



# Inter Office Memo

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DATE: March 23, 2023

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12987 – UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3742 AND INITIAL STUDY NO. 8230

APPLICANT: CES Electron Farm One

OWNER: Richard Hewitson

REQUEST: Allow the installation of a new solar facility with related equipment on a 40-acre parcel within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the west side of South Fairfax Ave. between West Panoche Ave. and West South Avenue (APN: 027-121-15S) (Section 17, Township 15s, Range 13e) (Sup. Dist. 1).

## PLANNING COMMISSION ACTION:

At its hearing of March 23, 2023, the Commission considered the Staff Report and testimony (summarized in Exhibit "A").


A motion was made by Commissioner Chatha and seconded by Commissioner Arabian to adopt the Mitigated Negative Declaration prepared for the project; adopt the recommended Findings of Fact in the Staff Report; and approve Unclassified Conditional Use Permit Application No. 3742, subject to the Conditions listed in Exhibit "B".



This motion passed on the following vote:

VOTING:      Yes:            Commissioners Chatha, Arabian, Abrahamian, Carver, Hill and Zante  
  
                  No:            None  
  
                  Absent:        Commissioners Ewell and Woolf  
  
                  Abstain:       None

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

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

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NOTES:      The approval of this project will expire in 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.

The Planning Commission action is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.

Attachments



EXHIBIT A

Initial Study No. 8230  
Unclassified Conditional Use Permit Application No. 3742

- Staff: The Fresno County Planning Commission considered the Staff Report dated March 23, 2023 and heard a summary presentation by staff.
- Presenters: The Applicant's representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information:
- The subject parcel is subject to a Williamson Act Contract and the cancellation portion will be heard by the Board of Supervisors.
  - The proposed solar generation facility will provide many benefits to the community via generating sales tax revenue.
  - The project will use union labor and there will be a jobs training apprenticeship as part of the program. Labor is to be sourced from within a 50-miles radius of the project location.
- Others: No additional individuals presented information in support of or in opposition to the proposal.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

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EXHIBIT B

**Mitigation Monitoring and Reporting Program  
 Unclassified Conditional Use Permit Application No. 3742 and Initial Study Application No. 8230  
 (Including Conditions of Approval and Project Notes)**

EXHIBIT B

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 so as not to shine toward adjacent properties and public streets.	Applicant	Applicant/PW&P	As long as the project lasts
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 all ground disturbing activities to include construction, operation and decommissioning/reclamation
Conditions of Approval					
1.	Development of the property shall be substantially in accordance with the Site Plans, Elevations and Operational Statement approved by the Planning Commission.				
2.	The life of this permit is limited to 32-years, starting from the date any development permit, such as a grading or building permit, is approved.				
3.	A Site Plan Review Application shall be submitted for approval by the Director of the Department of Public Works and Planning, in accordance with Section 874 of the Fresno County Zoning Ordinance. Items to be addressed under the Site Plan Review may include, but are not limited to, design of parking and circulation, driveway access, grading and drainage, fire protection, and lighting.  The project shall comply with the information in responses to the Solar Facility Guidelines attached as Exhibit 7 to the Staff Report and as approved and/or modified by the Commission.				





4.	The project shall comply with the with the Solar Facility Guidelines to include a 50-foot buffer around the project site.
5.	<p>The project shall adhere substantially to the provisions in the Reclamation Plan as submitted to the Planning Commission and prepared for the decommissioning of the facility when operation ceases. Reasonable modifications may be made to the Plan to address changes of scope and configuration of the final Site Plan and improvements. The draft reclamation Plan shall be reviewed and approved as final by the County of Fresno, Department of Public Works and Planning, Current Planning Division prior to the issuance of any development permits.</p> <p>Prior to the County of Fresno's issuance of any grading or development permit, the project owner must enter into a reclamation agreement with the County of Fresno on terms and conditions acceptable to the County of Fresno, which reclamation agreement shall require the project owner to (1) decommission, dismantle, and remove the project and reclaim the site to its pre-project condition in accordance with the approved Reclamation Plan, and (2) maintain a financial assurance to the County of Fresno, to secure the project owner's obligations under the reclamation agreement, in an amount sufficient to cover the costs of performing such obligations, as provided herein. Such financial assurance shall be in the form of cash and maintained through an escrow arrangement acceptable to the County of Fresno. Such financial assurance may be in any other form of security acceptable to the County of Fresno.</p> <p>The amount of the financial assurance under the reclamation agreement shall (1) initially cover the project owner's cost of performing its obligations under the reclamation agreement, as stated above, based on the final County of Fresno-approved design of the project, which cost estimate shall be provided by the project owner to the County of Fresno, and be subject to approval by the County of Fresno, and (2) be automatically increased annually, due to increases in costs, using the Engineering News-Record construction cost index. This initial cost estimate will consider any project components, other than improvements, that are expected to be left in place at the request of and for the benefit of the subsequent landowner as long as the improvements are directly supportive restoring the site to a viable agricultural use. (e.g., access roads, electrical lines, O&amp;M building).</p>
6.	<p>Prior to issuance of development permits, the project proponent/applicant shall record a document on the subject property incorporating the provisions of the County Right-of-to-Farm Notice (Ordinance Code Section 17.40.100).</p> <p>Fresno County Right-to-Farm Notice: "It is the declared policy of Fresno County to preserve, protect, and encourage development of its agricultural land and industries for the production of food and other agricultural products. Residents of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. Consistent with this policy, California Civil Code 3482.5 (right to farm law) provides that an agricultural pursuit, as defined, maintained for commercial uses shall not become a nuisance due to a changed condition in a locality after such agricultural pursuit has been operation for three years."</p>
7.	A dust palliative shall be required for all unpaved parking and circulation areas to prevent the creation of dust by vehicles.



8.	A Traffic Management Plan (TMP) shall be submitted to and approved by Fresno County Road Maintenance and Operations. The TMP shall detail haul routes and access points to be used during construction. Based on proposed haul routes the County may restrict access or require road improvements to handle the traffic demands.
9.	The project shall comply with the Pest Management Plan, prepared by QK, dated November 2022, in order to control weeds and rodents on the property that may impact adjacent properties.

\*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.

Notes	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	This Use Permit will become void unless there has been substantial development within two years of the effective date of approval.
2.	Construction Plans shall be submitted, Building Permits and inspections shall be required for all on-site improvements, including solar array installation and fences over six feet in height.
3.	<p>To address health impacts resulting from the project, the Fresno County Department of Public Health, Environmental Health Division requires the following:</p> <ul style="list-style-type: none"> <li>• Facilities proposing to use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5.</li> <li>• Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95.</li> <li>• All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5.</li> </ul>
4.	<p>To address site development impacts resulting from the project, the Development Engineering Section of the Development Services and Capital Projects Division requires the following:</p> <p>A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) are required to be filed with the State Water Resources Control Board (SWRCB) prior to commencement of any construction or other ground disturbance of one acre or more. Copies of the completed NOI with WDID Number and SWPPP shall be provided to the Development Engineering section of the Department of Public Works and Planning</p> <ul style="list-style-type: none"> <li>• An Engineered Grading and Drainage Plan shall be required to show how additional storm water run-off generated by the</li> </ul>



Notes

<p>proposed development will be handled without adversely impacting adjacent properties.</p> <ul style="list-style-type: none"> <li>• A grading permit or voucher shall be required for any grading proposed with this application.</li> <li>• Any additional run-off generated by the proposed development cannot be drained across property lines and shall be retained or disposed of per County Standards.</li> <li>• If a licensed Civil Engineer determines that the proposed development does not substantially increase the net impervious surface on site and the existing drainage patterns are not altered, an engineering grading and drainage plan will not be required; However, a Letter of Retention and Letter of Certification from a licensed Civil Engineer addressed to the Fresno County Department of Public Works and Planning will be required. The Letter of Certification must specify why an engineered grading and drainage plan is not needed.</li> </ul>	
<p>To address air quality impacts resulting from the project, the San Joaquin Valley Air Pollution Control District (Air District) requires that the project be subject to the following:</p> <p>The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in District Rule 8021 – <i>Construction, Demolition, Excavation, Extraction, and other Earthmoving Activities</i>.</p> <p>If demolition is involved, a Certified Asbestos Consultant will need to perform an asbestos survey prior to the demolition of a regulated facility. Following completion of an asbestos survey; the asbestos survey, Asbestos Notification, Demolition Permit Release, and the proper fees are to be submitted to the Air District ten (10) days prior to the removal of the Regulated Asbestos Containing Material and/or the demolition when no asbestos is present.</p> <p>As per District Rule 2010 (Permits Required), the project may be required to obtain a District Authority to Construct, prior to installation of equipment that controls or may emit air contaminants, including but not limited to emergency internal combustion engines, boilers, and baghouses.</p> <p>To identify other District Rules or regulations that apply to this project or to obtain information about District Rules and permit requirements, the project proponent (applicant) is strongly encouraged to contact the District's Small Business Assistance Office.</p>	<p>5.</p>
<p>To address site development impacts resulting from the project, the Site Plan Review Section of the Fresno County Department of Public Works and Planning requires the following:</p> <ul style="list-style-type: none"> <li>• The access driveway(s) shall be a minimum of 24 feet and a maximum of 35 feet in width. If only the driveway is to be paved, the first 100 feet off of the edge of the ultimate road right-of-way shall be concrete or asphalt paved. An encroachment permit will be required for any improvements within the County right-of-way, prior to commencement of construction.</li> </ul>	<p>6.</p>



Notes

	<ul style="list-style-type: none"> <li>Any proposed access gate shall be set back a minimum of 20 feet from the edge of the paved road, or the length of the longest vehicle to enter the site, whichever is greater.</li> <li>Internal access roads shall comply with Fire District requirements for emergency apparatus.</li> <li>A dust palliative shall be required on all parking and circulation areas.</li> <li>All proposed signs shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance.</li> </ul>
7.	<p>The project shall comply with the California Code of Regulations Title 24 – Fire Code and County-approved site plans shall be approved by the Fresno County Fire Protection District prior to issuance of building permits by the County. Further, the property shall annex to Community Facilities District (CFD) No. 2010-01 of the Fresno County Fire Protection District.</p>
8.	<p>Any weed or rodent infestation that is of a nature and magnitude as to constitute a “public nuisance” (Section 5551 of the California Food and Agricultural Code; Sections 3479 and 3480 of the Civil Code; and Section 372 of the Penal Code) and is not addressed by the Property Owner/Operator is unlawful under California Food and Agricultural Code Section 5553 and Penal Code Section 372.</p>
9.	<p>An additional runoff generated by the proposed development, cannot be drained across property lines or into the County right-of-way, and must be retained on-site, as per County Standards.</p>
10.	<p>If not already present, a ten-foot by ten-foot corner cut-off shall be improved for sight distance purposes at any proposed or existing driveway</p>
11.	<p>To address road impacts resulting from the project, the Road Maintenance and Operations Section of the Development Services and Capital Projects Division requires the following:</p> <ul style="list-style-type: none"> <li>All extra-legal loads shall require an approved transportation permit from Fresno County Road Maintenance and Operations.</li> <li>Once construction begins, the applicant must assume responsibility for the maintenance of Panoche Road or Manning Ave between I-5 and the project Access point for the duration of the construction.</li> <li>An encroachment permit is needed from the Road Maintenance and Operations Division for any work done within the road right-of-way of County of Fresno.</li> </ul>

