



County of Sonoma

State of California

Date: June 13, 2019

Item Number: _____

Resolution Number: _____



3/5 Vote Required

Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Adopting a Mitigated Negative Declaration, and Approving a Use Permit for a commercial solar farm as requested by Juniper Energy LLC (formerly known as Sunniva Systems, LLC) for Property Located at 5853 Bodega Ave., Petaluma (APN 022-200-036), and authorizing the Chair of the Board to execute a Sales and Use Tax Agreement for the project.

Resolved that the Board of Supervisors (the “Board”) of the County of Sonoma (the “County”) hereby finds and determines:

Section 1

Application and Project

1.1 Keith McDaniels, on behalf of Juniper Energy LLC (formerly known as Sunniva Systems, LLC), filed an application, PLP16-0055, (“Proposed Project”) with the Sonoma County Permit and Resource Management Department for (1) a Zone Change to add the Renewable Energy (RE) Combining Zone to a 25-acre parcel located at 5853 Bodega Avenue, Petaluma; APN 022-200-036; Supervisorial District No. 2.; and (2) a Use Permit to construct a two-megawatt, commercial solar facility spanning 15 acres on the subject parcel. The property is in the Land Extensive Agricultural (LEA) Zoning District in the Petaluma Planning Area.

Section 2

Procedural History

2.1 The Planning Commission, in accordance with the provisions of law, conducted a public hearing on the Proposed Project on December 20, 2018. On a 5-0 vote the Commission recommended the Board adopt the Mitigated Negative Declaration (MND), adopt the Zone Change to add the Renewable Energy (RE) Combining Zone on the parcel, and approve the Use Permit.

2.2 On April 30, 2019, the Board conducted a public hearing on the Mitigated Negative Declaration, the proposed Zone Change, and the Use Permit. At the Board hearing, the Board heard and received all relevant oral and written testimony and evidence presented or filed regarding the MND, the Zone Change, and Use Permit. All interested persons were given the opportunity to hear and be heard. At the conclusion of the public testimony, the Board closed the public hearing, discussed the MND, the Zone Change, and Use Permit. Following discussion, the Board gave direction to staff to return with additional information in response to questions

raised by Board members during their discussion.

2.3. On June 13, 2019, staff returned to the Board with additional information regarding: (1) the legislative history for the Renewable Energy Combining Zone, Renewable Energy Systems and Facilities Development Standards, and Solar Energy Facilities – Special Use Standards; (2) the potential overconcentration of solar facilities in agricultural zones; (3) agriculture as primary use; and (4) the effect of the proposed facility on agricultural uses of the subject property. The Board re-opened the public hearing and all interested persons were given the opportunity to comment on the new information provided by staff. At the conclusion of the public testimony, the Board closed the public hearing, discussed the MND, the Zone Change, and Use Permit. Following discussion, the Board determined to adopt the MND, approve the Zone Change, and approve the Use Permit as set forth herein.

2.4 The Board has had an opportunity to review this resolution and hereby finds it is true and correct and accurately sets forth the intentions of the Board regarding the MND, Zone Change, and Use Permit.

2.5 The Board's decisions herein are based upon the testimony and evidence presented to the County orally or in writing prior to the close of the public hearings ("the record of proceedings"). By Board Rules 21 and 22, any information submitted after the close of the Board hearing is deemed late and not considered by the Board.

Section 3 **CEQA Compliance**

3.1 Permit Sonoma completed the MND on November 30, 2018, and beginning on that date made the MND available for review and comment. A notice of intent to adopt the MND was published and the period for receipt of comments on the MND remained open until December 20, 2018. During the comment period, the County did not receive any written comments from members of the public or public agencies.

3.2 The Board has considered the comments received after release of the MND, but before the close of the Board hearing, regarding the MND and finds that those comments do not constitute "significant new information within the meaning of CEQA and the State CEQA Guidelines so as to require recirculation of the MND. The Board further finds that the comments do not disclose any of the following:

- a) A new significant environmental impact resulting from the Proposed Project or from a new mitigation measure proposed to be implemented. The comments do not demonstrate any new significant adverse impact resulting from the Proposed Project, and the responses by the Applicant and Permit Sonoma staff to the comments clarify or amplify the MND's findings regarding the impacts of the Proposed Project.
- b) A substantial increase in the severity of an environmental impact that will not be mitigated to a level of insignificance through adopted mitigation measures. None of the comments disclose a substantial increase in the severity of any of the previously-

identified impacts.

- c) A feasible project alternative or mitigation measure that clearly would lessen the significant environmental impacts of the Proposed Project, but that the Applicant would not adopt. None of the comments relate to a mitigation measure or alternative rejected by the Applicant.
- d) That the MND was so fundamentally and basically inadequate and conclusory in nature that public review and comment on it was in effect meaningless.

3.3 The Board finds that the MND represents a good faith and reasoned effort to provide full and adequate disclosure of the environmental effects of the Proposed Project. In making its determination to adopt the MND and to approve the Proposed Project, the Board has reviewed and considered, as a whole, the evidence and analysis presented in the MND, the evidence and analysis presented in the comments on the MND, and the responses prepared by the Applicant, and Permit Sonoma staff addressing those comments. The Board concurs with those responses to the comments. The Board has gained a well-rounded understanding of the environmental issues presented by the Proposed Project and its findings are based on full appraisal of all of the evidence contained in the MND, as well as the evidence and other information in the record of these proceedings addressing the MND.

3.4 The Board finds that the MND has been completed in compliance with CEQA, and the State CEQA Guidelines. The Board concurs with and adopts the findings in the MND. All impacts associated with installation and operation of a 15-acre commercial solar facility will be mitigated to less than significant with the adoption of the mitigations identified in the MND. The Board's concurrence with the findings in the MND reflects the Board's independent judgment and analysis.

3.5 In accordance with CEQA and the State CEQA Guidelines, the Board must adopt a mitigation monitoring program to ensure that the mitigation measures adopted herein are implemented. A mitigation monitoring program for the MND shall be incorporated into the conditions of approval imposed herein. The MND mitigation monitoring program will be implemented in accordance with all applicable requirements of CEQA and the State CEQA Guidelines.

Section 4

Zoning and Planning Compliance

4.1 The Board finds the Proposed Project, as herein approved, is consistent with the Sonoma County General Plan 2020 land use designation Land Extensive Agriculture and Agricultural Resource Element Policy AR-4a, which calls for the primary use of any parcel within the three agricultural land use categories to be agricultural, because the project site will maintain a livestock grazing operation on the entirety of the 25-acre parcel, including the area covered by the commercial solar facility. This grazing will not be impaired by the presence of the solar arrays which are each placed a sufficient distance apart and a sufficient height from the ground to allow for grasses to grow and livestock to graze in numbers that support bona fide agricultural operations in a way that ensures the subject parcel will be maintained primarily for agricultural

use. The project site is not in a Land Conservation (Williamson Act) contract, or an open space easement.

4.2 The Board further finds that the Proposed Project is consistent with the goals and objectives of the Open Space and Resource Conservation Element (ORSC) because the Proposed Project site:

- a) Is not within any of the scenic resource areas identified by the General Plan;
- b) Is not within a Biotic Resource Area;
- c) Is not within a designated habitat area as indicated in the Biological Resources Constraints Evaluation prepared by Dudek, September 11, 2018.
- d) Will have minimal impact on the public view from a Scenic Corridor as illustrated in the Visual Impact Assessment prepared by Dudek, March 2018;
- e) Will be constructed beyond the setback area of a Riparian Corridor; and
- f) Actively furthers Goal ORSC-15 of contributing to the supply of renewable energy in the County.

4.3 The Board further finds that the Proposed Project is consistent with the Petaluma Dairy Belt Area plan because it does not convert agricultural land to a non-agricultural use as grazing will continue onsite; it does not significantly affect the scenic view corridor of Bodega Avenue as indicated in the Visual Impact Assessment (Dudek, 2018), it will not affect the lifestyles in the vicinity since, once constructed, it will not produce noise exceeding maximum allowed per General Plan Table NE-2 , will not create light or glare on neighboring parcels, and, as an unmanned facility, will not result in impacts to the transportation network.

4.4 The Board further finds that the Proposed Project is consistent with the LEA Land Extensive Agriculture zoning designation since LEA is included in the zones for which the Renewable Energy Combining Zone may apply, and preserves the existing livestock grazing on the entire parcel including within the area of the proposed commercial solar facility.

4.5 The Board further finds that the Proposed Project's subject parcel meets the eligibility criteria for designation of the RE (Renewable Energy Combining Zone). Section 26-60-020 provides:

- a) The RE combining zone may not be combined with the Land Intensive Agriculture Zone (LIA).
- b) The RE combining zone may not be combined with any residential zone including R1, R2, R3, RR, AR or PC, nor may it be applied within 300 feet of these zones.
- c) The RE combining zone shall not be placed on any property under Williamson Act contract or within an open space or conservation easement unless renewable energy power generation facilities are specifically allowed under the Agricultural Preserve or Open Space District Rules, contract and/or

easement.

- d) The RE combining zone shall not be placed within the approach zone (outer or inner safety zones) or the inner turning zones for any public use airport.
- e) The RE combining zone shall exclude areas within the General Plan, Area Plan or Specific Plan designated as Biotic, Historic or Scenic Resources including the Biotic Resource (BR), Scenic Resources (SR), or Historic District (HD) combining zones, unless a protective easement is provided to ensure protection of the resources. The RE Combining Zone shall also exclude areas mapped as state designated Important Farmland unless a protective easement is placed over these farmlands.
- f) An RE combining zone shall not be applied within 300 feet of an urban service area for a city or unincorporated community, except that RE combining zone may be applied to public facility, industrial, and commercially zoned properties regardless of location within or outside of urban service areas.

Applying these eligibility criteria, the Board finds that the Proposed Project's subject parcel:

- a) Is not designated LIA;
- b) Is not designated a residential zone, including R1, R2, R3, RR, AR or PC, nor is it within 300 feet of these zones.
- c) Is not under a Williamson Act contract or within an open space or conservation easement;
- d) Is outside of any public use airport approach zone or inner turning zone;
- e) Is not located within areas designated by the General Plan, Area Plan, or Specific Plan as Biotic, Historic or Scenic Resource, and is not within an area mapped as state designated Important Farmland;
- f) The Parcel is not within 300 feet of an urban service area or a city or unincorporated community

4.6 The Board further finds that the Proposed Project meets the applicable use standards for a proposed commercial solar facility use in the RE (Renewable Energy Combining Zone), which allows commercial solar facilities with an approved use permit. The Proposed Project is consistent with the siting, development, and special use standards included in sections 26-88-200 and 26-88-206 as set forth in the Use Permit Criteria Analysis attached as Exhibit B to this Resolution. A Right to Farm Declaration and an Agricultural Use Easement have been prepared and must be recorded to minimize conflicts with agricultural operations pursuant section 26-88-200(a)(1)(iii).

4.7 The Board further finds that the MND identifies mitigation measures necessary to reduce the Proposed Project's potentially significant impact to a less than significant level. The mitigation measures, together with mitigation monitoring and reporting requirements, are incorporated into the Conditions of Approval and Mitigation Monitoring Program attached as Exhibit A and incorporated herein.

4.8 The Board further finds that the establishment, maintenance or operation of the

Proposed Project, as approved herein, will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of the Proposed Project, nor will it be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:

- a. The 15-acre solar array will be enclosed with a security fence;
- b. No new noise will be generated during operation of the proposed project; noise levels during construction will be subject to the noise limits established in Table NE-2 in the General Plan;
- c. Minimal traffic is associated with the ongoing maintenance of the solar array;
- d. Based on the Visual Assessment prepared for the proposed project there will be less than significant visual impacts to adjacent residential land uses, public roads and public viewpoints;
- e. Based on the Biological Site Assessment Report prepared for the proposed project, no sensitive or locally important plant or animal species or vegetation communities occur or are likely to occur at the project site; and
- f. The project site is not located within a Scenic Corridor or Scenic Landscape Unit.

4.9 The Board further finds that the establishment, maintenance and operation of the Proposed Project, as approved herein, will contribute to the County's efforts to reduce greenhouse gas emissions as part of a coordinated effort through the Sonoma County Regional Climate Protection Authority as the Board of Supervisors reaffirmed with the adoption of Resolution Number 18-0166 on May 8, 2018.

Section 5

Evidence in the Record

5.1 The findings and determinations set forth in this resolution are based upon the record of these proceedings. References to specific statutes, ordinances, regulations, reports, or documents in a finding or determination are not intended to identify those sources as the exclusive basis for the finding or determination.

Now, Therefore, Be It Resolved based on the findings and determinations set forth in this resolution and the information contained in the record of these proceedings, the Board hereby declares and orders as follows:

1. The foregoing findings and determinations are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.
2. The Proposed Project is approved as follows:
 - a. The MND is adopted. Permit Sonoma is directed to file a notice of determination in accordance with CEQA and the State CEQA Guidelines

- b. The Zoning designation of the subject parcel is changed from LEA (Land Extensive Agriculture), B6-60 acre density, Z (Accessory Unit Exclusion Combining District), RC 50/50 (Riparian Corridor) to LEA (Land Extensive Agriculture) B6-60 acre density, Z (Accessory Unit Exclusion Combining District), RC 50/50 (Riparian Corridor), RE (Renewable Energy Combining Zone);
 - c. The Use Permit for a 15-acre, two-megawatt, photovoltaic, ground-mounted, commercial solar facility located at 5853 Bodega Avenue, Petaluma, APN 022-200-036, is approved, subject to the Conditions of Approval and Mitigation Monitoring Program set forth in Exhibit A, attached hereto and incorporated herein by reference.
3. The Chair of the Board is authorized to execute the Sales and Use Tax Agreement contained in Attachment C, attached hereto, and incorporated herein by reference.
4. The Director of Permit and Resource Management, pursuant to Resolution No. 16-0436, is authorized to execute the Agricultural Impact Easement contained in Attachment D, attached hereto, and incorporated herein by reference.
5. The Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Gorin:	Zane:	Gore:	Hopkins:	Rabbitt:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.