



Board Agenda Item 14

DATE: May 17, 2022

TO: Board of Supervisors

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

SUBJECT: Initial Study No. 8157, Amendment to Text No. 382, Classified Conditional Use Permit Application No. 3727 (Applicant: Assemi Group Inc.)

RECOMMENDED ACTION(S):

1. **Adopt the Mitigated Negative Declaration for the project prepared based on Initial Study No. 8157; and**
2. **Approve Amendment to Text (AT) No. 382 and adopt the proposed Ordinance to amend various sections of the Fresno County Zoning Ordinance to permit Landscaping, Limited Agriculture, and Grazing as a use subject to a Classified Conditional Use Permit when located 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, R-1-B, R-1-C, R-1 and R-2 Zone Districts; and**
3. **Determine that the required Findings specific in Fresno County Zoning Ordinance Section 873 (F) can be made to approve Classified Conditional Use Permit Application (CUP) No. 3727 subject to the Mitigation Measures, Conditions of Approval, and Project Notes; and**
4. **Include an additional condition of approval requiring that the Applicant enter into an agreement indemnifying the County for all legal costs associated with approval of Initial Study No. 8157, Amendment to Text No. 382, and Classified Conditional Use Permit No. 3727; and**
5. **Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance and direct the Clerk of the Board to post to the public the required summary in accordance with Government Code, Section 25124(b)(1).**

The Millerton Specific Plan is located approximately 1.5 miles east of the unincorporated community of Friant and encompasses approximately 1,420 acres. The spray field components of the project site are comprised of five areas 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. (APNs: 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).

This item comes before your Board having been unanimously recommended for approval by the Planning Commission (6-0, two Commissioners absent) at its March 24, 2022 hearing. The Planning Commission's action on the AT and CUP associated with the amendment requires final action by your Board, as required by the Fresno County Zoning Ordinance and State planning law. A copy of the Planning Commission's

action is included as Attachment A. This item includes location criteria and would be specific to parcels within or adjacent to the Millerton Specific Plan. This item pertains to a location within District 5.

ALTERNATIVE ACTION(S):

If your Board determines that the proposed amendment to the Zoning Ordinance is not consistent with the General Plan and/or is unable to make the required findings for granting CUP No. 3727, a motion to deny AT No. 382, and CUP No. 3727 would be appropriate.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Pursuant to the County's Master Schedule of Fees, the Applicant paid \$22,975 in land use processing fees for the AT and CUP request.

DISCUSSION:

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 total 158 acres of undeveloped 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-way. Land uses include residential uses with low-intensity agricultural, grazing and vacant uses in the surrounding area. The Planning Commission Staff Report dated March 24, 2022 is attached as Attachment B, and provides additional information pertaining to the project.

An amendment to the Zoning Ordinance is a legislative act requiring final approval by your Board. If approved, the amended Zoning Ordinance would then become effective 30 days after adoption. Specific language relating to the proposed amendment is included in Attachment C.

The AT allows landscaping, limited agriculture, and grazing to be supplied or irrigated with tertiary-treated sewage effluent within or adjacent to the Millerton Specific Plan for parcels zoned R-1-E, R-1-B, R-1-C, R-1, and R-2 when subject to a CUP. The proposed CUP would allow the distribution of tertiary-treated sewage effluent from the existing treatment facility through lines in the public rights-of-way to spray fields on approximately 158 acres of land within the Millerton Specific Plan boundary.

Pursuant to Section 873.E.2 of the Fresno County Zoning Ordinance, the Planning Commission shall approve, approve with conditions, or disapprove the CUP application and is final unless appealed, except when the CUP is filed concurrently with other applications required to be heard by the Board of Supervisors. CUP No. 3727 was filed concurrently with AT No. 382 and therefore will require final approval by your Board.

On March 24, 2022, the Planning Commission considered the subject AT and CUP. The Applicant provided testimony in support of the applications. No members of the public provided testimony in opposition or support of the applications. A summary of the testimony is included as Exhibit A of Attachment A. No letter of opposition or support were received by staff as late correspondence.

After receiving the Department of Public Works and Planning staff presentation and considering public testimony, the Commission voted to recommend that your Board approve AT No. 382 as proposed in Attachment C, adopt the Mitigated Negative Declaration prepared based on Initial Study No. 8157, and determine that the required findings specified in Fresno County and approve CUP No. 3727 subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit B of Attachment A.

CONCLUSION:

If your Board is able to find that the project is consistent with the Fresno County General Plan and County-adopted Millerton Specific Plan, it would be appropriate to make the following motion:

1. Adopt the Mitigated Negative Declaration prepared based on IS No. 8157,
2. Approve AT No. 38 and adopt the proposed Ordinance,
3. Determine that the five required findings for granting approval of CUP No. 3727 can be made as presented in the Staff Report,
4. Adopt a resolution, approving Classified CUP No. 3727 subject to the Mitigation Measures, Conditions of Approval, and
5. Designate County Counsel to prepare a fair and adequate summary of the proposed ordinance and direct the Clerk of the Board to post to the public the required summary in accordance with Government Code, Section 25124(b)(1).

The draft Mitigated Negative Declaration is attached as Attachment D.

Additionally, staff recommends inclusion of the following Condition requiring that:

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.

This condition has been included in a proposed resolution approving CUP No. 3727 on file with the Clerk of the Board.

If your Board is unable to find that the project is consistent with the Fresno County General Plan and County-adopted Millerton Specific Plan for granting approval of AT No. 382 or is unable to make the required findings for granting CUP No. 3727, a motion to deny AT No. 382, and CUP No. 3727 would be appropriate.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - D
On file with Clerk - Ordinance
On file with Clerk - Resolution
On file with Clerk - Summary Ordinance

CAO ANALYST:

Ron Alexander