

**PLANNING COMMISSION HEARING – MAY 4, 2022
RECOMMENDED CONDITIONS OF APPROVAL**

**Horwitz Solar Array
Use Permit Exception to the Conservation Regulations
Application Number P21-00247-UP
7870 Silverado Trail, Napa, California
APN 030-210-010**

This Permit encompasses and shall be limited to the project commonly known as ***Horwitz Solar Array Project***, located at 7870 Silverado Trail, Napa. Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a Final Certificate of Occupancy. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved.

Where conditions are not applicable or relevant to this project, they shall be noted as “Reserved” and, therefore, have been removed.

When modifying a legally established entitlement related to this project, these conditions are not intended to be retroactive or to have any effect on existing vested rights except where specifically indicated.

PART I

1.0 PROJECT SCOPE

This Permit encompasses and shall be limited to:

- 1.1 Approval of a Use Permit Exception to the Conservation Regulations to permit the construction of a 104'-8" by 29" (approximately 3000 sf) solar array on slopes exceeding 30% including utilities (trench and associated bunker to house the solar inverters and switchgear), required pursuant to Napa County Code (NCC) Section 18.108.060:

The Project shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa County Code (the County Code). It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved. Any expansion of or change in use or alternative locations for fire suppression or other types of water tanks shall be approved in accordance with the County Code and may be subject to the permit modification process.

2.0 STATUTORY AND CODE SECTION REFERENCES

All references to statutes and code sections shall refer to their successor as those sections or statutes may be subsequently amended from time to time.

3.0 MONITORING COSTS

All Staff costs associated with monitoring compliance with these conditions, previous permit conditions, and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions of approval and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged to the property owner or permittee. Costs shall be as established by resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring and shall include maintenance of a \$500 deposit for construction compliance monitoring that shall be retained until issuance of a Final Certificate of Occupancy. Violations of conditions of approval or mitigation measures caused by the permittee's contractors, employees, and/or guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of a compliance deficiency is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the permittee's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence revocation proceedings in accordance with the County Code.

PART II

4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the project:

- 4.1 GROUND WATER MANAGEMENT – WELLS **[RESERVED]**
- 4.2 AMPLIFIED MUSIC **[RESERVED]**
- 4.3 TRAFFIC **[RESERVED]**
- 4.4 PARKING **[RESERVED]**
- 4.5 BUILDING DIVISION – USE OR OCCUPANCY CHANGES **[RESERVED]**
- 4.6 FIRE DEPARTMENT – TEMPORARY STRUCTURES **[RESERVED]**
- 4.7 NAPA COUNTY MOSQUITO ABATEMENT PROGRAM **[RESERVED]**
- 4.8 GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE, MECHANICAL EQUIPMENT, AND TRASH ENCLOSURE AREAS **[RESERVED]**
- 4.9 NO TEMPORARY SIGNS **[RESERVED]**

4.10 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - OPERATIONAL CONDITIONS

The below mentioned project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Public Works Division operational conditions as stated in their Approval dated September 23, 2021.
 - a. Setback certification required upon construction of array.
- b. Fire Services Division operational conditions as stated in their Approval dated September 20, 2021.
 - a. Clear, brush-free area of 10 feet shall be required.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify this permit.

4.11 OPERATIONAL MITIGATION MEASURES **[RESERVED]**

4.12 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT **[RESERVED]**

PART III

5.0 PREREQUISITE FOR ISSUANCE OF PERMITS

5.1 PAYMENT OF FEES

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections, associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition environmental, building and/or other applicable permit applications:

6.1 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS

The below mentioned project conditions of approval, or approvals include all of the following County Divisions, Departments and Agencies' requirements. The permittee shall comply with all applicable building codes, zoning standards, and

requirements of County Divisions, Departments and Agencies at the time of submittal and may be subject to change. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division reviewed the project and approved as proposed; as stated in the project workflow on September 21, 2021.
- b. Environmental Health Division reviewed the project and approved as proposed; as stated in the project workflow on September 21, 2021.
- c. Building Division reviewed the project and approved as proposed; as stated in the project workflow on September 29, 2021
- d. Public Works Division reviewed the project and approved with conditions; as stated in the project workflow dated September 23, 2021.
 - a. Setback certification required upon construction of array.
- e. Fire Services Division reviewed the project and approved with conditions; as stated in the project workflow dated September 20, 2021.
 - a. Clear, brush-free area of 10 feet shall be required.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify the permit.

6.2 BUILDING DIVISION – GENERAL CONDITIONS

Please contact the Building Division with any questions regarding the following:

- a. A building permit shall be obtained for all construction occurring on the site not otherwise exempt by the CBC or any State or local amendment adopted thereto;
- b. If there are any existing structures and/or buildings on the property that will need to be removed to accommodate construction activities, a separate demolition permit shall be required from the Building Division prior to removal. The permittee shall provide a “J” number from the Bay Area Air Quality Management District (BAAQMD) at the time the permittee applies for a demolition permit if applicable.
- c. **[RESERVED]**

6.3 LIGHTING – PLAN SUBMITTAL **[RESERVED]**

6.4 LANDSCAPING – PLAN SUBMITTAL **[RESERVED]**

6.5 COLORS **[RESERVED]**

6.6 OUTDOOR STORAGE/SCREENING/UTILITIES **[RESERVED]**

6.7 MECHANICAL EQUIPMENT **[RESERVED]**

- 6.8 TRASH ENCLOSURES **[RESERVED]**
- 6.9 ADDRESSING **[RESERVED]**
- 6.10 HISTORIC RESOURCES **[RESERVED]**
- 6.11 DEMOLITION ACTIVITIES **[RESERVED]**
- 6.12 VIEWSHED – EXECUTION OF USE RESTRICTION **[RESERVED]**
- 6.13 PERMIT PREREQUISITE MITIGATION MEASURES **[RESERVED]**
- 6.14 PARCEL CHANGE REQUIREMENTS **[RESERVED]**
- 6.15 FINAL MAPS **[RESERVED]**
- 6.16 OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS
 - a. Trees located between the new and existing bunker shall be protected during construction using barricades or other appropriate means placed at the outboard drip lines of applicable trees. No earth moving shall occur within the protected area.
 - b. Monitoring of the applicable tress shall occur for three years from the time of building permit final for the associated solar array. If any trees fail during this time period they shall be replaced at 2:1 ratio with the same species, and the replacement trees shall be monitored for an additional three years and replaced as needed.

7.0 PROJECT CONSTRUCTION

Permittee shall comply with the following during project construction:

- 7.1 SITE IMPROVEMENT
 - Please contact Engineering Services with any questions regarding the following:
 - a. GRADING & SPOILS
 - All grading and spoils generated by construction of the project facilities shall be managed per Engineering Services direction. Alternative locations for spoils are permitted, subject to review and approval by the PBES Director, when such alternative locations do not change the overall concept, and do not conflict with any environmental mitigation measures or conditions of approval.
 - b. DUST CONTROL
 - Water and/or dust palliatives shall be applied in sufficient quantities during grading and other ground disturbing activities on-site to minimize the amount of dust produced. Outdoor construction activities shall not occur when average wind speeds exceed 20 mph.

c. AIR QUALITY

During all construction activities the permittee shall comply with the most current version of BAAQMD Basic Construction Best Management Practices including but not limited to the following, as applicable:

1. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The BAAQMD's phone number shall also be visible.
2. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, grading areas, and unpaved access roads) two times per day.
3. Cover all haul trucks transporting soil, sand, or other loose material off-site.
4. Remove all visible mud or dirt tracked onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting off equipment when not in use or reducing the maximum idling time to five (5) minutes (as required State Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Any portable engines greater than 50 horsepower or associated equipment operated within the BAAQMD's jurisdiction shall have either a California Air Resources Board (ARB) registration Portable Equipment Registration Program (PERP) or a BAAQMD permit. For general information regarding the certified visible emissions evaluator or the registration program, visit the ARB FAQ http://www.arb.ca.gov/portable/perp/perpfaq_04-16-15.pdf or the PERP website <http://www.arb.ca.gov/portable/portable.htm>.

d. STORM WATER CONTROL

The permittee shall comply with all construction and post-construction storm water pollution prevention protocols as required by the County Engineering Services Division, and the State Regional Water Quality Control Board.

7.2 ARCHEOLOGICAL FINDING

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required.

If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.3 CONSTRUCTION NOISE

Construction noise shall be minimized to the greatest extent practical and feasible under State and local safety laws, consistent with construction noise levels permitted by the General Plan Community Character Element and the County Noise Ordinance. Construction equipment muffling and hours of operation shall be in compliance with the County Code. Equipment shall be shut down when not in use. Construction equipment shall be staged, loaded, and unloaded on the project site, if at all practicable. If project terrain or access road conditions require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities only shall occur daily between the hours of 8:00 AM to 5:00 PM.

7.4 CONSTRUCTION MITIGATION MEASURES [RESERVED]

7.5 OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL

- a. Trees located between the new and existing bunker shall be protected during construction using barricades or other appropriate means placed at the outboard drip lines of applicable trees. No earth moving shall occur within the protected area.
- b. Monitoring of the applicable trees shall occur for three years from the time of building permit final for the associated solar array. If any trees fail during this time period they shall be replaced at 2:1 ratio with the same species, and the replacement trees shall be monitored for an additional three years and replaced as needed.

8.0 TEMPORARY CERTIFICATE OF OCCUPANCY – PREREQUISITES [RESERVED]

8.1 TEMPORARY OCCUPANCY [RESERVED]

9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES [RESERVED]

9.1 FINAL OCCUPANCY [RESERVED]

- 9.2 SIGNS **[RESERVED]**
- 9.3 GATE/ENTRY STRUCTURES **[RESERVED]**
- 9.4 LANDSCAPING **[RESERVED]**
- 9.5 ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS **[RESERVED]**
- 9.6 DEMOLITION ACTIVITIES **[RESERVED]**
- 9.7 GRADING SPOILS
All spoils piles shall be removed in accordance with the approved grading permit and/or building permit.
- 9.8 MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**
- 9.9 OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**