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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA

RESOLUTION APPROVING AMENDMENT)
TO TEXT APPLICATION NO. 382,)
ADOPTION OF A MITIGATED NEGATIVE)
DECLARATION AND APPROVAL OF)
CLASSIFIED CONDITIONAL USE PERMIT)
NO. 3727 WITH CONDITIONS OF)
APPROVAL TO ALLOW THE DISTRIBUTION)
OF TERTIARY-TREATED) RESOLUTION
SEWAGE EFFLUENT FROM AN EXISTING)
WASTEWATER TREATMENT FACILITY)
TO IRRIGATE APPROXIMATELY 158)
ACRES OF LAND WITHIN THE MILLERTON)
SPECIFIC PLAN BOUNDARY)
SPECIFICALLY FOR LANDSCAPING,)
LIMITED AGRICULTURE, AND GRAZING)

WHEREAS, the Fresno County Planning Commission (Planning Commission) held a duly noticed public hearing and considered Amendment to Text (AT) Application No. 382 and its associated changes to the County of Fresno Zoning Ordinance, and Classified Conditional Use Permit Application No. 3727 allow the distribution of tertiary-treated sewage effluent from an existing wastewater treatment facility through lines in the public rights-of-way to spray fields on approximately 158 acres of land within Millerton Specific Plan boundary specifically for landscaping, limited agriculture, and grazing; and

WHEREAS, the project will affect properties located within or adjacent to the Millerton Specific Plan; and

WHEREAS, the Site, is located in the R-1-E (Single-Family Residential, 27,500 square-foot minimum parcel size), R-1-B (Single-Family Residential, 12,500 square-foot minimum parcel size), R-1-C (Single-Family Residential, 9,000 square-foot minimum parcel size), R-1 (Single-Family Residential 6,000 square-foot minimum parcel size), and R-2 (Low Density Multiple Family Residential, 6,600 square-foot minimum parcel size) Zone District; and

1 WHEREAS, on March 24, 2022, the Planning Commission made a motion to
2 recommend approval of Amendment to Text Application No. 382, adoption of the
3 prepared Mitigated Negative Declaration based on Initial Study No. 8157, and approval
4 of Classified Conditional Use Permit Application No. 3727 to the Board of Supervisors;
5 and

6 WHEREAS, Pursuant to County Zoning Ordinance Section 873(F), in order for
7 the Board to approve CUP No. 3727, the Board must make the following findings:

8 1. That the Site for the proposed use is adequate in size and shape to accommodate
9 said use and all yards, spaces, walls and fences, parking, loading, landscaping and
10 other features required by this Division to adjust said use with land and uses in the
11 neighborhood.

12 2. That the Site for the proposed use relates to streets and highways adequate in
13 width and pavement type to carry the quantity and kind of traffic generated by the
14 proposed use.

15 3. That the proposed use will have no adverse impact on abutting property and
16 surrounding neighborhood or permitted use thereof.

17 4. That the proposed development is consistent with the General Plan.

18 5. That the conditions stated in the resolution are deemed necessary to protect the
19 public health, safety, and general welfare; and

20 WHEREAS, after duly giving all required public notices, and an opportunity for
21 the public to speak and present evidence for and against the Amendment to Text and
22 proposed Classified Conditional Use Permit, as described herein, and having complied
23 with all applicable requirements of the law, including the County Zoning Ordinance, the
24 Board hereby resolves and takes the following actions, including making the following
25 findings and with the inclusion of the following additional condition:

26 The Applicant shall enter into an agreement indemnifying the County for all legal costs
27 associated with its approval of IS No. 8157, AT No. 382, and CUP No. 3727 and provide
28 security in an amount determined by the County for any such legal costs incurred. The

1 agreement and payment of security shall be due unless the litigation period is expired,
2 in which case the requirements for the indemnification agreement and security shall be
3 considered null and void.

4 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires
5 that the Site for the proposed use is adequate in size and shape to accommodate said
6 use and all yards, spaces, walls, and fences, parking, loading, landscaping and other
7 features required by this Division, to adjust said use with land and uses in the
8 neighborhood (Finding 1), and, in light of such requirements, the Board hereby makes
9 Finding 1 as recommended by Staff.

10 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires
11 that the Site for the proposed use relates to streets and highways adequate in width and
12 pavement type to carry the quantity and kind of traffic generated by the proposed use
13 (Finding 2), and, in light of such requirement, the Board hereby makes Finding 2 as
14 recommended by Staff.

15 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires
16 that the proposed use will have no adverse impact on abutting property and surrounding
17 neighborhood or permitted use thereof (Finding 3), and, in light of such requirements,
18 the Board hereby makes Finding 3 as recommended by Staff.

19 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires
20 that the proposed development is consistent with the General Plan (Finding 4), and, in
21 light of such requirement, the Board hereby makes Finding 4 as recommended by Staff.

22 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires
23 that the conditions stated in the resolution are deemed necessary to protect the public
24 health, safety, and general welfare (Finding 5), and, in light of such requirement, the
25 Board hereby finds that the following conditions are deemed necessary to protect the
26 public health, safety, and general welfare.

27 NOW, THEREFORE, IT IS HEREBY RESOLVED that the Fresno County Board
28 of Supervisors hereby adopts Resolution amending the Fresno County Zoning

Ordinance as proposed by AT No. 382 with the changes to certain sections of the Zoning Ordinance as attached as Exhibit 1 and that the required findings for approving Classified Conditional Use Permit can be made and hereby approve Classified CUP No. 3727 subject to the Conditions of Approval in the attached Exhibit 2 including the added indemnification condition.

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this _____ day of _____, 2022, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Brian Pacheco, Chairman of the Board of
Supervisors of the County of Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy

SECTION 826

"R-1" – SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 826.3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853

- N. Landscaping, the raising of tree, vine, field, forage, and other plant life of all kinds, except mushroom growing, and Grazing shall be permitted within or adjacent to the Millerton Specific Plan Area when supplied or irrigated with a source of tertiary treated effluent. (Added by Ord. adopted - -22)**

SECTION 827

"R-2" AND "R-2-A" – LOW DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICTS

SECTION 827.3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853

- J. Landscaping, the raising of tree, vine, field, forage, and other plant life of all kinds, except mushroom growing, and Grazing shall be permitted within or adjacent to the Millerton Specific Plan Area when supplied or irrigated with a source of tertiary treated effluent. (Added by Ord. adopted - -22)**

SECTION 827.4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited.

- ~~G. Agricultural uses~~
- C. Agricultural uses not specifically listed as permitted subject to a Conditional Use Permit. (Added by Ord. adopted - -22)**

**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

	plans for each area from the California Regional Water Quality Control Board.		
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Conditions of Approval CUP 3727			
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.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
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	
	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. J. Any future/proposed grading may require either a grading permit, improvement plan, permit or voucher.
2.	The Resources Division of the Fresno County Department of Public Works and Planning provide the following comments: 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. B. Once accepted, the Applicant will provide a one-year warranty for all improvements. C. The Applicant shall obtain all necessary local and state regulatory permits prior to operation of the project. 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. 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. F. The areas around the proposal shall be landscaped and designed to blend into the surrounding area in a compatible manner.
3.	Any crossings under County-maintained roads shall require an Encroachment Permit and may be subject to additional conditions.
4.	The Fresno County Department of Public Health, Environmental Health Division provide the following comments: 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. 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. 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. 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.

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.	The San Joaquin Valley Air Pollution Control District provide the following comments: 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. 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).

TK:jp

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