



Oregon

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

Date: February 05, 2016

Jurisdiction: Sherman County

Local file no.: 2016-01

DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/04/2016. 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 less than 35 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



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

FOR DLCD USE

File No.: 003-15 {24164}

Received: 2/4/2016

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: Sherman County

Local file no.: **2016-01**

Date of adoption: February 3, 201

Date sent: 2/4/2016

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): 12/8/2015

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): Georgia L Macnab

Phone: 541-565-3601

E-mail: georgiamac@embarqmail.com

Street address: PO Box 381

City: Moro

Zip: 97039-

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:

Goal 3

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): T1N, R18E, Sec. 8, TL 1700, Sec. 4 & 9, TL 1000: Sec. 8, 9

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: | Acres added: | Acres removed: |
|---------------------------|--------------|----------------|

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: Sherman County, DLCD,

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.

An exception to goal 3 was approved for a Photovoltaic solar power generation facility in Sherman County. A CUP is being reviewed concurrently for this proposal. The request indicates that up to 100 acres of agricultural land may be removed from production.

IN THE COUNTY OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF SHERMAN COUNTY

IN THE MATTER OF THE COMPREHENSIVE PLAN)
AMENDMENT TO TAKE AN EXCEPTION TO THE STATEWIDE) **ORDINANCE**
PLANNING GOAL 3 FOR THE WY'EAST WIND FARM) 01- 2016
AND DECLARING AN EMERGENCY)

The County Court of Sherman County ordains as follows:

SECTION 1 – SHORT TITLE.

This ordinance shall be referred to as the Comprehensive Plan Amendment of 2016.

SECTION 2 – PURPOSE.

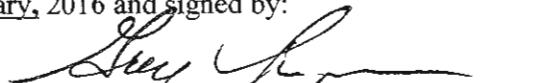
The purpose of this Ordinance is to take an Exception to the Statewide Planning Goal 3 for the Wy'East Solar Development.

SECTION 3 – ADOPTION.

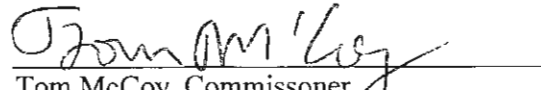
The County adopts the following as part of its Goal 3 Exception Statement required for the amendment of the County Comprehensive Plan.

- A. The project is owned by Pacific Solar Investments Inc., a wholly-owned subsidiary of Iberdrola Renewables.
- B. The project sites located approximately 5 miles east of Wasco, Oregon in the Exclusive Farm Use Zone and described more specifically by the Sherman County Assessors maps as ;
R1N, 18E,
Section 8, T L 1700,
Sections 4&9, TL 1000,
Sections 8&9, TL 1900.
- C. The Findings of Fact, attached as Exhibit "A" are hereby adopted by reference and made a part of the Sherman County Comprehensive Plan.
- D. In as much as the health, safety, general welfare and economic well being of the citizens of Sherman County is the prime concern of the County Court, and the ability to rapidly mobilize the county's resources to develop the burgeoning solar energy industry in the County is necessary, an emergency is hereby deemed to exist. Therefore, this ordinance shall be in full force and effect upon its approval by the County Court.

Approved by the County Court this 3rd day of February, 2016 and signed by:


Gary Thompson, Sherman County Judge


Mike Smith, Commissioner


Tom McCoy, Commissioner


ATT: 
Lauren Hernandez, Administrative Assistant

EXHIBIT ‘A’

FINDINGS OF FACT

IN THE MATTER OF A GOAL 3
EXCEPTION FOR THE
WY’EST SOLAR PROJECT
PACIFIC SOLAR INVESTMENT LLC.

SHERMAN COUNTY
PLANNING COMMISSION
FINDINGS AND RECOMMENDATION

PROCEDURAL FINDINGS

1. The project is owned by Pacific Solar Investments Inc., a wholly-owned subsidiary of Iberdrola Renewables. They have filed a Conditional Use Permit for the construction and operation of a solar development of up to 100 acres and was approved tentatively by the Sherman County Planning Commission at a public hearing held January 25, 2016. The CUP will become automatically approved upon approval by the County Court of the Goal 3 Exception statement.
2. The project sites located approximately 5 miles east of Wasco, Oregon in the Exclusive Farm Use Zone and described more specifically by the Sherman County Assessors maps as ;
R1N, 18E,
Section 8, T L 1700,
Sections 4&9, TL 1000,
Sections 8&9, TL 1900.
3. The Project Site is zoned Exclusive Farm Use F-1 (“EFU”). Wy’East would occupy approximately 100 total acres of EFU-zoned land, including at least one access road. As the Project occupies more than the threshold acreage set forth in OAR 660-033-0130(38) and (g), the Applicant concurrently seeks a Goal 3 exception.
4. The application for the Goal 3 exception was deemed complete, and the Planning Staff subsequently issued a Staff Report dated January 15, 2016, recommending approval of the Goal 3 exception by the County Court through adoption of an exception statement in the Comprehensive Plan. Notice of the Planning Commission hearing was advertised in The Dalles Chronicle on January 5, 2016 and mailed to surrounding property owners and reviewing agencies prior to that date. The Planning Commission held a public hearing on January 25, 2016.

I. GOAL 3 EXCEPTION REQUEST

If a photovoltaic solar power generation facility is built on more than 20 acres of arable land, the County is required to adopt an exception to Statewide Planning Goal 3 (Agricultural Lands). OAR 660-033-0130(38)(g) provides:

(38)(g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

The Project will not exceed 100 acres of arable land zoned Exclusive Farm Use (F-1). Accordingly, a Goal 3 Exception is required.

Under OAR 660-004-0000(2), an “exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals. The documentation for an exception must be set forth in a local government’s comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met.” The intent of the exception process is to provide for the necessary flexibility when applying Statewide Planning Goals. *See* OAR 660-004-0000(3). Here, the exception process allows the County to make findings of Goal compliance for the Project by taking an exception to the applicable Goal. ORS 197.732(2)(c).

In order to adopt an exception to Goal 3 and amend the County’s comprehensive plan, the County must first find that the following criteria in ORS 197.732(2)(c)(A)-(D) are met:

- (A) *Reasons justify why the state policy embodied in the applicable goals should not apply;*
- (B) *Areas that do not require a new exception cannot reasonably accommodate the use;*
- (C) *The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception from other than the proposed site; and*
- (D) *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

As set forth below, the Applicant can demonstrate that a reasons exception is warranted under ORS 197.732(2)(c)(A)-(D) and that there is substantial evidence upon which the County may base an amendment to its comprehensive plan.

A. Reasons To Justify the Exception

The following sections provide evidence supporting a finding that there are sufficient reasons justifying why the state policy embodied in Goal 3 should not apply to the Project.

1. The Use is Locationally Dependent and Cannot be Developed on Non-Resource Lands

The proposed Project site was selected because of its immediate proximity to the Schoolhouse substation, flat topography and solar resource. The Project is located adjacent to the intersection of Klondike Lane and Sandon Road and immediately borders the existing Schoolhouse substation and several operating wind farms, including Biglow Canyon, Patu, and Klondike II. The Project will connect via an underground collector line to existing substation equipment at the substation and no new overhead collector lines or collector substations are necessary for the Project. The closest nonarable soils are located approximately 13 miles away

south of Moro. There are some areas of native grasslands in the area but these parcels have slopes ranging up to 25% and are located in narrow swaths following steep drainages, precluding the development of a photovoltaic solar facility. Due to the proximity to existing energy infrastructure, the Project area possesses the most optimal, accessible solar energy project site in the area.

This reason is consistent with OAR 660-004-0022(3)(a), allowing the siting of rural industrial development (such as an energy project) on resource lands outside an urban growth boundary when “[t]he use is significantly dependent upon a unique resource located on agricultural or forest land.” In addition, the property owner is interested in development of another renewable energy project in the county and has signed a land lease to allow the Project to be built.

2. The Project Will Further Important State Policies

The County’s comprehensive plan contains policies pointing out that the County has undeveloped solar and wind resources and, therefore, the County is encouraged to “cooperate with public agencies and private individuals in the use and development of renewable resources.” *See Sherman County Comprehensive Plan (“SCCP”), Section XV, Policy I.*

In addition to this County policy, the state of Oregon published a Renewable Energy Action Plan (ODOE, 2005) (the “Plan”). The Plan calls for significant, additional development of renewable resources, including wind energy. In 2007, the Oregon legislature passed Senate Bill 838 establishing Oregon’s Renewable Portfolio Standard for electricity, requiring that 25 percent of Oregon’s electric load come from new renewable energy by 2025. Further, Statewide Planning Goal 13 (Energy Conservation) calls for the development of renewable energy resources. The Oregon Legislative Assembly has enacted numerous tax credits and economic development incentives favoring renewable energy development, including House Bill 3492 effective October 5, 2015. Oregon’s numerous statutory programs together reflect a comprehensive state policy of supporting renewable energy development. *See further* ORS 757.612 (creating system benefit charge, a portion of the funds from which go to renewable energy); ORS 757.603(2) (requiring Oregon electric utilities to provide retail customers with at least one option including significant percentage of renewable energy).

On balance, the Project will produce a significant advancement of important County and state policies, while causing only a minor inconsistency with the policies behind Goal 3.

3. The Project Will Advance the State and County Policies of Furthering Efficient Development and Economic Growth

As described above, the Project will encourage the efficient siting of land uses, and facilitate multiple uses of land. In addition, the overall Project will benefit the local economy through contributions to the local tax base and employment opportunities during construction. The Project is projected to result in additional annual tax revenue for the County. When the acreage needed for the Project is converted to nonfarm uses, the County will receive deferred property tax payments. Thereafter, the land will be taxed at a higher assessed value. The additional tax revenue generated by the existence of the Project will increase the County’s ability

to provide roadways, police, fire protection, and other services to its citizens. The Applicant will hire as many local experienced contractors/workers as possible and commercially feasible during the construction phase of the Project and will obtain necessary goods and services from local businesses within the County whenever reasonably possible.

The affected landowners will also benefit. In return for granting the solar lease over a small amount of their farmland, the landowners will receive financial compensation.

B. Areas Not Requiring a New Goal Exception Cannot Accommodate Use

The only non-Exclusive Farm Use (EFU) land in the area is located in the communities of Moro, Wasco, Rufus, and Biggs Junction. As mentioned above, the closest nonarable soils are located approximately 13 miles away south of Moro. There are some areas of native grasslands in the area but these parcels have slopes ranging up to 25% and are located in narrow swaths following steep drainages, precluding the development of a photovoltaic solar facility. None of these locations are located in close proximity to existing energy infrastructure. Hence, the Project must be sited on EFU land. Furthermore, the topography and remote location of the EFU will minimize any potential visual impacts on the surrounding community, unlike the impacts that would be experienced in the more populated communities listed above. Finally, the Project will not displace residential or commercial lands in the areas of non-EFU land. Due to the proximity to existing energy infrastructure, the Project area possesses the most optimal, accessible solar energy project site in the area.

C. ESEE Consequences Favor the Exception

Environmental. The Project is located entirely within actively farmed agricultural land categorized as Habitat Category 6 per the ODFW Habitat Mitigation Policy set forth in OAR 635-415-0000 through -0025. The Project will not cause significant adverse environmental consequences. Because Category 6 habitat has a low potential to become essential or important habitat for fish and wildlife, no habitat mitigation is required per the ODFW Habitat Mitigation Policy. All construction will be conducted in compliance with the Project's erosion control plan, required as part of the Project's National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit issued by the Oregon Department of Environmental Quality (DEQ). The erosion control plan will use general "best management practices" for erosion control during and after construction. The plan will also provide for permanent drainage and erosion control facilities as necessary to allow stormwater passage without damage to local roads or to adjacent areas and without increasing sedimentation of intermittent streams. The Applicant does not anticipate any unmitigated adverse impacts on soils, wetlands, protected areas, water resources, threatened and endangered species, scenic resources, historic and cultural and archaeological resources, or public services.

Socioeconomic. The Project's socioeconomic consequences will not be adverse because the additional income generated by the Project will improve the local tax base and landowners' income where the Project is located. Although a maximum of 100 acres of cultivated land will be removed from production, farming operations will continue on the remainder of the families' multi-thousand agricultural operations. Furthermore, the minimal loss of farm income based on the limited amount of land the Project proposes to withdraw from farm production will be more

than offset by revenue from the solar lease. Additionally, the Project will benefit the local economy through employment opportunities during construction.

Energy. The Project will create energy generating capacity of up to 20 MW. Thus, the energy consequences of the Project will be positive, as is the fact that it will produce renewable, emissions-free energy. The clean energy produced by the Project will help the region meet increasing energy demands.

D. The Facility Is Compatible with Other Adjacent Uses.

The Project is compatible with adjacent land uses. The Project site and adjacent property is predominately used for dryland wheat. Although the Project will occupy some farmland, the Project will not significantly alter the farming land-use pattern or practices in the area. The Project will be located immediately adjacent to Klondike Lane between the existing Schoolhouse substation and operating Klondike II turbine string, at the edge of the agricultural field. It will not result in small, irregular shaped or isolated pieces of property. No roads or other facilities will be constructed outside the fenced solar project, and the adjacent property will continue to be farmed using common farming practices and accessible from Klondike Lane. In addition, the Applicant will work with the County Weed District to manage weeds during the Project's construction and operation so as not to interfere with farm operations. Because of the relatively small impacts the Project will have on current farming operations, the Project will not significantly increase farming costs. For these reasons, the Project is compatible with adjacent farm uses.