

COUNCIL MINUTES

October 6, 2025

The City Council of the City of Mesa met in the Study Session room at City Hall, 20 East Main Street, on October 6, 2025, at 4:15 p.m.

COUNCIL PRESENT

Mark Freeman
Scott Somers
Rich Adams
Jennifer Duff
Alicia Goforth
Francisco Heredia
Julie Spilsbury

COUNCIL ABSENT

None

OFFICERS PRESENT

Scott Butler
Holly Moseley
Jim Smith

Mayor Freeman conducted a roll call.

1. Review and discuss items on the agenda for the October 6, 2025, Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items removed from the consent agenda: None

City Manager Scott Butler advised that Item 3-e, **(A restaurant that serves lunch and dinner is requesting a new Series 12 restaurant license, Jung N. Kim, Sole Proprietor, Jung N. Kim 2650 E. University Drive, Suite 107 – Jung N. Kim, Agent. There is no existing license at this location. (District 1))**, on the Regular Council meeting agenda, will remain on the consent agenda for denial, as the applicant did not amend, adjust, or withdraw their application.

2. Convene an Executive Session.

It was moved by Councilmember Adams, seconded by Councilmember Duff, that the Council adjourn the Study Session at 4:18 p.m. and enter into an Executive Session.

Upon tabulation of votes, it showed:

AYES – Freeman–Somers–Adams–Duff–Goforth–Heredia–Spilsbury

NAYS – None

Carried unanimously.

- 2-a. Discussion or consultation for legal advice with the City Attorney. (A.R.S. §38-431.03(A)(3)) Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position in pending or contemplated litigation. (A.R.S. §38-431.03(A)(4)).

Zoning Administrator interpretation regarding the land use classification for battery energy storage systems and proposed amendments to Chapter 36 of Title 11 of the Mesa City Code regarding legal nonconforming and legal procedurally conforming.

3. Reconvene the public meeting.

(At 5:07 p.m., the Executive Session adjourned, and the Study Session reconvened.)

- 4a. Hear a presentation, discuss, and provide direction on proposed amendments to Chapter 36 of Title 11 of the Mesa City Code pertaining to legal nonconforming uses, lots/parcels, structures, and sites, and legal procedurally conforming uses and structures.

Planning Director Mary Kopaskie-Brown introduced Development Services Director Nana Appiah and displayed a PowerPoint presentation. **(See Attachment 1)**

Ms. Kopaskie-Brown provided an overview of the Battery Energy Storage System (BESS) and the proposed Mesa Zoning Ordinance amendments for nonconforming and conforming uses to simplify staff administration. She noted that new definitions are added to clarify legal nonconforming uses, lots, parcels, structures and sites. (See Pages 2 through 6 of Attachment 1)

Ms. Kopaskie-Brown discussed how the proposed text amendments for the development standards and substation screening will impact the BESS project. (See Pages 7 and 8 of Attachment 1)

In response to a question from Councilmember Spilsbury, Ms. Kopaskie-Brown replied that the proposed text amendment raises the allowable reconstruction or restoration cost of a destroyed building to 75% of its rebuilding cost.

Principal Planner Evan Balmer added that, under the current code, if a nonconforming structure is damaged and the cost to repair exceeds 50% of the value as defined by the code, the structure must then be brought into conformance with current code requirements. He stated that the proposed amendment seeks to increase the repair threshold from 50% to 75% and he confirmed the percentage relates to the cost of the repair, not the coverage or the square footage of the building.

Responding to a question from Councilmember Adams, Ms. Kopaskie-Brown explained that the increase to the 75% repair cost threshold is intended to help bring nonconforming structures into compliance with the zoning code, with a goal of providing flexibility for existing businesses. She affirmed that the percentage is not based on any formula but based on the best professional judgment.

- 4-b. Hear a presentation, discuss, and provide direction on the regulation of battery energy storage systems, including potential future amendments to the building, fire, and zoning regulations of the Mesa City Code.

Planning Director Mary Kopaskie-Brown introduced Development Services Director Nana Appiah and displayed a PowerPoint presentation. **(See Attachment 2)**

Ms. Kopaskie-Brown provided background information on the BESS project. She explained the proposed amendments for BESS and BESS facilities, additional application requirements, and the development standards. (See Pages 2 through 6 of Attachment 2)

In response to multiple questions posed by Councilmember Spilsbury, Ms. Kopaskie-Brown explained a decommissioning plan applies when an entire site ceases operating as a BESS facility. She noted that then an augmentation plan will be prepared, which outlines how batteries will be replaced or phased in over time as their ability to hold energy diminishes. She added that the emergency response plan, decommissioning plan, augmentation plan, and compliance statement will all be part of the fire code. She emphasized that the zoning ordinance requires preliminary versions of these documents so the Fire Department can review them early in the process and ensure that any safety concerns are addressed during site development.

Responding to a question from Councilmember Adams, Ms. Kopaskie-Brown replied that the City is developing zoning and fire code standards for BESS facilities.

Mr. Appiah added that the City is reviewing the International Building Code (IBC), exploring options and comparing other jurisdictions, engaging in the public participation process, and will determine if a decommissioning bond is needed. He commented that a study session with the Council is planned later this month to provide more concrete information.

Ms. Kopaskie-Brown discussed the requirement for an initial sound study would be similar to those conducted for data centers to establish baseline levels for the nearest residential district to ensure that sensitive receptors are not adversely impacted. (See Page 6 of Attachment 2)

Ms. Kopaskie-Brown outlined the proposed development standards and explained that the fire code separation distance requirements are as follows: 100 feet from the property line to the first battery on site; 400 feet from the property line to sensitive receptors; 500 feet from the closest battery to sensitive receptors; and 150 feet from commercial and industrial building. (See Page 7 of Attachment 2)

Ms. Kopaskie-Brown highlighted the amendments related to substation screening, which will reflect language from the data centers, as well as the operational requirements. She provided an overview of the amendments to the fire code for BESS equipment locations, fire access, and permit requirements. (See Pages 8 through 10 of Attachment 2)

In response to a question from Councilmember Duff, Ms. Kopaskie-Brown answered that the BESS systems range in size from 8 to 10 feet in height and are similar in size to a portable storage container.

Responding to multiple questions posed by Vice Mayor Somers, Ms. Kopaskie-Brown mentioned that there are different screening requirements for substations and provided visual examples. (See Page 13 of Attachment 2)

Discussion ensued regarding BESS facility screening requirements, ambient noise level, mitigation measures, and the standards of other jurisdictions.

Mayor Freeman advised that at the request of Vice Mayor Somers, agenda Item No. 9-a, **(Proposed amendments to Chapter 36 of Title 11 of the Mesa City Code pertaining to legal nonconforming uses, lots/parcels, structures, and sites, and legal procedurally conforming uses and structures. The amendments repeal in its entirety Chapter 36 - Nonconforming Uses, Structures, and Lots and adopt a new "Chapter 36 - Nonconforming and Procedurally Conforming." (Citywide))**, on the Regular Council agenda, will be placed on the consent agenda.

Mayor Freeman thanked staff for the presentation.

5. Acknowledge receipt of minutes of various boards and committees.

5-a. Board of Adjustment meeting held on August 6, 2025.

5-b. Design Review Board meeting held on August 12, 2025.

It was moved by Councilmember Spilsbury, seconded by Vice Mayor Somers, that receipt of the above-listed minutes be acknowledged.

Upon tabulation of votes, it showed:

AYES – Freeman–Somers–Adams–Duff–Goforth–Heredia–Spilsbury

NAYS – None

Carried unanimously.

6. Current events summary including meetings and conferences attended.

Mayor Freeman and Councilmembers highlighted the events, meetings, and conferences recently attended.

7. Scheduling of meetings.

City Manager Scott Butler stated that the schedule of meetings is as follows:

Thursday, October 9, 2025, 7:30 a.m. – Study Session

8. Adjournment.

Without objection, the Study Session adjourned at 5:50 p.m.

MARK FREEMAN, MAYOR

ATTEST:

HOLLY MOSELEY, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 6th day of October 2025. I further certify that the meeting was duly called and held and that a quorum was present.

HOLLY MOSELEY, CITY CLERK

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(Attachments – 2)

City Council

October 6, 2025



Nonconforming and Procedurally Conforming Text Amendments

Rachel Phillips

Assistant Planning Director



mesa·az
PLANNING

Text Amendment Overview

- Chapter restructured based on nonconformities for easier administration
- Add new definitions:
 - Legal Nonconforming Uses
 - Legal Nonconforming Structures
 - Legal Nonconforming Lots
 - Legal Nonconforming Sites or Parcels
- Existing definitions do not specify the conditions (e.g., setbacks, density, lack of required approvals etc.) that make each (i.e., use, lot, structure) nonconforming
- Do not distinguish between legal and illegal nonconformities

Proposed Text Amendments

- Repealing Chapter 36 - Nonconforming Uses, Structures, and Lots
- Replacing it with a new Chapter 36 - Nonconforming and Procedurally Conforming
- Modernizing, simplifying, and clarifying regulations related to legal nonconforming uses, lots or parcels, structures, and sites
- Adding regulations for legal procedurally conforming uses and structures

Proposed Text Amendments

- Clarify regulations for partially destroyed Legal Nonconforming Structures
- Cannot be reconstructed or restored if cost exceeds 75% of the cost to rebuild the entire structure
- Add provisions for Legal Nonconforming Sites
 - Previously not addressed
 - Mirror Current practices and other provisions of the MZO
 - Allow modifications through a Substantial Conformance Improvement Permit (SCIP) that conform with development standards and bring the site into further conformance



Proposed Text Amendments

- MZO does not address nonconformities resulting from a Zoning Administrator Interpretation
- Add definitions and regulations for Legal Procedurally Conforming Uses and Legal Procedurally Conforming Structures
 - Project that received zoning entitlements and buildings permits
 - Use was later determined by the Zoning Administrator to not be within any land use classification
 - Use determined to be prohibited
 - Regulations mirror those for Legal Nonconforming Uses and Structures
- Except use can be completely rebuilt if destroyed

Relationship to BESS Project

- Effect of Interpretation on the first BESS project:
 - Made the project a nonconformity under Chapter 36
 - Prior to the Interpretation, the project received site plan approval and a construction permit
 - The project is currently being built in compliance with City-issued approvals and permits
 - Limitations on ability to rebuild project if destroyed—created financing issues for developer

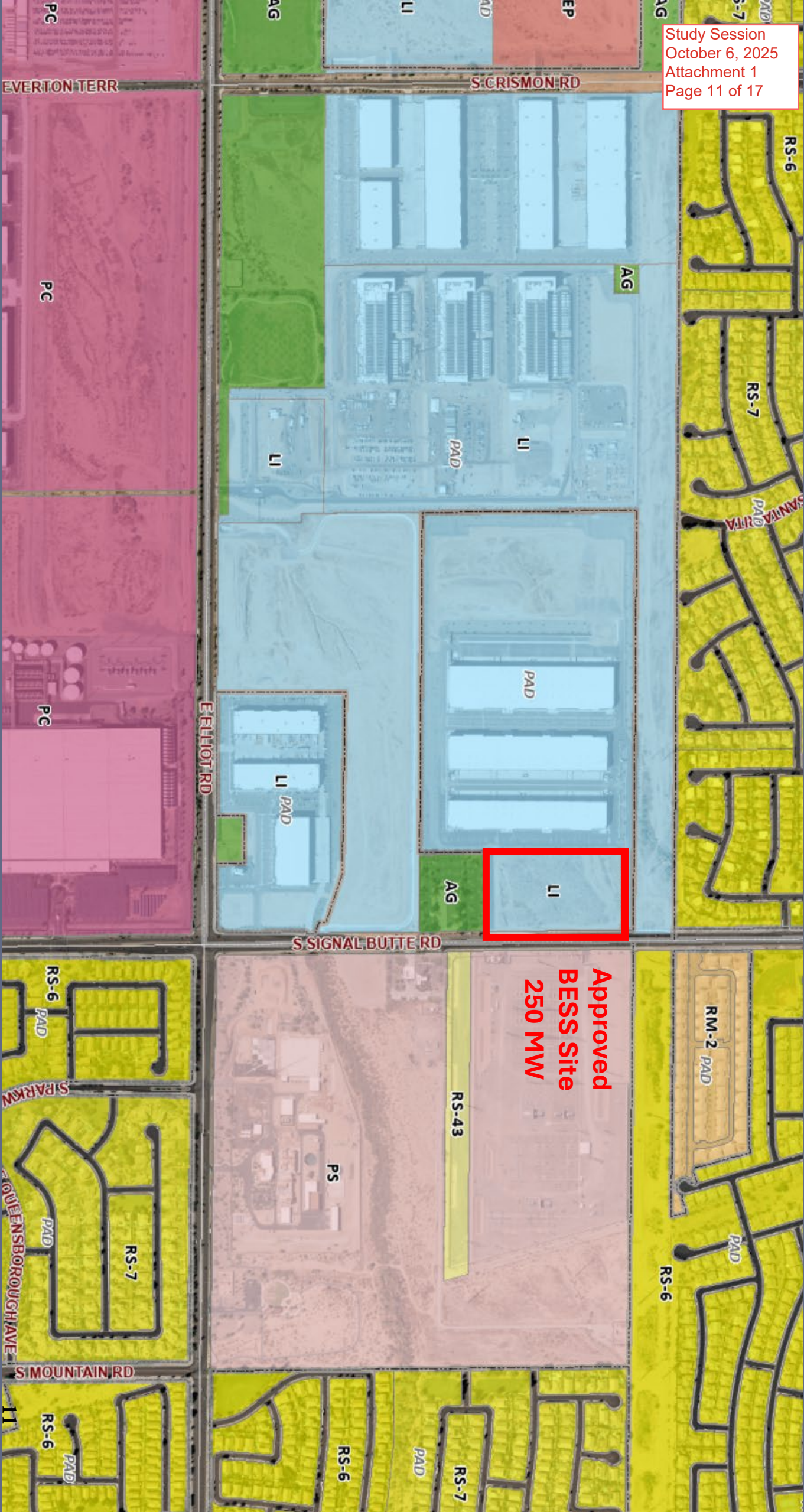
Relationship to BESS Project

- How this ordinance resolves the issue:
 - First BESS project will be considered “Legal Procedurally Conforming” Use and Structure
 - Can rebuild if destroyed - but cannot expand
 - Ensures use is legal, can be built and operated in compliance with any City-issued approvals and permits that were issued prior to Interpretation
- Ordinance gives Council the flexibility to determine in the future that certain uses and structures are “legal procedurally conforming” via ordinance
 - Modified version of ordinance being introduced that does not include this language

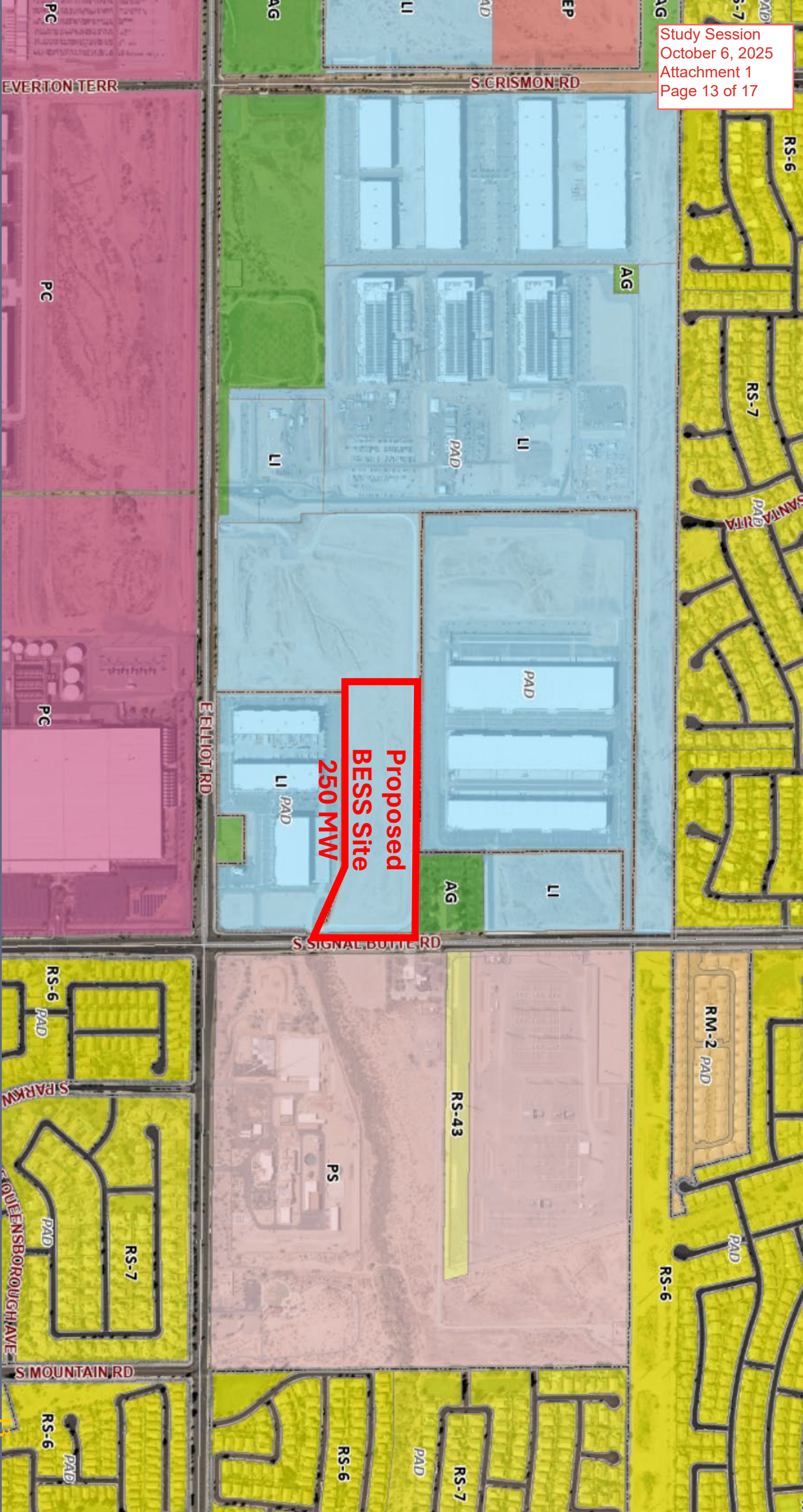
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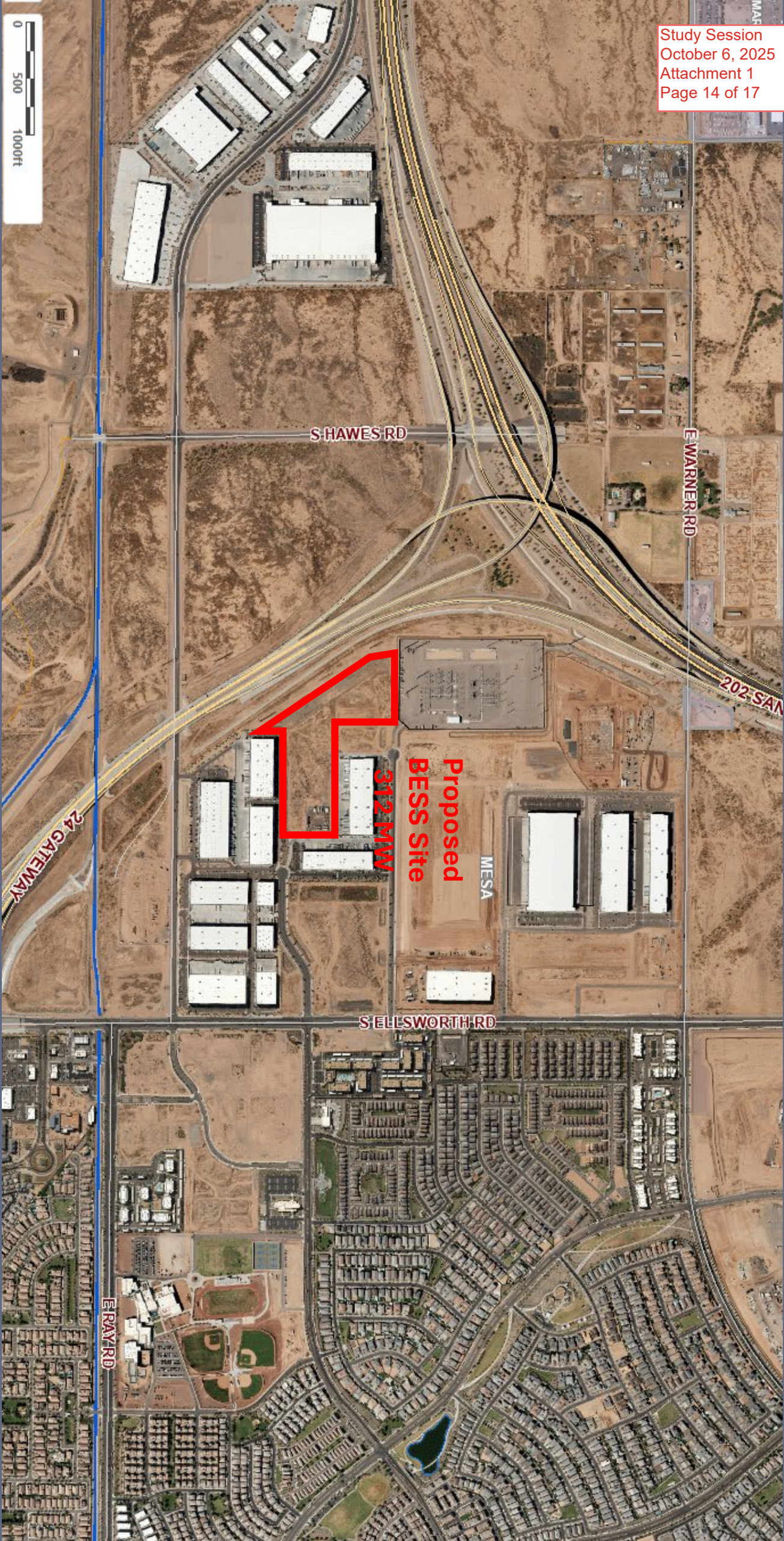


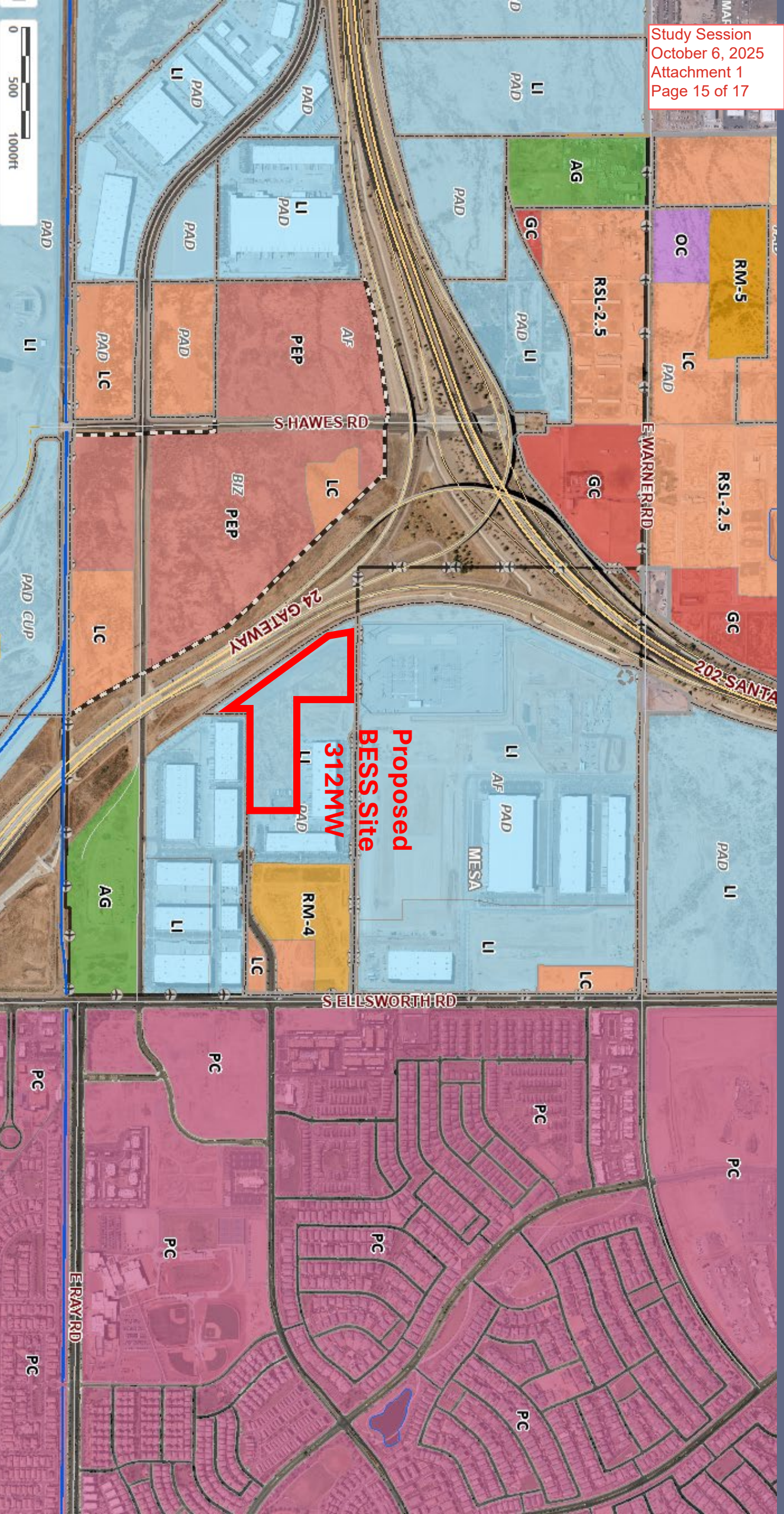












**Proposed
BESS Site
312MW**

Relationship to BESS Project Timeline

- December 12, 2022: City received its first ever application for a battery energy storage system (BESS) project (located at 3246 S. Signal Butte)
- August 6, 2024: The first BESS project received Administrative Site Plan Approval (classified as a minor utility)
- October 7, 2024 and March 4, 2025: City received pre-submittal applications for second and third BESS projects (still under review, no formal applications submitted yet)

Relationship to BESS Project Timeline

- May 15, 2025: The first BESS project received its construction permit (is currently being built)
- May 28, 2025: Zoning Administrator Interpretation determined BESS is not within any land use classification in the Zoning Ordinance and is prohibited in every zoning district
 - Interpretation contemplated presenting future ordinance to Council to regulate BESS, including location requirements and mitigation of risks to health and safety
 - Until such ordinance is adopted, BESS is prohibited in Mesa
 - Staff intends to present the BESS Ordinance to City Council in December; if adopted, the ordinance would replace the Interpretation

Battery Energy Storage Systems (BESS)

City Council Study Session
October 6, 2025

Mary Kopaskie-Brown, Planning Director
John Shefter, Building Official

Shawn Alexander, Fire Marshal
Rachel Phillips, Assistant Planning Director



Background

- Battery Energy Storage System (BESS) and BESS Facilities are not defined uses within the Mesa Zoning Ordinance (MZO)
- BESS are electrochemical devices that:
 - Charge or collect energy from the grid or generation facility
 - Store that energy so that it can be discharged later
 - Provide electricity or other grid services
- BESS includes battery cells; thermal, battery, and energy management systems; inverters; and related control and safety components
- BESS Facilities are the physical sites that store BESS and all associated equipment and infrastructure

Background

- BESS and BESS Facilities are an emerging and increasingly prominent land use
 - Provide grid stability by storing excess power for use during peak demand periods, outages, or emergencies
- They have unique public health and safety considerations, including but not limited to:
 - Fire and explosion risk
 - Electric shock hazard
 - Environmental impacts if improperly managed or disposed of
 - Emergency response challenges



Purpose

- City of Mesa's Planning Division, Building Division, Fire & Medical, and Energy Resources Department are proposing Zoning and Fire Code amendments to:
 - Mitigate potential health, safety, and environmental impacts
 - Ensure land use compatibility and appropriate siting of BESS and BESS Facilities
 - Ensure high-quality design and address visual impacts
 - Support electric capacity and economic development in the city

Proposed MZO Amendments

- Create land use definitions for BESS and BESS Facility
- Establish criteria for BESS and BESS Facility as either a principal or accessory use:
 - Principal Use - Nameplate capacity $\geq 1,000$ kilowatts
 - Accessory Use - Nameplate capacity $\leq 1,000$ kilowatts and exclusively serves the subject property
- Principal use permitted in the GI and HI Districts with approval of a Planned Area Development (PAD) Overlay District
 - Must comply with all BESS and BESS Facility standards
- Accessory use permitted in Agricultural, Residential, Commercial, Employment, and Downtown Districts
 - Does not have to comply with BESS and BESS Facilities standards

Proposed MZO Amendments

Additional Application Requirements

- Operational Plan which includes:
 - Compliance Statement - evidence of compliance with all applicable zoning, building, fire, and federal, state and local environmental laws
 - Preliminary Emergency Response Plan - procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions
 - Preliminary Decommissioning Plan - steps required for the complete physical removal of all BESS components
- Good Neighbor Policy - compliant response procedures
- Initial Sound Study - establish baseline levels at nearest residential zoning district, residential use, church, park, school, or other sensitive use

Proposed MZO Amendments

Development Standards

- Separation Requirements
 - 400 ft. from residential zoning district and uses, churches, parks, school, and other sensitive uses
 - 150 ft. from commercial or industrial buildings
- Underground Utilities – if deemed necessary by the Development Services Department or the utility provider
- Site Screening
 - 1-ft above tallest piece of equipment
 - Opaque wall or fence with high quality materials
 - Articulated every 40 ft. with an offset or landscape pocket



Proposed MZO Amendments

- Substation Screening
 - 1-ft above the tallest piece of ground-mounted equipment
 - Opaque wall that matches the site wall
 - When 10-ft. tall or less - articulated every 40 ft. with an offset or landscape pocket
 - When greater than 10-ft. tall, consist of:
 - A 10-ft. masonry wall that matches the site wall; and
 - A decorate louvre, slated, or perforated upper screen, no more than 75% opaque, mounted on the masonry wall
 - When located internal to the site
 - Combination of 10-ft. masonry wall and louvres, slats, etc.; or
 - Fully decorate louvre, slated, or perforated screen

Proposed MZO Amendments

Operational Requirements

- On-Going Sound Studies
 - Within 30-days of receiving a Certificate of Occupancy
 - Annual Sound Study for 5 years thereafter
- Ownership or Operator Changes
 - Must notify the Development Services Department within 30 days
 - Approval remains in effect – new owner/operator assume all obligations
- Augmentation permitted if it complies with the approved Site Plan and Phasing Plan
 - Site Plan Modification or modification to phasing plan follows procedures in Ch. 69: Site Plan Review
 - Increase in Nameplate Capacity requires City Council approval

Proposed Fire Code Amendments

- BESS Equipment Location
 - Minimum 100 ft. from internal property lines
 - buildings, public ways, and other hazards
- Fire Access
 - Battery arrays: Maximum 300 ft. in length or depth
 - Arrays over 150 ft. in length or depth: 26 ft. access road on one side
 - 10 ft. between each BESS
- Permit Requirements
 - Augmentation Plan
 - Decommissioning Plan

Questions?





