



# County of Fresno

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

## Planning Commission Staff Report Consent Agenda Item No. 2 August 26, 2021

**SUBJECT:** Unclassified Conditional Use Permit No. 3609- Second One-Year Time Extension

Allow a 5 MWac solar photovoltaic power generation facility on a 39-acre portion of a 79.7-acre in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcel is located on West Jayne Avenue, 1.2 miles east of its intersection with State Route 33, and northerly adjacent to the nearest city limits of the City of Coalinga (APN 073-060-12) (Sup. Dist. 4).

**OWNER:** James Anderson

**APPLICANT:** Forefront Power

**STAFF CONTACT:** Elliot Racusin, Planner  
(559) 600-4245

David Randall, Senior Planner  
(559) 600-4052

### RECOMMENDATION:

- Approve a second one-year Time Extension for Unclassified Conditional Use Permit No. 3609
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### EXHIBITS:

1. Location Map
2. Zoning Map
3. Land Use Map
4. Staff Report and Resolution

## 5. Applicant's Permit Time Extension Request Letter

### **ENVIRONMENTAL ANALYSIS:**

The proposed project has not changed since the approval and adoption of the Mitigated Negative Declaration. The applicant is requesting a Time Extension due to Covid-19 restrictions.

A Mitigated Negative Declaration (MND) prepared based on Initial Study No. 7441 was adopted by the Fresno County Planning Commission with the approval of Classified Conditional Use Permit (CUP) No. 3609 on October 25, 2018.

Section 15162(b) of the CEQA Guidelines states that once an EIR and/or Mitigated Negative Declaration has been certified for a project, no subsequent EIR or Mitigated Negative Declaration shall be prepared unless:

- 1) substantial changes are proposed to the project;
- 2) substantial changes occur with respect to the circumstances under which the project is undertaken; or
- 3) new information of substantial importance is presented which was not known and could not have been known at the time the previous Mitigated Negative Declaration was adopted.

Staff has not received any comments or information that the circumstances noted in the above criteria are present. Therefore, it has been determined that no further CEQA documentation is required for the subject proposal.

### **PUBLIC NOTICE:**

Notices were sent to 4 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

### **PROCEDURAL CONSIDERATIONS:**

A Conditional Use Permit is only valid for two years after its approval unless substantial development is undertaken. Where circumstances beyond the control of the applicant cause delays, the Planning Commission may grant up to two (2), one (1) year time extensions.

The Planning Commission's Jurisdiction in evaluation of time extension requests is limited to determining that the environmental documents are still appropriate and whether the applicant should be granted an additional year to exercise the Conditional Use Permit. Approval of a time extension request is appropriate if circumstances beyond the control of the Applicant have caused delays which do not permit compliance with the two-year time limit.

The decision of the Planning Commission on a Time Extension is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

### **BACKGROUND INFORMATION:**

1. On October 25, 2018, the Planning Commission approved CUP 3609 for a Solar facility and was finalized on November 10, 2018. The proposed solar power generation facility will be located on a 29-acre portion of a 79.7-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. Photovoltaic (PV) modules with

a capacity of generating 5 megawatts alternating current (MW-AC) will convert sunlight into electrical energy. This energy will be transferred to Pacific Gas and Electric Company's (PG&E) existing facilities via an on-site connection. The date substantial development required to occur was November 10, 2020.

2. On October 7, 2020 the Applicant filed a one-year time extension application which was approved by the Commission on December 10, 2020, which extended the date substantial development must occur to November 10, 2021.
3. On July 1, 2021 the applicant submitted an application for this time extension, which would extend the date substantial development must occur to November 10, 2022.

**Discussion:**

According to the Applicants request letter, additional time is needed to complete construction drawings and process permit applications due to delays caused by Covid-19 restrictions, (see Exhibit 5).

Hence, it can be determined that a Second Time Extension request for Conditional Use Permit No. 3609 is appropriate, as the circumstances caused by Covid-19 are beyond the control of the applicant and have caused delays which do not permit compliance within the two-year time limit established by the zoning ordinance.

**PUBLIC COMMENT:**

None

**CONCLUSION:**

Staff recommends that the second one-year Time Extension for Unclassified Conditional Use Permit No. 3609 should be approved based on factors cited by the applicant regarding Covid-19 Impacts. Approval of this Time Extension will extend the expiration date to November 10, 2022.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to approve the second one-year Time Extension for Unclassified Conditional Use Permit No. 3609
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Move to deny the second one-year Time Extension request for Unclassified Conditional Use Permit No. 3609 based on (state reason for denial).
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

ER:jp

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EXHIBIT 1  
**LOCATION MAP**

CUP 3609 EXT 2

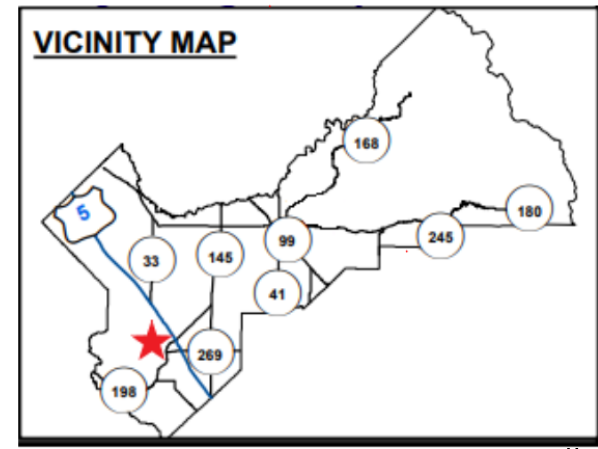
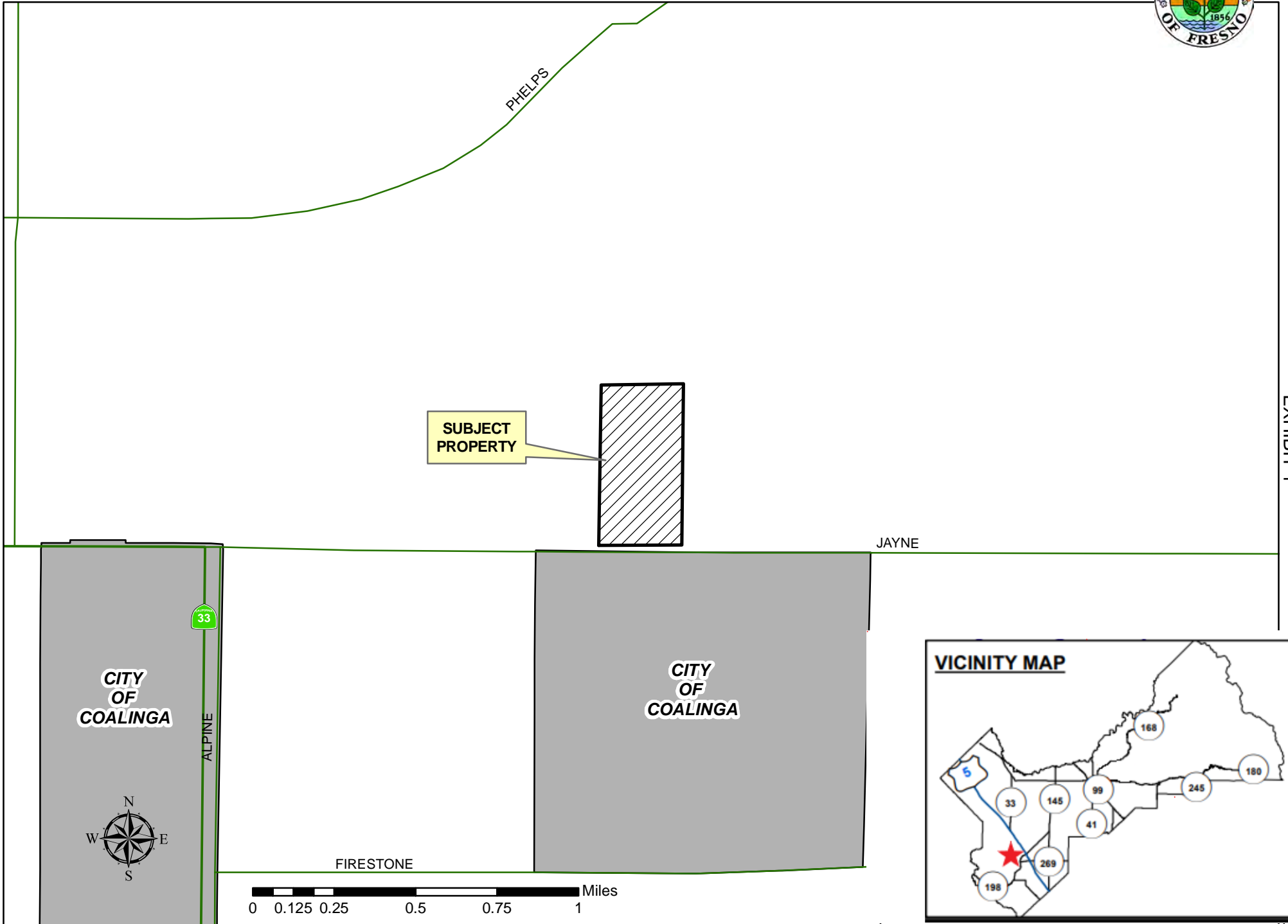
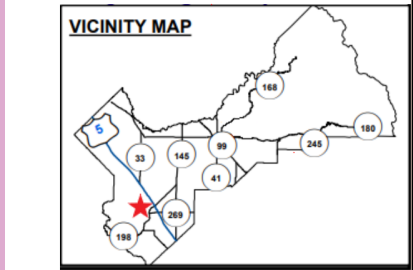
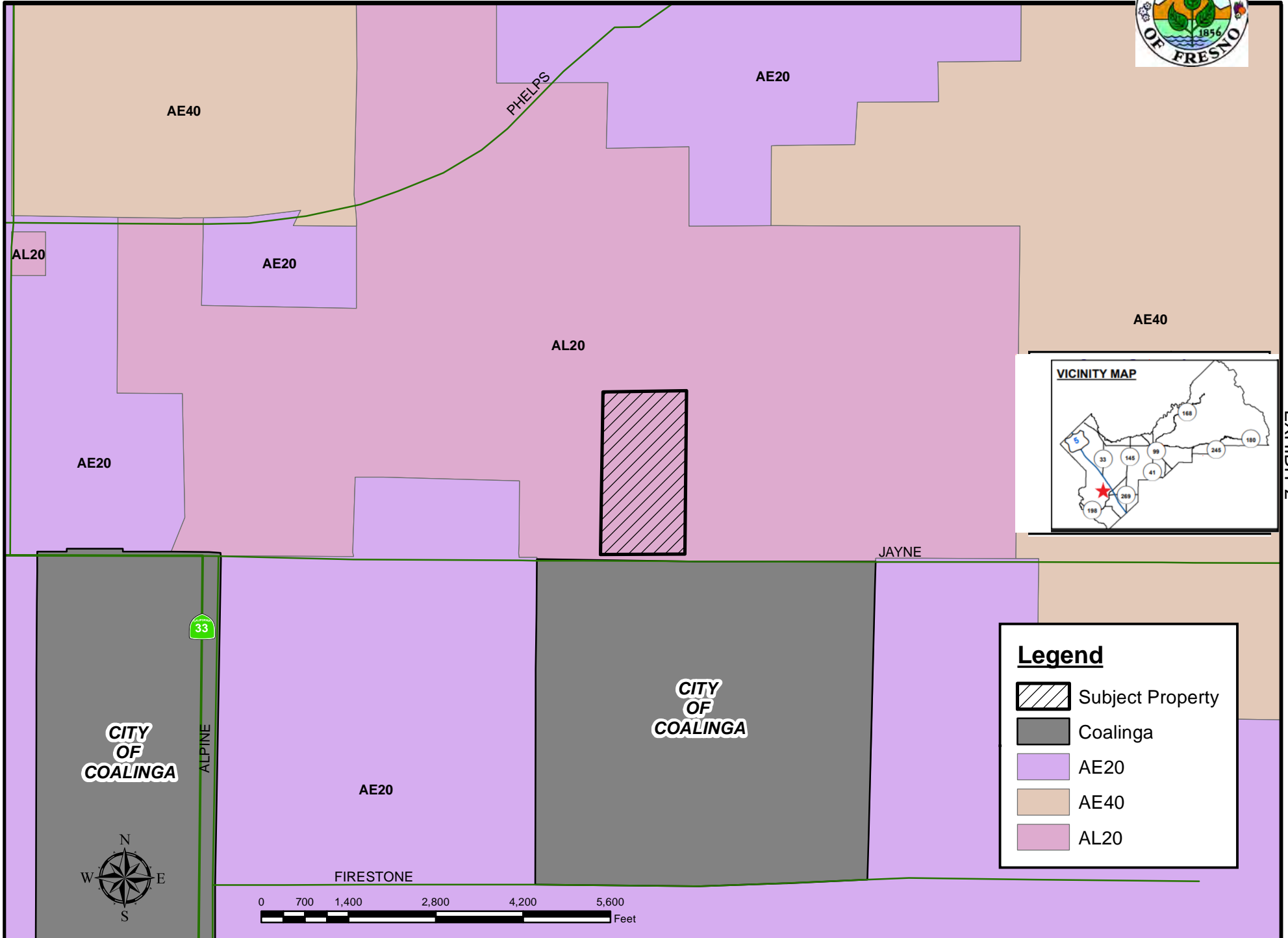


EXHIBIT 1



# EXISTING ZONING MAP



**Legend**

- Subject Property
- Coalinga
- AE20
- AE40
- AL20

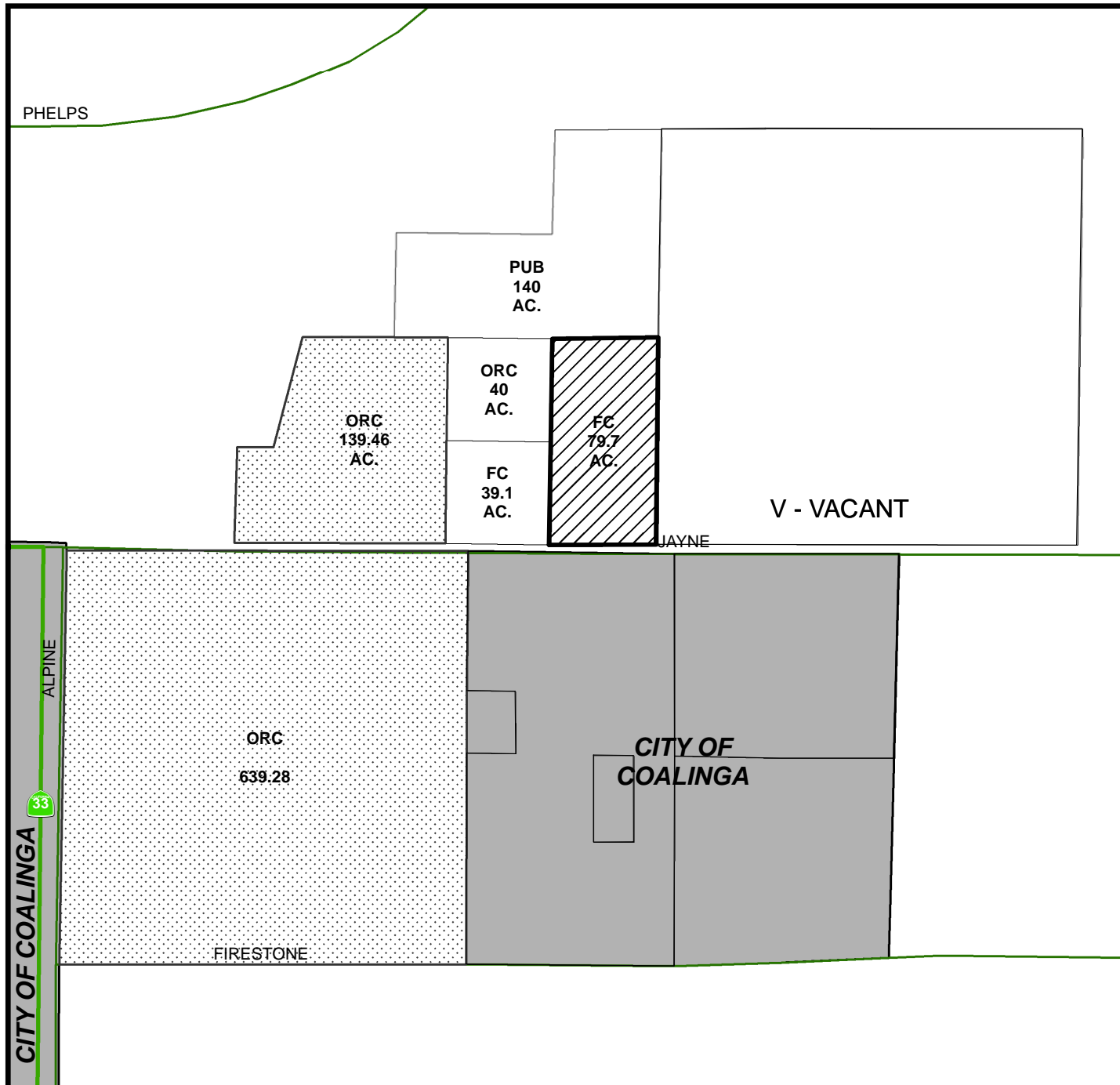
EXHIBIT 2








# EXHIBIT 3 EXISTING LAND USE MAP

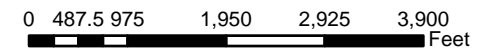
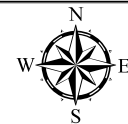
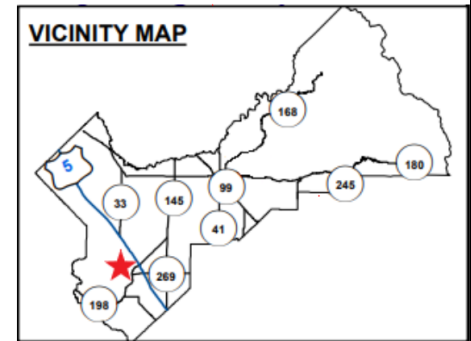
CUP 3609 EXT 2



LEGEND	
V - VACANT	
PUB - PUBLICLY OWNED	
FC - FIELD CROP	
ORC - ORCHARD	

### LEGEND:

-  Subject Property
-  Ag Contract Land
-  City of Coalinga



Department of Public Works and Planning  
Development Services Division

EXHIBIT 3



EXHIBIT 4

DATE: December 10, 2020  
TO: Board of Supervisors  
FROM: Planning Commission  
SUBJECT: RESOLUTION NO. 12860 – INITIAL STUDY NO. 7441 and  
CONDITIONAL USE PERMIT NO. 3609 (TIME EXTENSION)

OWNER: James Anderson

APPLICANT: Forefront Power

REQUEST: Allow a 5 Megawatt alternating current solar photovoltaic power generation facility on a 39-acre portion of a 79.7-acre parcel in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on West Jayne Avenue, 1.2 miles east of its intersection with State Route 33, and northerly adjacent to the nearest city limits of the City of Coalinga (Sup. Dist. 4)

PLANNING COMMISSION ACTION:

At its hearing of December 10, 2020, the Commission, as part of its Consent Agenda, considered the Staff Report and determined that the requested one-year time extension was warranted.

A motion was made by Commissioner Chatha and seconded by Commissioner Eubanks to approve the requested one-year time extension for Initial Study No. 7441 and Conditional Use Permit No. 3609.

This motion passed on the following vote:

VOTING: Yes: Commissioners Chatha, Eubanks, Burgess, Ede, Hill,  
Lawson, Woolf

No: None

Absent: Commissioners Abrahamian, Carver

Abstain: None

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

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

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EXHIBIT "A"

Initial Study Application No. 7441 Unclassified  
Conditional Use Permit Application No. 3609

- Staff: The Fresno County Planning Commission considered the Staff Report dated December 10, 2020 and heard a summary presentation by staff.
- Applicant: No testimony was presented to the PC in support or opposition to the project.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

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# County of Fresno

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

February 12, 2021

Jeffery Alvarez  
2 Park Plaza Suite 1120  
Irvine, CA 92614

Dear Jeffery Alvarez:

Subject: Notice of Planning Commission Decision – Conditional Use Permit No.  
3609 (Time Extension)

On December 10, 2020, the Fresno County Planning Commission granted your extension request. A copy of the Planning Commission resolution is enclosed.

If you have any questions, please call me at (559) 600-9669.

Sincerely,

Ethan Davis, Planner  
Development Services Division

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Enclosure

EXHIBIT B

**Mitigation Monitoring and Reporting Program  
Initial Study Application No. 7441/Unclassified Conditional Use Permit Application No. 3609  
(Including Conditions of Approval and Project Notes)**

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
1.	Aesthetics	Exterior lighting from dusk until dawn shall be minimized through the installation of the lowest wattage bulb necessary for safety purposes. All outdoor lighting shall also be hooded and directed downward so as not to shine upward or toward adjacent properties and public streets.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	During construction and operation
2.	Biological Resources	Species-specific surveys shall be conducted by a qualified biologist and/or botanist no less than 14 days and no more than 30 days prior to the onset of any construction-related activities (including initial construction and decommissioning) for the San Joaquin Kit Fox (SJKF), Blunt-nosed Leopard Lizard (BNLL), Tricolored Blackbird, Nelson's Antelope Squirrel (NAS), Swainson's Hawk (SWHA), Burrowing Owl (BUOW), California Glossy Snake, Northern California Legless Lizard, Blainville's Horned Lizard, Short-nosed Kangaroo Rat (SNKR), San Joaquin Coachwhip, Western Spadefoot, San Joaquin Woollythreads, California Jewelflower, Showy Golden Madia, Pale-yellow Layia, Recurved Larkspur, and Brittle scale. These surveys shall include all areas of proposed ground disturbance and construction activities, any construction staging areas, any area in which equipment will be operated and any additional land used for ingress and egress during construction activities. Additionally, a 500-foot buffer around the defined area will be surveyed for the BUOW, SJKF, NAS, and BNLL; a 50-foot buffer area will be surveyed for the SNKR, California Glossy Snake, Blainville's Horned Lizard, Northern California Legless Lizard, and sensitive plants; and a 0.5-mile buffer around the defined area will be surveyed for SWHA nests and Tricolored Blackbirds. If these buffer areas cannot be maintained, consultation with the California Department of Fish and Wildlife (CDFW) is required to determine how to avoid take.	Applicant	Applicant/PW&P	Prior to construction and decommissioning

3.	Biological Resources	If any species are identified in pre-construction surveys or during construction, operation, or decommissioning activities, the Applicant shall notify CDFW immediately, cease all operation in the area, and consult with CDFW on how to minimize any potential impact to protected species.	Applicant	Applicant/PW&P	Prior to construction through the completion of decommissioning activities
4.	Biological Resources	If BNLL burrows are identified during the pre-construction survey(s), all burrow openings shall be flagged and mapped, and 50-foot no-disturbance buffer zones around all burrow openings shall be maintained for foraging habitat throughout the project.	Applicant	Applicant/PW&P	Prior to construction and decommissioning
5.	Biological Resources	If small mammal burrows suitable for BUOW are identified on the project site or within 250 feet of the project, additional BUOW surveys shall be conducted by a qualified biologist, and BUOW burrows shall be avoided with required buffers according to the "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012).	Applicant	Applicant/PW&P	Prior to construction and decommissioning
6.	Biological Resources	If any construction activities will occur between March 1 and September 15, the project area and a 0.5-mile buffer around the project area must be surveyed by a qualified biologist within 10 days of the onset of construction activities to identify the presence of any Swainson's Hawk nests. If any nests are identified, no construction may take place within 0.5 mile of that nest until the end of breeding season (September 15) or until a qualified biologist determines that the young have fledged and are no longer dependent on the nest or parents for survival, and CDFW has provided written approval of the biologist's determination. If this 0.5-mile buffer cannot be maintained, consultation with CDFW is required.	Applicant	Applicant/PW&P	Prior to construction and decommissioning
7.	Biological Resources	Implement the January 2011 "U.S. Fish and Wildlife Service Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance" for pre-construction survey protocol and avoidance measures, and maintain habitat permeability for SJKF on all perimeter and interior fencing.	Applicant	Applicant/PW&P	Prior to construction and decommissioning
8.	Biological Resources	If construction commences between January 1 and September 15 (bird nesting season) or lapses during this time for 10 or more days, a qualified biologist must survey	Applicant	Applicant/PW&P	Prior to construction and decommissioning



		for active bird nests within 10 days of the onset or resuming of construction activities to ensure that no active bird nests are in the project area that could be impacted by the construction. If nests are present, they must be monitored for the first 24 hours of any project-related activities so as to detect any behavioral changes that result from project impacts. If behavioral changes are observed, work that is causing this change shall cease, and the Applicant shall consult with the California Department of Fish and Wildlife (CDFW) for additional avoidance and minimization measures. In lieu of monitoring, the Applicant may choose to implement 250-foot no-disturbance buffers around active nests of non-listed, non-raptor bird species until the breeding season is over or a qualified biologist has determined that the birds have fledged and are no longer dependent upon the nest or parental care for survival. Variance from these buffer zones may be granted on a case by case basis, but this decision must be supported by a qualified biologist and CDFW must be notified of this determination prior to construction activities that would otherwise require a no-disturbance buffer.			
9.	Biological Resources	All vertical pipes associated with solar mounts and fencing must be capped immediately upon installation to avoid bird death or injury.	Applicant	Applicant/PW&P	Construction and decommissioning
10.	Biological Resources	If special-status plant species are found, a no-disturbance buffer of at least 50 feet shall be implemented and delineated using flags, stakes, or other highly-visible materials, and it shall be maintained for the duration of the project. If this is not feasible, alternative mitigation shall be agreed upon by the Applicant and CDFW.	Applicant	Applicant/PW&P	Prior to construction and decommissioning
11.	Biological Resources	No rodenticides, pesticides, or herbicides shall be used during construction, maintenance, or decommissioning of the proposed project.	Applicant	Applicant/PW&P	Lifetime of the Project
12.	Biological Resources	The Applicant shall consult with CDFW on the use of biodegradable panel cleaning solution on the project site prior to use so that they may determine if an Incidental Take Permit (ITP) could be warranted.	Applicant	Applicant/PW&P	Prior to the use of biodegradable panel cleaning solutions
13.	Cultural	In the event that cultural resources are unearthed during	Applicant	Applicant/PW&P	During ground-

	Resources	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.			disturbing activities
14.	Hydrology and Water Quality	Delineate all surface water features, streams, and associated floodplains and vegetation within 500 feet of the project impact area. No construction may encroach within this area without first obtaining a Lake and Streambed Alteration Agreement (LSA) from the California Department of Fish and Wildlife (CDFW).	Applicant	Applicant/PW&P	Prior to construction and decommissioning
<b>Conditions of Approval</b>					
1.	Development of the property shall be in accordance with the Site Plan, Elevation, and Operational Statement approved by the Commission.				
2.	A Site Plan Review (SPR) 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 prior to the issuance of Building Permits. The SPR shall be applicable to those portions of the project site(s) to be improved with substations, inverters, perimeter access roads, parking, and driveway access, excluding the solar panel fields. Items to be addressed under the SPR may include, but are not limited to, design of parking and circulation, driveway, access, grading and drainage, fire protection and lighting.				
3.	The land owner shall enter into an agreement with the County of Fresno to irrevocably offer the southernmost 33 feet of the subject parcel for future right-of-way expansion.				
4.	This land use permit will expire after the proposed use has been in operation for 35 years or after the use has ceased for two years. If the solar lease is extended beyond 35 years, a new land use permit will be required for continued operation.				
5.	The project shall comply with the Solar Facility Guidelines (Exhibit 7 of the Staff Report), as approved.				
6.	The Reclamation Plan shall be subject to an annual 3% increase, or tied to the Consumer Price Index (CPI), or another mechanism acceptable to the Fresno County Department of Public Works and Planning. Additionally, the applicant shall enter into a Reclamation Agreement with the County of Fresno.				

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document.

<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Any proposed driveway should 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 right-of-way shall be concrete or asphalt. Additionally, a dust palliative shall be required on all parking and circulation areas.
2.	An encroachment permit shall be required from Road Maintenance and Operations for any work on the County right-of-way (drive approach from Jayne Ave).
3.	The final project plans must be submitted to and approved by the Fresno County Fire Protection District (FCFPD) prior to the acquisition of building permits.
4.	Any gate that provides initial access (from Jayne Avenue) to this site shall be set back from the ultimate road right-of-way a minimum of 20 feet or the length of the longest vehicle that will be entering the site, whichever is greater.
5.	All proposed signs must be reviewed by the Department of Public Works and Planning permit counter to verify compliance with the Zoning Ordinance. Off-site advertising for commercial uses is prohibited in the AE (Exclusive Agricultural) Zone District.
6.	If not already present, 10-foot by 10-foot corner cutoffs shall be improved for sight distance purposes at the exiting driveway onto Jayne Avenue.
7.	DOGGR (Department of Conservation's Division of Oil, Gas, and Geothermal Resources) recommends that the abandoned oil well be re-abandoned to current standards to minimize the probability of it leaking oil, gas, and/or water in the future. DOGGR has the authority to order the re-abandonment of any well that is hazardous or that poses a danger to life, health, or natural resources. If this occurs, the property owner is responsible for these re-abandonment costs. Additionally, if any unknown wells or soil containing significant amounts of hydrocarbons are discovered during development, DOGGR and all other appropriate authorities shall be notified immediately.
8.	During construction, a transportation permit from the Road Maintenance and Operations Division may be required for oversized loads or particularly heavy haul loads.
9.	Any runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.
10.	A grading permit or voucher shall be required for any grading that has been done without a permit and any grading proposed with this application.
11.	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. 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. All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5.
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# E | P | D SOLUTIONS, INC.

July 1st, 2021

Department of Public Works and Planning  
Development Services and Capital Projects Division  
2220 Tulare St. 6<sup>th</sup> Floor  
Fresno, CA 93721

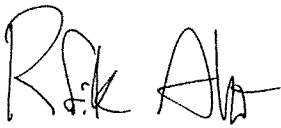
**RE: Time Extension for CUP 3609  
APN 073-060-12**

**Justification:**

The construction and installation of a photovoltaic solar system has been previously reviewed and approved by the County. There is no change to the design and use of the approved project. The applicant has not been able to complete construction drawings and process permit applications due to Covid-19 restrictions. Construction slowdowns caused by Covid-19 regulations has resulted in the need for a CUP permit extension.

Please contact me at (949) 794-1182 or [rafik@epdsolutions.com](mailto:rafik@epdsolutions.com) with any questions.

Respectfully submitted,  
**EPD Solutions, Inc.**

A handwritten signature in black ink, appearing to read 'Rafik Albert', with a stylized flourish at the end.

Rafik Albert, AICP