



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Consent Agenda Item No. 1 October 26, 2023

**SUBJECT:** Unclassified Conditional Use Permit No. 3679 – First One-Year Time Extension

Grant a first one-year time extension to exercise Unclassified Conditional Use Permit No. 3679 which allows the construction of a dairy digester facility and allow connection to an existing pipeline to deliver renewable natural gas. The dairy digester facility will be located on a 613.07-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The pipeline will span approximately 2 miles west of the dairy digester facility to connect with an existing California Energy Exchange pipeline.

**LOCATION:** The project site is located on the north side of W. Kamm Avenue and is approximately 2.01 miles west of its nearest intersection with S. Jameson Avenue and is approximately 8 miles southeast of the City of San Joaquin (APN: 041-060-60S, 041-060-23S, 040-090-05S) (12840 W. Kamm Avenue) (Sup. Dist. 4).

**OWNER:** Stephen Maddox

**APPLICANT:** WTE Riverdale, LLC.

**STAFF CONTACT:** Alyce Alvarez, Planner  
(559) 600-9669

David Randall, Senior Planner  
(559) 600-4052

### RECOMMENDATION:

- Approve a first one-year Time Extension for Unclassified Conditional Use Permit No. 3679; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Planning Commission Resolution dated May 20, 2021
5. Applicant's correspondence requesting a one-year Time Extension

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

A Mitigated Negative Declaration (MND) prepared for Initial Study No. 7872 was adopted by the Board of Supervisors in accordance with the California Environmental Quality Act (CEQA) with approval of Conditional Use Permit No. 3679 on May 20, 2021.

According to Section 15162(a) of the CEQA Guidelines, when an MND is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous MND due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted, shows either of the following: (A) the project will have one or more significant effects not discussed in the previous MND; or (B) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.

This Time Extension request does not propose changes to the approved project, nor is there evidence of the circumstances noted in Conditions 1, 2 or 3 above. Therefore, a subsequent/ supplemental environmental document is not required.

**PUBLIC NOTICE:**

Notices were sent to 15 property owners within 5280 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PUBLIC COMMENT:**

No public comment was received as of the date of preparation of this report.

## **PROCEDURAL CONSIDERATIONS:**

The Fresno County Zoning Ordinance requires that a Conditional Use Permit shall become void when substantial development has not occurred within two (2) years after approval of the Permit. The Zoning Ordinance authorizes the Planning Commission to grant a maximum of four (4) one (1)-year Time Extensions when it can be demonstrated that circumstances beyond the control of the Applicant have caused delays which do not permit compliance with the original time limitation. The request for extension must be filed prior to the expiration of the Conditional Use Permit. The decision of the Planning Commission regarding an Unclassified Conditional Use Permit Time Extension is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

## **BACKGROUND INFORMATION:**

Conditional Use Permit No. 3679 was approved by the Planning Commission on May 20, 2021.

The Applicant filed the subject time extension request on June 19, 2023. If this first-time extension request is granted, the Applicant will have until May 20, 2024, to achieve substantial development.

## **ANALYSIS/DISCUSSION:**

Approval of a time extension request for a Conditional Use Permit is appropriate if circumstances beyond the control of the Applicant have caused delays which do not permit compliance within the two-year time limit established by the Zoning Ordinance. It should be noted that the Planning Commission's jurisdiction in evaluating this request is limited to determining whether or not the Applicant should be granted an additional year to exercise the Conditional Use Permit as approved.

According to the Applicant's letter describing the Time Extension request (Exhibit 5), the Applicant needs additional time as project has run into various delays such as COVID19, supply chain issues, support personnel and commercial matters.

This Time Extension application was routed to the same agencies that reviewed Conditional Use Permit Application No. 3679 in June of 2020. None of those agencies identified any change in circumstances, or the need for additional conditions, or expressed any concerns with the proposed extension of time.

## **SUMMARY CONCLUSION:**

The first one-year Time Extension for Conditional Use Permit No. 3679 should be approved, based on the factors cited in the analysis above. Approval of this Time Extension will extend the expiration date to May 20, 2024.

## **PLANNING COMMISSION MOTIONS:**

### **Recommended Motion** (Approval Action)

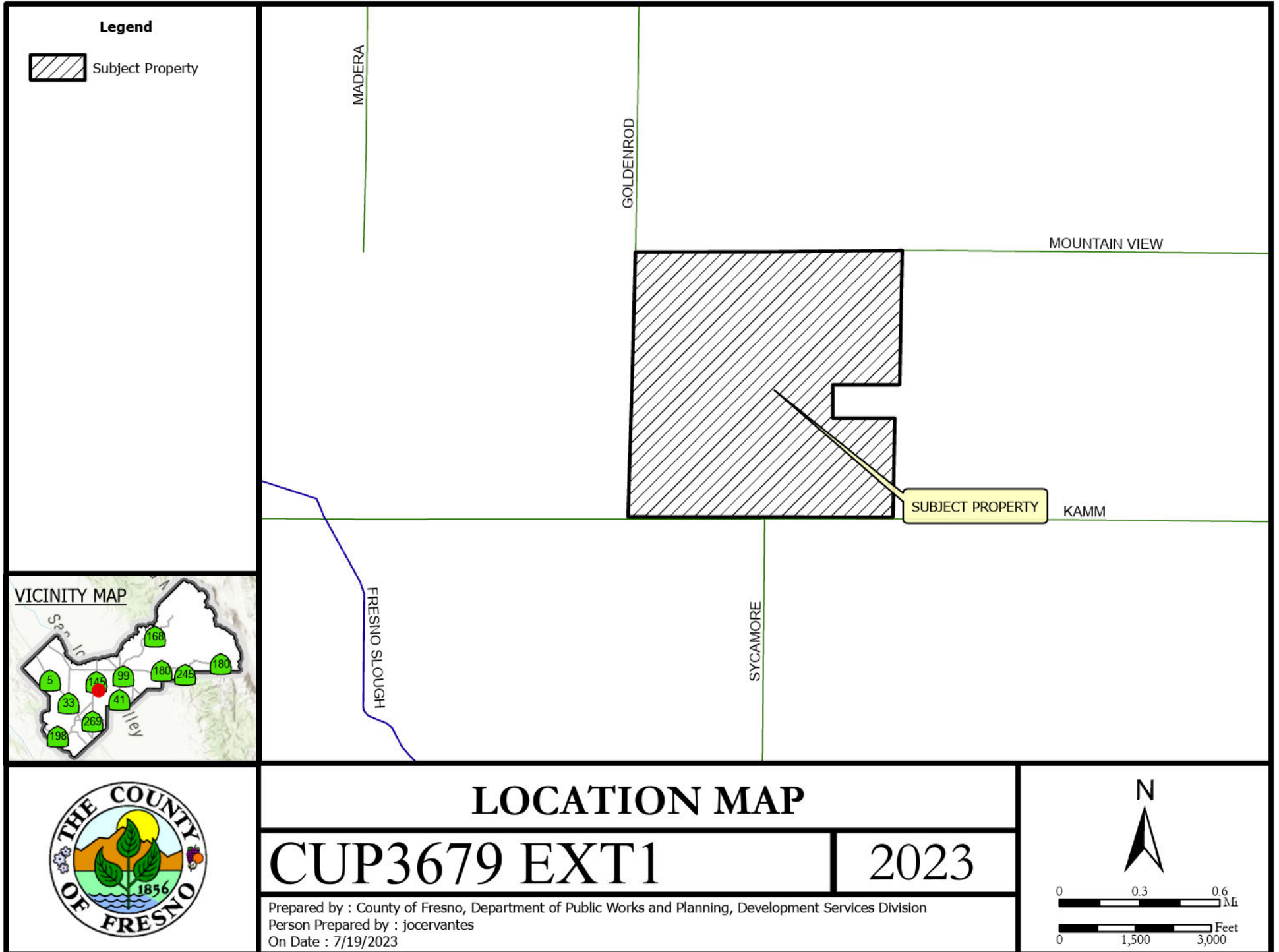
- Move to approve the first one-year Time Extension for Conditional Use Permit No. 3679; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

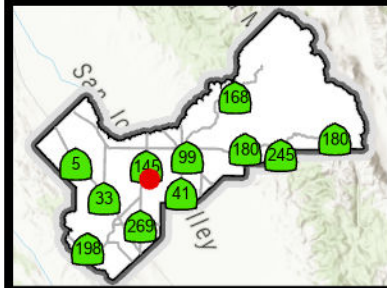
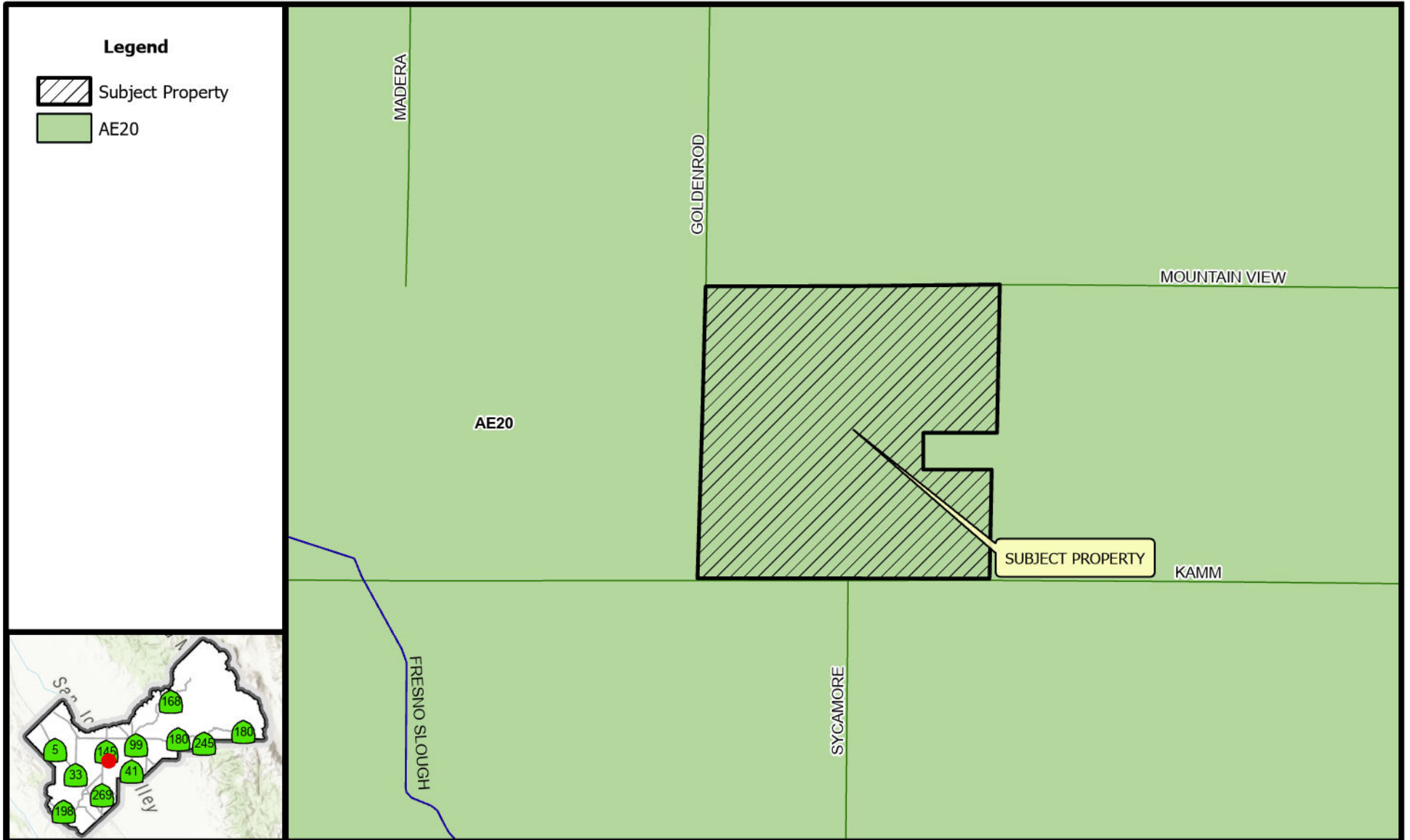
**Alternative Motion** (Denial Action)

- Move to deny the first one-year Time Extension for Unclassified Conditional Use Permit No. 3679 stating the reason for denial; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

AA:JP

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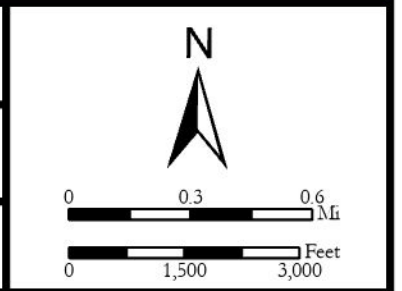


# Existing Zoning Map

CUP3679 EXT1  
STR 17-16S / 18E



2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division  
 Person Prepared by : jocervantes  
 On Date : 7/19/2023





**LEGEND:**

-  Subject Property
-  Ag Contract Land

FC - FIELD CROP
ORC - ORCHARD
VIN - VINEYARD
DAIRY
V - VACANT
SF#- SINGLE FAMILY RESIDENCE

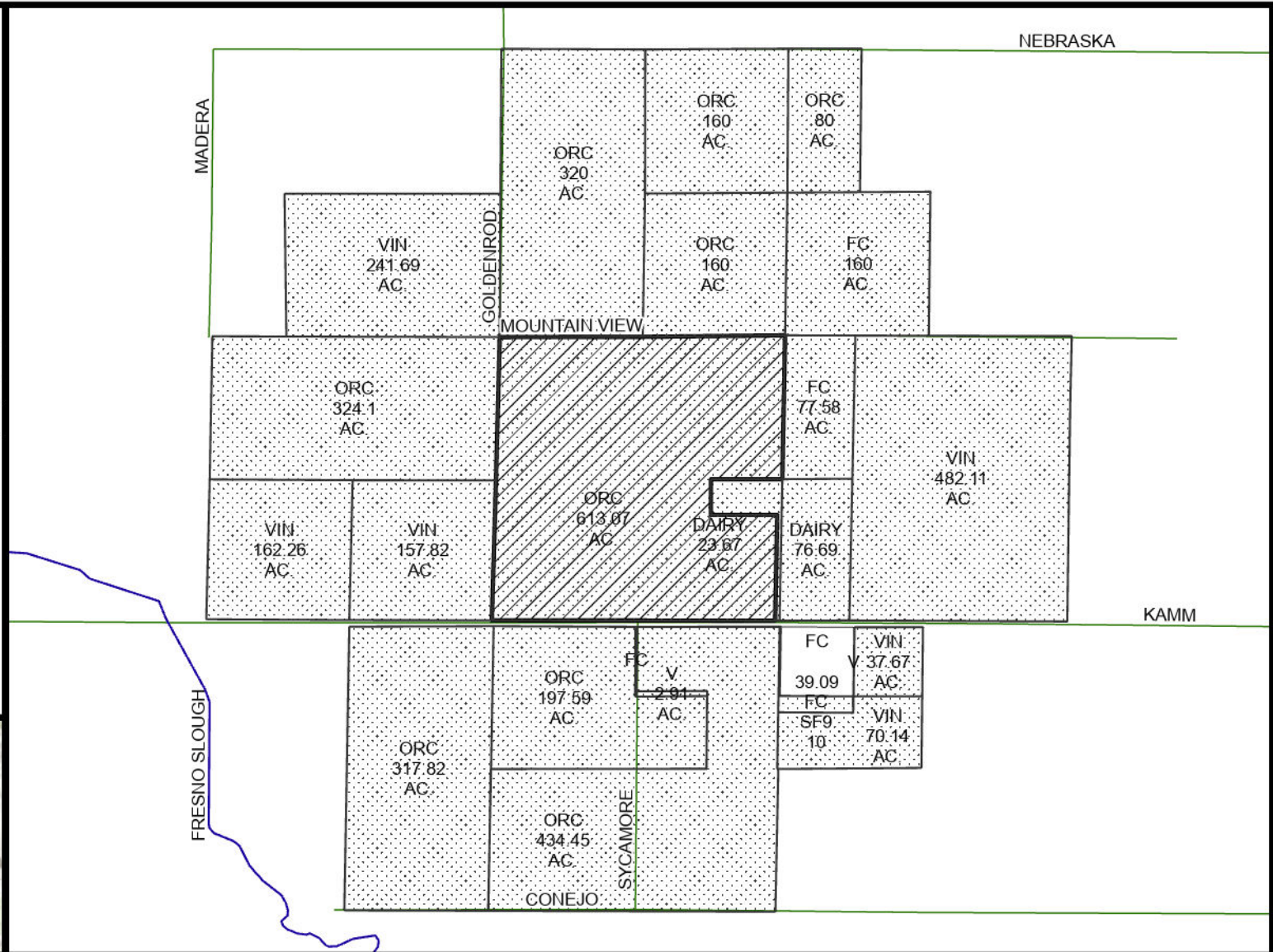
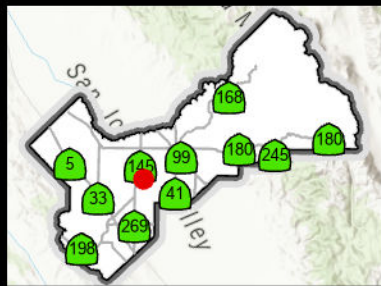


EXHIBIT 3

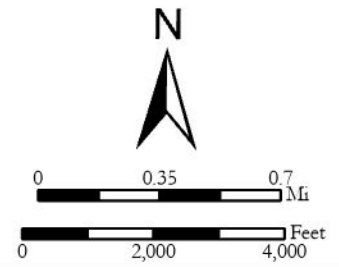


# Existing Land Use Map

## CUP3679 EXT1

## 2023

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division  
 Person Prepared by : jocervantes  
 On Date : 7/20/2023





## Inter Office Memo

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DATE: May 20, 2021

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12882 - INITIAL STUDY NO. 7872 AND UNCLASSIFIED  
CONDITIONAL USE PERMIT APPLICATION NO. 3679

APPLICANT: WTE Riverdale, LLC.

OWNER: Stephen Maddox

REQUEST: Allow construction of a dairy digester facility and allow connection to an existing pipeline to deliver renewable natural gas. The dairy digester facility will be located on a 613.07-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The pipeline will span approximately 2 miles west of the dairy digester facility to connect with an existing California Energy Exchange pipeline.

LOCATION: The project site is located on the north side of W. Kamm Avenue and is approximately 2.01 miles west of its nearest intersection with S. Jameson Avenue and is approximately 8 miles southeast of the City of San Joaquin (12840 W. Kamm Avenue, Helm, CA) (APN 041-060-60S, 041-060-23S, 040-090-05S) (Sup. Dist. 4).

### PLANNING COMMISSION ACTION:

At its hearing of May 20, 2021, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Chatha and seconded by Commissioner Ede to adopt the Mitigated Negative Declaration prepared for the project based on Initial Study 7872, adopt the required Findings of Fact and approve Unclassified Conditional Use Permit No. 3679, subject to the Conditions listed in Exhibit B.

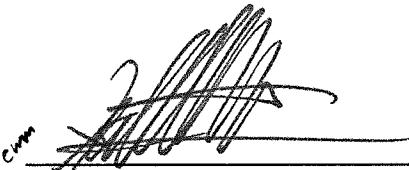


RESOLUTION # 12882

This motion passed on the following vote:

- VOTING: Yes: Commissioners Chatha, Ede, Abrahamian, Carver, Eubanks, Hill, and Woolf.
- No: None
- Absent: Commissioners Burgess and Ewell
- Abstain: None

STEVEN E. WHITE, DIRECTOR  
 Department of Public Works and Planning  
 Secretary-Fresno County Planning Commission

By:  \_\_\_\_\_  
 William M. Kettler, Manager  
 Development Services and Capital Projects Division

WMK:im:tk  
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NOTE: The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Conditional Use Permit.

Attachments

EXHIBIT A

Initial Study No. 7872  
Unclassified Conditional Use Permit Application No. 3679

**Staff:** The Fresno County Planning Commission considered the Staff Report dated May 20, 2021 and heard a summary presentation by staff.

**Applicant:** The Applicant’s representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:

- The proposed digester facility will serve the existing adjacent dairies to the south and southeast.

**Others:** No other individuals presented information in support of or in opposition to the application.

**Correspondence:** No letters were presented to the Planning Commission in support of or in opposition to the application.

TK:  
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**Mitigation Monitoring and Reporting Program**  
**Initial Study No. 7872**  
**Unclassified Conditional Use Permit Application No. 3679**  
**(Including Conditions of Approval and Project Notes)**

Mitigation Measures					
Mitigation Measure No. *	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
1.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine on adjacent properties or public right-of-way.	Applicant	Applicant/Department of Public Works and Planning (PW&P)	Ongoing
2.	Cultural Resources/ Tribal Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities.
3.	Hydrology and Water Quality	The subject Maddox Dairy facility is currently regulated under the Central Valley Regional Water Quality Control Board adopted Waste Discharge (WDR) for Maddox Dairy LTD et.al, Order No. R5-2008-003. Per the Provision E.3 of the WDR Order R5 2008-003, the discharger (Dairy owner/Operator) shall submit a complete Report of Waste Discharge in accordance with the CWC 13260 at least 140 days prior to any material change or proposed change in the character, location, or volume of the discharge including an expansion of the facility, addition of waste storage facilities or equipment, closure of the facility, or development of any new treatment technology. The operational statement provided for the project indicates that a different digester treatment technology to be developed than the technology in the WDR Order R5-2008-003. Due to this change in treatment technology, the Discharger shall submit Report of Waste Discharge in accordance with Provision E.3 of the WDR Order R5-2008-003.	Applicant	Applicant/Central Valley Regional Water Quality Control Board/PW&P	Prior to ground-disturbing activities

<b>Conditions of Approval</b>	
1.	<p>Development of the property shall be in accordance with the Site Plans, Floor Plans, Elevations, and Operational Statement as approved by the Planning Commission.</p> <p>*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.</p>
<b>Notes</b>	
<p><b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b></p>	
1.	<p>The Site Plan Review Section of the Fresno County Department of Public Works and Planning provide the following comments:</p> <ul style="list-style-type: none"> <li>• Parking stalls shall be constructed in compliance with the County and state standards. A minimum of 29 feet backup clearance and 18-foot by 9-foot stall size shall be provided for all parking stalls and clearly labeled in the site plan.</li> <li>• Internal access roads shall comply with required widths by the Fire District for emergency apparatus.</li> <li>• A dust palliative shall be required on all parking and circulation areas.</li> <li>• All proposed landscape improvement area of 500 square feet or more shall comply with California Code of Regulations Title 23, Division 2, Chapter 2.7 Model Water Efficient Landscape Ordinance (MWELO) and require submittal of Landscape and Irrigation plans per Governor's Drought Executive Order of 2015. The Landscape and Irrigation plans shall be submitted to the Department of Public Works and Planning, Site Plan Review (SPR) unit for review and approval prior to the issuance of building permits.</li> <li>• All proposed signs require submittal to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance. Off-site signs are expressly prohibited for commercial uses in the AE (Exclusive Agricultural) Zone District.</li> <li>• No building or structure erected in the AE-20 District shall exceed 35 feet in height per Section 816.5-D of the Fresno County Zoning Ordinance.</li> </ul>
2.	<p>The Building and Safety Section of the Department of Public Works and Planning provide the following comments:</p> <ul style="list-style-type: none"> <li>• If approved, permits and inspections are required for the construction of, or installation of, all related structures, electrical, mechanical, and plumbing facilities.</li> <li>• Permit applications will require detailed construction and site plans prepared by a properly licensed design professional.</li> </ul>
3.	<p>The Development Engineering Section of the Fresno County Department of Public Works and Planning provide the comments:</p> <ul style="list-style-type: none"> <li>• According to the U.S.G.S. Quad Map, intermittent streams may be present within the subject property. Typically, any proposed work within or near a stream requires clearance from State Department of Fish and Wildlife.</li> <li>• Typically, any additional storm water runoff generated by the proposed development of this site cannot be drained across property lines, or into County road right-of-way, and must be retained on-site per County standards.</li> <li>• Typically, if the proposed development does not increase the net impervious surface on-site and the existing drainage patterns are not changed, there will be no engineered grading and drainage plan required. However, according to the site plan, additional impervious surface appears to be created. Therefore, an Engineered Grading and Drainage Plan is required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties.</li> <li>• Any proposed wastewater storage pond shall be constructed in accordance with the Design Specifications, Drawings, and Construction Quality Assurance (CQA) Plan approved by the California Regional Water Quality Control Board.</li> <li>• A grading permit or voucher is required for any grading proposed with this application.</li> <li>• Typically, in an arterial classification, if not already present, on-site turnarounds are required for vehicles leaving the</li> </ul>

**Notes**

site to enter the arterial road in a forward motion, so that vehicles do not back out onto the roadway. Direct access to an arterial road is usually limited to one common point. No new access points are allowed without prior approval, and any existing driveway shall be utilized.

- Typically, any proposed or existing driveway should be set back a minimum of 10 feet from the property line.
- Typically, for unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative.
- Typically, any existing or proposed entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site, and shall not swing outward.
- If not already present, a 10-foot by 10-foot corner cut-off should be improved for sight distance purposes at any proposed or existing driveway accessing Kamm Avenue.

4. The Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning provide the following comments:

- Any new improvement shall be setback from the ultimate road right-of-way for Kamm Avenue.
- Any improvements constructed within the street right-of-way will require the Applicant obtain an encroachment permit from the Road Maintenance and Operations Division.

5. The Department of Public Health, Environmental Health Division provide the following comments:

- The use shall comply with the Noise Element of the Fresno County General Plan and Fresno County Noise Ordinance.
- Within 30 days of the occurrence of any of the following events, the Applicant/Operators shall update their online Hazardous Materials Business Plan and site map:
  - There is a 100% or more increase in the quantities of a previously disclosed material;
  - The facility begins handling a previously undisclosed material at or above the HMBP threshold amounts.
- The business shall certify that a review of the business plan has been conducted at least once very year and that any necessary changes were made and that the changes were submitted to the local agency.
- All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage, and handling of hazardous waste.
- If the anaerobic digester process requires accepting manure or other feedstock from other than their own property, the facility would be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, and Article 6.0-6.35).
- The land application rates of liquid from digester and solid waste from the digester shall be applied in accordance to the approval and water quality standards enforced by the Central Valley Water Quality Control Board (RWQCB).
- The operational statement provided with the application indicates that the separated solids from the anaerobic digester may be utilized for composting, or a dewatered cake for land application. Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a Solid Waste Facility form the County of Fresno, Environmental Health Division acting as the Local Enforcement Agency (LEA).

6. The Fresno County Fire Protection District provide the following comments:

- The project shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving FCFPD conditions of approval for the project, the Applicant must submit construction plans to the County of Fresno Public Works and Planning for review. It is the Applicant's responsibility to deliver a minimum of three sets of plans to the FCFPD.
- Project/Development including: Single-Family Residential (SFR) property of three or more lots, Multi-Family Residential (MFR) property, Commercial property, Industrial property, and/or Office property shall annex into the Community Facilities District No. 2010-01 of the FCFPD.

**Notes**

- Project/Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

TK

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## EXHIBIT 5

**From:** [Randall, David A.](#)  
**To:** [Alvarez, Alyce](#)  
**Subject:** FW: Extension Request for CUP 3679 - WTE Riverdale at Maddox Dairy  
**Date:** Monday, June 19, 2023 3:47:16 PM  
**Attachments:** [image001.png](#)

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**From:** Motta, Chris <CMotta@fresnocountyca.gov>  
**Sent:** Monday, June 19, 2023 12:55 PM  
**To:** Randall, David A. <drandall@fresnocountyca.gov>  
**Subject:** RE: Extension Request for CUP 3679 - WTE Riverdale at Maddox Dairy

Proceed.



**Chris W. Motta** | **Principal Planner**  
**Department of Public Works and Planning |**  
**Development Services and Capital Projects Division**  
2220 Tulare St. 6th Floor Fresno, CA 93721  
Main Office: (559) 600-4497 Direct: (559) 600-4227  
[Your input matters! Customer Service Survey](#)

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**From:** Randall, David A. <[drandall@fresnocountyca.gov](mailto:drandall@fresnocountyca.gov)>  
**Sent:** Monday, June 19, 2023 12:45 PM  
**To:** Motta, Chris <[CMotta@fresnocountyca.gov](mailto:CMotta@fresnocountyca.gov)>  
**Subject:** FW: Extension Request for CUP 3679 - WTE Riverdale at Maddox Dairy

They are a little late (approved May 20, 2021), however it would not serve anyone to make them reapply for a CUP, If you are ok with this I will process their time extension.

---

**From:** William Graham <[billg@dvoinc.com](mailto:billg@dvoinc.com)>  
**Sent:** Monday, June 19, 2023 11:39 AM  
**To:** Randall, David A. <[drandall@fresnocountyca.gov](mailto:drandall@fresnocountyca.gov)>  
**Cc:** Steve Maddox <[sdmaddox@yahoo.com](mailto:sdmaddox@yahoo.com)>; Steve Dvorak <[steved@dvoinc.com](mailto:steved@dvoinc.com)>; Doug Van Ornum <[info@wte.llc](mailto:info@wte.llc)>  
**Subject:** Extension Request for CUP 3679 - WTE Riverdale at Maddox Dairy

**CAUTION!!! - EXTERNAL EMAIL - THINK BEFORE YOU CLICK**

Dave:

Many thanks for your call this morning. I am writing to you to request a time extension for CUP-3679 that was before the Planning Commission on 5/20/2021 and for which the Applicant, WTE Riverdale, LLC, received the approval letter dated 6/24/2021 (attached). We have been with the impression that the effective date of the CUP was the date of the letter (6/24/2021) to us.

We have been continuously working on the project both prior to and since issuance of the 6/24/2021 letter. We received the Authority to Construct from the Air District (copy attached). We have run into

some delays due to Covid, other supply chain-related/support personnel and commercial matters but are now prepared to submit for Site Plan Review (see latest draft engineering overall site plan attached).

We respectfully request an extension of the permit for one more year in order to keep this environmentally-beneficial dairy manure digester project moving forward.

Please forward the Application for Time Extension to us at your first convenience. We will complete and return quickly.

Appreciate your consideration of our request,

Bill  
(650) 207-9145