



County of Fresno

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

August 10, 2018

Luke Vanderham
10846 W. Mt. Whitney Avenue
Riverdale CA 93656

Dear Applicant:

Subject: Resolution No. 12832 – Unclassified Conditional Use Permit Application No. 3673

On July 23, 2020, the Fresno County Planning Commission approved your above-referenced project with Conditions. A copy of the Planning Commission Resolution is enclosed.

Since no appeal was filed with the Clerk to the Board of Supervisors within 15 days, the Planning Commission's decision is final.

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.

If you have any questions regarding the information in this letter please contact me at jshaw@fresnocountyca.gov or 559-600-4207.

Sincerely,

Jeremy Shaw, Planner
Development Services and Capital Projects Division

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Enclosure



Inter Office Memo

DATE: July 23, 2020
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: RESOLUTION NO. 12832 - UNCLASSIFIED CONDITIONAL USE PERMIT
APPLICATION NO. 3673

APPLICANT/
OWNER: Luke Vanderham

REQUEST: Amend Conditional Use Permit No. 3644 to allow the installation of a new 320-foot by 672-foot by 32-foot-deep (approximately 5.23 acres) covered lagoon dairy digester, and the construction of a 60-foot by 40-foot by 20-foot-tall (2,400 square feet) prefabricated steel mechanical building to house a biogas generator and conditioning equipment, on a 320-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the north side of West Mount Whitney Avenue approximately one mile east of its intersection with South Bishop Avenue (10846 West Mount Whitney Avenue) (Sup. Dist. 4) (APN 050-270-56S).

PLANNING COMMISSION ACTION:

At its hearing of July 23, 2020, the Commission considered the Staff Report and testimony (summarized in Exhibit A).


A motion was made by Commissioner Eubanks and seconded by Commissioner Hill to adopt the Mitigated Negative Declaration prepared for the project, adopt the recommended Findings of Fact for approval of a Conditional Use Permit, and approve Unclassified Conditional Use Permit No. 3673, subject to the Conditions listed in Exhibit B.

RESOLUTION # 12832

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Eubanks, Hill, Abrahamian, Carver, Chatha, Ede, Lawson and Woolf
	No:	None
	Absent:	Commissioner Burgess
	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

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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

Unclassified Conditional Use Permit Application No. 3673

Staff: The Fresno County Planning Commission considered the Staff Report dated July 23, 2020 and heard a summary presentation by staff.

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

- We are aware of the required Mitigation Measures.
- We (MAAS Energy) received notice from the company with mineral rights on the subject property two days in advance of this hearing.
- Any mineral rights issues are preexisting and plans by private entities with such rights would be able to be communicated directly with the property owner/dairy operator about any mineral extraction operation on the subject property.
- Our company, MAAS Energy Works, is a dairy digester developer; we build the digester and install related equipment.
- The property owner/dairy operator usually owns a majority in the digester revenues, and MAAS Energy may own a small percentage; however, the dairymen are the direct beneficiary of the digester operation.
- MAAS Energy coordinates the gas output, and conducts monitoring both remotely and with site visits.
- The gas lines are installed under contract with PG&E. There would be no need for reclamation of the site, as the digester lagoons themselves would remain as uncovered storage ponds which are incidental to the dairy operation.
- We have a contractual agreement with PG&E for delivery of the gas.

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

Correspondence: One letter was presented to the Planning Commission with concerns regarding the project.

**Unclassified Conditional Use Permit Application No. 3673
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	All Mitigation Measures, Conditions of Approval, and Project Notes for Unclassified Conditional Use Permit Nos. 3642-3647 shall remain in effect, except as modified with the approval of Unclassified Conditional Use Permit No. 3673.
2.	Development and operation shall be in substantial conformance with the approved Site Plans, Detail Drawings, Elevation Drawings and Operational Statement.

Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	The approval of this Conditional Use Permit shall become void if there has not been substantial development within two (2) years after the approval of said Conditional Use Permit, or if there has been a cessation in the occupancy or use of land or structures authorized by said Conditional Use Permit for a period in excess of two (2) years.
2.	Plans, Permits and Inspections will be required for all on-site improvements.
3.	If during development activities, any oil or natural gas wells are encountered that were not part of this review, the property owner/project proponent is expected to notify the California Department of Conservation, Geologic Energy Management Division (CALGEM), construction site well review engineer in the Inland District Office, and file for Division review, an amended site plan with well casing diagrams.
4.	The Applicant's operational statement indicates that the separated solids from the anaerobic digester will be disposed of at an appropriate landfill. If the facilities change the operations to use the separated solids for composting prior to the production of compost from operations of the digester, the Applicant shall apply for and obtain a permit to operate a Solid Waste Facility from the Fresno County Department of Public Health, Environmental Health Division, acting as the Local Enforcement Agency.
5.	The proposed use shall comply with the Fresno County Noise Ordinance, Section 8.40 of the Fresno County Ordinance Code.
6.	Provision G.4 of the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2013-0122 (Reissued General Order) requires the submittal of a Report of Waste Discharge (RWD) prior to starting discharge associated with a development of any treatment technology, as it is considered a material change in the character and volume of the waste discharge. The proposed new pond should meet the requirements specified in Pond Specification C.5 of the Reissued General Order.
7.	Within 30 days of the occurrence of any of the following events, the Applicant/operator shall update their online Hazardous Materials Business Plan and site map:

Notes

1. There is a 100% or more increase in the quantities of a previously-disclosed material;
2. The facility begins handling a previously-undisclosed material at or above the HMIBP threshold amounts.

The business shall certify that a review of the business plan has been conducted at least once every 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 wastes.

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).

8. Any proposed uses within the PG&E fee strip and/or easement may include a California Public Utilities Commission (CPUC) Section 851 filing, which requires CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.

9. The Burrel Union Elementary School District and the Riverdale Joint Unified School District in which construction is proposed are authorized by State law to adopt a resolution requiring the payment of a construction fee. If this occurs, the County, in accordance with State Law which authorizes the fee, will not be able to issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.