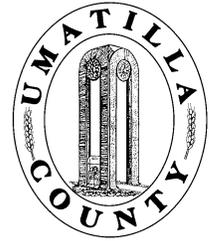


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, February 25, 2021, 6:30 PM

VIRTUAL MEETING

IF YOU WISH TO PARTICIPATE IN THE HEARING PLEASE SUBMIT COMMENTS BY 4PM, FEBRUARY 25TH 2021, TO planning@umatillacounty.net OR CONTACT THE PLANNING DEPARTMENT AT, 541-278-6252.

Planning Commission

Suni Danforth, Chair Hoot Royer
Don Wysocki, Vice-Chair Jon Salter
Tammie Williams Lyle Smith
Tami Green
Molly Tucker Hasenbank

Planning Staff

Bob Waldher, Planning Director
Carol Johnson, Senior Planner
Megan Green, Planner II/ GIS
Gina Miller, Code Enforcement Coordinator
Tierney Cimmiyotti, Administrative Assistant

1. Call to Order

2. New Hearing:

HAY CREEK SOLAR PROJECT CONDITIONAL USE PERMIT REQUEST, #C-1332-20, Hay Creek Solar, LLC, Applicant; Judy Kirk, Property Owner.

The applicant requests a Conditional Use Permit to construct and operate an 8-acre solar project on land owned by Judy Kirk located approximately one-quarter mile east of the intersection of East Main and Franklin Streets, Weston Oregon. The subject property adjoins Kirk Road on the north and borders the City of Weston to the west.

Solar projects are permitted on lands zoned for Exclusive Farm Use (EFU) as a Conditional Use Permit by Umatilla County Development Code (UCDC) Section 152.060 (FF). Solar projects must meet OAR 660-033-0130 (38), standards found in UCDC Sections 152.615 and 152.061, and follow procedures for conditional uses set out in UCDC Sections 152.611 – 152.614.

For further information, please contact the Planning Department at 541-278-6252 or Carol Johnson, Senior Planner, at the Umatilla County Planning Department, 216 SE 4th Street, Pendleton, Oregon 97801; telephone 541-278-6301; email carol.johnson@umatillacounty.net

3. Minutes from December 17, 2020 Hearing

4. Election of Chair & Vice Chair

5. Bylaws Review

6. Adjournment

**HAY CREEK SOLAR PROJECT
CONDITIONAL USE PERMIT, # C-1332-20
FEBRUARY 25, 2021 PLANNING COMMISSION HEARING
PACKET LIST**

1. Staff Memo, page 1
2. Public Notice & Map, pages 3 and 4
3. Staff Report/Draft Findings, pages 5 – 43
4. Applicant's Site Plan Map, page 45
5. County Soils Map, page 47
6. County 1-Mile Buffer Area Map, page 49
7. Applicant's Soil Erosion Control Plan Map, pages 51 – 53
8. Erosion Control and Soil Compaction Relief Plan, pages 55 – 58
9. Weed Mitigation Plan, pages 59 – 65
10. Applicant's Burden of Proof, pages 67 – 74
11. Applicant's Exhibit A – Farm Impacts, pages 75 – 80
12. Applicant's Supplemental Information, pages 81 – 91
13. Applicant's Notice Letter to Surrounding Property Owners, page 93
14. Letter from farm operator, Emery Gentry, page 95

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

February 17, 2021

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

To: Umatilla County Planning Commissioners
From: Carol Johnson, Senior Planner

CODE
ENFORCEMENT

Re: February 25, 2021, Planning Commission Hearing
Hay Creek Solar LLC, Applicant
Hay Creek Solar Project Conditional Use Permit, #C-1332-20
Map #4N 35 22, Tax Lot #700

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

CC: Robert Waldher, Planning Director

GIS AND
MAPPING

Request:

RURAL
ADDRESSING

The applicant requests a conditional use permit to construct and operation an eight-acre solar project on land zoned Exclusive Farm Use (EFU).

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Location:

The project area is located east of the City of Weston, approximately one-quarter mile east of the intersection of East Main and Franklin Streets. The subject property adjoins Kirk Road on the north and borders the City of Weston to the west.

Notice:

Notice of the applicant's request was mailed February 5, 2021 to property owners, interested persons, and agencies. Notice was also published in the *East Oregonian* February 13, 2021, notifying the public of the applicant's request before the Planning Commission to be heard on February 25, 2021.

Criteria:

The EFU Conditional Use Permit Section 152.060 in the Umatilla County Development Code (UCDC) identifies Photovoltaic solar power generation facilities, as provided in OAR 660-033-0130 (38), as a conditional use allowed on lands zoned EFU. In addition to the state rules, UCDC Section 152.061 and the Conditional Use Permit sections 152.612 through 152.615 apply.

Conditions:

The proposed Conditions of Approval relate to the attachments and implementation of erosion and weed controls, dust control and revegetation, bonding and decommissioning, as well as access to the public road.

Decision:

The decision by the Planning Commission is final unless timely appealed to the Board of County Commissioners.

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

NOTICE OF PUBLIC HEARING UMATILLA COUNTY PLANNING COMMISSION

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, February 25, 2021 at 6:30 PM.**

Due to COVID-19 the hearing will be held virtually. Video and telephone conferencing are available, please contact the Planning Department at (541) 278-6252 for details. **THOSE WHO WANT TO PARTICIPATE IN THE HEARING ARE ENCOURAGED TO SUBMIT WRITTEN TESTIMONY IN ADVANCE OF THE HEARING** to carol.johnson@umatillacounty.net or planning@umatillacounty.net

The Public Hearing involves the **HAY CREEK SOLAR PROJECT CONDITIONAL USE PERMIT REQUEST, #C-1332-20, Hay Creek Solar, LLC, Applicant; Judy Kirk, Property Owner.**

The applicant requests a Conditional Use Permit to construct and operate an 8-acre solar project on land owned by Judy Kirk located approximately one-quarter mile east of the intersection of East Main and Franklin Streets, Weston Oregon. The subject property adjoins Kirk Road on the north and borders the City of Weston to the west.

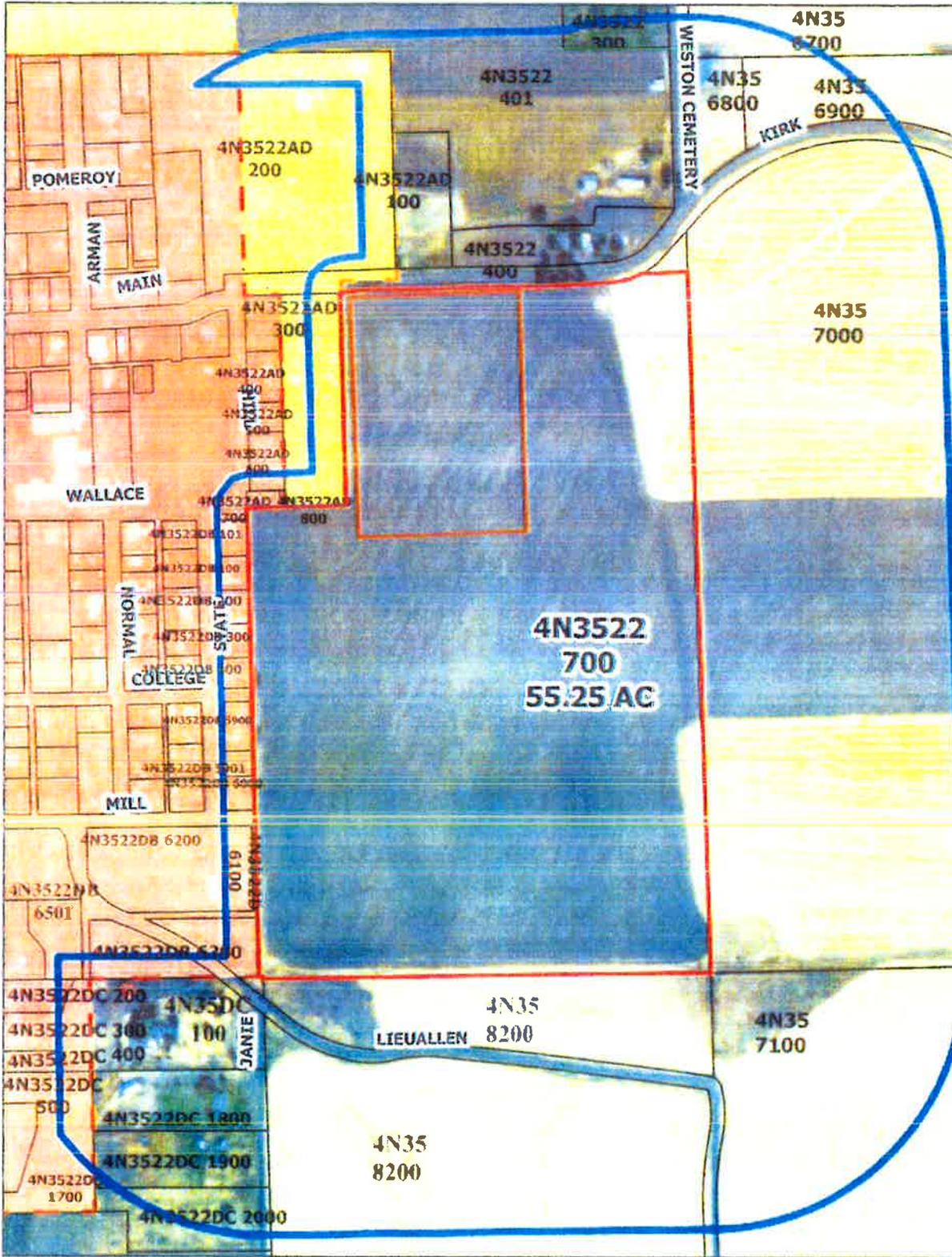
Solar projects are permitted on lands zoned for Exclusive Farm Use (EFU) as a Conditional Use Permit by Umatilla County Development Code (UCDC) Section 152.060 (FF). Solar projects must meet OAR 660-033-0130 (38), standards found in UCDC Sections 152.615 and 152.061, and follow procedures for conditional uses set out in UCDC Sections 152.611 – 152.614.

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue during the hearing, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes appeal to the Land Use Board of Appeals based on that issue. Copies of all documents pertaining to the hearing listed above, relevant criteria and staff report are available for inspection one week prior to the hearing at no cost and will be duplicated at printing cost. A complete packet will also be available on the county website at www.umatillacounty.net/planning/ The Hearing will follow Section 152.772 of the Umatilla County Land Development Code for operation of the hearing.

For further information, please contact the Planning Department at (541) 278-6252 or Carol Johnson, Senior Planner, at the Umatilla County Planning Department, 216 SE 4th Street, Pendleton, Oregon 97801; telephone 541-278-6301; email carol.johnson@umatillacounty.net

DATED THIS 5TH DAY OF FEBRUARY, 2021
DEPARTMENT OF LAND USE PLANNING

MAP: 4N 35 22 TAX LOT: 700



| MAP | TAX LOT | OWNER |
|----------|---------|--|
| 4N35 | 6700 | PERRINE RONALD J & JILL S |
| 4N35 | 6800 | PERRINE RONALD J & JILL S |
| 4N35 | 6900 | PERRINE RONALD J & JILL S |
| 4N35 | 7000 | PERRINE RONALD J & JILL S |
| 4N35 | 7100 | LIEUALLEN ROBERT M ET AL |
| 4N35 | 8200 | LIEUALLEN ROBERT M ET AL |
| 4N3522 | 300 | WESTON CEMETERY |
| 4N3522 | 400 | MAINTENANCE DISTRICT |
| 4N3522 | 401 | RAMIREZ JAVIER J & RUDOLPH MICHAEL G & KIMBERLY K |
| 4N3522 | 401 | RUDOLPH MICHAEL G & KIMBERLY K |
| 4N3522 | 401 | RUDOLPH MICHAEL G & KIMBERLY K |
| 4N3522 | 700 | MCCARTIN JUDY |
| 4N3522AD | 100 | RUDOLPH MICHAEL G & KIMBERLY K |
| 4N3522AD | 200 | RUDOLPH MICHAEL G & KIMBERLY K |
| 4N3522AD | 300 | NEWBOLD CURTIS C & DOMITA L |
| 4N3522AD | 400 | MAURICE LAURIE |
| 4N3522AD | 500 | HEARY MELANIE & MISCRAV SHEPARD RICHARD M & SONDRA R |
| 4N3522AD | 600 | FEERES KENNETH B & MARTHA CELTHA |
| 4N3522AD | 700 | FEERES KENNETH B & MARTHA CELTHA |
| 4N3522AD | 800 | FEERES KENNETH B & MARTHA CELTHA |
| 4N3522DB | 100 | DICKINSON YVONNE L & MELVIN A |
| 4N3522DB | 200 | CHOWNING LAND LLC |
| 4N3522DB | 300 | GRIFFIN ANDREA L |
| 4N3522DB | 400 | NEWBOLD SHIRLEY J |
| 4N3522DB | 500 | PURCELL ROSE EMMA |
| 4N3522DB | 600 | CRAWFORD RALPH T & LINDA |
| 4N3522DB | 700 | WESTON COMMUNITY |
| 4N3522DB | 800 | CHURCH OF THE BROTHERHOOD |
| 4N3522DB | 900 | WOLFF DALE A |
| 4N3522DB | 1000 | MCCULLOUGH JUANITA |
| 4N3522DB | 1100 | MCCULLOUGH JUANITA |
| 4N3522DB | 1200 | MCCULLOUGH JUANITA |
| 4N3522DB | 1300 | GALLAGHER WILL |
| 4N3522DB | 1400 | BRADY MARY A & PATRICIA J |
| 4N3522DB | 1500 | PATRICIA J |
| 4N3522DB | 1600 | HEARN DUSTY & LUCY |
| 4N3522DB | 1700 | MILLER KRISTOPHER J & LACIE Y |
| 4N3522DB | 1800 | CALVERT CHARLES M & SHAWNA L |
| 4N3522DB | 1900 | CONOVER NICOLE A |
| 4N3522DB | 2000 | CARLSON RHIANNON R & SCOTT M |
| 4N3522DB | 2100 | GROVER ROBERT & COLLEEN |
| 4N3522DB | 2200 | CARLSON RHIANNON R & SCOTT M |
| 4N3522DB | 2300 | METZGER ROLAND F & DONNA R |
| 4N3522DB | 2400 | DONNA R |

Legend

- Notice Boundary
- Hay Creek Project Area
- Subject Parcel
- City Limits
- City UGB



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 1/26/2021

**UMATILLA COUNTY PLANNING COMMISSION
DRAFT FINDINGS AND CONCLUSIONS
HAY CREEK COMMUNITY SOLAR PROJECT
CONDITIONAL USE PERMIT, #C-1332-20
ASSESSORS MAP #4N 35 22; TAX LOT #700, ACCOUNT #123278**

1. APPLICANT/PROJECT OWNER:

Hay Creek Solar, LLC
3519 NE 15th Ave., #106
Portland, OR 97212

2. LANDOWNER:

Judy Kirk
784 Tossa De Mar
Henderson, NV 89002

3. ASSESSOR MAP NUMBER AND TAX LOT NUMBER:

Map #4N3522; Tax Lot #700

4. PROPERTY AND PROJECT ACREAGE: Tax Lot #700 = 55.25-acres
Project Acreage = 8-acres

5. COUNTY COMPREHENSIVE PLAN MAP DESIGNATION: North/South County
Agriculture

COUNTY ZONING MAP CLASSIFICATION: Exclusive Farm Use (EFU)

6. PROJECT LOCATION:

The project area is located east of the City of Weston, approximately one-quarter mile east of the intersection of East Main and Franklin Streets. The subject property adjoins Kirk Road on the north and borders the City of Weston to the west.

7. REQUEST:

The applicant, Hay Creek Solar, LLC, requests a conditional use permit to construct and operate a community solar project. The project consists of approximately 8-acres of solar panels.

8. PROJECT COMPONENTS:

The project includes photovoltaic solar panels, racking, invertors, electrical cable collection, overhead poles and lines and grid integration equipment. Conversion

The solar facility will consist of photovoltaic modules supported by stationary piles driven six to ten feet into the ground. The solar PV panels are composed of non-toxic materials, do not erode, and do not have any emissions. The facility will use Crystalline Silicon (C-Si) solar PV panels. The solar PV panel is an inert crystal composed of non-toxic materials like a glass plane. To assist light absorption, solar panels are constructed of dark-colored (blue or black) materials and are covered with an anti-reflective coating. The sealed PV panels do not leach metals into the environment and are recycled at the end of their lifecycle.

C-Si modules are produced by sourcing extremely high quality, pure silicon or quartz. The silicon is heated until it melts, after which a crystal is grown from a source ingot. The silicon crystal is sliced into thin wafers and mounted onto a durable backing material, after which the panel is encapsulated by glass and an aluminum frame.

The proposed facility will be integrated with the public utility grid at the “proposed point of interconnection” power pole. The applicant may be required to have necessary grid integration equipment between the solar modules and this power pole. The power purchaser, PacifiCorp, typically requires overhead utility poles for integrating the facility with the grid. However, the applicant does not have any control over what equipment is required. The applicant will work with the property owner and PacifiCorp to secure any required easements for the proposed facility to integrate with the utility grid.

The necessary grid integration equipment will be determined by the requirements of PacifiCorp and the Oregon Public Utility Commission. The interconnection of the proposed facility and the public utility’s grid distribution system is subject to the jurisdiction of the Public Utility Commission of Oregon and are governed by OPUC Rule OAR 860, Division 088 and Public Utility’s Community Solar Interconnection Procedures.

The proposed solar facility integrates into the utility grid at the point of interconnection. The point of interconnection is defined by PacifiCorp as the point where the public utility’s interconnection facilities connect to the public utility’s 12.5 kV distribution circuit 5W7 out of Weston substation. The point of change of ownership is defined as the point where the interconnection customer’s (i.e. Hay Creek Solar, LLC) interconnection facilities connect to the public utility’s interconnection facilities. PacifiCorp has studied and approved the proposed facility to be integrated into the utility grid. Hay Creek Solar, LLC will operate and interconnect the proposed facility in accordance with the public utility’s policies governing interconnection of generation facilities.

- 9. **PROJECT ACCESS:** Access onto the project will be via Kirk Road, County Road No. 648.
- 10. **ADJACENT LAND USES:** Residential uses are located to the west and southwest of the subject property. Agricultural land, primarily in dryland wheat, is located to the south, east and northeast. Smaller parcels with residential uses with some livestock are located to the north of the subject property.
- 11. **SOIL CLASSIFICATIONS:** The subject property contains the following soil types. High Value Soils are defined as Land Capability Class I and II. The project area consists of Palouse silt loam, Class IIIe soils.

| Soil Name, Unit Number, Description | Land Capability Class | |
|--|------------------------------|-----------|
| | Dry | Irrigated |
| 64B: Palouse silt loam, 1 to 7 percent slopes | IIe | IIe |
| 64C: Palouse silt loam, 7 to 12 percent slopes | IIIe | --- |

112D: Waha silty clay loam, 12 to 25 percent slopes

IVe IVe

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (*Survey*, page. 172).

12. **WATER:** The project operation does not require water and the subject property does not use irrigation water.
13. **WASTEWATER:** The project operation will not produce wastewater.
14. **SIGNIFICANT GOAL 5 SITES:** The review of the County’s inventory of Goal 5 sites was conducted for the project site. Inventoried Goal 5 sites were not found within the project site.
15. **UTILITIES:** The area is served by Umatilla Electric and Qwest-Century Link
16. **PROPERTY OWNERS & AGENCIES HEARING NOTICE:** Mailed February 5, 2021
Agencies Notified:
BPA, FAA, DOD-Navy, Oregon Building Codes, DEQ, OWRD, DOE-EFSC, SHPO, Co. Assessor, Co. Public Works, Co. Weed Manager, UEC, PacifiCorp, PUC, Blue Mtn. Alliance-Dave Price, CTUIR, East Umatilla Rural Fire District, Qwest and City of Weston
17. **PLANNING COMMISSION HEARING DATE:** February 25, 2021
18. **COMMENTS RECEIVED:** None to date
19. **CONDITIONAL USES PERMITTED ON LANDS ZONED EXCLUSIVE FARM USE (EFU) § 152.060 (FF).** A Photovoltaic solar power generation facility in an Exclusive Farm Use zone may be permitted conditionally as provided in OAR 660-033-0130 (38) and subject to the applicable criteria in the Umatilla County Development Code, specifically §§ 152.061 and 152.615. The application for a solar power generation facility will be processed by following the county planning public hearing procedure. The process for a public hearing is held pursuant to §§ 152.750-152.755 and 152.771 to determine if the request meets the siting requirements for construction and operation of the photovoltaic solar power generation facility. Additionally, the approval of all conditional use permits, (§152.612 (D)) requires issuance of a zoning permit for each tax lot pursuant to § 152.025. The criteria (standards) are presented in underlined text followed by responses and Findings of Fact presented in standard text.

CONDITIONAL USE PERMIT PROVISIONS - Photovoltaic solar power generation facility:

OAR 660-033-0130 (38): A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

- (a) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10)¹ unless otherwise stated.

(c) “Dual-use development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

(d) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(e) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(g) For high-value farmland described at ORS 195.300(10)², a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

¹ Soils specifically identified in ORS 195.300(10) include Etterburg silt loam, Croftland silty clay loam, Klooqueth silty clay loam, Winchuck silt loam and Huffling silty clay loam.

² (10) “High-value farmland” means:

(a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are December 6, 2007.

(c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:

(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;

(B) Within the boundaries of a district, as defined in ORS 540.505; or

(C) Within the boundaries of a diking district formed under ORS chapter 551.

(A) The provisions of paragraph (h)(H) are satisfied; or
(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

Applicant's Response: "The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 12 acres.

"Approximately 92% of the subject property is comprised of arable soils. The solar facility is sited solely on arable soil."

Planning Response: The subject property is located within the defined Columbia Valley Viticulture area and thus is considered to be high-value farmland, pursuant to ORS 195.300(10). The applicant's proposal is an eight-acre a photovoltaic solar power generation facility and will not use, occupy or cover more than 12-acres of high-value farmland. The applicant's support materials, including mapping, confirms the proposed solar project is eight-acres in size.

Findings and Conclusions:

The Planning Commission finds the Hay Creek Solar Project is proposed on land defined as high-value farmland as described at ORS 195.300 (10).

The Planning Commission finds the proposed Hay Creek Solar Project is an eight-acre photovoltaic solar power generation facility.

The Planning Commission concludes the proposed eight-acre Hay Creek Solar Project will meet the acreage provision for a photovoltaic solar power generation facility to use, occupy or cover no more than 12-acres as a condition of approval.

(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are

(d) Land that contains not less than five acres planted in wine grapes.

(f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within:

(C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is within the State of Oregon;

(D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that is within the State of Oregon; . . .

not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

Applicant's Response: "The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will neither create small or isolated pieces of land that are more difficult to farm nor fragment the remaining acreage any more than existing features on the property. The placement of the proposed facility will not disrupt common and accepted farming practices. The facility is sited adjacent to the public roadway access and therefore access to the facility will not divide the field or create small or isolated pieces of property that are more difficult to farm."

Planning Response: The subject property is located with the Columbia Valley Viticulture area and thus is considered as high-value farmland, pursuant to ORS 195.300(10). The application materials provide the proposed photovoltaic solar power generation facility is located in the northwest corner of the subject property adjacent to Kirk Road, a public roadway. The mapped layout does not include the unnecessary construction of roads dividing farm fields or causing isolated pieces of property. Access to the facility is proposed from Kirk Road; and the applicant must obtain an approved access approach permit from the County Road Department. The remainder of the subject project, not occupied by the proposed photovoltaic solar power generation facility, is located to the south and east of the proposed solar facility.

The farm operator provided a statement that the solar project will not impact the farming operation on the remaining portion of the subject property. Accepted farming practices are reviewed in more detail by UCDC Section 152.061. (See No. 21 below.)

Findings and Conclusions:

The Planning Commission finds negative impacts to agricultural operations on the subject property not occupied by project components will not be caused by unnecessary construction of roads dividing a field or isolating pieces of property, as confirmed by the project layout.

The Planning Commission concludes negative impacts to farming on the remainder of the subject farm property, due to the construction of projects roads, are not part of the project layout.

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a

timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

Applicant's Response: "The Applicant included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil erosion or loss."

"The facility will protect soils and prevent water-borne runoff with control measures which typically includes straw bales, hay coil logs, run-off channels, silt fencing, and sediment basins. Once constructed, natural vegetative growth is encouraged within the facility to prevent erosion, and the areas where panels are located are not considered impervious. Additionally, the project will acquire from the Oregon Department of Environmental Quality a National Pollutant Discharge Elimination System Stormwater Construction General Permit 1200-C to ensure runoff is effectively managed during construction.

"Minimal ground disturbance only occurs during the short (6 to 12 week) construction period. Heavy equipment and traffic is restricted to perimeter roads, which comprise less than 3% of the site area during construction. To further protect against erosion, most roads on the site are re-seeded with vegetation after construction unless otherwise required by the soil conditions or indicated by the jurisdiction. Please reference the included soil erosion control plan for detailed information."

Planning Response: The applicant's application materials include a Soil Erosion Control Plan and a Soil Compaction Relief Plan from Rabe Consulting³. The erosion plan outlines best management practices for erosion controls including, in part, the installation of sediment fencing, covering exposed soil with plastic sheeting, straw mulching, wood chips or other approved materials. The applicant's plan shows the location where the most excavation will occur is at the proposed entry/access point. The remaining project site will not be stripped of vegetation, and mass grading is not proposed. Projects where more than a half an acre will be disturbed requires a grading permit from DEQ. During project construction disturbed soil can be lost and become windblown dust. Disturbed areas therefore, must be controlled to prevent loss of soil from wind events.

Findings and Conclusions:

The Planning Commission finds the applicant's Soil Compaction Relief Plan and Soil Erosion Control Plan, containing details on best management practices for erosion control, must be implemented by the applicant/project owner.

The Planning Commission finds the applicant must implement dust abatement practices to control dust and prevent soil loss from the solar project site.

The Planning Commission finds the applicant's Soil Compaction Relief Plan and Soil Erosion Control Plan will be attached to the decision, as an approval condition to the conditional use permit.

³ Rabe Consulting is an environmental consulting business headquartered in Klamath Falls, Oregon, specializing in wetland science, botany, wildlife biology, Nepa/CEQA compliance, Phase 1 and Phase 2 ESA's, restoration projects and environmental education.

The Planning Commission finds and concludes the applicant must obtain all necessary DEQ permits including a grading permit prior to project construction.

The Planning Commission concludes as a condition of the conditional use permit the applicant must implement dust controls to prevent soil loss from the project site.

The Planning Commission concludes the applicant's Soil Compaction Relief Plan and Soil Erosion Control Plan must be attached to the Hay Creek Solar facility decision and implemented during construction, as a condition of the conditional use permit.

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

Applicant's Response: "The Applicant included a Weed Mitigation Plan that addresses how the project will not result in unabated introduction or spread of noxious and other undesirable weeds."

Planning Response: The applicant's application materials include a Weed Control Plan provided from Rabe Consulting. The plan outlines detection protocols, containment strategies and methods of weed control and monitoring to minimize weed spread during construction and rehabilitation activities. The plan includes regular weed monitoring and hand eradication of weeds as the primary course of action, the Weed Control Plan will be required to be attached to the conditional use permit decision.

Findings and Conclusions:

The Planning Commission finds the applicant's Weed Control Plan details weed control protocols and monitoring to minimize weed spread and must be implemented by applicant/project owner.

The Planning Commission finds the applicant's Weed Control Plan must be attached to the decision, as an approval condition to the conditional use permit.

The Planning Commission concludes the applicant's Weed Control Plan will be attached to the decision, and must be implemented on the project area, as an approval condition to the conditional use permit.

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a)⁴;

Applicant's Response: "The proposed facility is not located on any high-value farmland soils. The facility is located solely on arable soils."

4 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

- (A) Irrigated and classified prime, unique, Class I or II; or
- (B) Not irrigated and classified prime, unique, Class I or II.

Planning Response: The applicant's application materials include Natural Resource Conservation Service (NRCS) soil report for the subject property. The NRCS map shows the area selected for the photovoltaic solar generation facility is proposed in the northwest corner of the subject property and the site area is comprised of 64C Palouse silt loam Class III farmland soils. High-value farmland soils are Class I and II soils as identified in OAR 660-033-0020(8)(a). The 64C Palouse silt loam soil is not considered to be high-value farmlands soil as described in OAR 660-033-0020(8)(a).

Findings and Conclusions:

The Planning Commission finds the photovoltaic solar generation facility is proposed on 64C Palouse silt loam Class III farmland soils, a soil not considered to be high-value farmland soils, as described in OAR 660-033-0020(8)(a).

The Planning Commission finds the photovoltaic solar generation facility location is not proposed on high-value farmland soils described in OAR 660-033-0020(8)(a).

The Planning Commission concludes the photovoltaic solar generation facility location is not proposed on high-value farmland soils described in OAR 660-033-0020(8)(a).

(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e)⁵ or arable soils unless it can be demonstrated that:

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- 5 OAR 660-033-0020(8)(b)-(e): (b) In addition to that land described in subsection (a) of this section, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa; (c) In addition to that land described in subsection (a) of this section, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:
- (A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;
 - (B) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);
 - (C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and
 - (D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.
- (d) In addition to that land described in subsection (a) of this section, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:
- (A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
 - (B) Subclassification IIIw, specifically, Brenner and Chitwood;
 - (C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
 - (D) Subclassification IVw, specifically, Coquille.
- (e) In addition to that land described in subsection (a) of this section, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:
- (A) Subclassification IIIw, specifically, Ettersburg Silt Loam and Crofland Silty Clay Loam;
 - (B) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

(i) Non high-value farmland soils are not available on the subject tract;

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

Applicant's Response: "The proposed facility is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e). The proposed facility is located solely on arable soil Palouse silt loam (7 to 12 percent slopes) classified as 3e soils. There are no nonarable soils available on the subject property. The proposed project location is better suited to allow continuation of existing farm operations on the subject tract than other possible sites on the tract."

Planning Response: Review of the proposed project location for the above section (F) describes high-value farmland soils as those soils listed in OAR 660-033-0020(8)(b)-(e). The soils listed in OAR 660-033-0020(8)(c)-(e) are soils found in the Willamette Valley, west of the Coast Range, and west of U. S. Highway 101.

"Arable soils" means soils that are suitable for cultivation, as described above in OAR 660-033-0130 (38)(b).

The subject property is cultivated and used to grow a wheat crop. (Soil data including aerial photos taken in the late 1980's show the subject property used to grow a wheat crop.) The subject property consists of the following three soil units:

- 64C Palouse silt loam - Class III,
- ~~64B~~ Palouse silt loam - Class II, and
- 112D Waha silty clay loam - Class IV soils.

The 64C Palouse silt loam soil unit is the predominate soil unit on the property comprising over 40-acres.

The solar project is proposed in the northwest corner of the subject property, on land identified with 64C Palouse silt loam soils, as confirmed by the project layout map and NRCS soils report.

The project area is proposed on soils that are suitable for cultivation and therefore, on arable soils.

The high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) are not soils found in Umatilla County or in the area of the proposed project site. One then could deduce that non high-value farmland

(C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

soils must be those soils that are not listed in OAR 660-033-0020 (8)(b)-(e). (Note: soils not described in in OAR 660-033-0020(8)(a)⁶ also would be considered to be non high-value farmland soils.)

The project is proposed on arable soils consisting of non high-value farmland soils.

Findings and Conclusions:

The Planning Commission finds the project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e).

The Planning Commission finds the project is proposed on land used to grown wheat and comprised of 64C Palouse silt loam - Class III soils, a non high-value farmland per OAR 660-033-0020(8).

The Planning Commission finds based on the project layout, the NRCS soils report and the OAR description for arable soils, the project is proposed on arable farmland.

The Planning Commission finds there are no non arable farmland soils on the subject property where the proposed project could locate and operate.

The Planning Commission concludes the subject property is on arable soils consisting of non high-value farmland soils.

(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

6 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

- (A) Irrigated and classified prime, unique, Class I or II; or
- (B) Not irrigated and classified prime, unique, Class I or II.

Applicant's Response: "There are currently no other photovoltaic solar facilities that have received land use approvals and obtained building permits within a one-mile radius of the proposed project. No further study is necessary under this criterion."

Planning Response: Review of a study area located within one mile measured from the center of the proposed Hay Creek Solar project does not include other solar projects of any size. The proposed Hay Creek Solar project is the first solar project within the one-mile study area. Therefore, solar projects have not been constructed, received land use approval or obtained building permits on Exclusive Farm Use (EFU) zoned lands within the defined one-mile study area, as confirmed by current aerial mapping and review of County permit approvals for lands within the study area.

Findings and Conclusions:

The Planning Commission finds based on permit review of lands in the study area there are no other photovoltaic solar power generation facilities constructed, received land use approvals and/or obtained building permits within the defined one-mile study area of the Hay Creek Solar Project.

The Planning Commission concludes there are no photovoltaic solar power generation facilities constructed, received land use approvals and/or obtained building permits, within the defined one-mile study area of the Hay Creek Solar Project, and no further action is necessary.

(H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C)⁷ without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(i) Is not located within the boundaries of an irrigation district;

(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

(v) Does not qualify as high-value farmland under any other provision of law; or

Applicant's Response: "The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 12-acres."

Planning Response: The Hay Creek photovoltaic solar power generation facility is proposed as an eight-acre solar project. The applicant has not requested to use, occupy or cover more than 12-acres, as confirmed by the project layout map.

⁷ (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent, and that is located within: (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is within the State of Oregon;

Findings and Conclusions:

The Planning Commission finds the Hay Creek photovoltaic solar power generation facility is proposed as an eight-acre solar project and will not use, occupy or cover more than 12-acres. An exception pursuant to ORS 197.732 and OAR chapter 660, division 4, is not proposed or necessary.

The Planning Commission concludes the Hay Creek photovoltaic solar power generation facility is an eight-acre solar project that will not use, occupy or cover more than 12-acres.

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:

Applicant's Response: "The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 20-acres."

Planning Response: The Hay Creek photovoltaic solar power generation facility is proposed as an eight-acre solar project and will not use, occupy, or cover more than 20-acres, as confirmed by the applicant's project layout.

Findings and Conclusions:

The Planning Commission finds the Hay Creek photovoltaic solar power generation facility is proposed as an eight-acre solar project and will not use, occupy or cover more than 20-acres.

The Planning Commission concludes the Hay Creek photovoltaic solar power generation facility will not use, occupy or cover more than 20-acres.

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a)⁸:

Applicant's Response: "The project is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(a-e)."

Planning Response: OAR 660-033-0020 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are: (A) Irrigated and classified prime, unique, Class I or II; or (B) Not irrigated and classified prime, unique, Class I or II.

The subject property consists of three soil units:

- 64C Palouse silt loam - Class III,
- 64B Palouse silt loam – Class II, and

⁸ OAR 660-033-0020(8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

- (A) Irrigated and classified prime, unique, Class I or II; or
(B) Not irrigated and classified prime, unique, Class I or II.

- 112D Waha silty clay loam - Class IV soils.

The 64C Palouse silt loam soil unit is the predominate soil unit on the property comprising over 40 acres. The solar project is proposed in the northwest corner of the subject property, on farmland with 64C Palouse silt loam soils, a Class III soil, as confirmed by the soil report and mapping by NRCS.

Findings and Conclusions:

The Planning Commission finds the Hay Creek photovoltaic solar generation facility is proposed on lands with 64C Palouse silt loam Class III soils, as confirmed by the NRCS map and soils report. The 64C Palouse silt loam Class III farmland soils are not considered high-value farmland soils in OAR 660-033-0020(8)(a).

The Planning Commission concludes the Hay Creek photovoltaic solar generation facility is not proposed on an area consisting of high-value farmland soils as described in OAR 660-033-0020(8)(a).

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

- (i) Nonarable soils are not available on the subject tract;
- (ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

Applicant's Response: "There are no nonarable soils available on the subject tract. The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property."

Planning Response:

Review of the project location for the above section (F) describes **High-value farmland soils** as those soils listed in OAR 660-033-0020(8)(b)-(e). The soils listed in OAR 660-033-0020(8)(b)-(e) are soils found in the Willamette Valley, west of the Coast Range, and west of U. S. Highway 101.

"Arable soils" means soils that are suitable for cultivation.

"Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation.

The subject property is cultivated and used to grow a wheat crop. (Soil data including aerial photos taken in the late 1980's show the subject property used to grow a wheat crop.) The subject property consists of the following three soil units:

- 64C Palouse silt loam - Class III,

- 64B Palouse silt loam - Class II⁹, and
- 112D Waha silty clay loam - Class IV soils.

The predominate soil is 64C Palouse silt loam Class III soil comprising over 40-acres.

The solar project is proposed in the northwest corner of the subject property, on land identified with 64C Palouse silt loam soils, as confirmed by the project layout map and NRCS soils report.

There are no nonarable soils on the subject property.

The high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) are soils not found in Umatilla County or on the subject property.

The project is proposed on land suitable for cultivation and therefore, is proposed on arable soils and not consisting of high-value farmland soils, as listed in OAR 660-033-0020(8)(b)-(e).

Findings and Conclusions:

The Planning Commission finds the project is proposed on land comprised of 64C Palouse silt loam - Class III soils, a non high-value farmland pursuant to OAR 660-033-0020(8)(a).

The Planning Commission finds the project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e).

The Planning Commission finds based on the project layout, the NRCS soils report and the OAR description for arable soils, the project is proposed on arable soils and arable farmland.

The Planning Commission finds there are no non arable farmland soils on the subject property where the proposed project could locate and operate.

The Planning Commission concludes the subject property is on arable soils consisting of soils not listed as high-value farmland soils in OAR 660-033-0020(8)(b)-(e).

The Planning Commission concludes the subject property does not consist of nonarable land, where the proposed project could locate and operate on the subject property.

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

Applicant's Response: "The project is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(a-e)."

⁹ 64B Palouse silt loam soil is considered high-value farmland soil and occurs in an area on the property that makes up four to five acres on the far east side of the subject property. The predominate soil unit on the subject property is 64C Palouse silt loam, a Class III soil.

Planning Response: The subject property is located within the defined Columbia Valley Viticulture area, and thus is considered to be high-value farmland, pursuant to ORS 195.300(10). The applicant’s proposal is an eight-acre photovoltaic solar power generation facility and will not use, occupy or cover more than 12-acres of high-value farmland, as provided in ORS 195.300(10). The applicant’s support materials, including mapping, confirms the proposed solar project layout is eight-acres in size.

Findings and Conclusions:

The Planning Commission finds the Hay Creek Solar Project is proposed on land defined as high-value farmland as described at ORS 195.300(10).

The Planning Commission finds the proposed Hay Creek Solar Project is an eight-acre photovoltaic solar power generation facility.

The Planning Commission concludes the proposed eight-acre Hay Creek Solar Project meets the acreage provision for a photovoltaic solar power generation facility to use, occupy or cover no more than 12-acres of high-value farmland described at ORS 195.300(10).

- (D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - (i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
 - (ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

Applicant’s Response: “There are currently no other photovoltaic solar facilities that have received land use approvals and obtained building permits within a one-mile radius of the proposed project site. No further study is necessary under this criterion.”

Planning Response: Review of the study area located within one mile measured from the center of the proposed Hay Creek Solar Project, includes no other solar projects of any size. The proposed Hay Creek Solar project is the first solar project within the one-mile study area. Solar projects have not been constructed, received land use approval or obtained building permits on Exclusive Farm Use (EFU) zoned lands within the defined one-mile study area, as confirmed by aerial mapping and the review of County permit approvals for solar projects within the study area.

Findings and Conclusions:

The Planning Commission finds based on permit records in the study area, no photovoltaic solar power generation facilities have been constructed, received land use approvals, and/or obtained building permits within the defined one-mile study area from the proposed Hay Creek Solar Project.

The Planning Commission concludes there are no photovoltaic solar power generation facilities constructed, received land use approvals, and/or obtained building permits, within the defined one-mile study area from the Hay Creek Solar Project, and no further action is necessary.

(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.

Applicant's Response: "OAR 660-033-0130(38)(i)(E) provides the requirements of OAR 660-033-130(38)(h)(A-D) are satisfied. These items pertain to negative impacts on agriculture, soil erosion, soil compaction, and weed management. Specifically:

OAR 660-033-130(38)(h)(A) states the proposed facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components.

The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property. The placement of the proposed facility will not disrupt common and accepted farming practices.

OAR 660-033-130(38)(h)(B) states the presence of the proposed use will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

The Applicant has included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil erosion or loss.

OAR 660-033-130(38)(h)(C) states the construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

The Applicant has included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil compaction or loss.

OAR 660-033-130(38)(h)(D) states construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.

The Applicant has included a Weed Mitigation Plan that addresses how the project will not result in unabated introduction or spread of noxious and other undesirable weeds."

Planning Response: OAR 660-033-0130(38)(h)(A), (B), (C) and (D) requirements have been addressed in this report. The findings from OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are repeated below.

Findings and Conclusions:

The Planning Commission finds negative impacts to agricultural operations on the subject property, not occupied by project components, will not be caused by the unnecessary construction of roads dividing a field or isolating pieces of property.

The Planning Commission concludes negative impacts to farming on the remainder of the subject farm property, due to the construction of projects roads, are not part of the project layout.

The Planning Commission finds the applicant's Soil Compaction Relief and Soil Erosion Control Plans must be attached to the decision, as an approval condition to the conditional use permit.

The Planning Commission finds the applicant's Soil Compaction Relief Plan and Soil Erosion Control Plan, containing details on best management practices for erosion control, must be implemented by the applicant/project owner.

The Planning Commission concludes the applicant's Soil Compaction Relief Plan and Soil Erosion Control Plan must be attached to the Hay Creek Solar facility decision and implemented during construction, as a condition of the conditional use permit.

The Planning Commission finds the applicant must implement dust abatement practices to control dust and prevent soil loss from the solar project site.

The Planning Commission concludes as a condition of the conditional use permit the applicant must implement dust controls to prevent soil loss from the project site.

The Planning Commission finds the applicant's Weed Control Plan will be attached to the decision, as an approval condition to the conditional use permit.

The Planning Commission finds the applicant's Weed Control Plan details weed control protocols and monitoring to minimize weed spread must be implemented by applicant/project owner.

The Planning Commission concludes the applicant's Weed Control Plan must be attached to the decision, and must be implemented on the project area, as an approval condition to the conditional use permit.

The Planning Commission concludes the requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are feasible conditions the applicant must meet.

(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. . .

Planning Response: The applicant proposed an eight-acre solar project. The subject property consists of high-value farmland as defined in ORS 195.300(10) and arable lands as described above at OAR 660-033-0130(38)(a). Nonarable lands as described at OAR 660-033-0130(38)(d) are not present on the subject property. Therefore, nonarable lands are not required to be addressed.

(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

Planning Response: The project is proposed as an eight-acre solar project and therefore, under the acreage threshold of 12-acres as provided in subsection (38)(h) and therefore, an exception is not proposed or required. No further action is necessary.

(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

Applicant's Response: "As a condition of approval, Hay Creek Solar, LLC is willing to sign the required deed restriction."

Planning Response: Umatilla County requires, as a condition of approval, the project owner sign and record a "Covenant Not to Sue" to bind the project owner and the project owner's successors in interest from pursuing a claim for relief or injury due to farming or forest practices pursuant to ORS 30.930(2) and (4).

Findings and Conclusions:

The Planning Commission finds Umatilla County requires, as a condition of the conditional use permit, a Covenant Not to Sue binding the project owner and successors in interest from pursuing a relief claim due to farming or forest practices pursuant to ORS 30.930(2) and (4).

The Planning Commission concludes a Covenant Not to Sue is a requirement condition of the conditional use permit.

(m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

Applicant's Response: "Decommissioning and dismantling of the solar PV power plant is not expected to occur until over thirty years after the facility is constructed. The system's equipment, including wires, conductors, and racking, has significant salvage value since it is comprised of useful metals such as copper, aluminum and steel. The PV panels are valuable for their semiconductor materials and rare metals such as silver. The salvage value meets or exceeds the cost of decommissioning. At the end of the facilities' lifetime; a solar reclamation firm will collect the modules for recycling, the inverters for refurbishing, and the hardware for salvage."

"As a condition of approval, Hay Creek Solar, LLC is willing to be responsible for retiring the facility. Given the salvage value at the end of life, a bond or other security for retiring the components is not necessary. At the end of life, all non-utility owned equipment, conduits, structures, and foundations will be removed to a depth of at least three feet below grade."

Planning Response: Umatilla County Planning Commission has required retirement bonds for energy facilities approved in the County and will require a bond for the retirement of the Hay Creek Solar LLC photovoltaic solar power generation facility. At the end of the Hay Creek Solar Project life, all non-

utility owned equipment, conduits, structures, and foundations must be removed to a depth of at least three feet below grade. Although, the applicant does not include what condition the project area will be left in after decommissioning, it is the County’s expectation that the decommissioned project area would be left in pre-project condition or better.

Therefore, in addition to a retirement bond the County requests the solar project site to be rehabilitated to pre-project construction or better conditions. During decommissioning of the site, the applicant/project owner must implement erosion, compaction and weed control plans and revegetate the disturbed areas within project site. Solar Project components shall be recycled and materials that are not able to be recycled shall be disposed of at a DEQ approved disposal site.

Additionally, the applicant provided an estimate of decommissioning costs as follows:

| No. | Description | Quantity | Unit | Unit Price | Amount |
|------------------------------------|--------------------------|----------|-------|-----------------|---------------------|
| Removal/Disposal | | | | | |
| 1 | Solar Module | 2,964 | Units | \$ 3.50 | \$ 10,374.00 |
| 2 | Inverter | 6 | Units | \$ 350.00 | \$ 2,100.00 |
| 3 | Transformer | 1 | Units | \$ 2,000.00 | \$ 2,000.00 |
| 4 | Racking Frame (Steel) | 67 | Units | \$ 100.00 | \$ 6,700.00 |
| 5 | Racking Post (Steel) | 233 | Units | \$ 7.25 | \$ 1,689.25 |
| 6 | Wire (Aluminum) | 3,969 | LF | \$ 0.50 | \$ 1,984.50 |
| 7 | Wire (Copper) | 13,608 | LF | \$ 0.25 | \$ 3,402.00 |
| 8 | Asphalt | - | SY | \$ 50.00 | \$ - |
| 9 | Concrete | 8 | CY | \$ 75.00 | \$ 600.00 |
| 10 | Gravel | 48 | CY | \$ 10.00 | \$ 480.00 |
| 11 | Fence | 2,400 | LF | \$ 5.00 | \$ 12,000.00 |
| Site Restoration | | | | | |
| 12 | Grading/Seeding/Mulching | 8.00 | AC | \$1,300.00 | \$ 10,400.00 |
| | | | | SubTotal | \$ 51,729.75 |
| Salvage Value | | | | | |
| 13 | Solar Module | 2,964 | Units | \$ 10.00 | \$ 29,640.00 |
| 14 | Inverter | 6 | Units | \$ 300.00 | \$ 1,800.00 |
| 15 | Transformer | 1 | Units | \$ 2,000.00 | \$ 2,000.00 |
| 16 | Racking Frame (Steel) | 59,784 | LB | \$ 0.108 | \$ 6,456.67 |
| 17 | Racking Post (Steel) | 25,068 | LB | \$ 0.108 | \$ 2,707.34 |
| 18 | Wire (Aluminum) | 1,982 | LB | \$ 0.639 | \$ 1,266.50 |
| 19 | Wire (Copper) | 428 | LB | \$ 1.822 | \$ 799.82 |
| 20 | Fence | 10,800 | LB | \$ 0.108 | \$ 1,166.40 |
| | | | | SubTotal | \$ 45,816.73 |
| Net Cost of Decommissioning | | | | | \$ 5,913.02 |

Findings and Conclusions:

The Planning Commission finds the applicant/project owner is responsible for decommissioning the solar project, including the removal of all non-utility owned equipment, conduits, structures, and foundations to a depth of at least three feet below grade and rehabilitate disturbed areas to pre-project condition or better.

The Planning Commission concludes, as a condition of the conditional use permit, the applicant/project owner is responsible for decommissioning the project including the removal of all non-utility owned equipment, conduits, structures, and foundations to a depth of at least three feet below grade and rehabilitating disturbed areas to pre-project condition or better.

The Planning commission finds the applicant/project owner is responsible for decommissioning the project site by recycling the solar project components and disposing of solar project materials that are not able to be recycled in an approved DEQ disposal site.

The Planning commission concludes the applicant/project owner as a condition of the conditional use permit will decommission the project site by recycling the solar project components and disposing of solar project materials that are not able to be recycled in an approved DEQ disposal site.

The Planning commission finds the applicant/project owner is responsible for implementing erosion, compaction and weed control plans during the decommissioning of the solar project site.

The Planning Commission concludes it is feasible for the applicant/project owner to meet the condition of the conditional use permit by implementing erosion, compaction and weed control plans during decommissioning of the solar project site.

The Planning Commission finds Umatilla County is not prevented from requiring a bond from the developer for the retirement of the Hay Creek Solar LLC photovoltaic solar power generation facility.

The Planning Commission finds Umatilla County has required bonds of other energy facility developers approved in Umatilla County.

The Planning Commission finds a condition of the conditional use permit is imposed to submit to Umatilla County an acceptable bond for retirement of the Hay Creek Solar LLC photovoltaic solar power generation facility and finds that it is feasible for the applicant/project owner to meet the condition.

The Planning Commission concludes the condition of the conditional use permit requiring Hay Creek Solar LLC to submit a bond for retirement of the Hay Creek Solar LLC photovoltaic solar power generation facility is imposed.

20. ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS § 152.615

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority *may impose* the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, glare or odor;

Applicant's Response:

Glare and Sound

“While operation of a solar facility does produce minimal reflective light glare and ambient sound impacts, they are insignificant and will not cause any issues for the surrounding farm uses. With regards

to glare, Solar panels are designed to absorb light from the visible spectrum, not to reflect it, although some upward reflection does occur. To assist light absorption, solar panels are constructed of dark-colored (blue or black) materials and are covered with an anti-reflective coating. Studies on the topic of glare from experts in industry and academia have concluded that modern PV panels reflect as little as two-percent of incoming sunlight, which is about the same as water and less than soil or wood shingles. Naturally occurring ponds and streams, snow, and even certain kinds of soil and vegetation are reflective. The small amount of light that is reflected away from the solar panels is comparable to the glare from a body of smooth water such as a flat pond or a lake.

“Additionally, the solar panels are mounted at an angle that allows for the most light to be absorbed throughout the year, which results in the panels facing the sky at shallow angles (typically less than 25 degrees). As a result, what little light is reflected is not visible to ground-level observers.

“To address concerns for aviation, all solar farms are required to be approved by the FAA as potential glare hazards for aviators. To date, no PV array has been deemed a glare hazard as is represented by the large numbers of PV power plants built next to highways and around airports.

“As for noise, the only source of noise is from the inverter cooling fan that runs on warmer days. Noise ratings from manufacturers for the type of inverter the project will use indicate that noise levels are comparable to the perceived ambient noise of a quiet rural or suburban setting at nighttime- about 35-40 decibels within 5 meters. Again, no sound is produced at night.

“Additionally, the equipment's noise rating is less than the most stringent noise level standards for industrial or commercial sources in quiet areas as defined by OAR 340.35.035 which permits L50 noise levels of 50 decibels from 7 a.m. to 10 p.m. and 45 decibels from 10 p.m. to 7 a.m. as measured from an appropriate measurement point.

“Further, due to the placement of the inverters within the project area, any noise will be effectively obstructed and dissipated by the other project components such that the decibel level from inverter fan noise will be indistinguishable from ambient noise at any point beyond the project area. The proposed use, once installed is relatively passive and remains that way during the life of the facility. None of the facility's remaining components actively produce any significant sound.”

Electro-Magnetic Fields (EMF)

“The International Commission on Non-Ionizing Radiation Protection has established 833 milli-Gauss (mG) as the limit for prolonged exposure to electro-magnetic fields. The inverter is the strongest source of magnetic fields in the solar facility with levels varying from 150-500 mG at a distance of one to two feet. As an unmanned facility, prolonged exposure is never an issue. At 150 feet, the inverter's magnetic field levels drop below 0.5 mG or less, often falling to the background level of earth's magnetic field of 0.2 mG. No other solar PV component emits EMFs that are measurable above the earth's magnetic field. There are no EMFs emitted at night.”

“The solar PV panels are composed of non-toxic materials, do not erode, and do not have any emissions. The facility will use Crystalline Silicon (C-Si) solar PV panels. The solar PV panel is an inert crystal composed of non-toxic materials like a glass plane. The sealed PV panels do not leach metals into the environment and are recycled at the end of their lifecycle.

“C-Si modules are produced by sourcing extremely high quality, pure silicon or quartz. The silicon is heated until it melts, after which a crystal is grown from a source ingot. The silicon crystal is sliced into thin wafers and mounted onto a durable backing material, after which the panel is encapsulated by glass and an aluminum frame.”

Construction Controls

“The facility will protect soils and prevent water-borne runoff with control measures which typically includes straw bales, hay coil logs, run-off channels, silt fencing, and sediment basins. Once constructed, natural vegetative growth is encouraged within the facility to prevent erosion, and the areas where panels are located are not considered impervious. Additionally, the project will acquire from the Oregon Department of Environmental Quality a National Pollutant Discharge Elimination System Stormwater Construction General Permit 1200-C to ensure runoff is effectively managed during construction.

“Minimal ground disturbance only occurs during the short (6 to 12 week) construction period. Heavy equipment and traffic is restricted to perimeter roads, which comprise less than 3% of the site area during construction. To further protect against erosion, most roads on the site are re-seeded with vegetation after construction unless otherwise required by the soil conditions or indicated by the jurisdiction. Please reference the included soil erosion control plan for further information.”

“Once constructed, the proposed photo voltaic solar power generation facility will be an unmanned facility. The proposed use will cause no material environmental effects such as noise, vibration, air pollution, water pollution, glare or odor.”

Planning Response: The applicant’s Exhibit “A” focuses, in part, on effects that could be commonly associated with solar projects. Exhibit “A” includes studies, materials and reference documents as the basis for the information shared in the applicant’s responses above. Exhibit “A” in its entirety, including the references used by the applicant, is included in the record and attached in support of the applicant’s conditional use permit. The applicant includes a chain link perimeter fence will be installed to secure the project.

Since solar projects do not use water and do not emit carbon emissions, effects such as odor, air and water pollution would not be common effects.

Findings and Conclusions:

The Planning Commission finds the Hay Creek Solar Project would operate every day as daylight and sun conditions dictate.

The Planning Commission finds the solar facility inverter electro-magnetic fields have levels varying from 150-500 milli-Gauss (mG) at a distance of one to two feet, less than the established limit for prolonged exposure of 833 mG, as referenced in applicant’s Exhibit “A.”

The Planning Commission finds the project is an unmanned facility.

The Planning Commission finds perimeter fencing is proposed to be installed to secure the facility.

The Planning Commission finds as a condition of the conditional use permit the applicant must control

erosion and water run-off as set out in the applicant's Soil Erosion Control Plan.

The Planning Commission concludes it is feasible to operate the solar project with minimal environmental effects and additional circumstances are not found that warrant limitations on the hours of operation.

(B) Establishing a special yard, other open space or lot area or dimension:

Applicant's Response: "The proposed use will be constructed to abide with all development standards provided in UCDC 152.063 (see above) [EFU dimensional standards, setbacks, etc.]. The structure will be setback from the front of the parcel either 60 feet from the centerline of Kirk Rd. or 30 feet from the front property line, whichever is greater, and at least five feet from the side property line."

Planning Response: The UCDC Section 152.063 dimensional standards include setback distances and are applicable to structures developed in the EFU zone. The applicant's project lease area is located in the northwest corner of the subject property. This is the area selected for development of the applicant's eight-acre solar project. The nearest property lines to the proposed project area are the west property line and the north property line. The west property line is shared with a neighboring property and the north property line adjoins Kirk Road. The applicant's development must meet the setback from the north property line of either 60 feet from the centerline of Kirk Road or 30 feet from the front (north) property line, whichever is greater. Setbacks to all other property lines, including the west property line, are five-feet. The solar project including proposed fencing must meet all EFU dimensional setback distances.

Findings and Conclusions:

The Planning Commission finds it is feasible to meet EFU setback standards as depicted in UCDC Section 152.063.

The Planning Commission concludes the applicant must show compliance with the condition of the conditional use permit to meet EFU setback standards.

(C) Limiting the height, size or location of a building or other structure:

Applicant's Response: "The proposed solar facility will be less than 12 feet tall and will be located in the northwest corner of the parcel. This location is adjacent to the northern and western parcel boundary lines and Kirk Rd. The facility layout will not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property."

Planning Response: The proposed solar project is area is eight-acres in size in the northwest corner of the subject property. The solar facility components will be less than 12 feet in height. The proposed project does not include other buildings.

Findings and Conclusions:

The Planning Commission finds the solar project facility will be less than 12 feet in height.

The Planning Commission finds the project plan does not include the construction of buildings within

the project site; therefore, conditions limiting building height, size or location are not circumstances that warrant an additional condition of approval.

The Planning Commission concludes no buildings or other structures would be built within the project area and circumstances do not warrant additional limitations to the height, size or location of a building or other structure.

(D) Designating the size, number, location and nature of vehicle access points;

Applicant's Response: "The Applicant will work with Umatilla County Public Works to obtain a Road Approach Permit for site access from Kirk Rd."

Planning Response: The applicant's project site plan shows one ingress/egress access approach (access point) to Kirk Road in the northwest corner of the subject property. The applicant is required to obtain a County Road Access Approach Permit from the County Public Works Department prior to access construction.

Findings and Conclusions:

The Planning Commission finds obtaining a permit for the proposed vehicle access point to access the solar project is a circumstance that warrants a condition.

The Planning Commission concludes the requirement to acquire an approved County Access Approach Permit from the County Public Works Department is a circumstance that warrants a condition of the conditional use permit.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

Applicant's Response: "The proposed use will not create any material impacts on the transportation system. After construction, the proposed use will be an unmanned facility and will create minimal trips. The estimated number of vehicle trips is one trip per month."

Planning Response: The proposed solar project is an unmanned solar facility. Since employees would not be stationed daily at the solar facility, the traffic attributed to the solar facility is minimal. Therefore, operation of the solar facility would not significantly increase traffic impacts to Kirk Road or provide justification for a condition to require additional road/street dedication and/or additional roadway width.

Findings and Conclusions:

The Planning Commission finds the unmanned solar facility will not significantly increase traffic daily trips to Kirk Road.

The Planning Commission finds, based on minimal traffic associated with the solar project, increases to road dedication, roadway width or road improvements within the road right of way is not a circumstance that warrants imposing a condition.

The Planning Commission concludes based on that the solar facility will be unmanned and will not significantly increase traffic, increasing road dedication, roadway width or requesting additional road improvements within the road right of way is not imposed.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

Applicant's Response: "The proposed use will be an unmanned facility and will create minimal trips, approximately 1 trip per month. As such, the proposed facility will contain a single parking space within the fenced area."

Planning Response: The required number of parking spaces is based on the number of employees. The solar facility will be an unmanned facility with approximately one trip per month to the site. This would provide need for one parking space. The applicant proposes a single parking space located within the project area.

Findings and Conclusions:

The Planning Commission finds the solar project is an unmanned facility with approximately one trip per month to the site.

The Planning Commission finds the solar project requires one parking space.

The Planning Commission finds the condition of the conditional use permit to show on the project site plan the location for one parking space is imposed.

The Planning Commission concludes it is feasible for the applicant to meet the condition to show the location of one parking space on the site plan and improve one parking space within the project site.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

Applicant's Response: "All signs implemented with the proposed use will conform with UCDC Sections 152.546 and 152.547. Signage shall be less than 32 square feet in area per UCDC 152.546(C) Type 3 Signs."

Planning Response: The applicant proposed a Type 3 sign of less than 32 square feet in area. A Type 3 sign is a sign type that does not require a permit and is a sign type in compliance with the sign code for lands zoned EFU as provided by UCDC 152.546.

Findings and Conclusions:

The Planning Commission finds the applicant proposes a Type 3 sign in compliance with UCDC Section 152.546 sign types on lands zoned EFU and no additional permitting is required.

The Planning Commission concludes a Type 3 sign is proposed in compliance with the County sign code.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

Applicant's Response: "The proposed use does not require outdoor lighting."

Planning Response: The applicant has not proposed to install outdoor lighting. If, outdoor lighting becomes necessary, it must be directed and shielded away from neighboring properties.

Findings and Conclusions:

The Planning Commission finds as a subsequent condition of the conditional use permit the applicant is required to direct and shield any installed outdoor lighting at the solar facility away from neighboring properties.

The Planning Commission concludes it is feasible for the applicant to meet the subsequent condition to the conditional use permit to direct and shield installed outdoor lighting at the solar facility away from neighboring properties.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance;

Applicant's Response: "The proposed use includes a chain link perimeter fence surrounding the structure. The proposed fence will be no greater than 8 feet in height. The perimeter fence will be implemented in accordance with UCDC 152.015¹⁰."

Findings and Conclusions:

The Planning Commission finds to secure the project the applicant will install perimeter fencing around the solar project.

The Planning Commission finds as a condition of the conditional use permit a perimeter fence around the project area will be installed to secure the area.

(J) Designating the size, height, location and materials for a fence;

Applicant's Response: "The proposed use will implement perimeter fencing per UCDC 152.015. The proposed use includes a chain link perimeter fence surrounding the structure. The proposed fence will be no greater than 8 feet in height."

Planning Response: The applicant proposed a chain link perimeter fence surround the project area in compliance with UCDC 152.015. The fencing is proposed to be eight feet in height or less. Installed fencing of six feet in height or greater is required to meet Oregon Uniform Building Code requirements.

Findings and Conclusions:

¹⁰ UCDC 152.015 "Fences are allowed in any zone and do not require a zoning permit for construction unless located in a Special Flood Hazard Area. Fences located in a Special Flood Hazard Area require an approved Floodplain Development Permit and Zoning Permit. Fences must meet vision clearance requirements and zoning height limitation for structures. Fences shall meet all Oregon Uniform Building Code requirements."

The Planning Commission finds the applicant proposes to install a chain link fence around the perimeter of the project area.

The Planning Commission finds the applicant's perimeter fencing must meet all Oregon Uniform Building Code requirements.

The Planning Commission concludes as a condition of the conditional use permit the applicant must complete necessary reviews and obtain applicable permits from Oregon State Building Codes Agency prior to the installation of the applicant's project perimeter fencing.

(K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources;

Applicant's Response: "There is no overlay zoning applied on the subject parcel. Exhibit A further discusses wildlife protection and environmental considerations."

"Following construction activities, the site will be replanted with a customized local seed mix that will take into account the vegetation currently on site and the objectives for the seeding."

"The facility will protect soils and prevent water-borne runoff with control measures which typically includes straw bales, hay coil logs, run-off channels, silt fencing, and sediment basins. Once constructed, natural vegetative growth is encouraged within the facility to prevent erosion, and the areas where panels are located are not considered impervious. Additionally, the project will acquire from the Oregon Department of Environmental Quality a National Pollutant Discharge Elimination System Stormwater Construction General Permit 1200-C to ensure runoff is effectively managed during construction."

"Wildlife is protected by using perimeter fencing and barbed wire to prevent access for large mammals, such as deer. Large animals are kept out of the site because they can interfere with equipment, damage wiring, or injure themselves. In cases when barbed wire is not used, perimeter fence height is increased."

"Smaller animals, such as squirrels and birds, are allowed to pass throughout the facility following construction. The environment in the solar facility is often conducive to a wildlife habitat for its natural vegetation as well as providing a significant amount of shade and being relatively undisturbed. Wildlife access to electrical equipment is prevented with conduit protection for wires and sealing all equipment entry points with foam sealant."

Planning Response: The Solar Project will be constructed on farmland that has been previously cultivated, as shown in aerial photos of the subject property. Trees and native vegetation that may have grown on the subject property including the area planned for the solar facility development have been previously removed and/or disturbed by agricultural activities.

Review of wetland mapping (attached) and the Comprehensive Plan for listings of significant natural resources show none are present in the vicinity of the proposed solar project site. Additionally, the applicant proposes to revegetate disturbed areas with a local seed mix similar to the vegetation common to the area.

Findings and Conclusions:

The Planning Commission finds the Hay Creek Solar Project is proposed to be constructed on previously disturbed land used for farming a wheat crop.

The Planning Commission finds there are no existing trees, wetlands or significant natural areas in the vicinity of the proposed solar project in which to protect and preserve.

The Planning Commission finds disturbed construction areas will be revegetated with a seed mix similar to the common vegetation of the area.

The Planning Commission concludes there are no existing trees, wetlands or significant natural areas in the vicinity of the proposed solar project in which to protect and preserve.

The Planning Commission finds and concludes it is feasible for the applicant to meet the condition of the conditional use permit to reseed disturbed areas on the project site with a seed mix common to the area.

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

Applicant's Response: "The proposed facility will be unmanned and will create minimal trips, approximately 1 trip per month. As such, the proposed facility will contain a single parking space within the fenced area."

Planning Response: The required number of parking spaces is based on the number of employees. The solar facility will be an unmanned facility with approximately one trip per month to the site. Operation of the project will require one parking space. The applicant proposes one parking space located within the project area.

Findings and Conclusions:

The Planning Commission finds the solar project is an unmanned facility with approximately one trip per month to the site.

The Planning Commission finds operation of the solar project requires one parking space.

The Planning Commission finds the condition of the conditional use permit is imposed to show on the project site plan the location of one parking space and to improve one parking space within the project area.

The Planning Commission concludes it is feasible for the applicant to meet the condition of the conditional use permit to show the location and improve one parking space within the project site.

21. STANDARDS FOR ALL CONDITIONAL USES ON EFU LANDS § 152.061

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and (B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

Applicant’s Response: “The project area will remove 8-acres from an existing 55.25-acre tract. The remaining 47.25 acres will be available for the discretionary use of the landowner. The shape of the proposed leased area will ensure that the established farming practices and other land uses on the remainder of the parcel are not materially impacted. There will be no additional small fields remaining unfarmable. There will be no material adverse impacts to adjacent agricultural uses. No air emissions are discharged and no water will collect or drain offsite. The access road for the project will not separate fields.

“Once constructed, the proposed facility is essentially unoccupied with only an occasional inspection or maintenance required. The solar facility does not cause any vibrations, smoke or other particulates, temperature fluctuations, or stormwater impacts.”

“The proposed 8-acre solar project is located on the 55.25-acre subject property. For the purpose of analyzing the project’s impact on surrounding land, all parcels adjacent to the property have been inventoried and are listed in Table 1 found in Exhibit A. The results of this analysis reveal no need to expand the study area to capture additional land uses that do not already exist immediately adjacent to the proposed use on the subject tract. Therefore, the adjacent parcels are more than adequate to accurately analyze the project’s impact to the existing land use pattern in the area.”

STUDY AREA

“For the purpose of analyzing the project’s impact to farming and surrounding land, all parcels or portion of parcels that are adjacent to the subject tract have been inventoried and listed in the Table 1, below.

“Creating a larger study area surrounding the subject property would not alter the results of the analyses. This is because if any conflicts existed it would be between the two conflicting uses within the study area. Therefore, the size of the Study Area provided here is more than adequate to accurately analyze the project’s impact to the existing land use pattern in the area.”

Table 1: Inventory of All Parcels adjacent to Subject Tract. [Table 1 of Exhibit A.]

| Tax Lot No. | Zone | Acres | Location in Relation to Subject Tract | Current Use |
|---------------|------------|-------|---------------------------------------|---------------------|
| 4N35-8200 | EFU | 77.84 | South | Field, Hay or Wheat |
| 4N3522DC-100 | EFU, R-SUB | 3.38 | Southwest | Residential, Field |
| 4N3522DB-6300 | R-SUB | 1.59 | West | Vacant/Grazing |
| 4N3522DB-6100 | R-SUB | 0.52 | West | SFR, Outbuildings |
| 4N3522DB-6000 | R-GEN | 0.24 | West | SFR |
| 4N3522DB05901 | R-GEN | 0.18 | West | SFR |
| 4N3522DB-5900 | R-GEN | 0.34 | West | SFR |
| 4N3522DB-400 | R-GEN | 0.21 | West | SFR |
| 4N3522DB-300 | R-GEN | 0.24 | West | SFR |
| 4N3522DB-200 | R-GEN | 0.24 | West | SFR |
| 4N3522DB-100 | R-GEN | 0.24 | West | SFR |

| | | | | |
|--------------|----------------|-------------------------|-----------|------------------------------------|
| 4N3522DB-101 | R-GEN | 0.25 | West | SFR |
| 4N3522AD-700 | R-GEN | 0.10 | West | SFR |
| 4N3522AD-800 | R-GEN | 0.02 | West | Vacant |
| 4N3522AD-300 | R-GEN, F-1 | 2.58 | West | SFR, Outbuildings, Outdoor Storage |
| 4N3522AD-200 | R, F-1, EFU | 7.16 9.05 | Northwest | SFR, Outbuildings, Field |
| 4N3522AD-100 | EFU | 1.50 | North | Field, Grazing |
| 4N3522-400 | EFU | 2.27 | North | SFR, Outbuildings |
| 4N35-7000 | EFU | 107.00 | East | Field, Hay or Wheat |
| 4N35-7100 | EFU | 79.59 | Southeast | Field, Hay or Wheat |

(Note: strikethrough in the table above are corrections provided by staff.)

STUDY AREA ANALYSIS

Compatibility with surrounding farm practices

“Information on surrounding farm use and other uses within the Study Area surrounding the subject tract has been provided, in Table 1, above. For the purposes of this analysis "farm use" is considered to be defined by Oregon's Revised Statutes for zoning ordinances establishing farm use zones.

“The farm practices in the Study Area are compatible with the proposed use and will not experience any adverse or negative impacts. Only the project area on the subject tract will see a change in land use.

“Plowing, burning, application of herbicides and pesticides, disking, pruning, and machine harvesting are accepted farming practices that may take place in the surrounding study area. These are all common farm practices used in the cultivation of the surrounding crops, including and hay. None of the lands in the Study Area devoted to farming will be impacted by the proposed solar facility because the facility will not cause any impacts that conflict with the farming practices and such activities will be able to continue throughout project construction and operation.

“Additionally, none of the adjacent or surrounding parcels in the Study Area will experience any indirect impacts due to emissions, vibration, or temperature fluctuations. The project does not produce any emissions, either atmospheric or into waterways, or any perceivable vibrations or temperature fluctuations.

“The current land uses occurring on each parcel located adjacent to the subject parcel was provided in Table 1 [Exhibit A] submitted with the CUP application. In the table below, more detail is provided for the farm uses which are occurring on the subject tract and each of the adjacent EFU zoned parcels as well as the applicable farming practices.”

“ORS 215.010(4) provides “farm use” has the meaning given that term in ORS 215.203. The Applicant applied the definition for farm use found in ORS 215.203(2). In addition, per ORS 215.203(2)(c), ‘Accepted Farm Practice’ means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. ORS 30.930(2) defines “farming practice” as a mode of operation on a farm that: a) is or may be used on a farm of a similar nature; b) is a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money; c) is or may become a

generally accepted, reasonable and prudent method in conjunction with farm use; d) complies with applicable laws; and e) is done in a reasonable and prudent manner.”

| Map # | Zone | Acres | Location | Farm Uses | Applicable Farming Practices |
|---------------|------------|--------|------------------|--|--|
| 4N35-8200 | EFU | 77.84 | South | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |
| 4N3522DC-100 | R-SUB, EFU | 3.38 | Southwest | Grazing; Pasture/Grass; Livestock; Agricultural Outbuilding/Shed | Breeding, Feeding, Watering |
| 4N3522AD0-300 | R-GEN, F-1 | 2.98 | West | Agricultural Outbuildings; Vehicle Storage; Open Field | Equipment Maintenance Farm Use |
| 4N3522AD-200 | R, F-1 | 9.05 | Northwest | Horses; Pasture/Grass; Agricultural Outbuildings | Livestock: Breeding, Feeding, Watering, Training |
| 4N3522AD-100 | EFU | 1.50 | North | Horses; Pasture/Grass; Corral | Livestock: Breeding, Feeding, Watering, Training |
| 4N3522-400 | EFU | 2.27 | North | Horses; Corral; Pasture/Grass; Outbuildings | Livestock: Breeding, Feeding, Watering, Training |
| 4N35-6800 | EFU | 1.56 | Northeast | Dryland Winter Wheat and Fallow Rotation; Agricultural Outbuilding | Tilling, Planting, Spraying, Harvesting |
| 4N35-7000 | EFU | 107.00 | East | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |
| 4N35-7100 | EFU | 79.59 | Southeast | Dryland Winter Wheat and Fallow Rotation; Sometimes Canola or Barley | Tilling, Planting, Spraying, Harvesting |
| 4N3522-0700 | EFU | 55.25 | Subject Property | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |

“The zoning classifications found in Table 1 are from the City of Weston and Umatilla County zoning maps, zoning codes, and County assessor statement. The Umatilla County zoning classifications include EFU (Exclusive Farm Use) and F-1 (undefined, previously used for Exclusive Farm Use). The City of Weston zoning classifications include R (subclassification Residential Farm), R-GEN (General Residential), and R-SUB (Suburban Residential).

“As displayed in Table 1 above, dryland winter wheat crops are the predominate farm use on both the subject tract and adjacent parcels zoned EFU. A dryland winter wheat and fallow rotation is a two-year rotation. The field produces one harvest of crops every two years. In year one, winter wheat is planted in the fall and harvested in the summer. In the opposite year, the field is left fallow.

“The farming practices typical for a wheat crop include tilling, planting, spraying, and harvesting. Tilling practices are used to prepare the soil for planting, such as plowing, discing, or harrowing. The

seeds are sown into the field using a tractor and planter, such as a wheat drill attached to a tractor. Growers may use direct seed cropping systems. Growers apply pesticides and/or fertilizers by spraying the fields. Further explanation of the typical farm practices for the cultivation of grain crops is provided below.

Combining. Combining uses a machine to harvest the crop. This machine combines reaping, threshing, and winnowing.

Grain Cart. Grain crops are put into a grain cart from the combine. The grain cart is pulled onto the field by a tractor.

Grain Drill and No Till Drill. A drill may be pulled behind a tractor to plant rows of seeds in the field. This device sows the seeds for crops into the ground and covers them with dirt.

Planting. To plant the crop, a tractor pulls machinery through the field to sow the seeds. Planting may be completed by using a no till drill. Seed is transferred from a gravity box (wagon) to the no till drill hopper by an auger.

Semi-Truck. The grain crops are transferred from the grain cart into a semi-truck, which is used to transport the grain to storage, such as a grain elevator.

Spraying: fungicide or herbicide may be sprayed on fallow fields and/or crops to chemically control weeds. Fertilizer may also be sprayed on crops to supply plant nutrients essential for growth. Spraying is typically applied by a sprayer attached to a tractor.

Tilling. Tilling is used to prepare the land for planting the crops. To till the land, a tractor pulls a cultivator through the field to break up the ground. The shovels in the front of the cultivator creates a seed bed. The cultivator may also have a harrow that breaks up any clumps helps flatten the ground. The cultivator may also have a roller on the back that ensures the field is flat.

Transporting. Farm uses require transporting inputs to machinery on the field and transporting outputs out of the field to storage or market. This includes pickup trucks supplying inputs such as herbicides, pesticides, fungicides, and fuel to equipment operating on the field. Wagons, semi-trucks and trailers are used to transport the harvest from the field to storage and market.

There are additional farm uses occurring on parcels adjacent to the subject parcel. These uses primarily include raising and/or training livestock and equines. Additional explanation of the typical farm practices for the remaining farm use zoned parcels is provided below.

Breeding. Breeding is the mating and production of offspring by animals and may occur where livestock and/or equines are raised. Successful breeding requires adequate shelter, food, and water. Equipment Maintenance. Farm Use includes the on-site construction and maintenance of equipment and facilities used for the activities as described in ORS 215.203.

Feeding. Feeding livestock and/ or equines may be accomplished through grazing open grassy pastures or by providing feed for the animals in troughs.

Training. Training of livestock and/or equines includes teaching them to perform certain behaviors, conducting riding lessons, training clinics, schooling shows, and other similar activities.

Watering. Livestock and/or equines are typically provided water through troughs or similar equipment either in the corral, pen, pasture, or within agricultural buildings.”

“The proposed use does not impact the farmer’s use of surrounding lands to raise livestock, including breeding, feeding, training, and watering. Nor does it impact the farmer’s ability to maintain equipment for farm use. The proposed use does not force any of these practices to change and does not significantly increase the cost of accepted practices. Further discussion on livestock is included below.

“Regarding livestock, there are no impacts to livestock outside or inside of the project area. In fact, there have been numerous solar facilities that have successfully integrated sheep into the facility to eat grasses within the perimeter fence.”

“The proposed use does not impact the farmer’s use of surrounding lands to till, plant, spray, or harvest crops. In addition, the proposed use does not limit the farmers ability to operate combines, cultivators, grain carts, grain drills, grain wagons, pickup trucks, semi-trucks, sprayers, tractors, pickup trucks, semi-trucks, or any other similar activity. The proposed use does not force any of these practices to change and does not significantly increase the cost of accepted practices.”

“The facility will protect soils and prevent water-borne runoff with control measures which typically includes straw bales, hay coil logs, run-off channels, silt fencing, and sediment basins. Once constructed, natural vegetative growth is encouraged within the facility to prevent erosion, and the areas where panels are located are not considered impervious. Additionally, the project will acquire from the Oregon Department of Environmental Quality a National Pollutant Discharge Elimination System Stormwater Construction General Permit 1200-C to ensure runoff is effectively managed during construction.

“Minimal ground disturbance only occurs during the short (6 to 12 week) construction period. Heavy equipment and traffic is restricted to perimeter roads, which comprise less than 3% of the site area during construction. To further protect against erosion, most roads on the site are re-seeded with vegetation after construction unless otherwise required by the soil conditions or indicated by the jurisdiction. Please reference the included soil erosion control plan for further information.”

“The solar PV panels are composed of non-toxic materials, do not erode, and do not have any emissions. The facility will use Crystalline Silicon (C-Si) solar PV panels. The solar PV panel is an inert crystal composed of non-toxic materials like a glass plane. The sealed PV panels do not leach metals into the environment and are recycled at the end of their lifecycle.”

“Once constructed, the proposed photo voltaic solar power generation facility will be an unmanned facility. The proposed use will cause no material environmental effects such as noise, vibration, air pollution, water pollution, glare or odor.”

“The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. The proposed use will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.”

Planning Response:

Study Area - Table 1 Exhibit A

The study area presented in Table 1 (applicant's Exhibit A) identifies 20 properties including properties located west of the subject property within the City of Weston. In the study area 12 of the 20 identified study area properties are located within the city limits and zoned for residential use with zoning designations R-Sub and R-Gen; two additional properties are identified with split zoning and portions of both properties are located in the city limits, as well as, outside of the city limits yet within the Weston Urban Growth Boundary (UGB). The 12 city properties range in size from 0.02 acres to 1.59 acres, 10 of the 12 city zoned properties are developed with dwellings and two of the 12 city properties are vacant. These parcels are not devoted to farm use as confirmed from the most recent aerial photos from 2019.

The remaining six properties, located outside of the city and city UGB, are all zoned EFU. The EFU zoned parcel sizes are 1.50-acres (4N3522AD-100), 2.27-acres (4N3522-400), 3.38-acres (4N3522DC-100), 77.84-acres (4N35-8200), 70.59-acre (4N35-7100) and 107-acre (4N35-7000). The three largest acreage EFU parcels are devoted to farm use raising a wheat crop.

The 2.27-acre (4N3522-400) and 3.38-acre (4N3522DC-100) parcels are developed with dwellings and include pasture areas and horses (livestock). The 1.50-acre (4N3522AD-100) parcel consists of a field area used as an arena and/or corral. Livestock and equines are often grazed in pastures and watered and feed by providing pasture, animal feed and water troughs. Livestock and equines are also typically housed in pasture/fields, corrals and pens and provided shelter structures. In addition, livestock and equines may be trained and breed.

The three larger EFU properties identified in the applicant's defined study area in Table 1 of Exhibit A, the 77-84-acre (4N35-8200), 70.59-acre (4N35-7100) and 107-acre (4N35-7000) parcels, are all devoted to farm use, as confirmed by the applicant's information and aerial photos taken in 2019. These parcels primarily consist of a winter wheat crop and fallow rotation, the same crop grown on the subject property.

Study Area - Second Table 1

The parcels included in the second Table 1, submitted after the initial application materials including the first Table 1 within Exhibit A, include the earlier identified three smaller acreage EFU zoned parcels (1.50-acres (4N3522AD-100), 2.27-acres (4N3522-400), 3.38-acres (4N3522DC-100)), the three larger acreage EFU zoned parcels (77.84-acres (4N35-8200), 70.59-acre (4N35-7100) and 107-acre (4N35-7000)) and two smaller acreage parcels located in Weston's UGB (4N3522AD-200 and 4N3522AD0-300). Also added to the second Table 1 are two parcels, that include the subject property and a small 1.56-acre (4N35-6800) EFU parcel, for a total of 10 parcels. The 1.56-acre(4N35-6800) EFU parcel is located to the northeast of the subject property on the east side of the Weston Cemetery Road and farmed with an adjoining 383-acre tract of farmland to the east and northeast of the subject property.

The two additional parcels consisting of the subject property and the 1.56-acre (4N35-6800) parcel with the adjoining farm tract, are devoted to farm use and used to grow a dryland wheat crop. In addition, the most representative properties in the second Table 1, devoted to farm use, are the subject property (4N3522-0700), the 1.56-acre (4N35-6800) parcel along with the adjoining farm tract, the 77-84-acre (4N35-8200), 70.59-acre (4N35-7100) and 107-acre (4N35-7000) larger EFU parcels. Again, the subject

property and these identified larger EFU parcels are all devoted to farm use growing a winter wheat crop and fallow rotation, as confirmed by 2019 aerial photos.

Farm Practices on lands Devoted to Farm Use

The larger EFU lands in the study area are devoted to specifically growing a winter wheat crop and follow rotation. The described farming practices for a wheat crop include tilling, planting, spraying and harvesting the grain crop. This includes preparing the soil for planting using farm equipment to plow, disc or harrow. Tilling to prepare for planting usually includes a tractor pulling a cultivator to break up the ground and create a seed bed. Harrows and rollers may also be used to break up large clumps of ground and smooth out the field to ensure it is flat. Seeds are sown using tractor and planter, such as a wheat drill or no till drill. This seeds the crop into the soil and covers the seed. Dryland wheat growers also apply pesticides and fertilizers by using a tractor with spray attachment. Combines reap, thrash and winnow and are used to harvest the crop. Trucks are used to transport the harvest grain from the fields to storage and market. Transporting may also include larger grain semi-trucks.

Forest Practices

The lands devoted to forest uses are not located in the study area and occur at higher elevations several miles to the east and southeast of the subject property. Timber and forest uses are not located on surrounding lands and forest practices therefore, are not occurring on surrounding lands. Thus, the review of forest uses and/or forest practices have not been further detailed.

Significant Impacts

The proposed eight-acre solar facility would be a fixed development in the northwest corner of the subject property. The area selected adjoins Kirk Road and it has been shown that the subject property would not be bisected into small difficult to farm field sections, as confirmed by the applicant's project layout map. The solar facility is unmanned and traffic to and from the facility would be minimal.

The described farm practices for a wheat crop in sum include, tilling, planting, spraying and harvesting. The applicant has included a Soil Erosion Control Plan, Soil Compaction Relief Plan and Weed Control Plan for the solar project area. These plans are required to be part of the conditional use permit and control impacts that could occur from soil erosion and compaction (on-site) or the spread of weeds from the project disturbed areas. The solar project does not emit waste into waterways or cause emissions into the atmosphere. The project would not produce vibration or cause temperature fluctuations.

The use of surrounding lands to raise livestock, including pasturing, feeding, and training and breeding could continue to occur whether a solar project is present on the subject property or not present on the property. Additionally, the growing of wheat outside of on the eight-acre project area in the northwest corner of the property may continue on the subject property. Farm use on surrounding EFU lands devoted to growing a wheat crop may continue whether the project is built or not.

Based on the information complied by the applicant, it is believed the Hay Creek LLC photovoltaic solar power generation facility would not significantly change farm practices on surrounding lands devoted to farm use or increase the cost of those farm practices. Additionally, the applicant visited with the subject property farm operator and was provided a statement the solar facility will not impact the farm operations on the remaining property.

Findings and Conclusions:

The Planning Commission finds lands within the study area devoted to a farm use grow a dryland wheat crop.

The Planning Commission finds the typical farm practices for producing a dryland wheat crop include tilling, planting, spraying and harvesting the grain crop.

The Planning Commission finds producing a dryland wheat crop typically involves operating combines, cultivators, grain carts, grain drills, grain wagons, sprayers, tractors and transport by grain trucks and semi-trucks.

The Planning Commission finds parcels to the north of the subject property are mixed use as residential and for farm use raising and pasturing horses.

The Planning Commission finds farm practices associated in raising livestock and equines include, in part, grazed in pastures, housing in shelters, corrals and pens, training and breeding, watered and feeding.

The Planning Commission finds erosion and ground compaction must be controlled through implementation of an Erosion Control Plan and Compaction Plan.

The Planning Commission finds temporarily disturbed ground must be reseeded and controlled for weeds through implementation of a Weed Control Plan.

The Planning Commission believes, based on the applicant's responses and the information compiled, the Hay Creek LLC photovoltaic solar power generation facility may be sited without significantly changing farm practices or increasing the cost of farm practices on surrounding lands devoted to farm use.

The Planning Commission finds and concludes the Hay Creek LLC photovoltaic solar power generation facility will not force a significant change in accepted farm practices on surrounding lands devoted to farm use nor significantly increase the cost of accepted farm practices on lands devoted to farm use.

The Planning Commission finds lands managed for timber and forest use are located miles from the project site and forest practices do not occur on surrounding lands.

The Planning Commission concludes the Hay Creek LLC photovoltaic solar power generation facility will not force a significant change in accepted forest practices nor significantly increase the cost of accepted forest practices on the subject property or surrounding lands.

22. § 152.612 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE OR LAND USE DECISION APPLICATION.

(D) An applicant granted a conditional use permit or land use decision must obtain a County zoning permit for each tax lot before establishing the approved use and/or commencing construction. The County zoning permit is a requirement of the approval of a conditional use permit.

The Planning Commission finds it is feasible to satisfy the requirement to obtain a zoning permit and imposes a condition of the conditional use permit to obtain a County zoning permit.

DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, UMATILLA COUNTY APPROVES THE HAY CREEK SOLAR LLC CONDITONAL USE PERMIT FOR AN 8-ACRE PHOTOVOLTAIC SOLAR POWER GENERATION FACILITY, SUBJECT TO THE CONDITIONS LISTED BELOW.

PRECEDENT CONDITIONS: Umatilla County Planning Department must be presented with verification that the precedent conditions are satisfied prior to issuance of a County Zoning Permit and commencing project construction.

1. The applicant/project owner shall sign and record a Covenant Not to Sue document.
2. The Hay Creek Solar Project Soil Compaction Relief and Soil Erosion Control Plan shall be attached to the conditional use permit decision.
3. The Hay Creek Solar Project Weed Control Plan shall be attached to the conditional use permit decision.
4. The applicant/project owner shall obtain an access approach permit from the County Public Works Department for access onto the County Road.
5. The applicant/project owner shall obtain a bond in a dollar amount that allows Umatilla County to decommission the project and pay for the removal of all facility features in the event the project owner cannot fulfill its' obligation to decommission the Hay Creek LLC Solar Facility. The applicant/project owner shall provide an acceptable bond in the amount of the decommissioning fund naming Umatilla County as the beneficiary or payee.

SUBSEQUENT CONDITIONS: The subsequent conditions consist of approval conditions and on-going requirements that continue to govern operation of the project.

1. The applicant/project owner shall obtain a County Zoning permit from the Umatilla County Planning Department and show all project features on the project site plan including one vehicle parking space prior to commencing construction.
2. The applicant/project owner shall obtain all necessary Federal, State and local permits including, but not limited to, a storm water permit from DEQ, structural review and permits for project elements including proposed perimeter fencing from Oregon State Building Codes. The project site must show compliance with EFU dimensional standards, including setbacks, as depicted in UCDC Section 152.063.
3. Hay Creek Solar Project is approved as an eight-acre photovoltaic solar power generation facility meeting the acreage provision to not use, occupy and/or cover more than 12-acres of high value farmland as described at ORS 195.300(10).

4. The applicant/project owner shall improve one parking space within the project area.
5. The applicant/project owner shall follow and implement the Soil Compaction Relief and Soil Erosion Control Plans including control of water runoff from the project area.
6. The applicant/project owner shall implement dust controls and control soil loss from the project site.
7. The applicant/project owner shall implement reseeded of disturbed areas and implement and follow the Hay Creek Solar Project Weed Control Plan.
8. The applicant/project owner shall install a chain link perimeter fence around the project site.
9. The applicant/project owner shall maintain enforcement of a surety bond for the decommissioning and rehabilitation of the project area for the life of the project.
10. Outdoor lighting, if installed, shall be directed and shielded away from neighboring properties.
11. During decommissioning the applicant/project owner shall maintain erosion controls, weed controls and revegetation plans to avoid impacts to surrounding lands.
12. The applicant/project owner is responsible to decommission the project site by recycling the solar project components and disposing of solar project materials, not able to be recycled, in an approved DEQ disposal site.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 20____

 Sunny Danforth, *Planning Commission Chair*

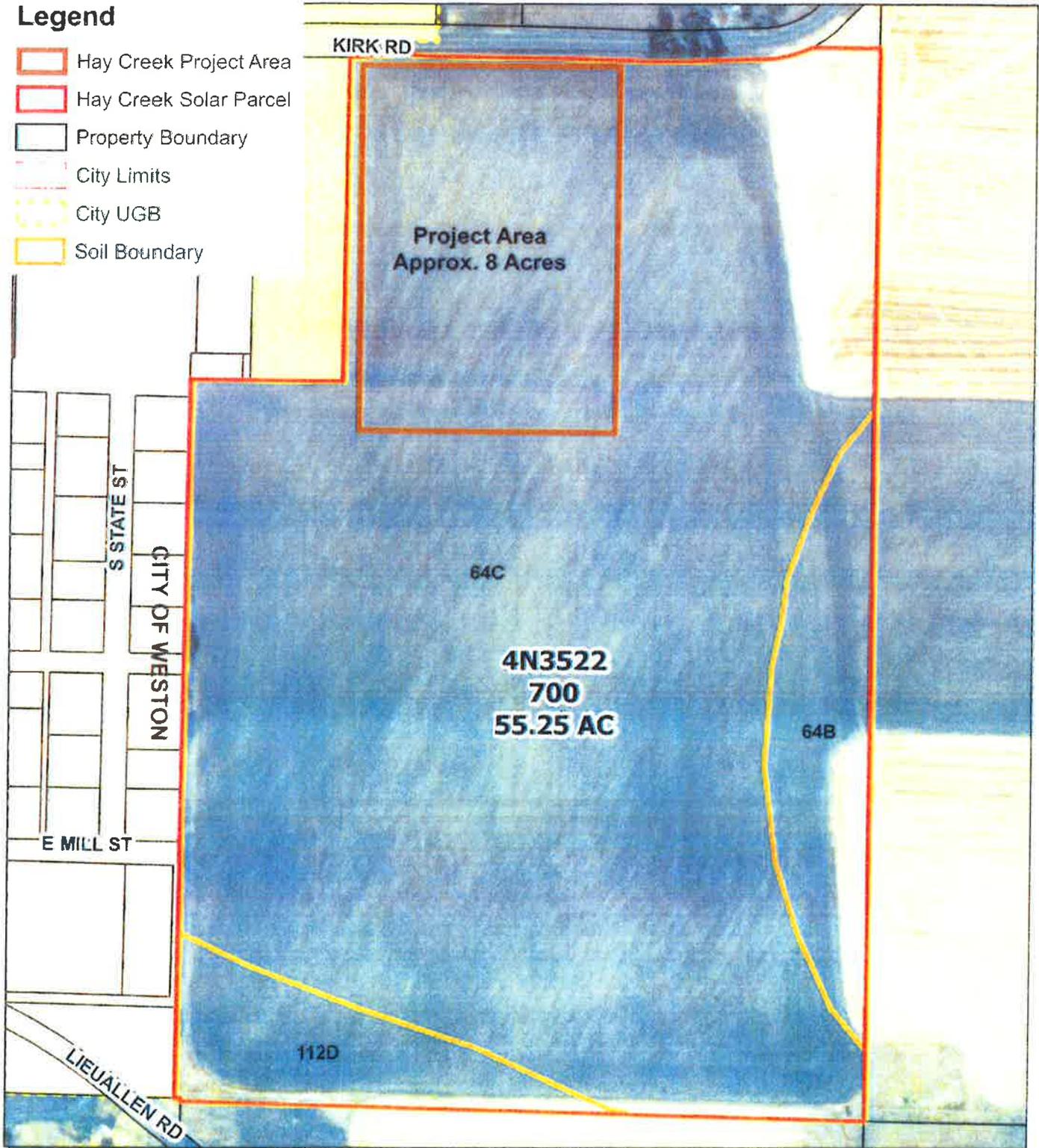
Mailed _____ day of _____, 20____

SOILS MAP

APPLICANT: HAY CREEK SOLAR, LLC
OWNER: JUDY MCCARTIN #C-1332-20
MAP: 4N 35 22 TAX LOT: 700

Legend

-  Hay Creek Project Area
-  Hay Creek Solar Parcel
-  Property Boundary
-  City Limits
-  City UGB
-  Soil Boundary

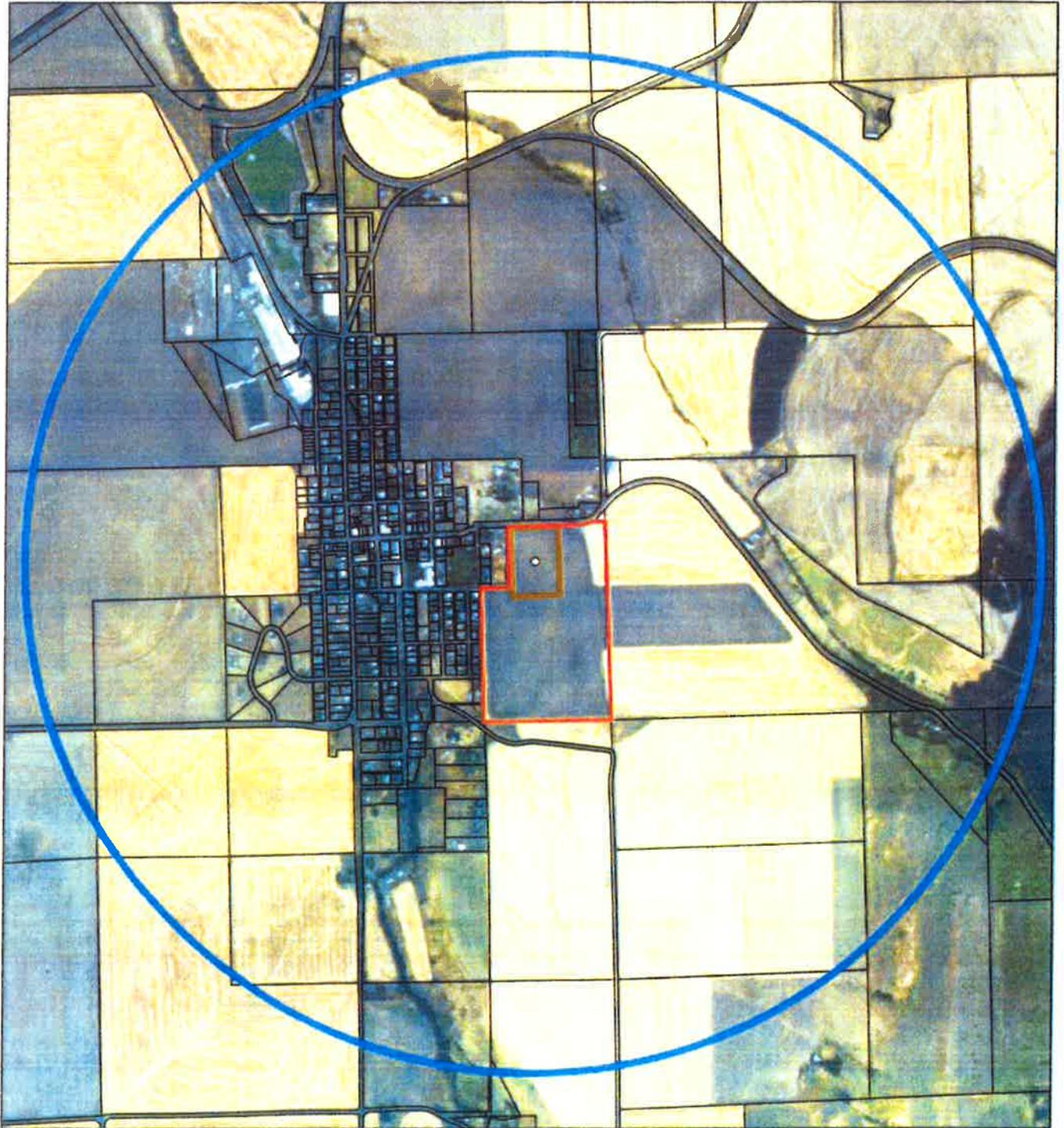


| SOIL CLASSIFICATION | | |
|---------------------|---------------|-----------|
| MAP SYMBOL | NON-IRRIGATED | IRRIGATED |
| 64B | 2e | 2e |
| 64C | 3e | 3e |
| 112D | 4e | -- |




 Miles
 0 0.02 0.04 0.07

1 Mile Buffer Area



APPLICANT: HAY CREEK SOLAR, LLC
OWNER: JUDY MCCARTIN

#C-1332-20 MAP: 4N 35 22 TAX LOT: 700

Legend

- Center on Center
-  1 Mile Buffer
-  Subject Parcel
-  Hay Creek Project Area
-  Property Boundary



 Miles
0 0.1 0.2 0.4

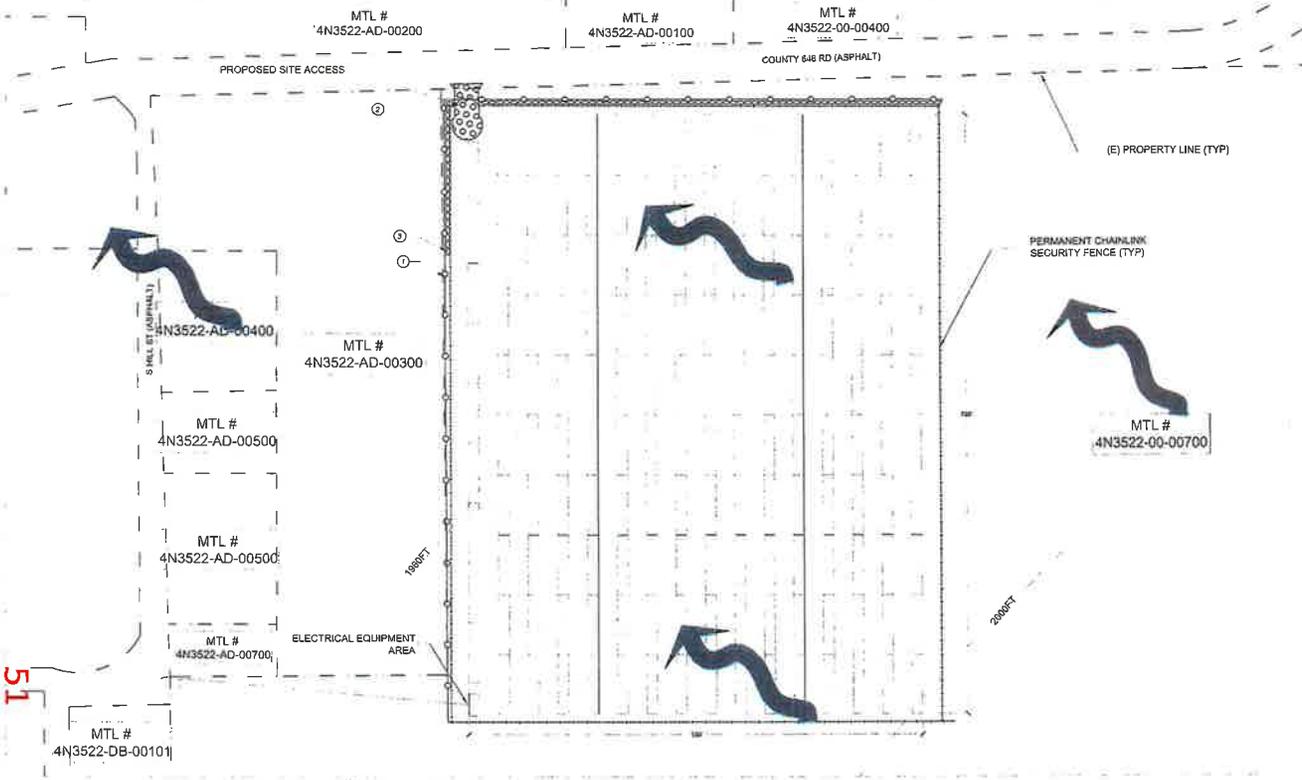
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only.
Created by M. Green, Umatilla County Planning Department
Date: 2/17/2021

SOIL EROSION CONTROL PLAN

SITE DATA

HAY CREEK
SOLAR, LLC

MTL # 4N3522-00-00700
OWNER JUDY KIRK
DB/PC N/A
MAILING ADDRESS 3519 NE 15TH AVE., #106
PORTLAND, OR 97212
ZONING EPU
PARCEL ACREAGE +/- 55.25 ACRES
CURRENT LAND USE OPEN FIELD
LEASED AREA N/A
PROPOSED USE AREA SOLAR ENERGY SYSTEM
ZONING DISTRICT COUNTY
SETBACKS (MIN) FRONT FRONT SETBACK IS WHICHEVER IS
GREATER OF AT LEAST 30FT FROM
PROPERTY LINE OR EASEMENT
BOUNDARY OR AT LEAST 60 FT FROM
THE CENTERLINE OF THE ROAD
WEST SIDE 5 FT



GENERAL NOTE

THE SITE WILL NOT BE STRIPPED OF ANY VEGETATION FOR CONSTRUCTION. NO MASS GRADING IS PROPOSED. EXCAVATION WILL ONLY OCCUR ON THE PROPOSED ENTRY/ACCESS ROAD.

FOR PERMIT ONLY,
DO NOT BUILD

EROSION CONTROL NOTES

- ① INSTALL SEDIMENT FENCE. SEE EROSION CONTROL PLAN DETAIL SHEET W-105.
- ② INSTALL CONSTRUCTION ENTRANCE. SEE EROSION CONTROL DETAIL SHEET W-105 FOR SPECIFICATIONS. THE CONTRACTOR SHALL PROVIDE MEASURES TO PREVENT THE TRACKING OF DIRT OR DEBRIS ROAD.
- ③ INSTALL COMPOST/MULCH FILTER BERM, SEE DETAIL SHEET ON E-2.

LINE TYPE LEGEND

| | |
|---------------------------|--|
| ELECTRICAL EQUIPMENT PAD | |
| CHAIN LINK SECURITY FENCE | |
| FLOW DIRECTION ARROW | |
| TOPOGRAPHY LINES | |
| SEDIMENT FENCE | |
| COMPOST/MULCH FILTER BERM | |

HAY CREEK SOLAR
PV SOLAR GROUND MOUNT

1 EROSION CONTROL PLAN
SCALE: 1" = 60'

GRADING & UTILITY EROSION & SEDIMENT CONSTRUCTION NOTES

1. TEMPORARY STABILIZATION MEASURES SHALL INCLUDE: COVERING EXPOSED SOIL WITH PLASTIC SHEETING, STRAW MULCHING, WOOD CHIPS, OR OTHER APPROVED MEASURES.
2. STOCKPILED SOIL STRIPPING SHALL BE PLACED IN A STABLE LOCATION AND CONFIGURATION. STOCKPILES SHALL BE COVERED WITH THE PLASTIC SHEETING OR STRAW MULCH. SEDIMENT FENCE IS REQUIRED AROUND THE PERIMETER OF THE STOCKPILE.
3. AREAS SUBJECT TO WIND EROSION SHALL USE APPROPRIATE DUST CONTROL MEASURES INCLUDING THE APPLICATION OF A FINE SPRAY OF WATER, PLASTIC SHEETING, STRAW MULCHING OR OTHER APPROVED MEASURES.
4. CONSTRUCTION ENTRANCES SHALL BE INSTALLED AT THE BEGINNING OF CONSTRUCTION AND MAINTAINED FOR THE DURATION OF THE PROJECT. ADDITIONAL MEASURES MAY INCLUDE, BUT NOT LIMITED TO, TIRE WASHES, STREET SWEEPING AND VACUUMING (REQUIRED TO INSURE ALL PAVED AREAS ARE KEPT CLEAN FOR THE DURATION OF THE PROJECT).
5. ACTIVE INLETS TO STORM WATER SYSTEMS SHALL BE PROTECTED THROUGH THE USE OF APPROVED INLET PROTECTION MEASURES. ALL INLET PROTECTION MEASURES ARE TO BE REGULARLY INSPECTED AND MAINTAINED AS NEEDED.
6. SATURATED MATERIALS THAT ARE HAULED OFF-SITE MUST BE TRANSPORTED IN WATER-TIGHT TRUCKS TO ELIMINATE SPILLAGE OF SEDIMENT AND SEDIMENT-LOADED WATER.
7. AN AREA SHALL BE PROVIDED FOR THE WASHING OUT OF CONCRETE TRUCKS IN A LOCATION THAT DOES NOT PROVIDE RUN-OFF THAT CAN ENTER THE STORM WATER SYSTEM. IF THE CONCRETE WASH-OUT AREA CAN NOT BE CONSTRUCTED GREATER THAN 50' FROM ANY DISCHARGE POINT, SECONDARY MEASURES SUCH AS BERMS OR TEMPORARY SETTLING PITS MAY BE REQUIRED. THE WASHOUT SHALL BE LOCATED WITHIN SIX FEET OF TRUCK ACCESS AND BE CLEANED WHEN IT REACHES 50% OF CAPACITY. THE CONCRETE WASH-OUT STATION MUST BE LINED, SEE DETAILS.
8. SWEEPINGS FROM EXPOSED AGGREGATE CONCRETE SHALL NOT BE TRANSFERRED TO THE STORM WATER SYSTEM. SWEEPINGS SHALL BE PICKED UP AND DISPOSED OF IN THE TRASH.
9. AVOID PAVING IN WET WEATHER WHEN PAVING CHEMICALS CAN RUN-OFF INTO THE STORM WATER SYSTEM.
10. USE BMP'S BERMS, SEDIMENT FENCE AND INLET PROTECTION TO PREVENT RUN-OFF FROM REACHING DISCHARGE POINTS.
11. COVER CATCHBASINS, MANHOLES, AND OTHER DISCHARGE POINTS WHEN APPLYING SEAL COAT, TACK COAT, ETC. TO PREVENT INTRODUCING THESE MATERIALS TO THE STORM WATER SYSTEM.
12. TEMPORARY OR PERMANENT SEED SHALL BE APPLIED BETWEEN JUNE 1 AND SEPTEMBER 15 TO ENSURE THAT VEGETATION IS ESTABLISHED PRIOR TO "WET WEATHER" PERIOD. SEEDING BETWEEN MARCH 15-MAY 31 AND OCTOBER 1-15 IS ACCEPTABLE IF ADDITIONAL "WET WEATHER" BMP MEASURES ARE APPLIED.
13. EXPOSED CUT OR FILL AREAS SHALL BE STABILIZED THROUGH THE USE OF TEMPORARY SEEDING AND MULCHING, EROSION CONTROL BLANKETS OR MATS, MID-SLOPE SEDIMENT FENCES OR WATTLES, OR OTHER APPROPRIATE MEASURES. SLOPES EXCEEDING 25% MAY REQUIRE ADDITIONAL EROSION CONTROL MEASURES.
14. COPY OF 1200-C PERMIT MUST REMAIN ON SITE AT ALL TIMES.

RECEIVED

DEC 18 2020

UMATILLA COUNTY
PLANNING DEPARTMENT

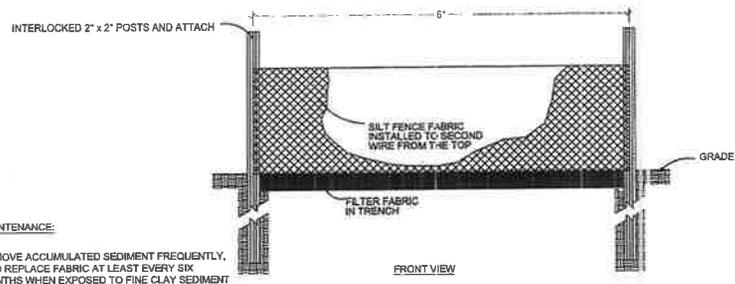
THE RECEIVING OFFICE HAS REVIEWED THIS DOCUMENT FOR CONFORMANCE WITH THE UMATILLA COUNTY PERMITTING AND ENFORCEMENT ACT AND THE UMATILLA COUNTY ZONING ORDINANCES. THE RECEIVING OFFICE DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED OR THE RESULTS OF ANY ANALYSIS PERFORMED. CONTACT THE PLANNING DEPARTMENT FOR ADDITIONAL INFORMATION.

EROSION CONTROL PLAN

NOT FOR CONSTRUCTION

000,000
SHEET NO. D OF 1
DATE: 11/11/20
E-1

EROSION CONTROL PLAN DETAILS



MAINTENANCE:

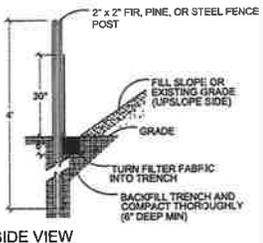
REMOVE ACCUMULATED SEDIMENT FREQUENTLY, AND REPLACE FABRIC AT LEAST EVERY SIX MONTHS WHEN EXPOSED TO FINE CLAY SEDIMENT RUNOFF. A MORE PROACTIVE APPROACH WOULD BE TO REPLACE THE SEDIMENT FENCE EVERY 30 DAYS WHEN EXPOSED TO CLAY-SILT-SILT-LOAM RUNOFF. DO NOT ALLOW SEDIMENT FENCE ANY HIGHER THAN 1/3 THE ABOVEGROUND HEIGHT.

NOTES:

1. BURY BOTTOM OF FILTER FABRIC 6" MIN VERTICALLY BELOW FINISHED GRADE.
2. 2' x 2' FIR, PINE, OR STEEL FENCE POSTS.
3. STITCHED LOOPS TO BE INSTALLED UPHILL SIDE OF SLOPE.
4. COMPACT NATIVE FILL IN ALL AREAS OF FILTER FABRIC TRENCH.

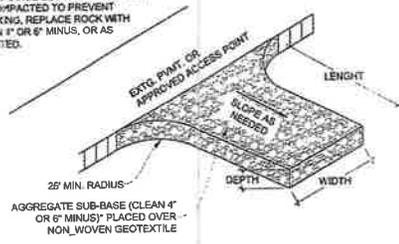
1 SEDIMENT FENCE DETAIL
SCALE: NOT TO SCALE

FRONT VIEW



SIDE VIEW

*IF ENTRANCE BECOMES TOO DIRTY OR COMPACTED TO PREVENT TRACKING, REPLACE ROCK WITH CLEAN 1" OR 1/2" MINUS, OR AS DIRECTED.

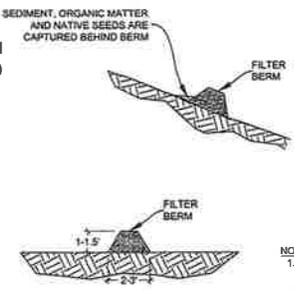


NOTES:

- LENGTH: 50' MIN. OR AS DIRECTED.
 WIDTH: 20' - OR WIDTH OF EXTG. APPROACH, WHICHEVER IS GREATER.
 DEPTH: 6" MIN

2 GRAVEL CONSTRUCTION ENTRANCE
SCALE: NOT TO SCALE

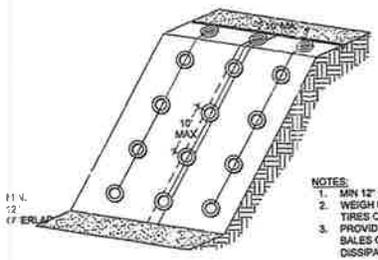
52



NOTES:

1. FILTER BERM TO BE INSTALLED BY CERTIFIED INSTALLER ONLY. PROOF OF CERTIFICATION SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO INSTALLATION.
2. BERM TO BE MINIMUM 1' HIGH BY 2' WIDE, INCREASE TO 1.5' X 3' FOR STEEPER SLOPES.
3. BERM TO BE CONSTRUCTED AT TOP OF SLOPE AND IN INTERVALS DOWN SLOPE ON LEVEL CONTOUR.
4. NOT TO BE USED IN AREAS OF CONCENTRATED FLOW (I.E. DITCHES, STREAMS, ETC.)

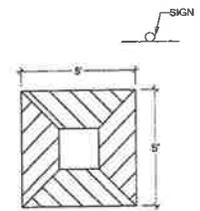
3 COMPOST/MULCH FILTER BERM
SCALE: NOT TO SCALE



NOTES:

1. MIN 12" OVERLAP AT SEAMS.
2. WEIGH DOWN SEAMS WITH SANDBAGS, TIRES OR ACCEPTED ALTERNATE.
3. PROVIDE AGGREGATE BERM, STRAW SALES OR WATTLES FOR ENERGY DISSIPATION AT TOE.

4 STOCKPILE COVERING/PLASTIC SHEETING
SCALE: NOT TO SCALE



CONCRETE WASHOUT NOTES:

- DEPTH-3' 0"
 -SIGN SHALL BE CLEARLY MARKED "CONCRETE WASHOUT AREA" IN A VISIBLE LOCATION.
 -MUST BE LINED (PLASTIC LINING FREE OF TEARS OR HOLES)

5 CONCRETE WASHOUT STATION
SCALE: NOT TO SCALE

NOT FOR CONSTRUCTION

FOR PERMIT ONLY, DO NOT BUILD

HAY CREEK SOLAR
PV SOLAR GROUND MOUNT

| NO. | REVISION | DATE | BY |
|-----|----------|------|----|
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SCALE: METERS
 THIS DOCUMENT IS THE PROPERTY OF HAY CREEK SOLAR, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF HAY CREEK SOLAR, LLC.

SHEET TITLE

EROSION DETAILS

| | |
|--------------|---------|
| PROJECT # | 000-000 |
| SHEET # | D |
| TOTAL SHEETS | 1/15 |
| DATE | |



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FEB 16 2021

**UMATILLA COUNTY
PLANNING DEPARTMENT**

EROSION CONTROL AND SOIL COMPACTION RELIEF PLAN

February 2021

Project: Hay Creek Solar Project

Introduction

Hay Creek Solar, LLC is proposing to construct a solar photovoltaic commercial power generating facility on an approximately 8-acre portion of the 55.25 acres parcel within Exclusive Farm Use (EFU) Zoning District. The subject property is located at one parcel (MTL#4N3522-AD-00300) along Kirk Road approximately one-quarter mile east of the intersection of Main and Franklin Streets in Weston, Oregon. (T4N R35E Section 22 SENE Tax Lot 300). Per Department of Environmental Quality regulations, Hay Creek Solar, LLC is required to mitigate point source discharges of water-borne pollutants from nonpoint sources.

Background

Compacted soils lose innate water carrying capacity, which in turn contributes towards higher runoff volumes, pollutant concentration, and delayed, post-construction recovery of natural vegetation due to loss of porosity in the soil media, which restricts passages for roots to develop and have access to water and oxygen.

Soil compaction will occur in areas of construction, equipment and construction material staging areas, trenches, and soil material stockpiling areas. These areas will be referred to hereon as the “compaction relief area(s).” Excluded from this term are areas where soil is intentionally compacted to support permanent facilities as mentioned in the “Exception Areas” definition below. The extent of compaction is a function of soil moisture content, soil texture, and the amount and weight of traffic on the soil.

Clay and silt soils are most susceptible to compaction because their particles hold water for longer than sands and loams. Soils less prone to compaction are the soils containing higher percentages of sand. These sandy loams also have a higher rate of hydraulic conductivity (well drained), which also diminishes their tendency to compact. Silt particle sizes lie between clay and sand particle sizes. As such, silt loams tend to drain better and, therefore, not be as prone to compaction as clays. However, their ability to drain and resist compaction are not as good as more sandy soils.

Goal

The goal of this Compaction Relief Plan is to restore post-construction compaction values to their pre-construction values or the compaction values of adjacent, completely-undisturbed soils. This goal will be accomplished in a manner which completely avoids soil inversion (i.e. mixing topsoil with subsoil). It is intended as well to avoid compaction on soils which will not need to be disturbed.

Site Description

The project site is located in area of moderate south facing slope in a field with a history of agricultural cultivation activity. The project site will require little to no grading and as such is not expected to generate large areas of disturbed and exposed soils.

Stormwater Erosion and Sediment Control

The following measures and Best Management Practices will be implemented as needed during the construction phase:

- Minimization of disturbed vegetation and soils to only cable trenching;
- Place silt fencing, gravel, straw waddles, hay bales or coil logs at sediment basin outlet, which is located at any natural low point leaving the subject property;
- Along ditches and open trenches, place hay bales, coil logs or straw waddles at spaced intervals to slow water and capture sediment;
- Place silt fencing or jute netting along open ditch edges; and
- Implement erosion control measures over exposed raw materials and soils in laydown areas.

Soil Description

The onsite soils in the area of the development area classified as silt loam. These soils can have a depth of five feet. The site soils are expected to have a low predisposition for compaction. Compaction relief methods are proposed below. The soil report is in Appendix A—NRCS Soil Report.

Compaction in the Context of Site Development

The total estimated area of the solar facility is approximately 8 acres. Soil compaction occurs during development activity and will be constrained to the perimeter roadway/driveway, equipment and materials staging areas, and electrical tranches. Other areas, as mentioned above, may also be subject to compaction, but to a lesser extent. All areas encountering compaction will be considered compaction relief areas except for the areas considered Exception areas.

Testing, Characteristics and Means of Compaction Relief

Compaction Testing

The goal of this Compaction Relief Plan precipitates the need for pre- and post- construction compaction testing. Due to the homogeneous nature of the site soils and the depth of these soils, the need for compaction testing can be significantly minimized. Any commonly accepted method for compaction testing can be used. Due to the expectation for relatively low pre- and post- construction compaction values (compared to normal construction values), the same testing methodology and equipment types will be used for pre- and post-construction testing to ensure accuracy and consistency.

In lieu of preconstruction soil testing, compaction values from adjacent areas may be used to obtain target compaction values. Acceptable adjacent areas must:

- Be of the same character and land use as the preconstruction character of the compaction relief area in question;
- Have similar elevation and drainage characteristics of the compaction relief area in question; and
- Be located within 200 feet of the compaction relief area in question.

Areas without potential target value areas complying with these parameters must have pre-construction testing/soil sampling performed in order to establish compaction relief area target values.

Compaction Relief Area Characterization

Primary Areas—Areas where the topsoil has been removed during construction. These areas will be backfilled with topsoil of the same soil classification, preferably the originally removed soils.

Secondary Areas—Areas where no soil has been removed, but compaction has taken place due to the factors listed above.

Trench Areas—Areas of underground pipe wire, conduit installation. These areas will be backfilled with topsoil of the same soil classification, preferably the originally removed soils. Backfill shall be performed in a manner consistent with the goal of this compaction relief plan.

Exception Areas—Areas where no compaction relief work is necessary. Exception areas consist of areas of intentional compaction which is necessary for structural support of permanent facilities (e.g. roadways, buildings, permanent parking).

Means of Compaction Relief

Compaction relief measures will be implemented as necessary to comply with this plan's stated goal.

Primary Areas—Relieve compaction of the exposed subsoil using a non-inversion, agricultural subsoiler. After compaction relief of the exposed subsoil, topsoil will be replaced and a disc and harrow will be used to relieve compaction of the replaced soil and smooth the replaced area.

Secondary Areas—The soil area(s) will be relieved by means of disc and harrow to relieve compaction and smooth the area. Inversion of the soil (mixing of topsoil with subsoil) will be avoided.

Trench Areas—Backfill of trenches will take place in a manner which leaves the backfilled material in the same compaction state as the soils adjacent to the trench. If this is not possible or practical, trench compaction will be relieved after backfilling is completed by the means mentioned above. Care will be taken to avoid negatively impacting the buried facility. This will require careful measurement of the facility depth during its construction.

Exception Areas—Not applicable. No compaction relief measures will be undertaken in exception areas.

Operational Notes

- Generally, soil compaction will be avoided where possible.
- Avoid traffic when soil is moist or wet.
- Confine traffic to using the same wheel tracks.
- Compaction relief operations will take place in suitably dry weather conditions and when the soils are of a moisture content necessary to obtain the target compaction values.
- Trenching:

- Removal of Trenching Material—The topsoil section of the trenching area will be set aside in a separate stockpile than the sub-topsoil materials. The topsoil material will be replaced in the trench backfill top zone from which it came.
- Backfilling of trenches should only be done in dry soils. Dewatering of the trench and allowing soils to dry may be required.
- Compaction relief measures will be completed in a manner which completely avoids soil inversion (mixing of topsoil with subsoil).

Professional Submitted,



Andréa Rabe, MS, PWS, CESCL
Senior Environmental Consultant



Hay Creek Solar, LLC
Weed Mitigation Plan

Introduction

Hay Creek Solar, LLC is proposing a project located along Kirk Rd. approximately one-quarter miles east of the intersection of Main Street and Franklin Street in Weston, Oregon. The purpose of the project is to construct a solar facility on an 8-acre portion of the 55.25-acre subject tract.

The goal of this weed mitigation plan is to implement early detection protocols, define containment strategies, and put into practice methods of control and monitoring to minimize the spread of weeds during project construction and rehabilitation activities. Noxious weeds are opportunistic plants that readily colonize disturbed areas and adversely affect the habitats they invade.

Mitigation

The following best management practices will be implemented on an as needed basis:

Construction

Construction crews will be responsible for inspecting construction areas, identifying the presence of noxious weeds, and inspecting equipment for weed seed removal. Monitoring construction areas for weed arrivals will be conducted on a regular basis and will consist of surveying the construction areas and access points and documenting the presence of non-native plant species.

General prevention measures implemented prior to and during construction activities may include:

- Minimizing the clearing of existing vegetation to the greatest practicable extent.
- Cleaning and inspecting equipment prior to entering/exiting the site to avoid transporting weeds onto the site.
- Inspecting for weeds in materials such as gravel or fill for roads, nursery plants, and/or vegetation removed from the site prior to transporting to/from the site.

Rehabilitation

Temporarily disturbed areas will be revegetated and will require ongoing monitoring. Following construction activities, the site will be replanted with a customized local seed mix that will take into account the vegetation currently on site and the objectives for the seeding.

Inspection and Monitoring

The project will be inspected weekly throughout the construction period. The visual inspection will ascertain the effectiveness of current implemented practices and additional need for weed control. If the inspection indicates the currently employed best management practices are adequately addressing weed issues, then no changes will be made to the implementation plan. If, however, the current

practices are not adequate, then changes will be made to these practices or additional practices will be employed to adequately address weed control.

After construction is complete, weeds will be monitored for on a regular basis. Hand eradication will be the primary course of action, although spraying or grazing with livestock may be utilized if it is deemed more effective over the long term. If additional seeding is needed to improve ground cover, a native grass seed mix will be reapplied.

Additional eradication measures or additional monitoring may be needed if conditions worsen on site. Consultation with the Umatilla County Soil & Water Conservation District may be sought if weed infestation persists or worsens, or if native seeds and plants fail to thrive.



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Hay Creek Solar, LLC
Weed Management Plan
February 2021

UMATILLA COUNTY
PLANNING DEPARTMENT

Introduction

Hay Creek Solar, LLC is proposing a project located along Kirk Road approximately one-quarter mile east of the intersection of Main Street and Franklin Street in Weston, Oregon. The purpose of the project is to construct a solar power generation facility on an approximately 8-acre portion of the 55.25 subject parcel (T4N R35E Section 22 SENE Tax Lot 300).

According to OAE 660-033-0130(5) and (38) construction or maintenance activities (non-farm uses) on arable lands that are cultivated or suitable for cultivation must not result in the unabated introduction or spread of noxious weeds and other invasive plant species. In accordance with the OAR, this Weed Management Plan defines the parameters for early detection protocols; introduction and spread prevention practices; containment strategies; and control methods necessary to minimize or prevent the spread of weeds within the project area during construction or operational management of the solar facility. If long-term weed maintenance is determined appropriate for the agricultural setting or necessary for ongoing weed management, the applicant will enter into a long-term maintenance agreement.

Site Description

The project site is located in area of moderate south facing slope in a field with a history of agricultural cultivation activity. The project site will require little to no grading and as such is not expected to generate large areas of disturbed and exposed soils.

Inventory of Weeds Onsite

There are currently no known noxious weeds located on the subject parcel. The priority weeds identified below, and the recommended management actions, are preventative and intended to keep the site in its current, weed-free condition. Noxious weeds are opportunistic and invasive, and readily colonize disturbed areas, adversely affecting natural ecological balances and habitat interspersions. Noxious weeds also cause problems for agricultural land management practices. Preventing injuries to crops, livestock, and other agricultural land management practices is the primary focus of weed management at the project site.

Noxious Weeds of Concern in Umatilla County

The Umatilla Weed Control Board and Board of County Commissioners report that the Oregon Department of Agriculture's noxious weed list is followed in Umatilla County with an additional listing for the county class designation. Appendix A has a listing of the weeds of particular interest in Umatilla County. The weeds are organized in classes: Class A and Class B.

The Class A weeds are:

- Camelthorn (*Alhagi pseudalhagi*)
- Common Bugloss (*Anchusa officinalis*)
- Common Crupina (*Cupina vulgaris*)
- Creeping Yellow Cress (*Roripa sylvestris*)
- Flowering Rush (*Botomus umbellatus*)
- Garlic Mustard (*Alliaria petiolata*)
- Japanese Knotweeds [fleece flower] (*Polygonum cuspidatum* [*Fallopia japonica*])
- Leafy Spurge (*Euphorbia esula*)
- Marijuana (*Cannabis sativa*)
- Meadow Knapweed (*Centaurea jacea* XC. *Nigra*)
- Myrtle Spurge (*Euphorbia myrsinites*)
- Purple Loosestrife (*Lythrum salicaria*)
- Purple Starthistle (*Centaurea caicitraps*)
- Rush Skeletonweed (*Chondrilla juncea*)
- Spike Weed (*Hemizonia pungens*)
- Spotted Knapweed (*Centaurea maculosa*)
- Tansy ragwort (*Senecio jacobaea*)
- Viper's bugloss (*Echiuin vulgare*)
- Yellow flag iris (*Iris pseudacorus*)

If a Class A weed is found within the solar project area, thorough maintenance and monitoring protocols will be followed for complete eradication. Maintenance and monitoring for Class A weeds is described in detail later in this management plan.

Class B weeds are weeds which are more prevalent regionally and prefer disturbed soils adjacent to roadsides and agricultural fields, similar to the conditions that currently exist and will temporarily exist during construction within the solar project site. Eradication of Class B weeds is not necessary or necessarily possible. However, stringent control of Class B weeds is required. If a Class B weed is found onsite, maintenance and monitoring protocols will be followed to ensure the species is controlled or if

possible, eradicated from the site. Maintenance and monitoring for Class B weeds is described in detail later in this management plan.

Water-dependent noxious weeds are not likely to occur within the project area as a result of construction of the proposed solar facility. The water-dependent weeds of interest in Umatilla County, Oregon include diffuse knapweed, meadow knapweed, knotweeds, poison hemlock and purple loosestrife.

Weed Management Actions

Weed Prevention within the Project Area

The best weed management action is preventing weeds from becoming established within the project site. The project site is currently weed-free, and it is the applicant's goal to maintain the parcel in a weed-free condition during construction and operation of the solar facility.

The following Best Management Practices will be followed, as appropriate, during construction to prevent noxious weed introduction and spread within the project site:

- Construction crews will also be responsible for washing and inspecting equipment to minimize the possibility that weed seeds and plant material will be transferred from another location on tracks, tires, buckets, blades, or any other surface that regularly comes in contact with the soil or vegetation at the site.
- Routine, scheduled inspections of the construction area will be conducted on an ongoing basis. These inspections will begin with a survey of the site prior to construction activities. Weekly surveys for the duration of construction will be conducted.
- Minimizing the clearing of existing vegetation to the greatest practicable extent.
- Cleaning and inspecting equipment prior to entering/exiting the site to avoid transporting weeds onto the site.
- Inspecting for weeds in materials such as gravel or fill for roads, nursery plants, and/or vegetation removed from the site prior to transporting to/from the site.
- Following construction activities, any exposed soils (i.e. temporarily disturbed areas) will be reseeded using a grass seed mix which takes into account the site characteristics.
- After construction, the site will be monitored annually for the presence of noxious weeds for the operating life of the solar facility. If a noxious weed is located, it will be addressed (i.e. abated, controlled or eradicated) and monitored.

Maintenance, Monitoring and Contingency Planning

If weeds are identified within the project area, the first corrective action will be manual removal using hand tools to ensure root extraction. Manual removal will have a lower environmental impact than chemical treatment and a higher rate of success than mowing or grazing. If manual removal is not practical due to the size of a potential infestation, ecological tolerances of the plant (such as a propensity to regrow from root, stem or leaf fragments), then herbicide treatment will be applied by a

certified herbicide applicator. Herbicide may be used in combination with manual removal or a mechanical control (such as mowing or grazing), or it may be a stand-alone method, particularly when plant fragmentation is a risk or when photosynthesis is necessary for the herbicide to have the greatest effect. If herbicide application is necessary, it will be timed to minimize or prevent drift.

Herbicides that will be used within the solar facility will include Glyphosate and Imazapyr. These chemicals were chosen because both are non-selective, systemic herbicides that are effective on most annual perennial plants, including broadleaved herbs and woody species. In addition to being effective for a wide range of weed species, they have relatively low toxicity to birds, mammals, and fish. Glyphosate and Imazapyr are non-selective and will kill desirable native plants as well as weeds. To prevent killing desirable plants, herbicide use will be limited to spot-applications and conducted during the appropriate climatic conditions to minimize drift. Other herbicides may be used based on recommendations from a licensed pesticide consultant.

Long-Term Monitoring and Maintenance

Prior to and during construction, the project site will be closely monitored for early detection of noxious weeds. If any weeds are located, the species and population location will be documented on a map. Following documentation, weeds will be removed by hand, treated with herbicide, or both. At the end of construction if weeds have been mapped, the population extent (expansion or decrease) will be updated on the map annually during the annual monitoring.

Noxious weed populations will be assessed annually during the annual monitoring to determine if the current control/eradication methods are adequate or if adjustments to the treatment methods need to be made. If weeds are not responding to manual or chemical control methods adequately, additional chemical control methods will be examined in consultation with a licensed pesticide consultant.

Maintenance actions will become on-going if a noxious weed population is identified on within the solar facility. These actions will be conducted during the appropriate part of the growing season for the duration of the time the noxious weeds persist within the solar facility. If the solar facility is weed-free, maintenance actions will not occur, and annual monitoring will continue. Maintenance actions will occur as described above in this management plan.

Contingency Actions

If the noxious weed infestations are increasing in size despite the maintenance actions, the following steps will be taken to address the infestations in a timely manner:

1. If possible, identify a source for the weed infestation and if possible, address it.
2. Identify the extent of the failure or potential failure of current weed control methods.
3. Determine possible causes for failed or poor results from these control methods.
4. Implement corrective actions, i.e., new manual control methods such as livestock grazing or new herbicide treatment in consultation with a licensed pesticide consultant.

5. Document the additional actions implemented.
6. In the event that new corrective actions do not resolve the problem, immediately consult with the appropriate agencies and/or experts.
7. Evaluate recommendations from resource personnel and implement their recommendations in a timely manner.

Professional Submitted By:



Andréa Rabe, MS Botany
Senior Environmental Consultant

OCT 23 2020

UMATILLA COUNTY
PLANNING DEPARTMENT

BURDEN OF PROOF

Application: Condition Use Permit in EFU Zone

Project Proposal: To construct an 8-acre photovoltaic solar power generation facility on a 55.25-acre tract of land zoned EFU.

The solar facility will consist of photovoltaic modules supported by piles driven into the ground. The project area is comprised of approximately 8-acres of solar generating facilities, consisting of solar panels, racking, invertors, overhead poles and lines, and perimeter fencing.

Applicant: Hay Creek Solar, LLC

Property Owner: Judy Kirk (formerly Judy McCartin)

Location: Approximately one-quarter miles east of the intersection of East Main Street and Franklin Street in Weston, Oregon. The subject parcel is located along the south side of Kirk Rd.
Map Tax Lot: 4N35220000700.
Approximate GPS Coordinates: 45°48'46.81"N, 118°25'4.88"W.

Zoning: Exclusive Farm Use (EFU)

Attachments: Completed Conditional Use Permit Application
Preliminary Site Plan
Soil Erosion and Compaction Control Plan
Weed Mitigation Plan
Exhibit A
Soils Report (USDA NRCS)
Wetlands Map (NWI)
Floodplain Map (FEMA)
Copy of Property Deed
Vicinity Tax Map
Assessor's Report
Taxlot Card

Applicable Review and Decision Criteria

The application is for an 8-acre photovoltaic solar power generation facility on a 55.25-acre tract of land located within the Exclusive Farm Use (EFU) Zoning District. The requirements being addressed by the applicants are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.061, 152.063, 152.615, and the Goal 3 Agricultural Lands Rules under OAR 660-033-0130(5) and OAR 660-033-0130(38).

UCDC 152.060 provides uses that may be permitted conditionally via administrative review. Subsection (FF) lists Photovoltaic solar power generation as provided in OAR 660-033-0130(38).

Finding: *This application is for a photovoltaic solar power generation and is subject to State Administrative Rule OAR 660-033-0130(38).*

UCDC 152.061(A-B) provides standards for all conditional uses to ensure compatibility with farming and/or forest activities in EFU zones. The Planning Director or hearings body shall determine that the proposed use complies with the following requirements under (A) and (B):

“(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(B) Will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.”

Finding: *The proposed 8-acre solar project is located on the 55.25-acre subject property. For the purpose of analyzing the project’s impact on surrounding land, all parcels adjacent to the property have been inventoried and are listed in Table 1 found in Exhibit A. The results of this analysis reveal no need to expand the study area to capture additional land uses that do not already exist immediately adjacent to the proposed use on the subject tract. Therefore, the adjacent parcels are more than adequate to accurately analyze the project’s impact to the existing land use pattern in the area.*

Based on the analysis found in Exhibit A, the proposed use will not force a significant change in accepted or significant increase in the cost of farming or forest practices on the surrounding lands devoted to farm or forest uses.

UCDC 152.063 provides development standards. The applicable subsections to the proposed use are described below:

UCDC 152.063(A) states a parcel shall have a minimum street or road frontage of 30 feet.

Finding: *The proposed use does not create a new parcel or split an existing parcel.*

UCDC 152.063(B) requires front yard setbacks for buildings of at least 30 feet from the property line or easement boundary, or at least 60 feet from the center line of the road, highway, or easement, whichever is greater.

Finding: *The proposed structure will be set back at least 30 feet from the front property line or 60 feet from the front center line of the road, highway, or easement, whichever is greater.*

UCDC 152.063(C) requires side and rear yard setbacks. Subsection (2) states the minimum yard setback for structures shall be five feet.

Finding: *The proposed structure will be set at least five feet from the side and rear property lines.*

UCDC 152.063(D) provides distances required for dwellings from aggregate mining operations.

Finding: *The proposed use does not include a dwelling.*

UCDC 152.063(E) provides setback requirements for streams, lakes, and wetlands with regard to sewage installations, structures, or buildings.

Finding: *There are no streams, wetlands, or floodplains on the subject tract. The proposed use does not require the installation of sewage infrastructure.*

UCDC 152.063(F) provides other development standards including UCDC 152.010 through 152.017, 152.545 through 152.562, and to the exceptions standards of 152.570 through 152.577. Specifically:

UCDC 152.010 provides criteria for access to buildings, private driveways, and easements.

Finding: *The Applicant will work with Umatilla County Public Works to obtain a Road Approach Permit for site access from Kirk Rd.*

UCDC 152.011 provides criteria for vision clearance.

Finding: *The Applicant will work with Umatilla County Public Works to ensure the proposed access conforms to the vision clearance criteria.*

UCDC 152.012 provides criteria for outdoor storage in residential zones.

Finding: *The subject tract is zoned EFU.*

UCDC 152.013 provides criteria for mobile homes.

Finding: *The proposed use does not involve a mobile home.*

UCDC 152.014 provides criteria for seasonal farm worker housing.

Finding: *This section has been deleted from the UCDC.*

UCDC 152.015 provides criteria for fences.

Finding: *The proposed use will implement perimeter fencing that conforms with UCDC 152.015.*

UCDC 152.016 provides criteria for riparian vegetation and wetland drainage.

Finding: *The proposed tract does not contain riparian vegetation or wetland drainage.*

UCDC 152.017 provides conditions for development proposals. Subsections A through D pertain to an undue burden on public transportation, developments that generate a significant increase in trip generation, impact mitigation of transportation related impacts, and dedication of land for transportation related purposes.

Finding: *The proposed use will not create any material impacts on the transportation system. After construction, the proposed use will be an unmanned facility and will create minimal trips. The estimated number of vehicle trips is one trip per month. As such, the proposed facility will contain a single parking space within the fenced area.*

UCDC 152.545 provides standards for signs.

Finding: *All signs implemented with the proposed use will conform with UCDC Sections 152.546 and 152.547.*

UCDC 152.570 through 152.577 provides exceptions.

Finding: *The proposed use does not require the exceptions listed in 152.570 through 152.577.*

UCDC 152.615(A-L) provides the Hearings Officer, Planning Director, or appropriate planning authority may impose additional conditions if circumstances warrant such additional restrictions. Specifically:

UCDC 152.615(A) may limit the manner in which the use is conducted, including restricted hours of operations and restraints to minimize environmental effects.

Finding: *Once constructed, the proposed photovoltaic solar power generation facility will be an unmanned facility. The proposed use will cause no material environmental effects such as noise, vibration, air pollution, water pollution, glare or odor. See Exhibit A for additional information regarding environmental considerations.*

UCDC 152.615(B) may establish a special yard or other open space or lot area or dimension.

Finding: *The proposed use will be constructed to abide with all development standards provided in UCDC 152.063 (see above). The structure will be setback from the front of the parcel either 60 feet from the centerline of Kirk Rd. or 30 feet from the front property line, whichever is greater, and at least five feet from the side property line.*

UCDC 152.615(C) may limit the height, size or location of a structure.

Finding: *The proposed solar facility will be less than 12 feet tall and will be located in the northwest corner of the parcel. This location is adjacent to the northern and western parcel boundary lines and Kirk Rd. The facility layout will not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property.*

UCDC 152.615(D) may designate the size, number, location and nature of vehicle access points.

Finding: *The Applicant will work with Umatilla County Public Works to obtain a Road Approach Permit for site access from Kirk Rd.*

UCDC 152.615(E) may increase the required street dedication, roadway width or improvements within the street right of way.

Finding: *See finding above.*

UCDC 152.615(F) may designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.

Finding: *The proposed use will be an unmanned facility and will create minimal trips, approximately 1 trip per month. As such, the proposed facility will contain a single parking space within the fenced area.*

UCDC 152.615(G) may limit or otherwise designate the number, size, location, height and lighting of signs.

Finding: *All signs implemented with the proposed use will conform with UCDC Sections 152.546 and 152.547. Signage shall be less than 32 square feet in area per UCDC 152.546(C) Type 3 Signs.*

UCDC 152.615(H) may limit the location and intensity of outdoor lighting.

Finding: *The proposed use does not require outdoor lighting.*

UCDC 152.615(I) may require diking, screening, landscaping or other methods to protect adjacent or nearby property and designate standards for installation and maintenance.

Finding: *The proposed use includes a chain link perimeter fence surrounding the structure. The proposed fence will be no greater than 8 feet in height. The perimeter fence will be implemented in accordance with UCDC 152.015.*

UCDC 152.615(J) may designate the size, height, location and materials for a fence.

Finding: *The proposed use will implement perimeter fencing per UCDC 152.015.*

UCDC 152.615(K) may protect and preserve existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources.

Finding: *There is no overlay zoning applied on the subject parcel. Exhibit A further discusses wildlife protection and environmental considerations.*

UCDC 152.615(L) may provide additional parking area requirements as listed in UCDC 152.560 through 152.562.

Finding: *The proposed facility will be unmanned and will create minimal trips, approximately 1 trip per month. As such, the proposed facility will contain a single parking space within the fenced area.*

OAR 660-033-0130(5) requires that applications shall only be approved where the governing body determines that the proposed use will not force a significant change in accepted farm or forest practices and that it will not significantly increase the cost of accepted farm or forest practices on surrounding lands.

FINDING: *See findings above, including UCDC 152.061(A-B).*

OAR 660-033-0130(38) provides that a proposal to site a photovoltaic solar power generation facility shall be subject to stated definitions, including the definition of "Photovoltaic solar power generation facility" under subsection (f) and standards for arable lands under subsection (a) of this rule. Specifically, this rule prevents the placement of photovoltaic solar generation facilities on high-value soils listed in OAR 660-033-0020(8)(a-e).

FINDING: *The proposed project meets the definitions of a Photovoltaic Solar Power Generation Facility under OAR 660-033-0130(38)(f) and being sited on Arable land under OAR 660-033-0130(38)(a). The tract is comprised of the following soils and is subject to OAR 660-033-0130(38)(i):*

Palouse silt loam, 1 to 7 percent slopes, (approx. 4.4 acres) – Class 2e soil
Palouse silt loam, 7 to 12 percent slopes, (approx. 48.8 acres) – Class 3e soil
Waha silty clay loam, 12 to 25 percent slopes, (approx. 2.6 acres) – Class 4e soil

OAR 660-033-0130(38)(i) provides that for projects sited on arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20-acres from use as a commercial agricultural enterprise.

FINDING: *The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 20-acres.*

OAR 660-033-0130(38)(i)(A) provides the project is not located on high-value farmland soils listed in OAR 660-033-0020(8)(a) except collection systems connecting the facility to a transmission line.

Finding: *The project is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(a-e).*

OAR 660-033-0130(38)(i)(B) provides the project is not located on those high-value farmland soils or arable soils unless it can be demonstrated that:

1. Nonarable soils are not available on the subject tract;
2. Siting the project on nonarable soils present on the subject tract would significantly reduce the projects ability to operate successfully; or,
3. The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites.

Finding: *There are no nonarable soils available on the subject tract. The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will not*

create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property.

OAR 660-033-0130(38)(i)(C) provides no more than 12 acres of the project will be sited on high-value farmland soils.

Finding: *The project is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(a-e).*

OAR 660-033-0130(38)(i)(D) provides a study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

1. If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
2. When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Finding: *There are currently no other photovoltaic solar facilities that have received land use approvals and obtained building permits within a one-mile radius of the proposed project site. No further study is necessary under this criterion.*

OAR 660-033-0130(38)(i)(E) provides the requirements of OAR 660-033-130(38)(h)(A-D) are satisfied. These items pertain to negative impacts on agriculture, soil erosion, soil compaction, and weed management. Specifically:

OAR 660-033-130(38)(h)(A) states the proposed facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components.

Finding: *The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features on the property. The placement of the proposed facility will not disrupt common and accepted farming practices.*

OAR 660-033-130(38)(h)(B) states the presence of the proposed use will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

Finding: *The Applicant has included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil erosion or loss.*

OAR 660-033-130(38)(h)(C) states the construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

Finding: *The Applicant has included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil compaction or loss.*

OAR 660-033-130(38)(h)(D) states construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.

Finding: *The Applicant has included a Weed Mitigation Plan that addresses how the project will not result in unabated introduction or spread of noxious and other undesirable weeds.*

OAR 660-033-0130(38)(l) provides that the county shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

Finding: *As a condition of approval, Hay Creek Solar, LLC is willing to sign the required deed restriction.*

OAR 660-033-0130(38)(m) provides that nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

Finding: *As a condition of approval, Hay Creek Solar, LLC is willing to be responsible for retiring the facility. Given the salvage value at the end of life, a bond or other security for retiring the components is not necessary. At the end of life, all non-utility owned equipment, conduits, structures, and foundations will be removed to a depth of at least three feet below grade.*

UCDC 152.616 and UCDC 152.617 provide standards for review of conditional uses and land use decisions.

Finding: *The proposed use is not implemented through UCDC 152.616 or UCDC 152.617. The applicable UCDC Sections to implement the proposed use are 152.060, 152.061, 152.063, 152.615, and the Goal 3 Agricultural Lands Rules under OAR 660-033-0130(5) and OAR 660-033-0130(38). See findings above.*

OCT 23 2020

UMATILLA COUNTY
PLANNING DEPARTMENT

Applicant's EXHIBIT A

ANALYSIS OF IMPACTS ON FARMING & SURROUNDING PARCELS

I. INTRODUCTION

This memorandum supplements the findings in the applicant's burden of proof and provides a detailed analysis of the project's impact to surrounding farmland and the existing land uses surrounding the project site. Detailed explanation of these uses and why the proposed solar facility is compatible with all existing farm uses in the area is provided below.

II. PROPOSED USE

The proposed power generation facility is located on a subject tract in Umatilla County, Oregon that contains predominantly arable soils. The solar facility will consist of photovoltaic modules supported by stationary piles driven six to ten feet into the ground.

The project area will remove 8-acres from an existing 55.25-acre tract. The remaining 47.25 acres will be available for the discretionary use of the landowner. The shape of the proposed leased area will ensure that the established farming practices and other land uses on the remainder of the parcel are not materially impacted. There will be no additional small fields remaining unfarmable. There will be no material adverse impacts to adjacent agricultural uses. No air emissions are discharged and no water will collect or drain offsite. The access road for the project will not separate fields.

Once constructed, the proposed facility is essentially unoccupied with only an occasional inspection or maintenance required. The solar facility does not cause any vibrations, smoke or other particulates, temperature fluctuations, or stormwater impacts.

III. STUDY AREA

For the purpose of analyzing the project's impact to farming and surrounding land, all parcels or portion of parcels that are adjacent to the subject tract have been inventoried and listed in the Table 1, below.

Creating a larger study area surrounding the subject property would not alter the results of the analyses. This is because if any conflicts existed it would be between the two conflicting uses within the study area. Therefore, the size of the Study Area provided here is more than adequate to accurately analyze the project's impact to the existing land use pattern in the area.

Table 1: Inventory of All Parcels adjacent to Subject Tract.

| Taxlot No. | Zone | Acres | Location in Relation to Subject Tract | Current Use |
|---------------|-------------|--------|---------------------------------------|------------------------------------|
| 4N3500008200 | EFU | 77.84 | South | Field, Hay or Wheat |
| 4N3522DC00100 | EFU, R-SUB | 3.38 | Southwest | Residential, Field |
| 4N3522DB06300 | R-SUB | 1.59 | West | Vacant/Grazing |
| 4N3522DB06100 | R-SUB | 0.52 | West | SFR, Outbuildings |
| 4N3522DB06000 | R-GEN | 0.24 | West | SFR |
| 4N3522DB05901 | R-GEN | 0.18 | West | SFR |
| 4N3522DB05900 | R-GEN | 0.34 | West | SFR |
| 4N3522DB00400 | R-GEN | 0.21 | West | SFR |
| 4N3522DB00300 | R-GEN | 0.24 | West | SFR |
| 4N3522DB00200 | R-GEN | 0.24 | West | SFR |
| 4N3522DB00100 | R-GEN | 0.24 | West | SFR |
| 4N3522DB00101 | R-GEN | 0.25 | West | SFR |
| 4N3522AD00700 | R-GEN | 0.10 | West | SFR |
| 4N3522AD00800 | R-GEN | 0.02 | West | Vacant |
| 4N3522AD00300 | R-GEN, F-1 | 2.58 | West | SFR, Outbuildings, Outdoor Storage |
| 4N3522AD00200 | R, F-1, EFU | 7.16 | Northwest | SFR, Outbuildings, Field |
| 4N3522AD00100 | EFU | 1.50 | North | Field, Grazing |
| 4N35220000400 | EFU | 2.27 | North | SFR, Outbuildings |
| 4N3500007000 | EFU | 107.00 | East | Field, Hay or Wheat |
| 4N3500007100 | EFU | 79.59 | Southeast | Field, Hay or Wheat |

IV. STUDY AREA ANALYSIS

Compatibility with surrounding farm practices

Information on surrounding farm use and other uses within the Study Area surrounding the subject tract has been provided, in Table 1, above. For the purposes of this analysis “farm use” is considered to be defined by Oregon’s Revised Statutes for zoning ordinances establishing farm use zones.¹

The farm practices in the Study Area are compatible with the proposed use and will not experience any adverse or negative impacts. Only the project area on the subject tract will see a change in land use.

Plowing, burning, application of herbicides and pesticides, disking, pruning, and machine harvesting are accepted farming practices that may take place in the surrounding study area. These are all common farm practices used in the cultivation of the surrounding crops, including and hay. None of the lands in the Study Area devoted to farming will be impacted by the proposed solar facility because the facility will not cause any impacts that conflict with the farming practices and such activities will be able to continue throughout project construction and operation.

Additionally, none of the adjacent or surrounding parcels in the Study Area will experience any indirect impacts due to emissions, vibration, or temperature fluctuations. The project does not produce any emissions, either atmospheric or into waterways, or any perceivable vibrations or temperature fluctuations.

Glare and Sound

While operation of a solar facility does produce minimal reflective light glare and ambient sound impacts, they are insignificant and will not cause any issues for the surrounding farm uses.

With regards to glare, Solar panels are designed to absorb light from the visible spectrum, not to reflect it, although some upward reflection does occur. To assist light absorption, solar panels are constructed of dark-colored (blue or black) materials and are covered with an anti-reflective coating. Studies on the topic of glare from experts in industry and academia have concluded that modern PV panels reflect as little as

¹ OAR 215.203(2)(a) As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

two-percent of incoming sunlight, which is about the same as water and less than soil or wood shingles.^{2,3} Naturally occurring ponds and streams, snow, and even certain kinds of soil and vegetation are reflective. The small amount of light that is reflected away from the solar panels is comparable to the glare from a body of smooth water such as a flat pond or a lake.

Additionally, the solar panels are mounted at an angle that allows for the most light to be absorbed throughout the year, which results in the panels facing the sky at shallow angles (typically less than 25 degrees). As a result, what little light is reflected is not visible to ground-level observers.

To address concerns for aviation, all solar farms are required to be approved by the FAA as potential glare hazards for aviators. To date, no PV array has been deemed a glare hazard as is represented by the large numbers of PV power plants built next to highways and around airports.⁴

As for noise, the only source of noise is from the inverter cooling fan that runs on warmer days. Noise ratings from manufacturers for the type of inverter the project will use indicate that noise levels are comparable to the perceived ambient noise of a quiet rural or suburban setting at nighttime – about 35-40 decibels within 5 meters. Again, no sound is produced at night.

Additionally, the equipment's noise rating is less than the most stringent noise level standards for industrial or commercial sources in quiet areas as defined by OAR 340.35.035 which permits L50 noise levels of 50 decibels from 7 a.m. to 10 p.m. and 45 decibels from 10 p.m. to 7 a.m., as measured from an appropriate measurement point.

Further, due to the placement of the inverters within the project area, any noise will be effectively obstructed and dissipated by the other project components such that the decibel level from inverter fan noise will be indistinguishable from ambient noise at any point beyond the project area. The proposed use, once installed is relatively passive and remains that way during the life of the facility. None of the facility's remaining components actively produce any significant sound.

Soil Erosion

The facility will protect soils and prevent water-borne runoff with control measures which typically includes straw bales, hay coil logs, run-off channels, silt fencing, and sediment basins. Once constructed, natural vegetative growth is encouraged within the facility to prevent erosion, and the areas where panels are located are not considered impervious. Additionally the project will acquire from the Oregon Department of Environmental Quality a National Pollutant Discharge Elimination System Stormwater Construction General Permit 1200-C to ensure runoff is effectively managed during construction.

Minimal ground disturbance only occurs during the short (6 to 12 week) construction period. Heavy equipment and traffic is restricted to perimeter roads, which comprise less than 3% of the site area during construction. To further protect against erosion, most roads on the site are re-seeded with vegetation after

² Palmer, C. & Laurent, C. (2014). Solar and Glare. Meister Consultants Group Inc. <http://solaroutreach.org/wp-content/uploads/2014/06/Solar-PV-and-Glare-Final.pdf>

³ Riley, E. & Olson, S. (2011). A study of the hazardous glare potential to aviators from utility-scale flat-plate photovoltaic systems. ISRN Renewable Energy, <http://dx.doi.org/10.5402/2011/651857>

⁴ Federal Aviation Administration (2010). Technical Guidance for Evaluating Selected Solar Technologies on Airports. Washington, D.C.

construction unless otherwise required by the soil conditions or indicated by the jurisdiction. Please reference the included soil erosion control plan for further information.

Traffic

All traffic during construction will be coordinated with the county road department and the state highway department.

No Toxicity

The solar PV panels are composed of non-toxic materials, do not erode, and do not have any emissions. The facility will use Crystalline Silicon (C-Si) solar PV panels. The solar PV panel is an inert crystal composed of non-toxic materials like a glass plane. The sealed PV panels do not leach metals into the environment and are recycled at the end of their lifecycle.

C-Si modules are produced by sourcing extremely high quality, pure silicon or quartz. The silicon is heated until it melts, after which a crystal is grown from a source ingot. The silicon crystal is sliced into thin wafers and mounted onto a durable backing material, after which the panel is encapsulated by glass and an aluminum frame.⁵

Electro-Magnetic Fields (EMF)

The International Commission on Non-Ionizing Radiation Protection has established 833 milli-Gauss (mG) as the limit for prolonged exposure to electro-magnetic fields. The inverter is the strongest source of magnetic fields in the solar facility with levels varying from 150-500 mG at a distance of one to two feet. As an unmanned facility, prolonged exposure is never an issue. At 150 feet, the inverter's magnetic field levels drop below 0.5 mG or less, often falling to the background level of earth's magnetic field of 0.2 mG.⁶

No other solar PV component emits EMFs that are measurable above the earth's magnetic field. There are no EMFs emitted at night.

Wildlife Protection

Wildlife is protected by using perimeter fencing and barbed wire to prevent access for large mammals, such as deer. Large animals are kept out of the site because they can interfere with equipment, damage wiring, or injure themselves. In cases when barbed wire is not used, perimeter fence height is increased.

Smaller animals, such as squirrels and birds, are allowed to pass throughout the facility following construction. The environment in the solar facility is often conducive to a wildlife habitat for its natural vegetation as well as providing a significant amount of shade and being relatively undisturbed. Wildlife

⁵ Electric Power Research Institute and California Energy Commission. (2003). Potential health and environmental impacts associated with the manufacture and use of photovoltaic cells. Sacramento, CA.

⁶ Massachusetts Clean Energy Center. (2012). Study of acoustic and EMF levels from solar photovoltaic projects. Boston, MA.

access to electrical equipment is prevented with conduit protection for wires and sealing all equipment entry points with foam sealant.⁷

Decommissioning

Decommissioning and dismantling of the solar PV power plant is not expected to occur until over thirty years after the facility is constructed. The system's equipment, including wires, conductors, and racking, has significant salvage value since it is comprised of useful metals such as copper, aluminum and steel. The PV panels are valuable for their semiconductor materials and rare metals such as silver. The salvage value meets or exceeds the cost of decommissioning. At the end of the facilities' lifetime; a solar reclamation firm will collect the modules for recycling, the inverters for refurbishing, and the hardware for salvage. The land is then reseeded with a local seed mix and can be used for agriculture or other uses.⁸

Property Values

Studies by licensed appraisers on the impacts of a solar facility on neighboring property values have shown that there is no or negligible impacts to property values. The criteria for making downward adjustments on property values such as appearance, noise, odor, and traffic all indicate that a solar farm is a compatible use in rural/residential areas.⁹

Additionally, numerous studies found the impact of wind energy generation on neighboring property values to be negligible. As solar farms do not have the same impacts as wind farms (i.e., PV facilities do not cast a shadow on neighboring properties, cause light flicker, or have the same visual impact as wind farms), the impacts on property values caused by solar farms are anticipated to be less than the impacts of wind farms.¹⁰

Conclusion

Once constructed, the proposed facility is essentially unoccupied and its ongoing operation and existence will not cause adjacent farmers to alter or curtail in anyway the farming practices on nearby agricultural lands or make farming more difficult. As a result, the project will not preclude any additional land from farm use on the subject tract or the surrounding lands.

⁷ Turney, D. & Fthenakis, V. (2011). Environmental impacts from the installation and operation of large- scale solar power plants. *Renewable and Sustainable Energy Review*, 15, 3261-3270.

⁸ McGavran Engineering, P.C. (2014) *Solexus development corporation decommissioning proposal*. Charlotte, NC.

⁹ Kirkland Appraisals, LLC (2016). *Fox Solar Impact Study* (Conditional Use Permit for the Fox Solar Farm). Cascade County, MT.

¹⁰ National Association of Realtors (2017). *Field Guide to Wind Farms & Their Effect on Property Values*. Chicago, IL.



RECEIVED

DEC 18 2020

UMATILLA COUNTY
PLANNING DEPARTMENT

December 17, 2020

Umatilla County
Department of Land Use Planning
Attn: Carol Johnson
216 SE 4th Street
Pendleton, OR 97801

RE: Hay Creek Solar, LLC, Solar Project Conditional Use Permit Application Completeness Letter

Dear Ms. Johnson,

Thank you for your November 20, 2020 dated letter concerning the conditional use application for Hay Creek Solar, LLC. This letter addresses the various items of insufficient evidence as they appear in your original letter.

1. High Value Farmland

The criteria for high value farmland under OAR 660-033-0130(38) are addressed below.

OAR 660-033-0130(38)(g) states for high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless the specified criteria are met.

FINDING: *The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 12 acres.*

Approximately 92% of the subject property is comprised of arable soils. The solar facility is sited solely on arable soil.

OAR 660-033-0130(38)(h) provides criteria for the proposed use on high-value farmland. Specifically:

OAR 660-033-0130(38)(h)(A) states "the proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices."

FINDING: *The placement and layout of the proposed facility is in the northwest corner of the tract. The facility layout will neither create small or isolated pieces of land that are more difficult to farm nor fragment the remaining acreage any more than existing features on the property. The placement of the proposed facility will not disrupt common and accepted farming practices. The facility is sited adjacent to the public roadway access and therefore access to the facility will not divide the field or create small or isolated pieces of property that are more difficult to farm.*

OAR 660-033-0130(38)(h)(B) states "the presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approval shall be attached to the decision as a condition of approval."

FINDING: *Please see the attachments provided with the Burden of Proof submitted with the CUP Application. The Applicant included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil erosion or loss.*

OAR 660-033-0130(38)(h)(C) states "construction or maintenance activities will not result in unnecessary soil compaction that reduced the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval."

FINDING: *Please see the attachments provided with the Burden of Proof submitted with the CUP Application. The Applicant included a Soil Erosion and Compaction Plan that addresses how the project will not result in unnecessary soil compaction or loss.*

OAR 660-033-0130(38)(h)(D) states "construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval."

FINDING: *Please see the attachments provided with the Burden of Proof submitted with the CUP Application. The Applicant included a Weed Mitigation Plan that addresses how the project will not result in unabated introduction or spread of noxious and other undesirable weeds.*

OAR 660-033-0130(38)(h)(E) states "except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a)."

FINDING: *The proposed facility is not located on any high-value farmland soils. The facility is located solely on arable soils.*

OAR 660-033-0130(38)(h)(F) states "the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b-e) or arable soils unless it can be demonstrated that:

- (i) Non high-value farmland soils are not available on the subject tract;
- (ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils."

FINDING: *The proposed facility is not located on any high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e). The proposed facility is located solely on arable soil Palouse silt loam (7 to 12 percent slopes) classified as 3e soils. There are no nonarable soils available on the subject property. The proposed project location is better suited to allow continuation of existing farm operations on the subject tract than other possible sites on the tract.*

OAR 660-033-0130(38)(h)(G) states "a study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

- i. If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
- ii. When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area."

FINDING: *There are currently no other photovoltaic solar facilities that have received land use approvals and obtained building permits within a one-mile radius of the proposed project. No further study is necessary under this criterion.*

OAR 660-033-0130(38)(h)(H) states "a photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4" if the stated criteria are met.

FINDING: *The proposal is for an 8-acre photovoltaic solar power generation facility and will not use, occupy, or cover more than 12-acres.*

2. Mapping and Dimensions

The proposed use is for an 8-acre solar facility located in the northwest corner of the subject Tax Lot 700. The measurements provided on the previously submitted Zoning Site Plan (page W-103) were incorrect (797'-9" east/west and 1,054'-8" north/south). Please find a revised site plan with updated dimensions attached.

3. Connection to the Power Grid

The definition of a "photovoltaic solar power generation facility" is provided by OAR 660-033-130(38)(f). This definition states the facility includes "electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line" and "all necessary grid integration equipment". The facility also includes "wiring, storage devices and other components".

The proposed use meets the definition for a photovoltaic solar power generation facility as defined in OAR 660-033-130(38)(f). Therefore, the proposed utility facility includes all necessary grid integration equipment. The applicant (Hay Creek Solar, LLC) is an interconnection customer of PacifiCorp and the proposed facility will be integrated with the public utility's grid system. The necessary grid integration equipment will be determined by the requirements of PacifiCorp and the Oregon Public Utility Commission. The interconnection of the proposed facility and the public utility's grid distribution system is subject to the jurisdiction of the Public Utility Commission of Oregon and are governed by OPUC Rule OAR 860, Division 088 and Public Utility's Community Solar Interconnection Procedures.

The proposed facility will be integrated with the public utility grid at the "proposed point of interconnection" power pole identified on the site plan map. The applicant may be required to have necessary grid integration equipment between the solar modules and this power pole. PacifiCorp typically requires overhead utility poles for integrating the facility with the grid. However, the applicant does not have any control over what equipment is required. The applicant will work with the property owner and PacifiCorp to secure any required easements for the proposed facility to integrate with the utility grid.

In conclusion, there is no proposed transmission line and the equipment that enables connection to the power grid fits within the definition of a photovoltaic solar power generation facility. All of the equipment required to connect to the grid is part of the facility itself, and not a transmission line or an associated transmission line. Nonetheless, if the planning body determines this equipment is considered a transmission line then Umatilla County Development Code (UCDC) Section 152.617(II)(7)(B) would require review.

UCDC 152.617(II)(7)(B) states "An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.283(1)(c) demonstrates to the governing body that the associated transmission line meets

either the requirements of paragraph (1) of this subsection or the requirements of paragraph (2) of this subsection.”

FINDING: *This section of the UCDC does not apply to the proposed use. OAR Chapter 660 Division 33 "Agricultural Land" implements ORS 215.203 through 215.327. The applicable review criteria for the proposed use are found under OAR 660-033-130(38).*

ORS 215.283(1)(c) states:

"Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

A) ORS 215.275; or

B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

A utility facility established under ORS 215.283(1)(C) is implemented through OAR 660-033-130(16). The proposed use is for a photovoltaic solar power generation and subject to OAR 660-033-130(38).

Should the planning body determine that the proposed use is for an associated transmission line(s) then ORS 215.283(1)(c)(B) would be applicable.

FINDING: *ORS 215.274 and ORS 469.300 defines "associated transmission line" as "new transmission lines constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the northwest power grid."*

The term "energy facility" is defined in ORS 469.300(11). The proposed use does not meet the definition of "energy facility". Therefore, the term "associated transmission line" found in ORS 215.283(1)(c)(B) is not applicable to the proposed use.

Nonetheless, if the planning body determines the necessary grid integration equipment is an associated transmission line, then OAR 660-033-130(16)(b) (which is implemented by UCDC in 152.617(II)(7)(B)) would apply to the proposed use. In this subsection, an associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.283(1)(c) demonstrates to the governing body of a county or its designee that the associated transmission line meets either the requirements of paragraph (A) of this subsection or the requirements of paragraph (B) of this subsection. Paragraph (B) states "after an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of this subsection, two or more of the following criteria:

- (i) Technical and engineering feasibility.

- (ii) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonable direct route to meet unique geographical needs that cannot be satisfied on other lands.
- (iii) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground

FINDING: *The proposed facility has achieved technical and engineering feasibility and therefore the applicant meets the criteria under OAR 660-033-130(16)(b)(B)(i). The proposed solar facility integrates into the utility grid at the point of interconnection. The point of interconnection is defined by PacifiCorp as the point where the public utility's interconnection facilities connect to the public utility's 12.5 kV distribution circuit 5W7 out of Weston substation. The point of change of ownership is defined as the point where the interconnection customer's (i.e. Hay Creek Solar, LLC) interconnection facilities connect to the public utility's interconnection facilities. PacifiCorp has studied and approved the proposed facility to be integrated into the utility grid. Hay Creek Solar, LLC will operate and interconnect the proposed facility in accordance with the public utility's policies governing interconnection of generation facilities.*

The applicant meets the criteria under OAR 660-033-130(16)(b)(B)(ii). The integration equipment is locationally dependent because the associated electrical cable collection systems connecting the photovoltaic solar generation facility to the grid must cross a portion of the subject parcel to reach the utility grid. As mentioned above, the proposed facility will interconnect into distribution circuit 5W7. The only point where circuit 5W7 is adjacent to the subject property is at the proposed point of interconnection. Therefore, the proposed location is the most reasonable direct route to meet the unique geographical needs. Wallace Street appears to extend easterly and abut the subject tax lot near the point of interconnection. The insurable access would be direct from Wallace Street.

The applicant meets the criteria under OAR 660-033-130(16)(b)(B)(iii). There is not an existing right of way for a linear facility that is located above ground to the proposed solar array. The right of way does not extend past Wallace Street.

OAR 660-033-130(16)(b)(C) states "as pertains to paragraph (B), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland." The facility is designed to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland. The impacts on surrounding lands devoted to farm use are nonexistent, and any potential impacts are minimized. Regarding the necessary grid interconnection equipment, all required equipment is located close to the property line,

Wallace Street, and the right of way in order to maximize the amount of the field that remains available for its current use. The facility is not expected to have any material impact. In addition, the location of the facility does not create small or isolated pieces of land that are more difficult to farm or fragment the remaining acreage any more than existing features. Please see additional findings within this letter, and within the BOP and Exhibit A submitted with the application.

UCDC 152.003 provides general definitions that apply to the development code. There is no definition provided for "facility" or "photovoltaic solar power generation facility". There is a definition provided for "commercial wind power generation" and "wind power generation facility". Therefore the definition for "photovoltaic solar power generation facility" as defined by OAR 660-033-130(38)(f) applies to the proposed use. In addition, the UCDC provided definition for "structure" includes "utility poles for overhead transmission lines".

In conclusion, all of the equipment required to connect proposed project to the grid is part of the facility itself, and not a transmission line or an associated transmission line. However, if the planning body should determine that there is a proposed associated transmission line in conjunction with the facility, then the proposed use should still be an allowed conditional use since it adequately satisfies the associated criteria, as demonstrated above.

4. Neighboring Farm Uses

Please see the response provided to criteria UCDC 152.061(A-B) in the Burden of Proof submitted with the CUP application. As described, the proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use, and the proposed use will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.

The current land uses occurring on each parcel located adjacent to the subject parcel was provided in Table 1 of Exhibit A submitted with the CUP application. In the table below, more detail is provided for the farm uses which are occurring on the subject tract and each of the adjacent EFU zoned parcels as well as the applicable farming practices.

ORS 215.010(4) provides "farm use" has the meaning given that term in ORS 215.203. The Applicant applied the definition for farm use found in ORS 215.203(2). In addition, per ORS 215.203(2)(c), "Accepted Farm Practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. ORS 30.930(2) defines "farming practice" as a mode of operation on a farm that: a) is or may be used on a farm of a similar nature; b) is a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money; c) is or may become a generally accepted, reasonable and prudent method in conjunction with farm use; d) complies with applicable laws; and e) is done in a reasonable and prudent manner.

GREENKEY SOLAR
INTEGRITY. TRANSPARENCY.

Table 1. Farm Uses and Applicable Farming Practices on Subject Tract and Adjacent Parcels.

| Map # | Zone | Acres | Location | Farm Uses | Applicable Farming Practices |
|----------------|--------------|--------|-----------|---|---|
| 4N3500000-8200 | EFU | 77.84 | South | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |
| 4N3522DC0-0100 | R-SUB EFU | 3.38 | Southwest | Grazing; Pasture/Grass; Livestock; Agricultural Outbuilding/Shed | Breeding, Feeding, Watering |
| 4N3522AD0-0300 | R-GEN F-1 | 2.98 | West | Agricultural Outbuildings; Vehicle Storage; Open Field | Equipment Maintenance Farm Use |
| 4N3522AD0-0200 | R F-1 | 9.05 | Northwest | Horses; Pasture/Grass; Agricultural Outbuildings | Livestock: Breeding, Feeding, Watering, Training |
| 4N3522AD0-0100 | EFU | 1.50 | North | Horses; Pasture/Grass; Corral | Livestock: Breeding, Feeding, Watering, Training |
| 4N3522000-0400 | EFU | 2.27 | North | Horses; Corral; Pasture/Grass; Outbuildings | Livestock: Breeding, Feeding, Watering, Training |
| 4N3500000-6800 | EFU | 1.56 | Northeast | Dryland Winter Wheat and Fallow Rotation; Agricultural Outbuilding | Tilling, Planting, Spraying, Harvesting |
| 4N3500000-7000 | EFU | 107.00 | East | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |
| 4N3500000-7100 | EFU | 79.59 | Southeast | Dryland Winter Wheat and Fallow Rotation; Sometimes Canola or Barley | Tilling, Planting, Spraying, Harvesting |
| 4N3522000-0700 | EFU | 55.25 | Subject | Dryland Winter Wheat and Fallow Rotation | Tilling, Planting, Spraying, Harvesting |

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The zoning classifications found in Table 1 are from the City of Weston and Umatilla County zoning maps, zoning codes, and County assessor statement. The Umatilla County zoning classifications include EFU (Exclusive Farm Use) and F-1 (undefined, previously used for Exclusive Farm Use). The City of Weston zoning classifications include R (subclassification Residential Farm), R-GEN (General Residential), and R-SUB (Suburban Residential).

As displayed in Table 1 above, dryland winter wheat crops are the predominate farm use on both the subject tract and adjacent parcels zoned EFU. A dryland winter wheat and fallow rotation is a two-year rotation. The field produces one harvest of crops every two years. In year one, winter wheat is planted in the fall and harvested in the summer. In the opposite year, the field is left fallow.

The farming practices typical for a wheat crop include tilling, planting, spraying, and harvesting. Tilling practices are used to prepare the soil for planting, such as plowing, discing, or harrowing. The seeds are sown into the field using a tractor and planter, such as a wheat drill attached to a tractor. Growers may use direct seed cropping systems. Growers apply pesticides and/or fertilizers by spraying the fields. Further explanation of the typical farm practices for the cultivation of grain crops is provided below.

Combining. Combining uses a machine to harvest the crop. This machine combines reaping, threshing, and winnowing.

Grain Cart. Grain crops are put into a grain cart from the combine. The grain cart is pulled onto the field by a tractor.

Grain Drill and No Till Drill. A drill may be pulled behind a tractor to plant rows of seeds in the field. This device sows the seeds for crops into the ground and covers them with dirt.

Planting. To plant the crop, a tractor pulls machinery through the field to sow the seeds. Planting may be completed by using a no till drill. Seed is transferred from a gravity box (wagon) to the no till drill hopper by an auger.

Semi-Truck. The grain crops are transferred from the grain cart into a semi-truck, which is used to transport the grain to storage, such as a grain elevator.

Spraying: fungicide or herbicide may be sprayed on fallow fields and/or crops to chemically control weeds. Fertilizer may also be sprayed on crops to supply plant nutrients essential for growth. Spraying is typically applied by a sprayer attached to a tractor.

Tilling. Tilling is used to prepare the land for planting the crops. To till the land, a tractor pulls a cultivator through the field to break up the ground. The shovels in the front of the cultivator creates a seed bed. The cultivator may also have a harrow that breaks up any clumps helps flatten the ground. The cultivator may also have a roller on the back that ensures the field is flat.

Transporting. Farm uses require transporting inputs to machinery on the field and transporting outputs out of the field to storage or market. This includes pickup trucks supplying inputs such as herbicides, pesticides, fungicides, and fuel to equipment operating on the field. Wagons, semi-trucks and trailers are used to transport the harvest from the field to storage and market.

FINDING: *The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. The proposed use will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.*

The proposed use does not impact the farmer's use of surrounding lands to till, plant, spray, or harvest crops. In addition, the proposed use does not limit the farmers ability to operate combines, cultivators, grain carts, grain drills, grain wagons, pickup trucks, semi-trucks, sprayers, tractors, pickup trucks, semi-trucks, or any other similar activity. The proposed use does not force any of these practices to change and does not significantly increase the cost of accepted practices.

There are additional farm uses occurring on parcels adjacent to the subject parcel. These uses primarily include raising and/or training livestock and equines. Additional explanation of the typical farm practices for the remaining farm use zoned parcels is provided below.

Breeding. Breeding is the mating and production of offspring by animals and may occur where livestock and/or equines are raised. Successful breeding requires adequate shelter, food, and water.

Equipment Maintenance. Farm Use includes the on-site construction and maintenance of equipment and facilities used for the activities as described in ORS 215.203.

Feeding. Feeding livestock and/ or equines may be accomplished through grazing open grassy pastures or by providing feed for the animals in troughs.

Training. Training of livestock and/or equines includes teaching them to perform certain behaviors, conducting riding lessons, training clinics, schooling shows, and other similar activities.

Watering. Livestock and/or equines are typically provided water through troughs or similar equipment either in the corral, pen, pasture, or within agricultural buildings.

FINDING: *The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. The proposed use will not significantly increase the cost of accepted farm or forest practices on land devoted to farm or forest use.*

The proposed use does not impact the farmer's use of surrounding lands to raise livestock, including breeding, feeding, training, and watering. Nor does it impact the farmer's ability to maintain equipment for farm use. The proposed use does not force

any of these practices to change and does not significantly increase the cost of accepted practices. Further discussion on livestock is included below.

Regarding livestock, there are no impacts to livestock outside or inside of the project area. In fact, there have been numerous solar facilities that have successfully integrated sheep into the facility to eat grasses within the perimeter fence.

Grazing sheep within a field of solar panels is becoming increasingly common, according to the National Renewable Energy Laboratory.¹ There are businesses set up for the specific purpose to graze sheep on the grounds of solar farms to both raise healthy sheep and provide ground maintenance for the solar facility manager.² The Penn State University Extension office states sheep are well-suited to maintain solar arrays and the "solar energy sheep grazing enterprise may be an avenue for growth in the sheep and lamb business."³ This confirms the benefits accrue to the sheep farmer and solar facility manager alike, indicating the sheep are not harmed.

Within Oregon, a team of researchers at Oregon State University studied a six-acre field that integrated a sheep grazing pasture with a solar facility for two years. The study found that grasses favored by sheep thrive in the shade of the solar panels. They concluded the "agricultural benefits of energy and pasture co-location could reduce land competition and conflict between renewable energy and agricultural production".⁴ Oregon State researcher Chad Higgins indicated some observed plants required much less water than open field conditions, and you get "double the yield, less water and all the solar energy" which makes the environment suitable for sheep.⁵

The proposed use will not have impacts on livestock farm uses on adjacent parcels. A copy of each of the resources cited within this section are attached to this letter.

Please feel free to contact us at any time at 503-207-7302 if you have any questions.

Sincerely,



Reuben Grandon

¹ Mow, Benjamin. (2018). Solar Sheep and Voltaic Veggies: Uniting Solar Power and Agriculture. U.S. Department of Energy, National Renewable Energy Laboratory. <https://www.nrel.gov/state-local-tribal/blog/posts/solar-sheep-and-voltaic-veggies-uniting-solar-power-and-agriculture.html>.

² Sun-Raised Farms. Cornelius, NC. <https://www.sunraisedfarms.com/home>. Accessed Nov. 18, 2020.

³ Hartman, David. (2020). Sheep Grazing to Maintain Solar Energy Sites in Pennsylvania. College of Agricultural Sciences, Penn State University. <https://extension.psu.edu/sheep-grazing-to-maintain-solar-energy-sites-in-pennsylvania>.

⁴ Adeh, E. H., Selker, S. J., & Higgins, C. W. (2018). Remarkable Agrivoltaic Influence on Soil Moisture, Micrometeorology and Water-use Efficiency. Oregon State University. PLOS One. <https://doi.org/10.1371/journal.pone.0203256> Page 13.

⁵ Branam, Chris. (2018). Solar Arrays Could be Used as Resources for Plant Productivity, Study Shows. Oregon State University. Newsroom. <https://today.oregonstate.edu/news/solar-arrays-could-be-used-resources-plant-productivity-study-shows>.



RECEIVED

FEB 16 2021

**UMATILLA COUNTY
PLANNING DEPARTMENT**

January 27, 2021

Name
Address
City, State, Zip

RE: Proposed Solar Project

Dear _____,

I am writing to share with you the details and scope of a proposed project which we are developing in your area.

This project would utilize approximately 8 acres of land on the west side of a 55.25-acre parcel located on the south side of Kirk Rd. (County Rd. 648) and east of Weston city limits. The map tax lot number is 4N35220000700.

The project will consist of solar panels with a low elevation profile. Once constructed, the facility will be self-contained and produce no noise, light, or create additional traffic. The electricity generated from this project will be sold to Pacific Power and will produce enough electricity to power 100 to 150 homes per year.

We are in the process of applying for a conditional use permit with Umatilla County. Given that you might have questions or concerns about the project, we wanted to introduce ourselves to you and provide you with contact information.

If you would like to discuss further, or have any questions, please feel free to contact me directly at 503-207-7302 or Reuben@GreenKeySolar.com.

Regards,

Reuben Grandon
GreenKey Solar, Inc.

February 11th, 2021

To Whom it May Concern:

I have spoken with Reuben Grandon (Hay Creek Solar, LLC) regarding the proposed solar facility on land owned by Judy Kirk. Based on our discussions, the solar farm will not impact any of my farm operations on the remaining portion of the property. I will be able to continue farming the remainder of the parcel. Reuben has addressed my concerns with the solar facility and the lines of communication are open.

Sincerely,



Emery Gentry

RECEIVED

FEB 16 2021

**UMATILLA COUNTY
PLANNING DEPARTMENT**

**PLANNING COMMISSION HEARING
DECEMBER 17, 2020**

DRAFT MINUTES

TEXT AMENDMENT #T-20-083

**AMENDMENT OF THE UMATILLA COUNTY
DEVELOPMENT CODE**

**INCORPORATING THE OPPORTUNITY TO CREATE
PARCELS TO ACCOMMODATE UTILITY FACILITIES
NECESSARY FOR PUBLIC SERVICE**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, December 17, 2020, 6:30 pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
Virtual meeting via Zoom

** **

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Molly Tucker Hasenbank, Tammie Williams, Tami Green, Lyle Smith, Hoot Royer

ABSENT: Don Wysocki, Vice Chair, Jon Salter

STAFF: Bob Waldher, Planning Director; Tierney Cimmiyotti, Administrative Assistant

** **

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:36 p.m. and read the Opening Statement.

NEW HEARING

TEXT AMENDMENT #T-20-083, AMENDMENT OF UMATILLA COUNTY DEVELOPMENT CODE, INCORPORATING THE OPPORTUNITY TO CREATE PARCELS TO ACCOMMODATE UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE. The applicant, Umatilla Electric Cooperative (UEC), proposes text changes to the Umatilla County Development Code (UCDC) that would incorporate the provisions of Senate Bill 408 (enrolled 2019) to allow the creation of parcels to support utility facilities necessary for public service on land zoned Exclusive Farm Use as defined in Oregon Revised Statute (ORS) 215.213(1)(c) and 215.283(1)(c). The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. He stated that UEC proposes text changes to the UCDC that would incorporate the provisions of Senate Bill 408 to allow the creation of parcels to support utility facilities necessary for public service on land zoned EFU as defined in ORS 215.213(1)(c) and 215.283(1)(c).

Mr. Waldher explained that UEC worked through the Oregon Legislature in 2019 accomplishing the passage of Senate Bill 408. The intent of this legislation was to create a pathway for utility providers to achieve ownership of the land associated with their infrastructure without using more EFU land than is necessary, something not previously allowed in ORS 215.263. For UEC, this is related to the siting of substations and related infrastructure, but not linear facilities such as transmission lines, which do not require the creation of a new lot.

Mr. Waldher stated that UEC worked with 1000 Friends of Oregon and the Oregon Farm Bureau to develop statutory language that is limited in scope to prevent any parcel created under the statute from being rezoned later if the utility facility ceases to exist. The legislation is not self-implementing and each county must individually adopt regulations for this purpose. In support of this, the applicant has submitted the required application and supporting documents that provide the proposed text changes within the UCDC that will implement the statute.

Mr. Waldher stated that the criteria of approval for amendments are found in UCDC 152.750-152.755. He added that this is a legislative matter because it proposes to amend the text of the UCDC in a manner that will affect county properties located in EFU zoning within unincorporated Umatilla County. Therefore, the County has the authority to consider and approve the Text Amendment. The process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision whether or not to adopt the proposed change to the UCDC. A public hearing before the BCC is scheduled for Wednesday, January 6, 2021 at 9:00 AM.

Mr. Waldher stated that he received a letter of concern and request for clarification from Athena resident Granella Thompson. She asked for more information about Senate Bill 408 and expressed concern about the possibility of increased non-farm or industrial type uses on EFU land. Mr. Waldher reached out to Ms. Thompson via email, assuring her that Senate Bill 408 will not add to the list of uses allowed on EFU land. He explained that the purpose is to allow for partitioning of smaller pieces of EFU land to be used for utility facilities. Ms. Thompson replied that she appreciated the information and did not submit additional testimony for the hearing. Mr. Waldher stated that this was the only public comment or request for clarification received by staff.

Chair Danforth asked for clarification regarding the statement on page 4 of the Preliminary Findings of Fact & Conclusions of Law in the hearing packet. Addressing, *Goal 6 Air Water and Land Resources Quality*, the statement reads, “[t]he proposed text amendment does not seek approval of a specific development but seeks to create the opportunity for land divisions in support of the siting of utility facility infrastructure. The UEC has an interest in owning the land associated with built substations and related items, not linear facilities.” Chair Danforth asked for more information about what are considered to be “related facilities”. Mr. Waldher stated that substations often require other structures like equipment storage buildings, for example. This language was used to allow for partitions to include the entire substation area in addition to other structures related to the operation of the facility.

Applicant Testimony: Tommy Brooks, Attorney, Cable Huston LLP, 1455 SW Broadway #1500, Portland, Oregon, presented applicant testimony.

Also present on behalf of the applicant:

- Carla McLane, Representing UEC, 170 Van Buren Drive, Umatilla, Oregon.
- Wendy Neal, UEC Land Use Specialist; Josh Lankford, UEC Vice President Engineering & Operations; Alec Shebiel, UEC Director of Government Affairs; all located at 750 West Elm Avenue, Hermiston, Oregon.

Mr. Brooks stated that he is part of the UEC legal team and feels that Mr. Waldher gave a good explanation of the request to amend the UCDC text. He explained that this amendment is necessary because UCDC 152.059(c) allows for utility facilities necessary for public service to be established in the EFU Zone (per ORS 215.275). However, at this time there is no process in place to create smaller parcels for this allowed use. As a result, substations are being developed on parcels that are larger than needed, wasting potentially usable farm ground. Mr. Brooks noted this was an unintended consequence and needs to be addressed. He added that this amendment to the text was intentionally written to be very specific and targeted. If approved, there will be no modifications made to the allowed uses in the EFU Zone as part of this request.

Mr. Brooks responded to Chair Danforth's earlier question regarding use of the term, "related items". He stated that engineers have a tendency to use the term "substation" to encompass all elements of a substation including; switch yard, fence, outbuilding, poles, etc. The UCDC has more specific language using land use definitions which may limit the interpretation of what is considered to be a utility facility, excluding the other elements which are required as part of the process. The "related items" portion was added to ensure the amendment includes all pieces of the utility facility structure.

Chair Danforth asked if this Text Amendment request only applies to substations and related uses. Mr. Brooks replied yes, and reiterated that this request is specific to substations and related uses.

Opponent Testimony: No comments.

Public Agencies: No comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Chair Danforth stated that she believes this request makes a lot of sense. She likes that the utilities will be able to partition EFU properties in order to purchase the land in smaller acreages, preserving farm ground. Also, the ability for the utility facilities to own the land they are

operating on (instead of leasing) will protect land owners from the liability associated with this particular land use activity and put the liability back on the utility facility, which is more appropriate.

Commissioner Williams made a motion to recommend approval of Text Amendment #T-20-038, to amend the Umatilla County Development Code, incorporating the opportunity to create parcels to accommodate utility facilities necessary for public service, to the Board of County Commissioners. Commissioner Smith seconded the motion. Motion passed with a vote of 6:0.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the November 19, 2020 meeting. Ms. Cimmiyotti identified four grammatical errors to be corrected. Commissioner Hasenbank moved to approve the minutes with noted corrections. Commissioner Green seconded the motion. Motion carried by consensus.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:09 PM.

Respectfully submitted,

Tierney Cimmiyotti
Administrative Assistant

UMATILLA COUNTY

PLANNING COMMISSION

BYLAWS UPDATE

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commissioners

FROM: Bob Waldher, Director

DATE: February 18, 2021

CODE
ENFORCEMENT

RE: Planning Commission Bylaws Update

SOLID WASTE COMMITTEE

The bylaws for the Umatilla County Planning Commission are outdated as they were last updated in 1980. The Planning Department has reviewed the bylaws and recommended several edits.

SMOKE
MANAGEMENT

GIS AND
MAPPING

Proposed changes to the bylaws are shown in red. ~~Strikethrough~~ indicates text to be removed and Underline indicates text to be added.

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

The Planning Commission is asked to review the text, discuss additional edits, and approve the bylaws. Upon Planning Commission approval, the bylaws will be presented to the Board of Commissioners for confirmation.

Attachment

- Draft Planning Commission Bylaws

BYLAWS

UMATILLA COUNTY PLANNING COMMISSION

Adopted: March 18, 1980

Amended: February, 2021

WHEREAS, the Umatilla County Planning Commission wishes to adopt BYLAWS in order to provide RULES AND PROCEDURES for its members, meetings and activities. Therefore, the Commission hereby adopts the following:

ARTICLE I - Membership

Section 1. Membership of the Planning Commission shall consist of nine members appointed by the Umatilla County Board of Commissioners in accordance with Oregon Revised Statute (ORS) 215.030.

Section 2. It shall be the policy of this Commission to recommend to the Board of Commissioners that any member be replaced if ~~he~~ they ~~has~~ have unexcused absences at three consecutive meetings.

ARTICLE II - Officers and Duties

Section 1. The Commission, at its first regular ~~October~~ meeting of the calendar year, shall elect a chair~~man~~ and a vice-chair~~man~~ from its membership.

Section 2. The duties and powers of the officers of the Planning Commission shall be as follows:

A. Chair~~man~~:

- (1) Preside at all meetings of the Commission.
- (2) Call special meetings of the Commission in accordance with the bylaws.
- (3) Sign documents of the Commission.
- (4) Conduct all meetings in accordance with State laws, County ordinances and the bylaws.

B. Vice-Chair~~man~~:

- (1) During the absence, disability, or disqualification of the chair~~man~~, the vice-chair~~man~~ shall exercise or perform all the duties and be subject to all the responsibilities of the chair~~man~~.
- (2) The vice-chair~~man~~ shall succeed the chair~~man~~ if ~~he~~ the chair vacates ~~his~~ their office before ~~his~~ their term is completed, ~~the~~ The vice-chair~~man~~ ~~to~~ shall serve the unexpired term of the vacated office. A new vice-chair~~man~~ shall be elected at the next regular meeting.

ARTICLE III - Meetings

Section 1. All meetings and hearings of the Commission shall be conducted in accordance with ORS 192.610-690. Hearings shall be advertised as required by law and these rules.

Section 2. Meetings of the Commission shall be held on ~~the second and the~~ fourth Thursday of each month, ~~except November and December, for which meetings shall be held the third Thursday.~~ The number of meetings per month and a schedule of meeting dates ~~shall be established and~~ may be altered or changed ~~at any regular scheduled meeting~~ by majority vote of the Planning Commission. ~~Any such m~~Meetings may be cancelled by the consent of the majority of members ~~at a previous meeting,~~ or at the direction of the chair~~man~~ not less than 24 hours before the time established for such meeting by these rules; ~~provided, however, that if at least two of the members request that such meeting be held, such meeting may not be cancelled.~~

Section 3. Special meetings may be held, or regular meetings may be held at times other than the time specified herein, by vote of the majority of the members at a previous meeting or by call of the chair~~man~~ not less than 24 hours before the time set for such meeting.

Section 4. A quorum shall consist of a simple majority of all the members of the Commission and no action may be taken by the Commission except by the affirmative vote of a majority of the quorum. If any members is incapacitated or refuses to participate in a decision, a quorum shall consist of a majority of the remaining members.

Section 5. Each member of the Commission shall conduct ~~himself~~ themselves in accordance with ORS Chapter 244.

Section 6. The Planning Department shall keep minutes of the Commission's proceedings showing the vote of each member upon each question, or the absence, or the abstention from voting of a Commissioner.

Section 7. Matters referred to the Commission by the Board of Commissioners shall be placed on the calendar for consideration and action at the first meeting of the Commission after such referral.

Section 8. *Roberts Rules of Order* shall govern the proceedings of the Commission in all cases not otherwise provided for in these rules.

ARTICLE IV - Order of Business

Section 1. The Order of Business at all meetings shall be as follows:

- (1) Call to order and roll call
- (2) Introduction of guests

- (3) Approval of Minutes
- (4) Public hearings (continued)
- (5) Public hearings (new)
- (6) Committee and staff reports
- (7) Unfinished business
- (8) New business
- (9) Miscellaneous
- (10) Announcing date of next meeting
- (11) Adjournment

Section 2. The public hearing procedure as adopted by the Board of Commissioners in accordance with ORS 215.412, shall be as follows:

- (12) Open the public hearing. Announce the matter for discussion
- (13) Call for abstentions
- (14) Introduction of proposal - planning staff
- (15) Those in favor
- (16) Staff discussion
- (17) Those against
- (18) Rebuttal (proponents only)
- (19) Commissioner's questions
- (20) Close public hearing
- (21) Discussion
- (22) Entertain a motion for disposition
- (23) Discussion of motion
- (24) Call for the question
- (25) Vote

ARTICLE V - Committees

Section 1. The Commission may designate and provide for such committees as may be necessary to advise the Commission in carrying out the Commission's duties.

Section 2. The Commission may define the duties of such committees that are appointed, and it shall be the privilege of the chair~~man~~ to select committee ~~chairmen~~chairs.

Section 3. Ad hoc and/or standing committees shall automatically dissolve after one year unless re-appointed by the Commission.

Section 4. The chair~~man~~ shall be an ex-officio member of all committees, with voice but no vote.

ARTICLE VI - Planning Department Responsibilities to the Planning Commission

Section 1. It shall be the responsibility of the Planning Department to the Commission to:

- (1) Keep the minutes of all meetings of the Commission in an appropriate manner.
- (2) Receive and process land use applications.
- (3) Prepare and send all notices required by law or by the bylaws.
- (4) Prepare the agenda for all meetings of the Commission.
- (5) Be custodian of Commission records.
- (6) Inform the Commission of correspondence relating to business of the Commission and attend to such correspondence. The Planning Department will notify the chair in advance of the meeting if it appears a quorum will not be met.
- (7) Prepare Commission correspondence when directed.
- (8) Handle funds allocated to the Commission in accordance with County regulations.
- (9) Conduct other such Commission business as required or directed.

(9)(10) Provide correspondence with the Commission regarding upcoming meeting schedule.

ARTICLE VII - Amendments

These Bylaws may be amended by action of the Commission at any regular or special meeting, provided that notice of said proposed amendment is given to each member in writing at least five (5) days prior to said meeting.

UMATILLA COUNTY PLANNING COMMISSION

Adopted this ____ day of _____, 2021.

Planning Commission Chair

UMATILLA COUNTY BOARD OF COMMISSIONERS

Confirmed this ____ day of _____, 2021.

George L. Murdock, Chair

John M. Shafer, Commissioner

Daniel N. Dorrn, Commissioner