Trust for an administrative review to construct a battery energy storage system as a utility facility necessary for public service on a 15-acre portion of a 133.77-acre parcel located in the 5200 block of Pearson Rd SE, Turner (T9S; R2W; Section 20D; Tax Lot 100 and T9S; R2W; Section 21C; Tax lots 100 & 200).

DECISION: The Planning Director for Marion County has **DENIED** the above-described Administrative Review.

APPEAL PROCEDURE: The Marion County Zone Code provides that certain applications be considered first by the County Planning Director. If there is any doubt that the application conforms with adopted land use policies and regulations the Director must deny the application. Anyone who disagrees with the Director's decision may appeal the decision to a Marion County hearings officer. The applicant may also request reconsideration (one time only and a \$200.00 fee) on the basis of new information subject to signing an extension of the 150 day time limit for review of zoning applications.

A public hearing is held on appeals subject to the appellant paying a \$250.00 fee. Appeals must be in writing (form available from the Planning Division) and received in the Marion County Planning Division, 5155 Silverton Rd. NE, Salem by 5:00 p.m. on **August 18th, 2025**. If you have questions about this decision contact the Planning Division at (503) 588-5038 or at the office. This decision is effective **August 19th, 2025**, unless appealed.

FINDINGS AND CONCLUSIONS: Findings and conclusions on which the decision was based are noted below.

1. The subject property is designated Primary Agriculture in the Marion County Comprehensive Plan. The major purpose of this designation and the corresponding Exclusive Farm Use (EFU) zone is to promote the continuation of commercial agricultural and forestry operations.
2. The property is located on the northern side of Pearson Rd SE within a half mile of the intersection with Parrish Gap Rd SE. The proposed area for the Battery Energy Storage System (BESS) is the approximately 15 acres north of the PacifiCorp Parrish Gap Substation which is located on Pearson Rd SE, east-adjacent to the property at 5387 Pearson. The proposed area is in agricultural use for either grass seed or hay production with the rest of the 133.77-acre parcel. There are two mapped perennial streams and one mapped intermittent stream across the subject parcel. Based on the site plan, the BESS would be sited upon the southernmost perennial stream and the intermittent stream, as well as being nearly adjacent to the northern perennial stream. All three of these flow into canals managed by the Santiam Water Control District for the purpose of providing water rights to farmers in the district.

The subject property was itself the subject of a property line adjustment in 2008 (PLA08-044) which clarifies that the 46.35-acre tax lot upon which the BESS is proposed is itself part of a larger 133.77-acre parcel consisting of three tax lots (T9S; R2W; Section 20D; Tax Lot 100 and T9S; R2W; Section 21C; Tax lots 100 & 200). The property line adjustment was between two parcels, and yielded a 5-acre parcel which contains the homesite at 5387 Pearson Rd SE (not involved in this application) and the 133.77-acre parcel upon which the 15-acre BESS is proposed by this application. While the subject parcel consists of three tax lots, it appears by all indications that PLA08-044 was completed and therefore the subject parcel is legal for land use purposes.

3. Surrounding uses are agricultural and residential. Lands north and east of the subject parcel are in the EFU zone and devoted to large scale agriculture, particularly of grass seed and hay. Lands directly to the south are in the SA (Special Agriculture) zone and in use for agriculture and rural homesites. On the other side of those SA zoned lands is a relatively dense neighborhood of AR (Acreage Residential) zoned parcels. To the west of the subject parcel is another parcel in agricultural use in conjunction with the subject parcel, and a parcel in rural residential use. Those parcels are bordered by Parrish Gap Rd SE, and west of Parrish Gap is the southeastern corner of a large (approximately 375-acre) AR zoned area devoted to rural residences and hobby farms. The lands to the north and east, devoted to agricultural purposes, are mostly devoid of trees, and east of Duckflat Rd SE is a significant area of wetlands (both natural and manmade). The lands to the west and south of the subject parcel, and specifically south of Pearson Rd and West of Parrish Gap, are relatively densely developed and densely treed lands.

4. The applicants are proposing to place a battery energy storage system (BESS) on a 15-acre area of the subject parcel to store electricity.
5. The subject parcel is comprised of approximately 63.5% high value soils. The proposed 15-acre project area is primarily sited upon class 2 Abiqua silty clay loam, class 2 McAlpin silty clay loam, and class 3 Waldo silty clay loam.
6. Various agencies replied for the request for comment regarding the application:

Marion County Building Department commented: “No Building Inspection concerns. Structural permit is not required as the energy storage facility is for utility purposes and not subject to the requirements of the 2022 OSSC. Separate electrical permit(s) is required to be obtained prior to development.”

Marion County Land Development, Engineering and Permits requested the following be included:

ENGINEERING REQUIREMENTS

- A. At the time of application for building permits an Access Permit will be required. In order to achieve maximum intersection sight distance, the access approach shall be situated as close to directly opposing the driveway serving #5288 Pearson Rd, as feasible, based upon preliminary field observation.
- B. Stormwater detention may be required upon 0.5-acres or more of development.
- C. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits.
- D. Utility work in the public right-of-way, such as electrical Point of Interconnection (POI) serving the facility, requires a separate PW Engineering permit.

Marion County Fire District No.1 commented regarding fire code requirements. These can be found in full in the case file.

Friends of Marion County provided comments on the proposal and specifically requested denial because a BESS is not a utility facility, is not necessary for public service, is not a commercial power generation facility, and because appropriate conditions have not been developed. The full comments from FOMC can be found in the case file. FOMC also submitted six exhibits:

- (1) Tax assessor information for Tax Account No. 535412
 - (2) 2025-2025 Property Tax Account No. 535412,
 - (3) The applicant's site plan
 - (4) A map of PGE substations located in Marion County,
 - (5) EFSC Meeting May 2, 2025 Agenda Item C Overview of Battery Energy Storage Systems
 - (6) The agenda review form for the June 11, 2025 Marion County Board of Commissioners session to discuss BESS, including a memo with proposed new code language that was subsequently adopted on July 9, 2025
- The FOMC exhibits can be found in full in the case file.

Oregon Department of Fish and Wildlife commented: “Prior to site development (grading, vegetation management), the applicant should complete grassland bird surveys. Disturbance to nesting grassland birds should be minimized by limiting these actions so that they occur outside of the breeding season (April 1 – July 15).”

Santiam Water Control District (SWCD) commented with concerns regarding adverse impacts on water quality from construction stormwater, adverse impacts on water quality from increased impervious surfaces, adverse impacts on water quality due to pollutants from the BESS operation, and adverse impacts on farm use. SWCD explains that the area proposed for the BESS has water rights that will need to be transferred. The property has a water pump that will be oversized for the reduced water right and without modification would dispense an illegal amount of water after the forfeiture of the existing water right. Therefore, SWCD will require an SWCD-approved method of measuring water use on the property.

SWCD suggests the following conditions of approval (paraphrased by staff) if the county were to approve the proposal:

- A. The applicant shall construct on-site stormwater detention facilities sufficient for a 50-year storm event.
- B. The applicant shall enter into a consent agreement with SWCD.
- C. The applicant shall provide environmental planning for review by the County and SWCD to ensure that no pollution from the proposed BESS enters the drainage ditch and/or SWCD facilities.
- D. The landowner shall deed its interest in the SWCD Water back to SWCD.
- E. The property owner shall amend its SWCD water delivery contract to exclude the 15-acres.
- F. The property owner shall install an SWCD-approved method of measuring water use on the property.

The entire comment submitted by SWCD is included in the case file.

Turner Fire District has reviewed this project and has the following comments.

1. Fire service features including fire apparatus access and fire protection water supplies are required to comply with the 2022 Oregon Fire Code (OFC). In order to assist applicants, design professionals, and developers, fire agencies throughout Marion County have provided the 2024 Marion County Fire Code Applications Guide (MCFCAG). The following links to the OFC and the MCFCAG are provided as follows.

- a. The 2022 Oregon Fire Code contains the currently adopted fire and life safety regulations for the State of Oregon. The full text of the OFC is available through the International Code Council's website at the following link: <https://codes.iccsafe.org/content/ORFC2022P1>
 - b. The 2024 Marion County Fire Code Applications Guide contains guidelines established by the fire agencies throughout Marion County to assist designers and applicants with how OFC requirements are to be applied to their projects. The following link to the 2024 MCFCAG is provided on the Turner Fire District website: Click the "Public Information" link at the bottom of the main page. Click the "Rural Access Standards" link. This opens the MCFCAG document which is located at the following link: [https://www.turnerfire.com/content/files/M_C%20App%20Guide%207-2024\(3\).pdf](https://www.turnerfire.com/content/files/M_C%20App%20Guide%207-2024(3).pdf)
2. OFC 505 Address identification signs shall be provided.
3. OFC 506 Key box(s) is/are to be installed in an approved location where access to or within a structure or an area is necessary for lifesaving or fire-fighting purposes when required by the fire code official. **NOTE:** TFD does not require key boxes. However, *if occupants choose* to secure property, facilities, structures, or areas in such a manner which will inhibit immediate fire access, key boxes if installed, shall be of a design approved by Turner Fire District.
4. OFC 509 Fire protection equipment, gas shutoff valves, electric meters, service switches, and other utility equipment shall be clearly identified, readily visible, and legibly marked in an approved manner. Rooms containing controls shall be identified for the use of the fire department. Signs shall be constructed of durable materials, permanently installed, and maintained.
5. OFC 1207 Electrical energy storage systems (ESS) shall be in accordance with OFC Chapter 12 and specifically section 1207.

All other commenting agencies either declined to comment or stated no objection to the proposal.

7. On April 15th, 2025, the Marion County Board of Commissioners held a work session to discuss Battery Energy Storage Systems (BESS). These systems are not expressly contemplated in county zoning code, state statute or state administrative rule. The Marion County Board of Commissioners determined that BESSs are not a "Utility Facility Necessary for Public Service" as found in MCC 17.137.040(I), and that furthermore there is no use identified in the MCC that a BESS could fall under. Therefore, BESSs are not permitted in any zone within Marion County. The board expressed a desire to clarify the applicability of existing code to this use and on May 14th, 2025, initiated a process to consider code amendments. On June 11th, 2025, the Board held a hearing to consider amendments to clarify existing code provisions related to BESSs in the Marion County Urban and Rural Zone Codes (MCC) chapters 16 and 17.

The Marion County Board of Commissioners signed Ordinance 1480 on July 9th, 2025, in order to add clarifying sections of text in chapters 16 and 17 of the MCC that outright prohibit BESSs. These sections of code were added for clarification only, because BESSs were not permitted under any section of code prior to July 9th, 2025.

The applicant was made aware of the County's determination but still chose to apply for an administrative review to construct a BESS under the erroneous classification of a utility facility necessary for public service. There is no way to approve a BESS in Marion County and therefore the application must be denied.

8. While a BESS is not a utility facility necessary for public service, the applicant's statements regarding the approval criteria for a utility facility necessary for public service are addressed below:

MCC 17.137.040(I.) Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the EFU zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors as found in OAR 660-033-0130(16):

1. *Technical and engineering feasibility;*

The applicant did not provide any evidence to suggest that the proposed location is related to the technical or engineering feasibility of the proposal beyond being adjacent to a substation. The applicant references options for varying design of the facility in other sections of this application that suggest the project has not been

planned in detail. Without actual plans for construction of the BESS, there can be no conclusion about the technical and/or engineering feasibility of the proposal on any lands, let alone an proposed requirement to site the facility on high value farmland in the EFU zone. As addressed below, the applicant mentions risk of fire but does not address in detail how that risk will be mitigated. The risk of fire itself carries a cascading list of associated environmental and health impacts. As a result of a lithium fire there would be release of toxic chemicals into the air, soil and water, potential injury to first responders and citizens in the area such as respiratory issues, skin irritation, and long-term health issues. Beyond the safety issues are the environmental dangers posed by mass release of chemicals in the event of a failure of any of the batteries on site. The applicant does not address any of the technical details of these potential risks or how those risks could be mitigated. The applicant does not provide any evidence towards the feasibility of the proposed BESS to be engineered so as to mitigate the dangers inherent with BESSs. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

2. *The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*

The applicant suggests that other substations in the area would not meet the technical and engineering feasibility criterion because they would require upgrades to the networks, capacity, or new long transmission lines. The applicant states that other locations were not suitable specifically due to requiring new overhead transmission line installation for compatibility. The applicant did not provide any evidence to support the assertion that they examined other locations in the county for compatibility with the project. The location proposed poses dangers to surrounding farmland due to soil contamination, groundwater contamination, and chemical leakage. The applicant did not provide any information about potential emergency response at the proposed location. The applicant specifically proposes an intensive use on EFU land in a rural area instead of in an urban area adjacent to one of many substations within cities in Marion County where such a use would be potentially more appropriate from an environmental and emergency response standpoint. The applicant suggests prolonging the life of the facility beyond the average 20-25 years for a BESS by frequent replacement of parts. Decommissioning requires collection of hazardous materials, and the applicant does not explain how decommissioning of the facility could be performed. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

3. *Lack of available urban and nonresource lands;*

The applicant states that there are no other lands “in proximity to the Parrish Gap Substation”. A BESS requires a substation, but not the Parrish Gap Substation specifically. The map of substations submitted by FOMC shows that there are many substations in Marion County on urban and nonresource lands. The applicant did not provide information to suggest that other potential siting locations on urban or nonresource lands were considered for the proposed BESS. Evidence on the record does not support the assertion that the proposed location is due to the lack of available urban and nonresource lands. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

4. *Availability of existing right-of-way;*

The proposal is for a facility that would not be appropriate to cite within a right-of-way. The proposed BESS is not a utility facility necessary for public service, but if it was, this criterion would not apply.

5. *Public health and safety; and*

The applicant states they will comply with all local building and fire codes and that the facility does not produce any emissions or discharges. The applicant states that appropriate signage will be placed on the high voltage substation equipment. The applicant states that BESS Staff will be trained in fire prevention and fire department notification policies, furthermore staff will be required to follow those policies. The applicant does not describe the number of staff present, what hours they will be present, or what their non-emergency responsibilities will be. The applicant does not explain what the policies or procedures for these staff will be. The staff for BESSs after initial construction are generally only on site for routine inspections and maintenance, not around the clock supervision of the system.

The applicant states that prior to construction they will consult with relevant first responders to ensure there are suitable procedures in place in the event of a fire or other emergency, and the resources to provide training and demonstrations relevant to handling a fire or other emergency at the BESS facility. There is no indication that the applicant consulted with the Turner Fire District prior to applying to discuss the proposal and what may be required by the fire department. The applicant did not provide explanation of what these procedures

would be, nor if they have existing training resources. The applicant does not explain what specialized equipment for fighting battery fires at a BESS may be necessary. No emergency response plan was provided with the application.

Under the “Fire Safety” section of the application, the applicant states that there will be fire extinguishers at strategic locations throughout the 15-acre Battery Energy Storage System. Electrical Energy Storage Systems are subject to Oregon Fire Code (OFC 2022) section 1207, the applicant did not provide evidence that the proposal could or would comply with the requirements of that section.

The Marion County Board of Commissioners has determined that BESSs are not accounted for within Marion County Code and are therefore not permitted under any circumstances. The Board simultaneously directed Planning Department staff to begin working with industry leaders to develop standards for BESS so that they may be permitted in the future subject to standards that mitigate potential adverse impacts. The applicant was informed of this process and chose to apply prior to the development of any standards. The applicant has not provided significant evidence to suggest that their proposal will not impact public health or create a significant safety hazard within the county. The applicant had access to the public record of concerns discussed at the public hearing regarding BESSs. These concerns include significant inherent risks and potential impacts that result from establishment of a BESS.

Perhaps the most serious risk is the potential for thermal runaway resulting in lithium fires and explosions of the batteries themselves. These kinds of fires are extremely dangerous and difficult to extinguish. They can result in injury to first responders both in the short term due to unpredictable velocity of fluctuating temperatures when responders enter the facility, and in the long term due to health issues resulting from the release of toxic aerial chemicals that may cause respiratory issues and skin damage.

After a BESS fire is extinguished, there is still significant long-term risk to the health of people living in the area, and environmental hazards. The chemicals required for fire suppression of a large scale lithium fire can runoff into the surrounding soils, groundwater, and streams across the subject parcel. The chemical leakage of the damaged batteries themselves can result in hazardous material soaking into the soil and groundwater. At this location, due to the intermittent and perennial streams that flow through the proposed facility, this chemical leakage could directly pollute water bodies. Those streams flow into canals utilized by Santiam Water Control District to provide water to farms in the area.

Contamination of the groundwater and the streams on the subject parcel may result in a loss of water supply required by farmers in the area to successfully grow crops, and the groundwater supply depended upon for drinking water. Consumption of heavy metals and harmful materials that may leak from the BESS into the water supply could cause long term health issues for individuals living in the area.

During the eventual decommissioning of the facility in 20 to 25 years, there will be more risk of hazardous materials being released from metal in the batteries and chemical leakage into the soil, groundwater, and adjacent streams. If failing batteries are removed, these hazards will simply be moved to a different site. The applicant did not explain a plan for disposal of the batteries.

The risks to the residents, farming operations, and environment in the immediate area are significant. These risks carry associated costs for cleanup in the cases of fire, explosion, failing/leaking batteries, and eventual decommissioning. In the case of an emergency at the BESS, several forms costly damage on the surrounding area may be incurred. Crops may be destroyed. The soil may require capping if significantly contaminated. Farmland may be permanently lost. Water sources may be contaminated. The ecosystem may be permanently degraded. All of these potential side effects could create significant financial burden on property owners in the area. The applicant did not address any of these risks, or suggest how Remington BESS LLC could or would pay for any of the damages to property owners and residents that may result from the dangers of their proposed BESS.

In the case of an emergency at the BESS, temporary evacuation of nearby residents may be required. Neighbors would need somewhere to evacuate to, whether that be a temporary shelter or hotels in the area. An appropriate plan would provide details in the event of an evacuation and give property owners the chance to review and provide comments on the plan during the land use process. The applicant did not provide any evacuation plan.

The public health and safety concerns regarding BESSs are significant and the potential adverse impacts to agriculture and the environment resulting from BESSs are equally significant. The necessity for mitigation of the risks imposed by these facilities is one reason the county is prohibiting BESSs until specific standards can be developed. The applicant did not provide any significant evidence that the proposed BESS will not create

significant hazards to public health and safety. If it were possible to approve this application, it would circumvent the standards that may be implemented by the county to ensure the safe development of BESSs in the future. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

6. Other requirements of state and federal agencies.

- a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.*

The applicant states that cost was only one of the factors analyzed when selecting this location. The applicant did not provide analysis of any other factors. The evidence on the record suggests that cost is the sole deciding factor when selecting this location. This location has existing overhead transmission lines. The applicant states that they analyzed other locations near substations in the surrounding area, but all those stations would require upgrades such as installation of overhead transmission lines. The upgrades to a location are costs associated with that location. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

- b. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.*

The applicant states that they will comply with this section of code when the useful life of the facility is realized. They did not provide any plan for decommissioning and restoration, and furthermore have not provided any evidence that it is possible to restore the project site to agricultural use after developing it with a BESS. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not meet this criterion.

- c. The applicant shall address the requirements of MCC 17.136.060(A)(1).*

MCC 17.136.060(A)(1) contains the criteria for the farm impacts test in the EFU zone. The farm impacts test has been recently updated by the Department of Land Conservation and Development to accurately represent case law.

- 1. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.*

For purposes of this section, a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

- A. Identification and description of the surrounding lands, the farm and forest operations on those lands and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;*
- B. An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices. This assessment applies practice by practice and farm by farm; and*
- C. An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.*
- D. For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.*

E. For purposes of this section, potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under this section.

F. In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in this section.

The applicant addressed the farm impacts test by stating that the project will not result in any discharges or emissions to the environment, and that they are committed to environmentally responsible development. The applicant went on the state that if the county requires them to determine environmental monitoring and mitigation plans, then they would be willing to do so sometime in the future. The applicant provided no information about how the environmental monitoring could be conducted or what mitigation plans would entail. The applicant provided no detailed information about the environmental impacts of covering 15 acres with lithium batteries.

The applicant did not provide a detailed description of the surrounding lands or agricultural activities. The applicant did not provide any information about how the BESS might impact the surrounding agricultural activities. The limited evidence on the record does not support the claim that the project will neither result in change in, or significantly increase the cost of, farm activities in the area. The proposed BESS is not a utility facility necessary for public service, but if it was, the proposal would not pass the farm impacts test as required by this criterion.

d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

f. If the criteria contained in this subsection (I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:

i. "Consult" means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.

ii. "Transmission line" means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

No sewer system is proposed. The proposed facility is not a natural gas pipeline or transmission line. The proposed BESS is not a utility facility necessary for public service, but if it was, the above criteria d, e, & f would not apply.

18. Battery Energy Storage Systems are not an identified use in any zone in Marion County Code. The applicant applied for this BESS as if it were a utility facility necessary for public service, but BESSs are not utility facilities necessary for public service. If a BESS could be approved as a utility facility necessary for public service, this proposal would be unable to satisfy the applicable criteria. The application is **DENIED**.

Brandon Reich
Planning Director/Zoning Administrator

Date: August 1st, 2025

If you have any questions regarding this decision contact John Speckman at (503) 588-5038

Notice to Mortgagee, Lienholder, Vendor or Seller: ORS Chapter 215 requires that if you receive this Notice, it must promptly be forwarded to the purchaser.

