



## Inter Office Memo

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DATE: June 9, 2022

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12948 - UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3719

APPLICANT: Five Points Pipeline, LLC

OWNER: Eric te Velde

REQUEST: Amend Unclassified Conditional Use Permit (UCUP) No. 3642 to allow the expansion of a previously approved biomethane clean-up facility to include the installation and operation of a biomethane reception, which will accept gas transported from off-site dairy digesters, in conjunction with an existing natural gas pipeline injection operation, on an approximately 14,000 square-foot portion of an existing 508.93-acre parcel occupied by the Open Sky Dairy, in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the west side of Elkhorn Grade approximately 0.6 of one-mile southwest of its intersection with W. Elkhorn Avenue, and approximately 5.25 miles northwest of the unincorporated community of Lanare (APN: 050-170-48S) (12103 W. Elkhorn Avenue) (Sup. Dist. 1).

### PLANNING COMMISSION ACTION:

At its hearing of June 9, 2022, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Vice Chair Hill and seconded by Commissioner Zante to adopt the required Findings as described in the staff report, with an additional condition added by the Commission, that the property owner complete and cause to be recorded a Notice of Nonrenewal of the Williamson Act Contract for the affected portion of the property prior to any development permits being issued; and approve UCUP No. 3719, subject to the Conditions listed in Exhibit B.

RESOLUTION NO. 12948

This motion passed on the following vote:

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

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

By:   
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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. 3719

- Staff: The Fresno County Planning Commission considered the Staff Report dated June 9, 2022 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 have five operational sites in Fresno County, four of which are contributing to our related pipeline project and existing hub facility.
  - Two sites will be providing biomethane to the proposed project reception point; one in Fresno County and one outside of the County.
  - We anticipate one to two trucks per day bringing biomethane to the proposed facility.
- 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.

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EXHIBIT B  
**Unclassified Conditional Use Permit Application No. 3719**  
**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 shall remain in effect, except as modified with the approval of Unclassified Conditional Use Permit No. 3719.
2.	Development and operation shall be in substantial conformance with the approved Site Plans, Detail Drawings, Elevation Drawings and Operational Statement.
3.	The property owner shall complete and cause to be recorded a Notice of Nonrenewal of the Williamson Act contract for the affected property, prior to any development permits being issued. <i>Added by Planning Commission 6/9/22</i>

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.	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.	For unpaved or gravel surface access roads, the first 100 feet off of the edge of the County road right-of-way must be graded and asphalt concrete paved or treated with a dust palliative.
4.	Any existing or proposed driveway shall be set back a minimum of ten (10) feet from the property line.
5.	If not already present, a ten-foot by ten-foot corner cut-off shall be improved for sight distance purposes at any proposed driveway accessing W. Elkhorn Avenue, Howard Avenue, Elkhorn Grade, or Cerini Avenue.
6.	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.
7.	Any additional storm water runoff generated by the proposed development cannot be drained across property lines or into the road right-of-way, and must be retained on-site, as per County standards.
8.	An encroachment permit from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning will be required for any work done in the County right-of-way.

EXHIBIT B

**Notes**

9.	All proposed improvements shall be located outside of the County road right-of-way. Setbacks to proposed structures shall be measured from the ultimate County road right-of-way.
10.	The proposed use shall comply with the Fresno County Noise Ordinance, Section 8.40 of the Fresno County Ordinance Code.
11.	The project shall comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.
12.	According to FEMA, FIRM Panel 2850 J, a portion of the subject property is found to be under Flood Zone A, subject to flooding from the 100-year storm. Any development within the special flood hazard area, shall conform to the requirements of Title 15, Chapter 15.48 Flood Hazard Areas, of the Fresno County Ordinance Code.
13.	<p>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:</p> <ol style="list-style-type: none"> <li>1. There is a 100% or more increase in the quantities of a previously disclosed material;</li> <li>2. The facility begins handling a previously undisclosed material at or above the HMBP threshold amounts.</li> </ol> <p>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.</p> <p>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.</p> <p>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).</p>
14.	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.
15.	The Burrel Union Elementary School District and the Riverdale Joint Unified School District in which you are proposing construction 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.