



Board Agenda Item 7

DATE: August 21, 2018

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Initial Study No. 7444 and Unclassified Conditional Use Permit
Application No. 3611 (Appellant/Applicant: ForeFront Power, LLC)

RECOMMENDED ACTION(S):

- 1. Consider appeal of the Planning Commission's denial of Unclassified Conditional Use Permit Application No. 3611 proposing to allow a 1.65 megawatt photovoltaic solar power generation facility with related improvements on an approximately 9-acre portion of a 20.17-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District; and if the Appeal is granted,**
- 2. Adopt Mitigated Negative Declaration prepared for Initial Study Application No. 7444, and determine that the required Findings specified in Fresno County Zoning Ordinance, Section 873(F) can be made for approval of a Conditional Use Permit.**

The subject property is located on the west side of S. McCall Avenue approximately 1,915 feet south of its intersection with Manning Avenue and 1,363 feet northeast of the nearest city limits of the City of Selma (9375 S. McCall Avenue, Selma CA) (APN 358-021-74).

This item comes before your Board on appeal of the Planning Commission's unanimous denial of the subject application (8 to 0; one Commissioner absent) at its June 28, 2018 hearing. Department of Public Works and Planning staff notes that the Zoning Ordinance requires your Board to determine, independent from the decision of the Planning Commission, whether the application should be approved, approved with stated conditions, or disapproved. A copy of the Planning Commission's action is included as Attachment A. This item pertains to a location in District 4.

ALTERNATIVE ACTION(S):

If your Board is unable to make the required findings for granting Unclassified Conditional Use Permit (UCUP) No. 3611, a motion to deny the appeal and uphold the Planning Commission's decision, stating which findings cannot be made and the reasoning for the inability to make those findings, would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Appellant/Applicant has paid \$15,359 in land use processing fees to the County for the processing of the Conditional Use Permit Application request. The Appellant/Applicant also paid \$508 in fees to appeal the Planning Commission's denial.

DISCUSSION:

The subject proposal entails establishment of a 1.65-megawatt photovoltaic solar power generation facility with related improvements on an approximately 9-acre portion of a 20.17- acre parcel. Photovoltaic (PV) modules will convert sunlight into electrical energy, which 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, which will be constructed on the project site, within a fenced area. As part of the proposed gen-tie or grid-tied electrical system interconnection, an elevated 540-foot-long gen-tie line would connect on-site electrical equipment to an existing PG&E power line along the site's McCall Avenue frontage.

The subject property is located on the west side of S. McCall Avenue approximately one-quarter mile northeast of the City of Selma (9375 S. McCall Avenue, Selma CA) (APN 358-021-74). Surrounding land uses include vineyards, field crops, a church/school, and sparse single-family residences. The Planning Commission Staff Report dated June 28, 2018 (Attachment B) provides additional project information.

Pursuant to Fresno County Zoning Ordinance Code, Section 873(F), in order for your Board to approve UCUP No. 3611, the following findings must be made:

1. *That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.*
2. *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*
3. *That the proposed use will have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.*
4. *That the proposed development is consistent with the General Plan.*

At the June 28, 2018 Planning Commission hearing, the Commission considered public testimony from the Appellant/Applicant in favor of the proposal. There were no other speakers in favor or in opposition to the proposal. Two letters of opposition to the project were received by Department staff and are included as Exhibit 10 within the Planning Commission Staff Report (Attachment B) expressing concern with aesthetic impacts from the project, loss of farmland, dust, noise, and public health risks from exposure to electromagnetic frequencies generated by solar facilities. During the hearing, Commissioners expressed concerns regarding the project being too close to residential uses, aesthetically unpleasant, contributing to dust generation to the area, and being incompatible with the surrounding agricultural uses.

After receiving staff's presentation and considering public testimony from the Appellant/Applicant, the two letters of opposition to the project, and a late email from one of those letter writers reaffirming his opposition to the project (Exhibit C), the Planning Commission approved a motion (8 to 0; one Commissioner absent) to deny the project and its associated Mitigated Negative Declaration.

The Appellant/Applicant filed an appeal of the Planning Commission's denial on June 28, 2018. According to the appeal document, reason for appeal is that the Planning Commission failed to provide justification for denial of the project, which was recommended for approval by Department staff, and requested that your Board overturn the Planning Commission's decision.

If your Board is able to make the required findings for granting approval of UCUP 3611, a motion to approve the appeal based on Department staff's analysis found in Attachment D, and to overturn the Planning Commission's denial of the project would be appropriate. In its motion to approve, the Board must include the manner in which the required Findings can be made, that your Board is adopting the Mitigated Negative

Declaration prepared for Initial Study No. 7444 (Attachment C), and approving the proposal subject to project Mitigation Measures and staff's recommended Conditions of Approval. Project mitigation measures and staff-recommended conditions of approval are included as Attachment E.

In addition, Department staff recommends inclusion of an additional Condition of Approval requiring the following:

- The Applicant shall enter into an agreement indemnifying the County for all legal costs associated with its approval of Initial Study No. 7444 and Unclassified Conditional Use Permit No. 3611.

If your Board is unable to make the required findings for granting UCUP 3611, a motion to deny the appeal and uphold the Planning Commission's decision, stating which finding(s) cannot be made and the reasoning for the inability to make the finding(s), would be appropriate

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-E

CAO ANALYST:

Sonia M. De La Rosa