



Napa County

Board Agenda Letter

1195 THIRD STREET
SUITE 310
NAPA, CA 94559
www.countyofnapa.org
Main: (707) 253-4580

Board of Supervisors

Agenda Date: 10/15/2024

File ID #: 24-1434

TO: Board of Supervisors
FROM: Brian D. Bordona, Director Planning, Building and Environmental Services
REPORT BY: Matt Ringel, Planner III
SUBJECT: Laketricity (DBA Dynamo Solar) Commercial Floating Solar Use Permit (P22-00340-UP), Zone Change (P23-00181-ZC), and Variance (P23-00268-VAR)

RECOMMENDATION

PUBLIC HEARING - Eva Pauly / Laketricity (DBA Dynamo Solar) Commercial Floating Solar Facility Use Permit, Zone Change, and Variance / Application Nos. P22-00340-UP, P23-00181-ZC, AND P23-00268-VAR

Conduct a public hearing to consider the project and act on the Planning Commission's recommendation on August 21, 2024 to:

- 1) Adopt an ordinance to rezone the developed portions of the project parcels (APN(s) 057-010-010 and 057-050-003) from the existing zoning district of Agricultural Watershed: Airport Compatibility (AW:AC) to Public Lands: Airport Compatibility (PL:AC);
- 2) Approve a Variance to allow construction of 42 transmission line towers at a height varying between 38.5-feet and 70-feet tall, whereby Napa County Code ("NCC") Section 18.104.120 establishes a 35-foot height maximum; and
- 3) Approve a Use Permit, subject to Conditions of Approval, for construction of approximately 56-acres of floating solar panels (approximately 63,840 solar panels) on top of two of the Napa Sanitation District's existing wastewater ponds to produce approximately 34.7 megawatts (MW) of direct current electricity, converted to 24.5 megawatts (MW) of alternating current electricity, construction of approximately 2-miles of electrical transmission lines, with portions constructed above and below ground, and construction of one 0.13-acre electrical substation located at the northern edge of the solar panels.

The proposed project is located at 1515 Soscol Ferry Road, Napa and 200 Anderson Road, Napa - Accessor's Parcel Numbers: 057-050-003-000, 057-010-010-000, 057-050-006-000, 057-010-038-000, 057-010-039-000, 046-400-016-000, 046-400-011-000, 046-400-057-00, and 046-400-004-000, the floating solar project parcels are 163.59-acres and 327.0-acres, the floating solar project site is approximately 1-mile southwest of the State Highway 29 and 221 interchange and the transmission lines will lead to an existing electrical substation

approximately 0.35-miles northeast of the State Highway 29 and 221 interchange. (No Fiscal Impact)

BACKGROUND

On May 15, 2024, following a duly noticed public hearing, the Airport Land Use Commission (ALUC) heard the proposed project and made a unanimous (4-0) vote to find the proposed project consistent with the Napa County Airport Land Use Compatibility Plan (ALUCP).

On May 15, 2024, following a duly noticed public hearing, the proposed project was continued by the Planning Commission, to allow staff and the applicant additional time to respond to public comment received prior to the hearing. On August 21, 2024, the Planning Commission heard the proposed project and made a unanimous (5-0) recommendation to the Board to approve the proposed Project and adopt the environmental determination under CEQA. See the August 21, 2024, Memorandum (Attachment G).

Staff recommends that the Board take the recommendation of the Planning Commission and adopt the Revised Mitigated Negative Declaration and approve the Project, subject to the revised recommended Conditions of Approval. The ordinance may be introduced, read, and passed at this meeting.

Discussion

A detailed discussion and staff analysis of the Project components are included in the August 21, 2024, Planning Commission staff report. The staff report and attachments are available on the County's website at: <https://www.pbcs.cloud/index.php/s/q2mLf97GAtwgjGb>.

A summary of key topics discussed at the Planning Commission (PC) Hearing, along with actions occurring after the Commission hearing are included below.

Proposed Actions

1. Adopt the Revised Initial Study (IS)/Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP), based on Revised recommended Findings 1-7 in Attachment A;
2. Adopt an Ordinance for Rezone (Attachment F);
3. Approve a Variance Application No. P23-00268 based on Revised recommended Findings 8-11 in Attachment A, and subject to the Revised recommended Conditions of Approval in Attachment B; and
4. Approve a Use Permit Application No. P22-00340 based on Revised recommended Findings 12-16 in Attachment A, and subject to the Revised recommended Conditions of Approval in Attachment B.

Noticing

The Public Notices for the Notice of Intent to adopt a Mitigated Negative Declaration, both Planning Commission hearings, and the Board of Supervisor's hearing were mailed to all property owners within 1,000 feet of the project parcels (for the solar facility, transmission route, and electrical substation expansion) and applicable agencies and entities.

Public Comments

Prior to the August 21, 2024, Planning Commission hearing, staff received public comments from the California Department of Fish and Wildlife (CDFW); Adams Broadwell Joseph & Cardozo Attorneys at Law, on behalf of Citizens for Responsible Industry (CURE); Water Audit California (WAC), and Pacific Gas and Electric (PG&E).

Subsequent to the distribution of the Project's Initial Study/Mitigated Negative Declaration, a letter was received from CDFW concluding their review of the project documents. CDFW requested four (4) additional mitigation measures be added to the project approval requiring preconstruction surveys for Swainson's Hawk, California Black, Ridgeway's Rail and Tricolored Blackbird. CDFW also requested a fourth mitigation measure be added requiring the applicant to notify CDFW, and potentially enter into a Lake and Streambed Alteration Agreement, if transmission lines are proposed to be undergrounded below Soscol Creek. The proposed measures were incorporated into the project's Conditions of Approval for the Planning Commission's review and recommendation.

Prior to the August 21, 2024, Planning commission hearing, the applicant prepared Attachment J (August 21, 2024, Planning Commission Materials) - "Response to Public Comment," in response to Adam Broadwell's comment. In summary, the applicant's response clarifies the administrative record and establishes that information from Adams Broadwell and their biologist does not meet the threshold of substantial evidence for reasons set forth in more detail in Attachment J. The letter establishes that:

- a) The County's administrative record of proceedings is adequate and contains substantial evidence supporting the proposed actions.
- b) The IS/MND adequately describes the baseline environmental conditions.
- c) The IS/MND adequately analyzed the potential for wildfire impacts.
- d) There is no substantial evidence that the Project may cause significant unmitigated biological impacts.

Prior to the August 21, 2024, Planning Commission hearing, Staff reviewed the public comment made by WAC and made applicable updates to the IS/MND to further elaborate on the site's existing conditions and updated the recommended Findings for consistency to reflect that that project site is within an airport land use plan.

Additionally, prior to the August 21, 2024, Planning Commission hearing, Staff and PG&E further coordinated the cross-jurisdictional permitting requirements for the PG&E Anderson Road electrical substation expansion. Napa County is the lead agency under the California Environmental Quality Act (CEQA) and therefore, is completing the environmental review on behalf of the California Public Utilities Commission (CPUC) and all other responsible agencies. All earthwork and construction related to the expansion of the electrical substation is under the permitting jurisdiction of the CPUC. Due to the CPUC's overarching jurisdiction, the MND was updated to reflect that a grading permit is not required, instead, Napa County has included recommended mitigation measures for the CPUC to implement throughout their permitting process. As a responsible agency, the CPUC has the authority to find Napa County's CEQA review as adequate (using recommended mitigation measures) or the CPUC can conduct their own CEQA review for the proposed project.

Decision Making Options

Staff is recommending the Board of Supervisors approve the project as summarized in Option 1, below. Decision making options including the following:

Option 1 - Approve Applicant's Proposal (Staff Recommendation)

Disposition - Adopt an ordinance rezoning a portion of the project parcels zoning district, approve a variance, and approve the use permit for the commercial renewable energy facility. The General Plan consistency analysis demonstrates that the proposed zone change and the proposed commercial solar facility are consistent with a number of the overall goals and policies set forth for the County. With implementation of mitigation measures pertaining to aesthetics, agriculture and forest resources, biological resources, and cultural resources, the potential environmental impacts of the project would be less than significant.

Required Action:

1. Adopt the Revised Initial Study/Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP), based on Revised recommended Findings 1-7 in Attachment A;
2. Adopt an Ordinance to rezone portions of the properties from AW:AC zoning district to the PL:AC zoning district (P23-00181) (Attachment F);
3. Approve a Variance Application No. P23-00268 based on Revised recommended Findings 8-11 in Attachment A, and subject to the Revised recommended Conditions of Approval in Attachment B; and
4. Approval a Use Permit Application No. P22-00340 based on Revised recommended Findings 12-16 in Attachment A, and subject to the Revised recommended Conditions of Approval in Attachment B.

Option 2 - Revised Project Request - Modify Use Permit or Variance Proposal

Disposition - This option allows the Board of Supervisors to modify aspects of the proposed solar facility use permit or variance requests. The changes could be related to such components as solar panel location, transmission route location, and transmission route height, or recommend undergrounding of all transmission lines. If the Board elects to pursue this option, the recommended conditions of approval would need to reflect the revised components. The substantial modification of the proposed project may require additional CEQA review and recirculation of the Initial Study/Mitigated Negative Declaration.

Action Required - Follow proposed actions listed in the Summary and approve an amended scope and applicable conditions of approval. The item may need to be continued to a future date if significant revisions to the recommended conditions of approval are desired.

Option 3 - Recommend to Deny Proposed Project

Disposition - In the event the Board does not support the rezoning, Use Permit or Variance as proposed, the Board would vote to deny the project. The Board should articulate why it does not recommend amending the zone change, Use Permit, or Variance, such as inconsistency with the General Plan including the proposed project conflicts with the goals, policies, or land use designations outlined in the existing General Plan. A denial would result in status quo of the site and would not result in further action.

Action Required - Board motion, second and vote to deny the Proposed Project.

Option 4 - Continuance Option

The Board may continue an item to a future hearing date at its own discretion.

Procedural Requirements:

1. Chair introduces item and invites disclosures regarding any ex-parte communications or new Levine Act disclosures, if any.
2. Open Public Hearing.
3. Staff reports.
4. Public comments.
5. Close Public Hearing.
6. Motion, second, discussion, and vote to approve the Project.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Discretionary

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation

measures are proposed for the following areas: Aesthetics, Agriculture and Forest Resources, Biological Resources, and Cultural Resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.