



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 1C December 16, 2021

SUBJECT: Secondary One-Year Time Extension: Initial Study No. 7442 and
Unclassified Conditional Use Permit N0. 3610

Allow a one-megawatt photovoltaic solar power generation facility with related improvements on an approximately 11.4-acre portion of a 53.81-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the northwest corner of Phelps Avenue and S. San Mateo Avenue approximately 875 feet east of the nearest city limits of the City of Coalinga (APN: 070-070-62S) (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. 3610.
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

- A. MMRP, Conditions of Approval, and Project Notes
 1. Location Map
 2. Existing Zoning Map
 3. Existing Land Use Map
 4. Planning Commission Resolution and Staff Report Dated December 10th, 2020.
 5. Unclassified Conditional Use 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.

Therefore, it has been determined pursuant to Section 15162 of the California Environmental Quality Act (CEQA) guidelines that the proposed time extension does not require new or supplemental environmental review.

PUBLIC NOTICE:

Notices were sent to 44 property owners and 13 concerned groups 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.

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

BACKGROUND INFORMATION:

On October 11, 2018, the Planning Commission approved CUP 3610 for a Solar Facility. The proposed solar power generation facility will be located on a 11.5-acre portion of a 53.81-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. Photovoltaic (PV) modules with a capacity of generating one-megawatt alternating current (MW-AC) will convert sunlight into electrical energy. This energy will be delivered to the Pacific Gas and Electric Company's (PG&E) existing regional transmission network using voltage transmission equipment and system safety equipment constructed on the project site. The project would interconnect with the electrical grid at an existing power line along the site's San Mateo Avenue frontage. Seven new utility poles will carry a 1,365-foot-long gen-tie line.

The Applicant filed a request for an initial extension on October 12, 2020 and on December 10th, 2020 the Fresno County Planning Commission granted the initial time extension request.

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.

Hence, it can be determined that a second Time Extension request for Unclassified Conditional Use Permit No. 3610 is appropriate, as the circumstances are beyond the control of the

applicant and have caused delays which do not permit compliance within the one-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. 3610 should be approved based on factors cited in the analysis above. Approval of this Time Extension will extend the expiration date to October 26, 2022.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to approve the second one-year Time Extension for Unclassified Conditional Use Permit No. 3610
- 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. 3610
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

ER:jp

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**Mitigation Monitoring and Reporting Program
Initial Study No. 7442/Unclassified Conditional Use Permit Application No. 3610
(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 so as not to shine toward adjacent properties and public streets. | Applicant | Applicant/Fresno County Department of Public Works and Planning (PW&P) | As long as the project lasts | |
| 2. | Agricultural and Forestry Resources | The project shall adhere to the procedures listed in the Reclamation Plan prepared for the operation, including requirements for financial estimates, bonding and facility removal when operation ceases. Prior to the issuance of any Construction Permits (Building, Electrical, Mechanical, Plumbing), the required bond amount, based on the engineer's estimate, shall be deposited (or evidence of a Bank Guarantee or Irrevocable Letter of Credit shall be provided). | Applicant | Applicant/PW&P | As long as the project lasts | |
| 3. | Agricultural and Forestry Resources | A covenant shall be signed between the property owner and the County of Fresno and shall run with the land, requiring the site to be restored as nearly as practical to its original condition at the cessation of the operation of the solar power generation facility. | Applicant | Applicant/PW&P | As long as the project lasts | |
| 4. | Agricultural and Forestry Resources | The project shall comply with the Pest Management Plan, prepared by ForeFront Power, LLC and dated January 31, 2018, in order to control weeds and rodents on the property that may impact adjacent properties. | Applicant | Applicant/PW&P/Ag Commissioner's office | As long as the project lasts | |
| 5. | Biological Resources | A 14-day preconstruction site survey shall be conducted to prevent inadvertent take of burrowing owls. If burrowing owls are observed during the preconstruction survey, the project proponent shall discuss mitigation and avoidance requirements with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service. | Applicant | Applicant/California Department of Fish & Wildlife (CDFW) | As noted | |
| 6. | Biological Resources | A 30-day preconstruction site survey shall be conducted to determine the presence of San Joaquin kit fox on the property. The Survey must be conducted on foot within prescribed parameters as outlined by January 2011 Standardized | Applicant | Applicant/CDFW | As noted | |

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|-------------------------------|---|--|-----------|----------------|----------|
| | | Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior To or During Ground Disturbance. Any take that could occur because of the proposed project would require prior consultation with the U.S. Fish and Wildlife Service under Section 7 or Section 10 of the Endangered Species Act of 1973. | | | |
| 7. | Biological Resources | A preconstruction site survey shall be conducted to determine the presence of blunt-nosed leopard lizard (BNLL) on the property. The Surveys must be conducted on foot within prescribed temperature and weather as outlined by the California Department of Fish and Game May 2004 updated version of the BNLL survey protocol. Any take that could occur because of the proposed project would require prior consultation with the U.S. Fish and Wildlife Service under Section 7 or Section 10 of the Endangered Species Act of 1973. | Applicant | Applicant/CDFW | As noted |
| 8. | Biological Resources | Ground disturbances shall not occur during bird nesting season (between February and August) without a clearance survey by a qualified biologist to ensure that nesting birds are not impacted. | Applicant | Applicant/CDFW | As noted |
| 9. | 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 | As noted |
| Conditions of Approval | | | | | |
| 1. | Development of the property shall be in accordance with the Site Plan, Elevation and Operational Statement approved by the Planning Commission, except as modified by the Commission or Site Plan Review. | | | | |
| 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 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 life of this land use permit will expire upon expiration of the 25-year initial life of the project. If the solar lease is to be extended or the initial life of the project extends beyond this approval, approval of a new land use permit will need to be obtained. | | | | |

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| 4. | The project shall comply with the information in response to the Solar Facility Guidelines attached as Exhibit 7 to the Staff Report and as approved and/or modified by the Commission. |
| 5. | The Reclamation Plan shall be revised to provide for an annual increase in costs at 3%, or tied to the Consumer Price Index (CPI), or other mechanism acceptable to the Fresno County Department of Public Works and Planning. |
| 6. | As part of the SPR submittal process, an agreement incorporating the provisions of the "Right-to-Farm" Notice (Ordinance Code Section 17.40.100) shall be entered into with Fresno County, acknowledging the presence of surrounding agricultural operations and their related activities. |
| 7. | A dust palliative shall be required for all unpaved parking and circulation areas to prevent the creation of dust by vehicles. |

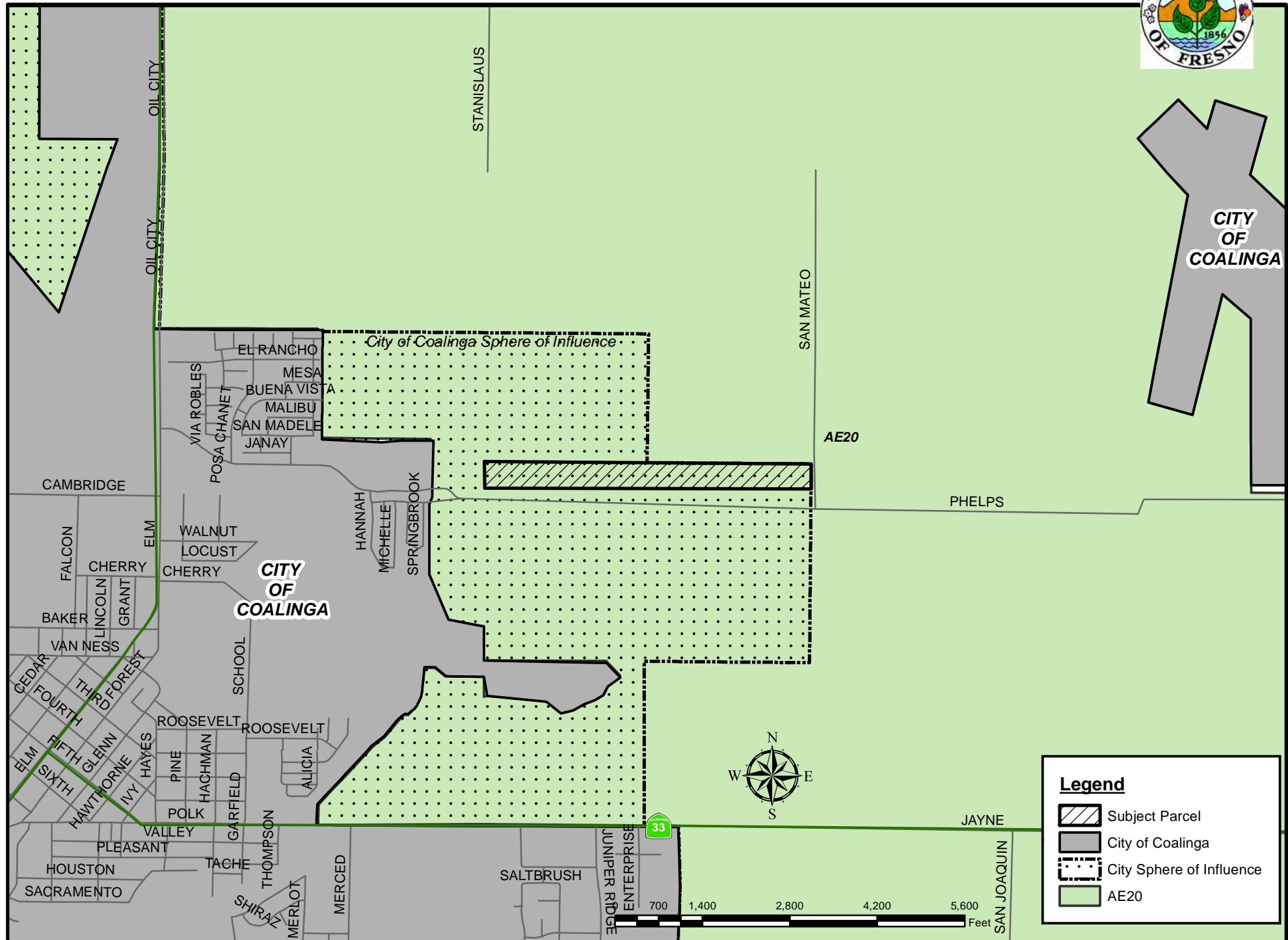
*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

| Notes | |
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| The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant. | |
| 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 and Building Permits and inspections shall be required for all on-site improvements, including solar array installation and fences over six feet in height. Contact the Building and Safety Section of the Development Services and Capital Projects Division at (559) 600-4540 regarding permits for construction. |
| 3. | To address health impacts resulting from the project, the Fresno County Department of Public Health, Environmental Health Division requires the following: <ul style="list-style-type: none"> • 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. |
| 4. | To address site development impacts resulting from the project, the Development Engineering Section of the Development Services and Capital Projects Division requires the following: <ul style="list-style-type: none"> • An Engineered Grading and Drainage Plan shall be required to show how additional storm water run-off generated by the proposed development will be handled without adversely impacting adjacent properties. • A grading permit or voucher shall be required for any grading proposed with this application. • 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. |

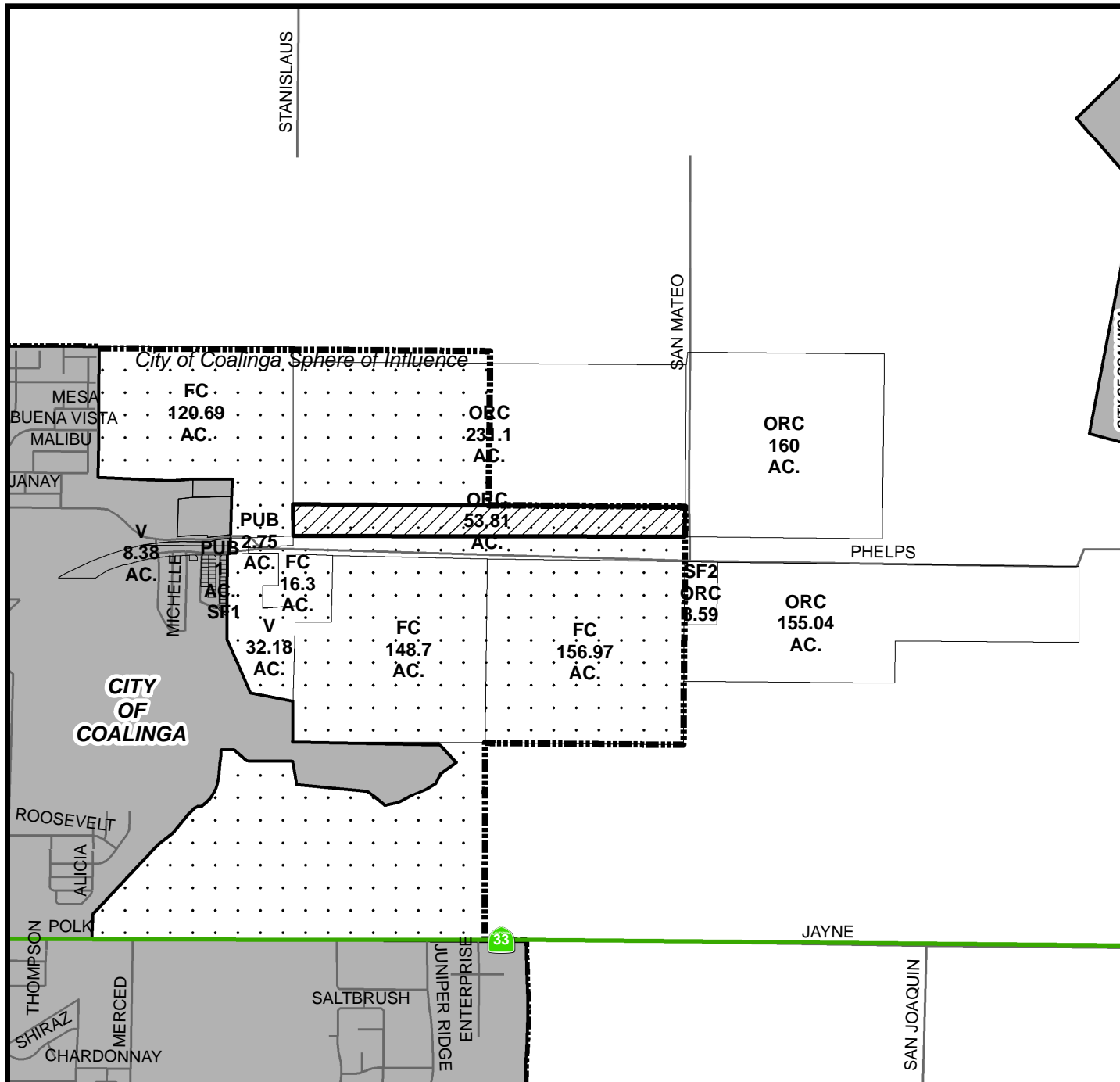
Notes

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| <ul style="list-style-type: none"> • Federal Emergency Management Authority (FEMA) FIRM Panel 3214H shows that portions of the subject parcel are in Zone A that is subject to the 100-year storm. No net import of fill shall be allowed within the flood zone, and any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance. | |
| <p>5. 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> <ul style="list-style-type: none"> • District Regulation VIII (Fugitive PM10 Prohibitions) • Rule 4601 (Architectural Coatings) • Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations) • Rule 4002 (National Emission Standards for Hazardous Air Pollutants) in the event an existing building will be renovated, partially demolished, or removed • Rule 4102 (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials | |
| <p>6. 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"> • If only the driveway is to be paved, the first 100 feet off the edge of the ultimate right-of-way shall be concrete or asphalt. • All proposed signs shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance. <p>Note: These requirements will be addressed through Site Plan Review.</p> | |
| <p>7. 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> | |
| <p>8. 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> | |

EXHIBIT 2
EXISTING ZONING MAP

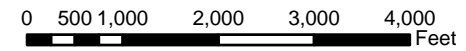


EXISTING LAND USE MAP



| LEGEND | |
|--------|---------------------------|
| FC | - FIELD CROP |
| ORC | - ORCHARD |
| PUB | - PUBLICLY OWNED |
| SF# | - SINGLE FAMILY RESIDENCE |
| V | - VACANT |

- LEGEND:**
- Subject Property
 - City of Coalinga
 - City Sphere of Influence



Department of Public Works and Planning
Development Services Division

EXHIBIT 3



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 Mr. Alvarez:

Subject: Notice of Planning Commission Decision – Initial study No. 7442 and
Conditional Use Permit No. 3610 (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



Inter Office Memo

DATE: December 10, 2020

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12861 – INITIAL STUDY No. 7442 and
CONDITIONAL USE PERMIT NO. 3610 (TIME EXTENSION)

OWNER: James Anderson

APPLICANT: Forefront Power

REQUEST: Allow a one-megawatt photovoltaic solar generation facility with related improvement son an approximately 11.4-acre portion of 53.81-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the northwest corner of Phelps Avenue and South San Mateo Avenue approximately 875 feet east of the nearest city limits of the City of Coalinga (SUP. DIST.4) (APN 070-070-62S)

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 Woolf and seconded by Commissioner Eubanks to approve the requested one-year time extension for Initial Study No. 7442 and Conditional Use Permit No. 3610.

EXHIBIT "A"

Initial Study Application No. 7442
Unclassified Conditional Use Permit Application No. 3610

- 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 of or in 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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Mitigation Monitoring and Reporting Program
Initial Study Application No. 7442/Unclassified Conditional Use Permit Application No. 3610
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Notes

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| 1. | This Use Permit will become void unless there has been substantial development within two years of the effective date of approval. |
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Notes

- Federal Emergency Management Authority (FEMA) FIRM Panel 3214H shows that portions of the subject parcel are in Zone A that is subject to the 100-year storm. No net import of fill shall be allowed within the flood zone, and any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance.

5. 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:

- District Regulation VIII (Fugitive PM10 Prohibitions)
- Rule 4601 (Architectural Coatings)
- Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations)
- Rule 4002 (National Emission Standards for Hazardous Air Pollutants) in the event an existing building will be renovated, partially demolished or removed
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- If only the driveway is to be paved, the first 100 feet off the edge of the ultimate right-of-way shall be concrete or asphalt.
- All proposed signs shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance.

Note: These requirements will be addressed through Site Plan Review.

7. 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.

8. 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.

E | P | D SOLUTIONS, INC.

September 23rd, 2021

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

**RE: Time Extension for CUP 3610
APN 070-070-62S**

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 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