

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number: 23-

Record Number: PLN-2022-17922

Assessor's Parcel Number: 505-151-012, 506-231-019 and 506-231-022

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Renewable America, LLC, Conditional Use Permit.

WHEREAS, Renewable America, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for Record No, PLN-2022-17922. Permit requested is a Conditional Use Permit for the proposed construction and operation of a two phased community-scale solar energy and storage project referred to as: Foster Clean Power A (Phase 1) & Foster Clean Power B (Phase 2) totaling 30 acres in size.

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permit and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on January 19, 2023, and reviewed, considered, and discussed the application for the Conditional Use Permit, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

1. FINDING:

A Conditional Use Permit for the proposed construction and operation of a two phased community-scale solar energy and storage project referred to as: Foster Clean Power A (Phase 1) & Foster Clean Power B (Phase 2). Phase 1 would involve the construction of a 3-megawatt alternating current (MWac), photovoltaic (PV) solar energy facility with associated inverters, fencing, and access road. The access for Phase 1 would be approximately 15 feet wide and have a total length of approximately 164 feet, approximately 73 feet of which would be a new road that connects Foster Avenue to an existing agricultural road located on the south and east perimeters of the project site. The equipment pad would be approximately 50 feet by 100 feet in size. Phase 1 would also include a 1.25-MW battery energy storage system. The project footprint (fence line boundary) for Phase 1 would be approximately 12 acres in size. Phase 2 would involve the construction of an additional 4-MWac PV solar energy facility immediately north of the Phase 1 site with an additional 3.75-MW battery energy storage system. The project footprint (fence line boundary) for Phase 2 would be approximately 18 acres in size. Phase 2 would utilize the same equipment pad area identified for Phase 1. The project proposes

ongoing agricultural uses on the property through establishing and maintaining pollinator habitat within the project boundaries. Other agricultural uses on the property may include, but not be limited to grazing and the keeping of honeybees.

EVIDENCE: a) Project File: PLN-2022-17922

2. FINDING: **CEQA:** As required by the California Environmental Quality Act, the project was found subject to CEQA and a Mitigated Negative Declaration was prepared by the Planning and Building Department, Planning Division (Attachment 2), which evaluated the project for any adverse effects on the environment.

EVIDENCE: a) The CEQA document includes an analysis of the subject Conditional Use Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated from November 30, 2022 to December 30, 2022.

b) The IS/MND included seven mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

3. FINDING **ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire.

EVIDENCE a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.

b) Initial Study/Mitigated Negative Declaration circulated for public review November 30, 2022 to December 30, 2022.

4. FINDING

ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT – The Initial Study identified potentially significant impacts to Agriculture and Forestry Resources, Biological Resources, Cultural Resources, Geology and Soils, Land Use and Planning, and Tribal Cultural Resources, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

EVIDENCE a) **Agriculture and Forestry Resources and Land Use and Planning:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for agriculture and forestry resources and land use and planning:

i. To maintain consistency with General Plan Policy AG-P6, to prevent a net reduction in land base and agricultural production, the Project sponsor shall maintain continual operation of agricultural uses on the property. Such agricultural uses may include but are not limited to grazing and the keeping of honeybees. Prior to issuance of a certificate of occupancy for the Project, the applicant shall submit the Agricultural Management Plan to the County of Humboldt Planning Director, summarizing the types and duration of agricultural uses as well as operator information for the property. The Agriculture Management Plan shall be subject to review by the Planning Director to confirm the effectiveness of the agricultural operations.

b) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:

i. Construction-related vegetation removal should occur between September and February, which is outside the typical nesting bird season (February through September). If Project-related vegetation removal must occur during the breeding season, a preconstruction nesting bird survey shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If active nests are found, a suitable no-disturbance buffer zone shall be established by a qualified biologist and determined based on species, nest location, line of sight from the Project area, type of planned construction activity, and potential for nest disturbance. Within the buffer zone, no construction shall take place until the chicks have fledged or the biologist determines that the nest is no longer active. In the event that any active nests are discovered, CDFW would be

consulted and provided an opportunity to comment on the proposed avoidance buffer distances and protection measures proposed by the qualified biologist.

- ii. Project construction should occur between May and November, which is outside the breeding season for northern red-legged frog. If construction activities must occur during the breeding season (November to May), preconstruction surveys shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If northern red-legged frogs are detected during the breeding season, CDFW would be consulted to determine either a suitable buffer distance or other protective measures.
- iii. The Project area does contain potential “waters of the United States”, including wetlands protected under the CWA and potential “waters of the state” under the jurisdiction of the RWQCB and CDFW; however, the Project would avoid such waters and a 50-foot setback would be implemented in accordance with the County’s Streamside Management Area Ordinance to ensure waters would not be indirectly impacted by any site disturbance related to development of the Project.

In the event that aquatic resources cannot be completely avoided due to unforeseen circumstances, the necessary permit authorizations would be obtained from USACE, CDFW, RWQCB, and/or the County. Appropriate protection measures would be implemented in coordination with the applicable jurisdictional agencies to ensure any such impacts are minor and adequately mitigated and permitted in accordance with all Federal, State, and Local regulations. Such protection measures may include, but are not limited to, the following:

- Avoiding any work within the water features during wet periods.
- Installing fencing and or flagging to avoid the features.
- Installing stabilization materials.
- Implementing best management practices to manage the potential for erosion, sedimentation, or inadvertent damage.

- c) **Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for cultural resources:

- i. Archaeological monitoring by a qualified archaeologist shall occur during all excavation (if any) within 100 feet of the 1920-50s era historic resource identified in the Cultural Resources Investigation Report. If archaeological artifacts are encountered, work shall

cease in the vicinity of the find and the Inadvertent Discovery Protocols described in MM CR-2 shall be implemented. Discovered materials shall be evaluated for significance and treatment in accordance with all State and Federal guidelines, and the procedures specified in MM CR-2 (see Tribal Cultural Resources mitigation below).

d) **Geology and Soils:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for geology and soils:

i. In the event that paleontological resources are discovered, work shall be stopped within 100 feet of the discovery and a qualified paleontologist shall be notified. The paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in State CEQA Guidelines Section 15064.5. If fossilized materials are discovered during construction, excavations within 100 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agency to determine procedures that would be followed before construction is allowed to resume at the location of the find.

e) **Tribal Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for tribal cultural resources:

i. If suspected archaeological resources, such as lithic materials or ground stone, historic debris, building foundations, or bone are discovered during Project activities, work shall be stopped within 100 feet of the discovery. Contact would be made to the County, a professional archaeologist and representatives from the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, Wiyot Tribe, and any other tribe that may be identified by the NAHC as traditionally or culturally affiliated with the Project area. The professional archaeological resource consultant, Tribes, and County officials would coordinate provide an assessment of the find and determine the significance and recommend next steps.

If human remains are discovered during Project activities, work would stop at the discovery location, within 100 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt

County coroner would be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner would contact the NAHC. The descendants or most likely descendants of the deceased would be contacted, and work would not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98.

FINDINGS FOR CONDITIONAL USE PERMIT

- 5. FINDING** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.
- EVIDENCE**
- a) Utilities and energy facilities are a compatible use type in the Agricultural Exclusive (AE) land use designation. The proposed solar energy generation facility is allowable in the AE designation.
 - b) The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program.
- 6. FINDING** Approval of the Project achieves the General Plan Policy Local Renewable Energy Supply (E-P3) calling for the County to support renewable energy development projects including... solar... consistent with the General Plan to increase local energy supply.
- EVIDENCE**
- a) The proposed location provides adequate solar resources to produce 7 MW of locally generated power.
- 7. FINDING** The project has been designed and will be implemented to not result in the loss of agricultural land, the loss of agricultural production in conservation areas, the loss of productive agricultural soils consistent with Plan Policies AG-P6, AG-P7 And AG-P16

- a) To mitigate for a temporary net loss in agricultural land base and production, the project will institute measures to ensure ongoing agricultural uses on the property, including incorporating pollinator habitat , grazing, and the keeping of bees, consistent with Plan Policy AG-P6. The project, in coordination with the Pollinator Partnership, is proposing a plan to create pollinator habitat using plant species native and endemic to Humboldt County.
- b) Incorporation of the proposed agricultural uses, including the pollinator habitat to ensure the ongoing agricultural operations are viable, will be implemented through an Agricultural Management Plan, summarizing the agricultural uses on the property, will be submitted subject to the approval of the Humboldt County Planning Director to confirm the effectiveness of the agricultural operations.
- c) Continued agricultural use of the property and adherence to the Pollinator Habitat Program, which utilizes organic vegetation maintenance activities and restrictions on the use of herbicides and insecticides, is consistent with the Organic Farming Easement and Plan Policy AG-P7.
- d) The project design, which proposes 5,000 square feet of impermeable surface as part of a 30-acre project, is consistent with Plan Policy AG-P16.
- e) A Decommissioning Plan that ensures the project site will be restored to pre-project conditions through best management practices for soil/site remediation and materials recycling and reuse, will be submitted subject to the approval of the Humboldt County Planning Director.
- f) The project, while a solar facility, is a compatible use but a loss of production would result as the land would not be suitable for its present use for quinoa production.

8. FINDING

The proposed development is consistent with the purposes of the existing AE, AG, and MH zones in which the site is located.

EVIDENCE

- a) The Agriculture Exclusive or AE Zone is intended to be applied in fertile areas in which agriculture is and should be the desirable

predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.

The Agriculture General or AG Zone is intended to be applied in areas in which agriculture is the desirable predominant use and rural residential uses are secondary.

The Heavy Industrial or MH Zone is intended to apply to areas devoted to normal operations of industries subject only to regulations as are needed to control congestion and protect surrounding areas.

- b) The AE zone allows utilities and energy facilities: the erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities, and wind or hydroelectric, solar or biomass generation, and other fuel or energy production facilities with a Conditional Use Permit.

The AG zone allows any use not specifically enumerated in this Division if it is similar to and compatible with the uses permitted in the AG zone with a Conditional Use Permit. The project is compatible with the AG zone as the proposed project will incorporate continuous agricultural use of the property into the project.

The MH zone allows any use not specifically enumerated in this Division if it is similar to and compatible with the uses permitted in the MH zone with a Conditional Use Permit. The project is compatible with the MH zone as the proposed project is an energy infrastructure project generating power for the community.

- c) The purpose of the "Q" qualification is to allow for the continued use of the existing Wood Products Processing facilities with vehicular traffic of no greater intensity than an employee average daily trips (ADT) of 765 trips per day and a truck trip ADT of 54 trips per day during the hours of 6:00 A.M. to 4:00 P.M. and during the period of 4:00 P.M. to 12:00 A.M. an employee ADT of 383 "trips per day and a truck trip ADT of 27 trips per day (1,229 total trips), and to prohibit expansion of the existing use or the establishment of new uses without first obtaining a use permit. This application is for a Conditional Use Permit and the daily trips generated by the proposed project will be well below the maximum amount allowed under the Q zone.
- d) The location and height of all project elements meet the setback and building height requirements for the AE, AG, and MH zones.
- e) The parcels were created in compliance with all applicable state and

local subdivision regulations. The parcels known as APN 505-151-012, 506-231-019 and 506-231-022 combined comprise one legal parcel as shown on Recorded Survey in Book 74 of Surveys page 137.

9. FINDING

The Project and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is located on paved publicly maintained road that can safely accommodate the amount of traffic generated by the proposed project during construction.
- b) A new fence is proposed as part of the project. The fence would deter trespass onto the site.
- c) Any water that may be used for the project will be sourced from a permitted groundwater well on site.

10. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopts the Mitigated Negative Declaration for the Renewable America, LLC Conditional Use Permit; and
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit for Renewable America, LLC based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on January 19, 2023.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

John Ford, Director
Planning and Building Department