



## Inter Office Memo

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**ATTENTION: FOR FINAL ACTION OR  
MODIFICATION TO OR ADDITION OF  
CONDITIONS, SEE FINAL BOARD OF  
SUPERVISORS' ACTION SUMMARY  
MINUTES**

DATE: March 24, 2022

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12926 - INITIAL STUDY NO. 8157, AMENDMENT TO  
TEXT NO. 382, AND CLASSIFIED CONDITIONAL USE PERMIT  
APPLICATION NO. 3727

APPLICANT: Assemi Group Inc.

OWNER: Multiple Property Owners

REQUEST: Amendment to Text No. 382 to modify the text of the Fresno  
County Zoning Ordinance to allow landscaping, limited  
agriculture, and grazing to be permitted within or adjacent to  
the Millerton Specific Plan Area when supplied or irrigated  
with tertiary treated sewage effluent from a municipal  
sewage system within the R-1-E (Single-Family Residential,  
37,500 square-foot minimum parcel size) Zone District, R-1-  
B (Single-Family Residential, 12,500 square-foot minimum  
parcel size) Zone District, R-1-C (Single-Family Residential  
9,000 square-foot minimum parcel size) Zone District, R-1  
(Single-Family Residential, 6,000 square-foot minimum  
parcel size) Zone District, and R-2 (Low Density Multiple  
Family Residential, 6,600 square-foot minimum parcel size)  
Zone District.

Classified Conditional Use Permit Application No. 3727  
requests to allow the distribution of tertiary-treated sewage  
effluent from an existing wastewater treatment facility  
through lines in the public right-of-way to spray fields on  
approximately 158 acres of land within the Millerton Specific

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Plan boundary specifically for landscaping, limited agriculture, and grazing.

LOCATION:

The Millerton Specific Plan is located approximately 1.5 miles east of the unincorporated community of Friant. The spray field components of the project site are comprised of five areas with portions on a total of 10 assessor's parcels totaling 158 acres of open land located on the south side of Millerton Road within the Millerton Specific Plan boundary. The effluent distribution lines to the spray fields will be located within the public rights-of ways (APN 300-340-13, 300-340-60, 300-542-07, 300-542-08, 300-542-13, 300-542-54, 300-542-55, 300-542-16, 300-542-27, and 300-542-51) (Sup. Dist. 5).

PLANNING COMMISSION ACTION:

At its hearing of March 24, 2022, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Hill and seconded by Commissioner Zante to recommend that the Board of Supervisors adopt the Mitigated Negative Declaration prepared for the project based on Initial Study No. 8157, approve Amendment to Text No. 382, and adopt the required Findings of Fact as recommended in the Staff Report, revise the Conditions of Approval as depicted in Exhibit 1 of the Staff Report to revise the language of Condition of Approval No. 6 to establish a density ratio of one cow per three acres, and approve Classified Conditional Use Permit No. 3727, subject to the Conditions listed in Exhibit B.



EXHIBIT A

Initial Study No. 8157  
Amendment to Text No. 382  
Classified Conditional Use Permit Application No. 3727

Staff: The Fresno County Planning Commission considered the Staff Report dated March 24, 2022 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 sewage disposal system in the Millerton Specific Plan area is a three-part system that consists of the tertiary treatment plant, the effluent storage pond, and beneficial reuse area.
- The existing effluent storage pond is 45-acre feet in size, with another one in construction that will be over 100-acre feet in size.
- We have identified five sites in the area that could be utilized as beneficial reuse areas.
- We have designed the project with the estimated 158 acres to accommodate current and future development south of Millerton Road.
- New development to the north of Millerton Road would be subject to an amendment to the Classified Conditional Use Permit or a new Classified Conditional Use Permit.
- In the history of the Millerton Specific Plan, there have been two attempts to permit beneficial reuse areas; the first in 1999, for a proposed a small golf course to be irrigated with tertiary-treated effluent, but was never constructed; the other was in 2018 where a pistachio orchard was proposed to utilize the tertiary-treated effluent, but never proceeded forward.
- We are required to receive approval from the State of California for development of the area and additionally, are required to submit reports and studies that satisfy State and Federal regulations.
- We anticipate a management agreement with the County Service Area where the beneficial reuse areas would be operated by the developers and the CSA would oversee their operations.
- There are preexisting leases for cattle grazing; our intent is not to have an intensive operation and to protect the area and environment.

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- There are specific facilities for stormwater runoff; there is no overflow of the tertiary-treated effluent storage pond through management of these ponds.
- One of the areas south of the existing wastewater treatment facility has a grazing operation.

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.

**Mitigation Monitoring and Reporting Program  
Conditions of Approval, and Project Notes  
Initial Study No. 8157  
Amendment to Text No. 382  
Unclassified Conditional Use Permit Application No. 3727**

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	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 shall be followed by photos, reports, video, and etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/Dept of Public Works and Planning (PWP)	During project construction
*2.	Energy	The idling of on-site vehicles and equipment will be avoided to the most extent possible to avoid wasteful or inefficient energy consumption during project construction.	Applicant	Applicant/PWP	During project construction
*3.	Hazards and Hazardous Materials	To minimize and mitigate any nuisance and disease impact created by the project, the project proponent shall take all necessary steps and costs to prevent, reduce and eliminate sources of mosquito production; shall respond to requests from Consolidated Mosquito Abatement District (District) for actions to abate mosquito production on the property throughout the existence of the project; and shall provide the District unhindered access to areas where irrigation occurs for surveillance and control purposes.	Applicant	Applicant/ Consolidated Mosquito Abatement District	During the life of the project
*4.	Hydrology and water Quality	Prior to the issuance of any required permit or installation of any component of the Beneficial Re-Use of Title 22, tertiary-treated sewage effluent, the applicant shall meet with and obtain approval on the	Applicant	Applicant/PWP	During project construction

EXHIBIT B

		plans for each area from the California Regional Water Quality Control Board.			
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<b>Conditions of Approval CUP 3727</b>	
1.	Development shall be in substantial compliance with the approved Site Plans and Operational Statement.
2.	The Applicant shall provide engineered plans and documents, prepared by a Registered Professional Engineer, for any improvement associated with this project. The Plans along with fees per the Master Fee Schedule, shall be submitted to the County of Fresno, Department of Public Works and Planning for review and approval. The plans should include, but not be limited to property surveying, signage (sizes and types), earthwork, electrical and electrical wiring, pump sizing and locations, and site and equipment engineering.
3.	A Technical Report with a summary of the amount of effluent water that is estimated to be used and the ability for the areas and uses proposed to utilize the effluent water must be prepared by a registered professional engineer, or other professional authorized under law to prepare such a report and submit this report to the County of Fresno Department of Public Works and Planning for review and approval. The technical report would be required prior to the acceptance of construction permit applications. The technical report would be required prior to acceptance of construction permit applications. The report will be the basis for determining the number of residential/commercial units that can be served by these areas.
4.	All reclaimed water valves, outlets, quick couplers, and sprinkler heads shall be of a type, or secured in a manner that permits operation by County-authorized personnel.
5.	The areas around the proposal shall be landscaped and designed to blend into the surrounding area in a compatible manner.
6.	Grazing operations shall not exceed a herd density level of one (1) cow per three (3) acres.
7.	The application of chemicals for the cultivation of agriculture shall be prohibited unless an application and monitoring program is proposed and approved as an amendment to this Conditional Use Permit.
8.	The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of IS No. 8157, AT No. 382, and CUP No. 3727 and provide security in an amount determined by the County for any such legal costs incurred. The agreement and payment of security shall be due unless the litigation period is expired, in which case the requirements for the indemnification agreement and security shall be considered null and void.

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

<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.	The Development Engineering Section of the Fresno County Department of Public Works and Planning provide the following comments:

## Notes

- A. According to FEMA FIRM Panel 1035H LOMR Case No. 12-09-1045P with effective date January 25, 2013, portions of the area of the parcel lots within APNs 300-542-13, 54S and 27 are within the Flood Zone AE, subject to flooding from the 100-year storm. Any development within the Special Flood Hazard Area shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Any future/proposed structure and associated electrical wiring, walk-in equipment, cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) including manure storage and drying location in the Special Flood Hazard Area must comply with the FEMA flood elevation requirements. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. Grading import is not allowed within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. Manure pits and waste lagoons that are susceptible to flooding must be consulted with State departments of environmental management or natural resources on how to prevent overflow of these waste treatment facilities into local stream, rivers, or even drinking water supply. Any future/proposed structure to be constructed within the Special Flood Hazard Area shall require FEMA Elevation Certificate. Any future/proposed building/structure near the Special Flood Hazard Area shall require a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines and/or existing structure(s). The MOS must show spot elevations within the perimeter of the proposed structure and the flood zone for verification purposes.
- B. The subject property is within the Low Water Area (Water Short Area). Any future/proposed development, Water and Natural Resources Division should be consulted regarding any requirements they may have.
- C. The subject property is located within the State Responsibility Area (SRA) boundary. Any future/proposed development shall be in accordance with the applicable SRA Fire Safe Regulations, as they apply to driveway construction and access.
- D. According to the U.S.G.S. Quad Map, intermittent streams may be present within the subject property. Any future/proposed work within or near a stream requires clearance from California Department of Fish and Wildlife (CDFW).
- E. According to the wetlands mapper of the U.S. Fish and Wildlife Service, wetlands may be present within the subject property. For any development including the likely to be directed or sprayed of tertiary treated effluent on wetlands, U.S. Fish and Wildlife Service and other appropriate agencies should be consulted regarding any requirements they may have.
- F. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) are required to be filed with State Water Resources Control Board (SWRCB) before the commencement of any construction activities disturbing 1.0 acre or more of area. Copies of completed NOI with WDID # and SWPPP shall be provided to Development Engineering prior to any grading work.
- G. Any future/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 (CA RWQCB). CA RWQCB should be consulted for their requirements. Any future or proposed storage pond should be located outside the Special Flood Hazard Area.
- H. CA RWQCB should be consulted regarding any requirements they may have prior to spray disposal of the recycled wastewater.



**Notes**

	<p>I. Any future/proposed work done within the County road right-of-way will require an Encroachment Permit from the Road Maintenance and Operations Division.</p> <p>J. Any future/proposed grading may require either a grading permit, improvement plan, permit or voucher.</p>
2.	<p>The Resources Division of the Fresno County Department of Public Works and Planning provide the following comments:</p> <p>A. All irrigation infrastructure required for this project shall be designed and constructed in accordance with the approved infrastructure plan. Where standards are unspecified in the Infrastructure Plan, the project shall be designed for Fresno County Improvement Standard and/or as approved by the Director of the Department of Public Works and Planning.</p> <p>B. Once accepted, the Applicant will provide a one-year warranty for all improvements.</p> <p>C. The Applicant shall obtain all necessary local and state regulatory permits prior to operation of the project.</p> <p>D. The reclaimed water distribution system shall comply with requirements contained in the AWWA publication "Guidelines for Distribution of Non-potable Water". The required separation of reclaimed water, potable water and raw wastewater piping shall be maintained.</p> <p>E. All reclaimed water valves, outlets, quick couplers and sprinkler heads shall be of a type or secured in a manner that only permits operation by authorized personnel.</p> <p>F. The areas around the proposal shall be landscaped and designed to blend into the surrounding area in a compatible manner.</p>
3.	<p>Any crossings under County-maintained roads shall require an Encroachment Permit and may be subject to additional conditions.</p>
4.	<p>The Fresno County Department of Public Health, Environmental Health Division provide the following comments:</p> <p>A. If the project Applicant proposes to use and/or store hazardous materials and/or hazardous wastes, they shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Division 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 California Health and Safety Code, Division 20, Chapter 6.95, Section 25507.</p> <p>B. Should any underground storage tank(s) be found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division.</p> <p>C. The proposed project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the County of Fresno Noise Ordinance.</p> <p>D. As a measure to protect ground water, all water wells and/or septic systems that exist and have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.</p>

Notes	
5.	If future development is sought, the 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. The project/development may be required to annex into the Community Facilities District No. 2010-01 of the Fresno County Fire Protection District.
6.	<p>The San Joaquin Valley Air Pollution Control District provide the following comments:</p> <p>A. District Rules 2010 and 2201 – Air Quality Permitting for Stationary Sources: Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the Air District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT). The project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to commencing construction on any permit-required equipment or process, a finalized ACT must be issued to the project proponent by the District.</p> <p>B. The project may also be subject to District Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).</p>

TK:jp

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EXHIBIT C

ATTACHMENT  
TO  
AGENDA ITEM

FISCAL IMPACT STATEMENT

Initial Study Application No. 8157  
(State Clearinghouse #2022020410)  
Amendment to Text Application No. 382  
Classified Conditional Use Permit Application No. 3727

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Amendment to Text Application	\$ 7,326.00 <sup>1</sup>
Conditional Use Permit Application and Variance Application	\$ 9,123.00 <sup>1</sup>
Environmental Assessment	\$ 5,151.00 <sup>2</sup>
Public Health Department Review	\$ 1,375.00 <sup>3</sup>
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<b>Total Fees Collected</b>	<b><u>\$22,975.00</u></b>

1 Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.
2 Review proposal to provide appropriate California Environmental Quality Act (CEQA) Analysis and include documentation to prepare a Mitigate Negative Declaration.
3 Review of proposal and associated environmental documents by the Department of Public Health, Environmental Health Division; comments.