



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: March 03, 2016

Jurisdiction: Klamath County

Local file no.: CLUP 7-15

DLCD file no.: 004-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/29/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
File No.: 004-15 {24179}  
Received: 2/29/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: KLAMATH COUNTY

Local file no.: **CLUP 7-15**

Date of adoption: 2/12/16

Date sent: 2/29/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 12/21/16

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes  No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Mark Gallagher, Planning Director

Phone: 541-851-3668

E-mail: mgallagher@co.klamath.or.us

Street address: 305 Main St.

City: Klamath Falls

Zip: 97601-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- |             |    |        |  |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this         |
| change.     |    |        |  |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address): T38S, R10E, Sec 25, TL 100, 1050 Mitchell Rd., Dairy, OR 976

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Limited Use Overlay      Acres added: 80      Acres removed: None

Location of affected property (T, R, Sec., TL and address): T38S, R10E, Sec25, TL 100

List affected state or federal agencies, local governments and special districts: ODOT, BonanzaRFPD, Klamath Tribes, Klamath County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Final Order and Ordinance



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Fee: NO FEE

Return to Commissioner's Journal

## BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF FILE NUMBER CLUP 7-15

FINAL ORDER

WHEREAS, OR Solar 8, LLC applicants, requested approval of an exception to Statewide Planning Goal 3 and to apply a Limited Use Overlay designation to approximately 80 acres of the 160 acre property to allow a 10 megawatt solar power generating facility to be located on more than 20 acres of arable land; and granting a Conditional Use Permit; and

WHEREAS, the subject property is described as Tax Lot 100 in Section 25 of Township 38 South, Range 10 East Willamette Meridian; and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing held on January 26, 2016 before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, the applicant submitted said request for the proposed actions in due form for consideration; and

WHEREAS, based on testimony entered and consideration of the whole record, and making the proposed findings of fact in the application submittal and Staff Report their own, the Klamath County Planning Commission concluded the application was in conformance with State Law, Klamath County Land Development Code and Comprehensive Plan, and forwarded a recommendation of Approval for Planning File CLUP 7-15 to the Board of County Commissioners with the addition of Condition No. 6; and

WHEREAS, based on testimony entered and after consideration of the whole record; and, with a recommendation from the Klamath County Planning Commission, the Klamath County Board of Commissioners acting within their authority, accepted the Planning Commission's recommendation, and APPROVED Planning File CLUP 7-15 with the following Conditions of Approval.

1. *Prior to operation of the use, clearances must be granted from Planning (LUCS) and the Building Dept. (permits for structural, electrical etc.) if needed.*
2. *Prior to issuance of Planning approval (LUCS) for the use, the owner shall record a restrictive covenant with the deed recognizing the rights of adjacent and nearby landowners to conduct farm and forest operations consistent with accepted farm practices and the Oregon Forest Practices Act. The restrictive covenant need only be effective as long as the CUP remains active and valid. A copy of the recorded covenant shall be provided to the Planning Department.*


3. Prior to issuance of the Planning approval (LUCS), the approximately 80 acre portion of the site shall be disqualified from farm tax deferral through the Assessor's Office.
4. Prior to solar project construction, a certified anthropologist, with a degree, shall conduct a Phase 1 cultural survey on the site and contact the State Historic Preservation Office to verify any cultural records or sites in the area. A certified cultural monitor shall be present, to the satisfaction of the Klamath Tribes, while all ground disturbing activities are taking place.
5. Comply with any requirements of the Bonanza Rural Fire Protection District.
6. Prior to issuance of the Planning approval (LUCS), the project owner shall provide security sufficient for decommissioning costs in the form of a performance bond to ensure the availability of funds to cover such costs. The security bond is to cover removal of equipment and restore the land to its original condition at the end of the project, or project abandonment and for hazard abatement. A decommissioning plan shall be provided to the Planning Dept. prior to issuance of the LUCS. An estimate of the decommissioning costs shall be provided with the bond and may include a salvage and recycling estimate that would reduce the bond amount.

**NOW, THEREFORE, THE KLAMATH COUNTY BOARD OF COMMISSIONERS ORDER AS FOLLOWS:**

The Klamath County Planning Director shall draft for adoption by the Board of County Commissioners an ordinance granting the exception to Statewide Planning Goal 3 and adding the Limited Use Overlay to the subject property as shown on attached Exhibit A.

Dated this 12 day of February, 2016


**FOR THE BOARD OF COMMISSIONERS**

  
 \_\_\_\_\_  
 Chairman

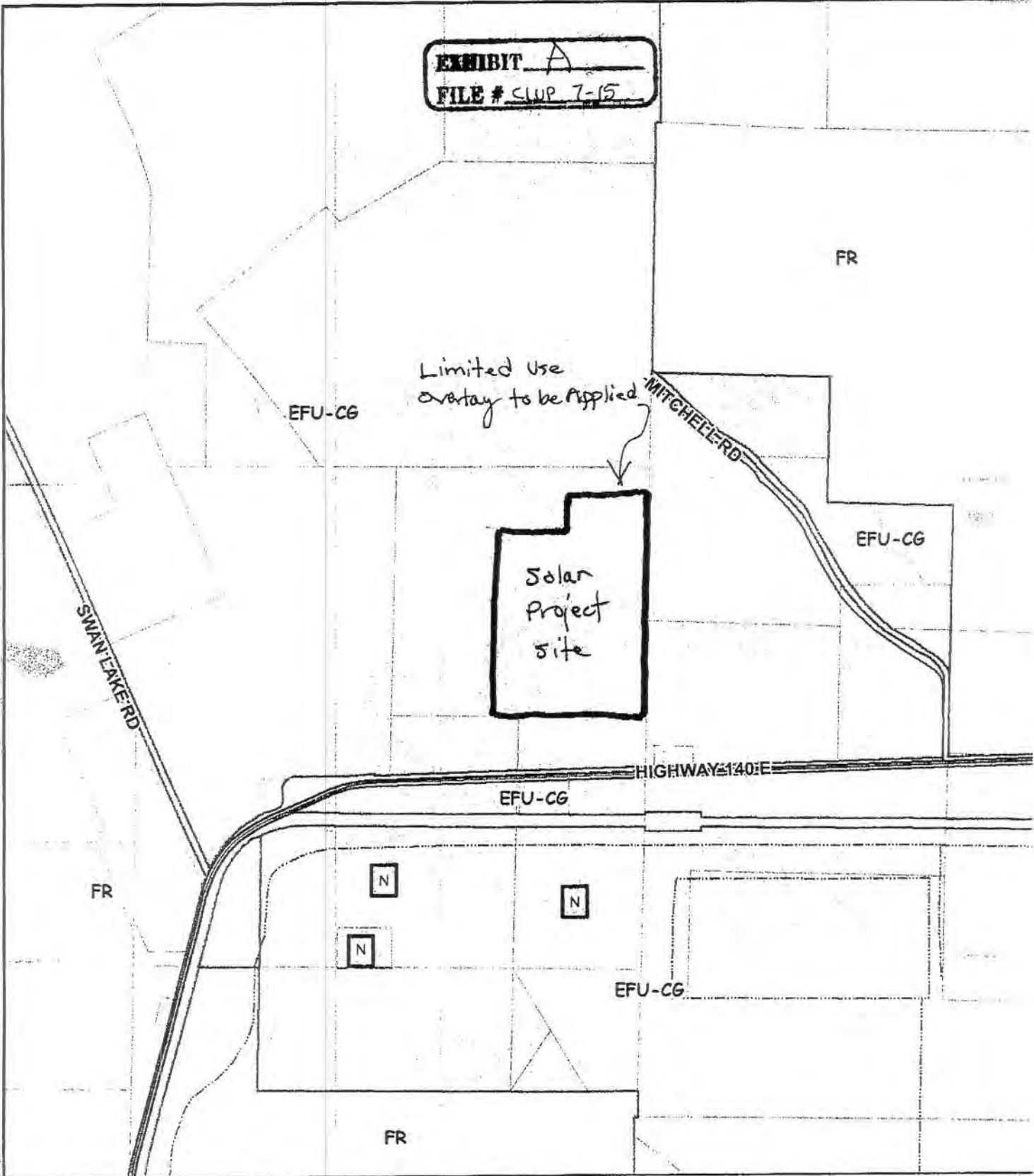
  
 \_\_\_\_\_  
 Commissioner

**Not Present**

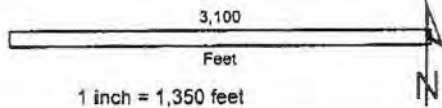
\_\_\_\_\_  
 Commissioner

  
 \_\_\_\_\_  
 County Counsel  
 Approved as to form

**EXHIBIT** A  
**FILE #** CLUP 7-15



**Klamath County**  
-Vicinity-



Date Printed: 12-21-15

This map is for planning purposes only. This map has been prepared for internal use by Klamath County only. Accuracy and completeness is not guaranteed to any other agency, public or private.



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Fee: NO FEE

**BOARD OF COUNTY COMMISSIONERS**

**KLAMATH COUNTY, OREGON**

IN THE MATTER OF GRANTING )  
AN EXCEPTION TO STATEWIDE )  
PLANNING GOAL 3 AND )  
ADDING THE LIMITED USE )  
OVERLAY TO THE SUBJECT 80 )  
ACRE PROPERTY TO ALLOW A )  
SOLAR POWER GENERATING )  
FACILITY ON MORE THAN 20 )  
ACRES OF ARABLE LAND. )

**ORDINANCE 44.108**

**WHEREAS**, the Klamath County Board of Commissioners has the authority and desires to grant an exception to Statewide Planning Goal 3 and add the Limited Use Overlay to the subject property; and

**WHEREAS**, the Klamath County Planning Department provided written notice of the public hearing as required in KC Land Development Code Article 31; and

**WHEREAS**, a quasi-judicial public hearing was held on January 26, 2016, and a Staff Report was provided, and public testimony was considered before the Klamath County Planning Commission and Board of County Commissioners; and

**WHEREAS**, based on testimony entered and in consideration of the whole record, the Klamath County Planning Commission adopted as its own the findings of fact provided in the Application and Staff Report and recommended approval of the exception to Statewide Planning Goal 3 and the addition of the Limited Use Overlay to the subject property to allow the proposed use; and, said recommendation was forwarded to the Klamath County Board of Commissioners; and

**WHEREAS**, the Klamath County Board of Commissioners voted to approve the Planning Commission recommendation to grant the exception and add the Limited Use Overlay to the subject property; and

**NOW, THEREFORE**, the Klamath County Board of Commissioners ordains that the exception to Statewide Planning Goal 3 is approved and adding the Limited Use Overlay to the subject property, as shown on the attached map marked as Exhibit "A," and incorporated herein by reference is hereby adopted.


DATED this 12 day of Feb., 2016.

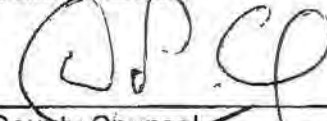
FOR THE BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Chairman

**Not Present**

\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
County Counsel  
Approved ~~as~~ to form

**NOTICE OF APPEAL RIGHTS**

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21-days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or by mail at 550 Capitol Street NE, Suite 235, Salem Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.



**EXHIBIT** A  
**FILE #** CLUP 7-15

Limited Use  
overlay to be Applied

Solar  
Project  
site

SWAN LAKE RD

MITCHELL RD

HIGHWAY 140 E

EFU-CG

FR

EFU-CG

EFU-CG

FR

N

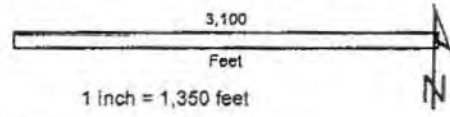
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N

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**Klamath County**  
- Vicinity -



Date Printed: 12-21-15

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