



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 1 September 15, 2022

SUBJECT: Unclassified Conditional Use Permit No. 3607- Second One-Year Time Extension

Allow a 5-megawatt solar photovoltaic power generation facility with related improvements on an approximately 47-acre portion of an 88.23-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts.

LOCATION: The project site is located on the east side of Shell Road, 0.4 miles northeast of its intersection with Oil City Road, and 2.6 miles north of the nearest city limits of the City of Coalinga (APN: 070-020-07) (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. 3607
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Resolution 12786 approving CUP 3617 with Conditions of Approval and Project Notes
5. Unclassified Conditional Use Permit Time Extension Request Letter

ENVIRONMENTAL ANALYSIS:

The proposed project has not changed since the original 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 for Initial Study No. 7439 was adopted by the Fresno Planning Commission in accordance with the California Environmental Quality Act (CEQA) with approval of Classified Conditional Use Permit (CUP) No. 3607 on July 18th, 2019.

Section 15162(b) of the CEQA Guidelines provides that once a Mitigated Negative Declaration has been adopted for a project, no subsequent 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 7 property owners within 2,640 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:

1. On July 18th, 2019, the Planning Commission approved CUP 3607 for a Solar facility.
2. On July 1, 2021, the applicant submitted an application for this time extension, and was approved by the Planning Commission on August 26, 2021 which extended the date substantial development must occur to August 6th, 2022.
3. On July 12, 2022, the applicant submitted an application for this time extension, which if approved will extend the date substantial development must occur to August 6th, 2023.

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 Time Extension request for Unclassified Conditional Use Permit No. 3607 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:

No public comment was received as of the date of preparation of this report.

CONCLUSION:

Staff recommends that the second one-year Time Extension for Unclassified Conditional Use Permit No. 3607 should be approved based on factors by the applicant regarding Covid-19. Approval of this Time Extension will extend the expiration date August 6th, 2023.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to approve the second one-year Time Extension for Unclassified Conditional Use Permit No. 3607
- 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. 3607 based on (state reason for denial).
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

LOCATION MAP



CUP 3607 EXT 2

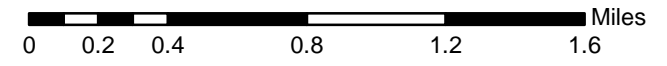
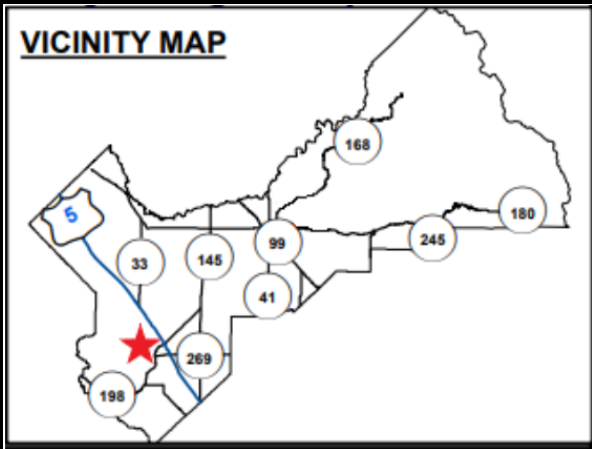
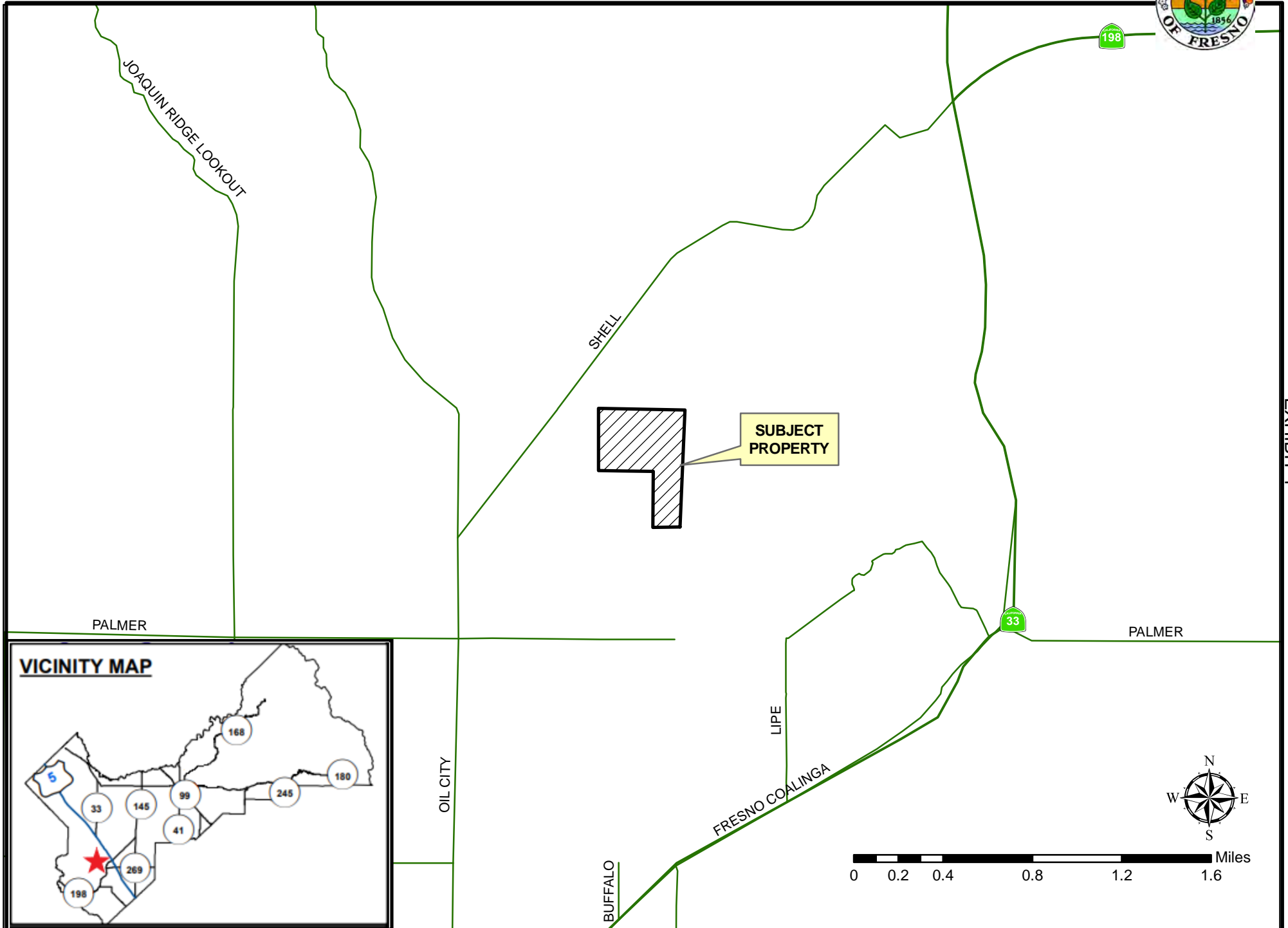
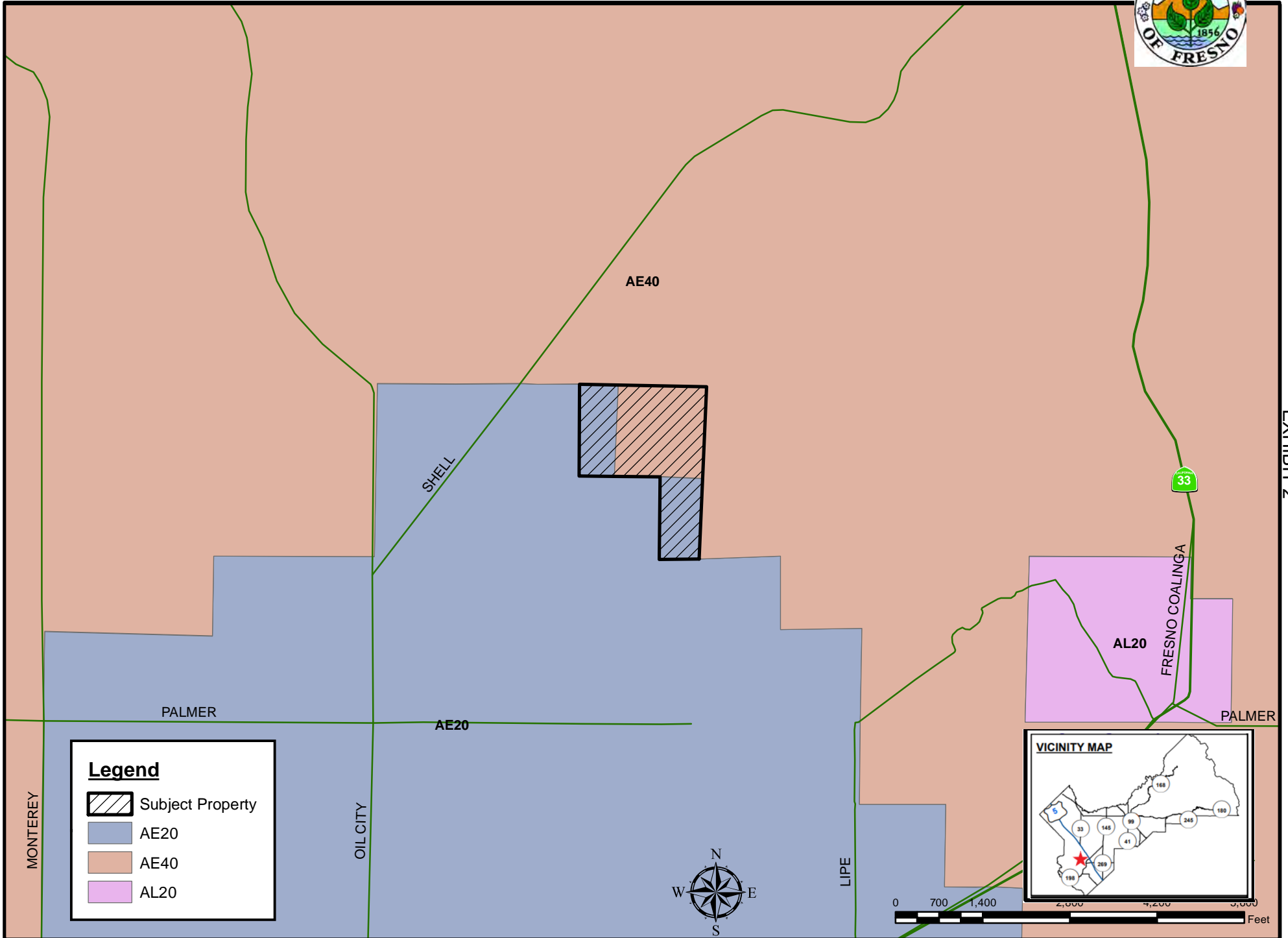


EXHIBIT 1

EXISTING ZONING MAP



Legend

- Subject Property
- AE20
- AE40
- AL20

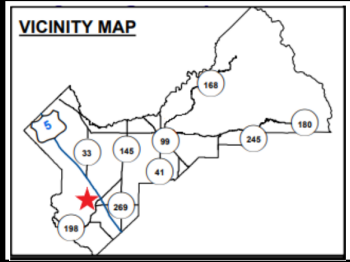
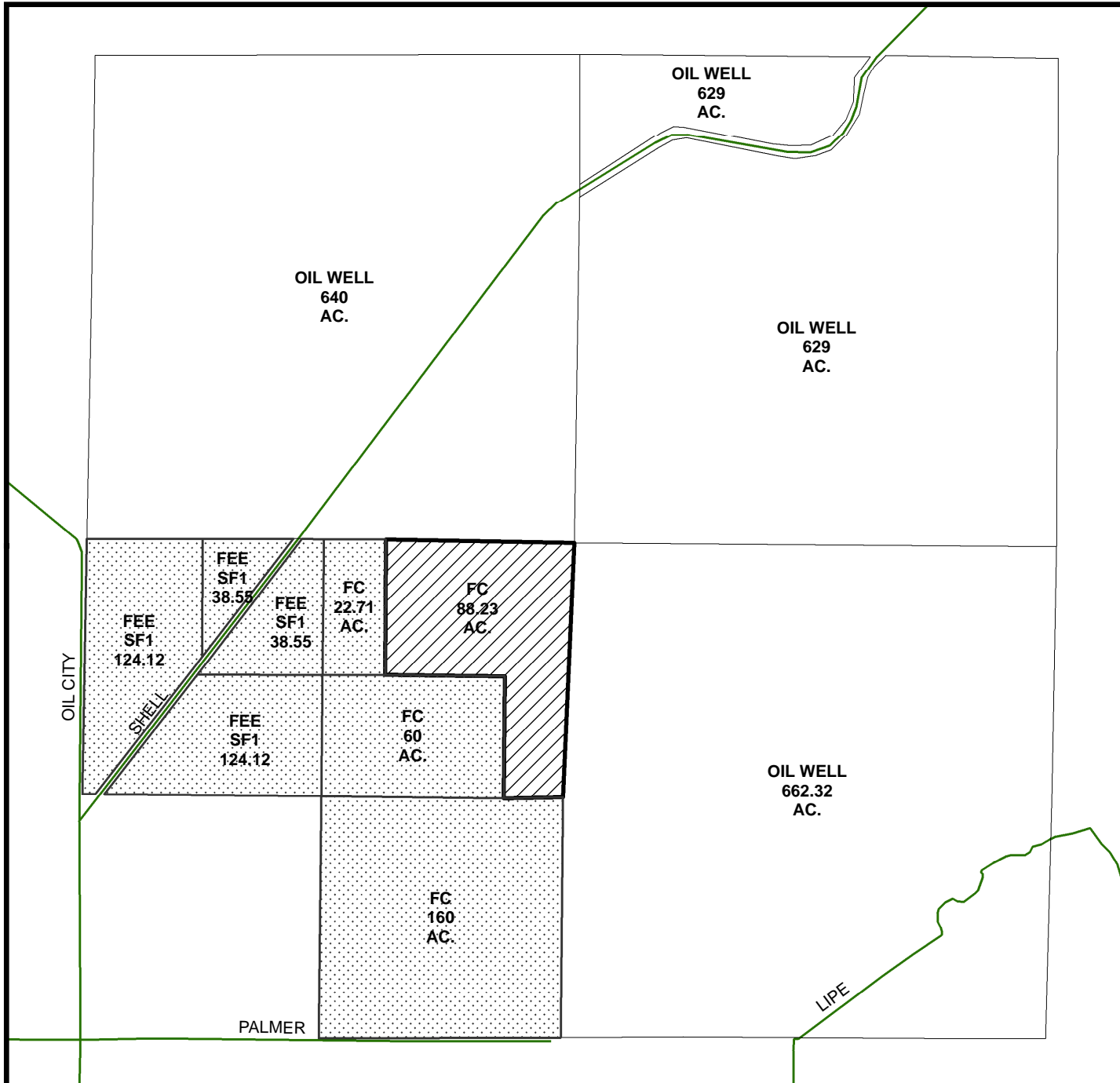


EXHIBIT 2

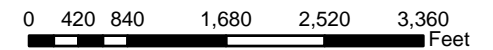
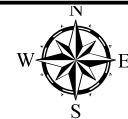
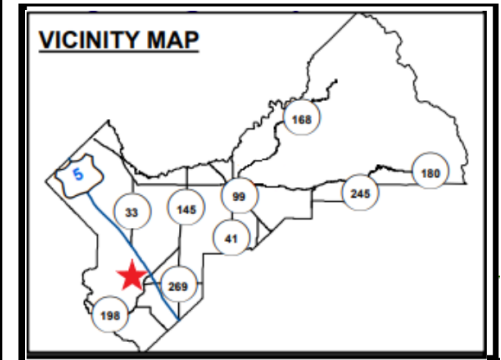
EXISTING LAND USE MAP



LEGEND	
V - VACANT	
FC - FIELD CROP	
FEE - FEED LOT	
SF# - SINGLE FAMILY RESIDENCE	

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division



Inter Office Memo

DATE: July 18, 2019

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12786 - INITIAL STUDY APPLICATION NO. 7439 and UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3607

APPLICANT: ForeFront Power

OWNER: Coalinga Feed Yard, Inc.

REQUEST: Allow a five (5) megawatt solar photovoltaic power generation facility with related improvements on an approximately 47-acre portion of an 88.23-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts.

LOCATION: This project is located approximately 0.2 miles east of Shell Road, 0.4 miles northeast of its intersection with Oil City Road, and 2.6 miles north of the nearest city limits of the City of Coalinga (SUP. DIST. 4) (APN 070-020-07).

PLANNING COMMISSION ACTION:

At its hearing of July 18, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Chairman Abrahamian and seconded by Commissioner Chatha 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. 3607, subject to the Conditions listed in Exhibit B.

RESOLUTION # 12786

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Abrahamian, Chatha, Delahay, Eubanks, Hill and Lawson
	No:	None
	Absent:	Commissioners Burgess, Ede and Vallis
	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 Classified Conditional Use Permit.

Attachments

EXHIBIT A

Initial Study Application No. 7439
Unclassified Conditional Use Permit Application No. 3607

Staff: The Fresno County Planning Commission considered the Staff Report dated July 18, 2019, 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 solar panels are designed to minimize glare.
- The solar panels do not contain liquid or materials that could cause an environmental hazard if they were to break during a natural disaster.

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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County of Fresno

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

August 6, 2019

ForeFront Power
100 Montgomery Street #1400
San Francisco CA 94104

Dear Applicant:

Subject: Resolution No. 12786 - Initial Study Application No. 7439 and Unclassified
Conditional Use Permit Application No. 3607

On July 18, 2019, 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 Unclassified Conditional Use Permit.

If you have any questions regarding the information in this letter please contact me at mmollring@fresnocountyca.gov or 559-600-4569.

Sincerely,

Marianne Mollring, Senior Planner
Development Services and Capital Projects Division

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Enclosure

Mitigation Monitoring and Reporting Program
Initial Study Application No. 7439/Unclassified Conditional Use Permit Application No. 3607
(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 preconstruction surveys shall be conducted by a qualified biologist and/or botanist 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, Western Pond Turtle, and Short-nosed Kangaroo Rat (SNKR). These surveys shall include the gen-tie route, 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, Western Pond Turtle, 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 and during 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 and during 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 managed in accordance with the "Staff Report on Burrowing Owl Mitigation" (CDFG, 2012).	Applicant	Applicant/PW&P	Prior to and during 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 of activities to identify the presence of any Swainson's Hawk nests. If any nests are identified, no construction may take place within 0.5 miles 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.	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 and during 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 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, and continuously monitored after that so as to detect any behavioral changes that result from project impacts. If behavioral changes are observed, stop work that is causing this change and consult with CDFW for additional avoidance and minimization measures. In lieu of	Applicant	Applicant/PW&P	Prior to and during construction and decommissioning

		continuous 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.	Applicant	Applicant/PW&P	During construction and decommissioning
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	Prior to and during 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 possible, alternative mitigation would have to be agreed upon by the Applicant and CDFW.	Applicant	Applicant/PW&P	Lifetime of the Project
11.	Biological Resources	No rodenticides, pesticides, or herbicides shall be used during construction, maintenance, or decommissioning of the proposed project.	Applicant	Applicant/PW&P	During ground-disturbing activities
12.	Cultural Resources/ Geology and Soils/Tribal 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	During construction and decommissioning
13.	Transportation	All construction traffic must access the solar facility via the section of Shell Road southwest of the facility, connecting to Oil City Road.	Applicant	Applicant/PW&P	During construction and decommissioning
14.	Transportation	Any oversize hauls on Shell Road shall be accompanied by pilot cars due to the narrowness of the road.	Applicant	Applicant/PW&P	During construction and decommissioning

15.	Transportation	The Applicant shall maintain Shell Road from Oil City Road to the project site turn-off throughout the construction period. Such maintenance includes periodic filling of potholes and shoulder edge restoration, and may include surface patches (overlays/dig-outs) for badly worn areas. Upon completion of the construction work, the Applicant shall perform final maintenance on the road in order to bring the road back to its pre-existing condition prior to construction. Such maintenance shall be documented in the form of pavement condition index (PCI) analyses for the before and after final maintenance conditions.	Applicant	Applicant/PW&P	During construction
Conditions of Approval					
1.	Prior to the acquisition of permits, the Applicant shall enter into and record a limited access easement, for the County's benefit, for the solar facility pertaining to APN 070-020-23.				
2.	The first 100 feet of the project's access road, coming off of Shell Road, must be paved. The rest of the access road must be gravel or native soil graded to drain, treated with a dust palliative and maintained for the duration of construction activities.				
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.				
4.	The project shall comply with the Solar Facility Guidelines (Exhibit 7), as approved.				
5.	The Applicant shall enter into a Reclamation Agreement with the County of Fresno Reclamation Plan. The security 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.				
6.	The project shall comply with the submitted Pest Management Plan.				
7.	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.				
8.	Development of the property shall be in accordance with the Site Plan, Elevations and Operational Statement approved by the Planning Commission, except as modified by the Commission or Site Plan Review.				

*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

The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.

1.	Plans, permits and inspections are required for all on-site improvements.
2.	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.
3.	<p>If the owner plans to uncover a known, abandoned well, they must first consult with the Department of Conservation Division of Oil, Gas, and Geothermal Resources (DOGGR).</p> <ul style="list-style-type: none"> • If, during development activities, any wells, pipelines, or oil-related improvements are encountered, the property owner/developer shall immediately notify DOGGR's construction site well engineer in the Bakersfield district office. Remedial plugging and abandonment operations may be required. • To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially-significant issues associated with any improvements near oil or gas wells, DOGGR recommends that information regarding the above-identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the Fresno County Recorder for inclusion in the title information of the subject real property. • DOGGR recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development. • DOGGR 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.
4.	Prior to permitting, the Applicant shall have their plans reviewed by the Fresno County Fire Protection District. Annexation into Community Facilities District No. 2010-01 may be required.
5.	<p>Site Plan Review Section requirements:</p> <ul style="list-style-type: none"> • An encroachment permit will be required for any work in the public right-of-way. • Any proposed driveway should be a minimum of 24 feet and a maximum of 35 feet in width as approved by the Road Maintenance and Operations Division. • Internal access roads shall comply with required widths by the Fire District for emergency apparatus. • Any proposed gate that provides initial access to this site shall be set back from the edge of the road right-of-way a minimum of 20 feet or the length of the longest vehicle to enter the site, whichever is greater. • A dust palliative is required on all parking and circulation areas.
6.	<p>Development Engineering Section requirements:</p> <ul style="list-style-type: none"> • Any additional 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. • An Engineered Grading and Drainage Plan may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties.

7.	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.
8.	Prior to site development, all survey monumentation – Property Corners, Centerline, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
9.	State Water Resources Control Board Order No. 2009-0009-DWQ (as amended by Order No. 2010-0014-DWQ) National Pollutant Discharge Elimination System General Permit No. CAS000002 Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities will apply.
10.	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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E | P | D SOLUTIONS, INC.

July 8th, 2022

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 3607
APN 070-020-07**

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 (831) 262-2069 or jeff@epdsolutions.com with any questions.

Respectfully submitted,
EPD Solutions, Inc.



Jeff Alvarez