

**Planning Commission Preliminary Findings of Fact
COMPREHENSIVE PLAN AMENDMENT REQUEST
AC-121-18
ASSOCIATED WITH
CONDITIONAL USE REQUEST
CUP-N-331**

REQUEST: To effect a Goal 3 exception to allow development of a solar photovoltaic energy generation facility and associated equipment on land zoned Exclusive Farm Use.

APPLICANT: OE Solar 1, LLC
HARP Solar
2003 Western Avenue, Suite 225
Seattle, Washington 98121

OWNER: Bill and Rena Marquardt LLC
67070 Marquardt Road
Lexington, Oregon 97839

PROPERTY DESCRIPTION: Tax Lot 3401 of Assessor's Map 1N 26

PROPERTY LOCATION: North of Lexington on Baseline Lane, between Lloyd Road and Juniper Canyon Road

I SUMMARY OF APPLICATION AND PROCESS: The applicant participated in a pre-application meeting with Planning staff and other affected agencies in mid-January 2018. This was followed by a variety of phone and email correspondence eventually culminating in the application that is subject to this action, Comprehensive Plan Amendment AC-121-18, and the associated Conditional Use Permit CUP-N-331. Applicant's request is to develop a solar photovoltaic energy generation facility and these Findings of Fact will evaluate the requested Goal 3 Exception.

The associated Conditional Use Permit CUP-N-331 provides the initial analysis under the Morrow County Zoning Ordinance Article 3 Section 3.010 Exclusive Farm Use K. Commercial Facilities for Generating Power (a)(1) and (2). The applicant does conclude, and staff concur, that the applicant does need to obtain an Exception to Goal 3 Agricultural Lands as the facility will impact more than 20 acres of arable land and may likely impact more than 12 acres of high value land.

II SUMMARY OF APPLICABLE CRITERIA: Substantive criteria are found in the Comprehensive Plan at Review and Revision. The Substantive Criteria are found below in **bold**, with responses in regular type.

MORROW COUNTY COMPREHENSIVE PLAN: CRITERIA. The following criteria must be considered before approval of an amendment to the Comprehensive Plan is given:

1. **Address the Criteria found in the Morrow County Zoning Ordinance Article 8 Amendments; and**

2. Show how the request complies with the relevant statewide land use planning Goals. Include evidence of coordination and compliance with State agencies regarding the statewide planning Goals. (MC OR-1-2013)

The Morrow County Zoning Ordinance criteria follow with the necessary analysis. The Oregon Department of Agriculture, Department of Environmental Quality, Department of Aviation, Department of Energy, Department of Fish and Wildlife and the Department of Land Conservation and Development are all noticed of this action and will receive both the Conditional Use Permit CUP-N-331 and these findings. These Findings of Fact will also be provided to the Department of Navy and the Oregon Military Department relative to their operations at the Boardman Bombing Range. Members of the Department of Fish and Wildlife participated in the pre-application meeting.

During that pre-application meeting Planning staff identified several of the Statewide Planning Goals and associated Morrow County policies that should be reviewed for this request. The applicant has included in their narrative discussion of Goal 9 Economics, Goal 11 Public Services and Goal 13 Energy. These other Goals must be considered as part of the Goal 3 exception and the allowance of an energy generation project that would preclude agricultural production on up to 99 acres of agricultural land.

To better understand the position of Morrow County please consider that in 2016 an update to Goal 9 Economics was adopted and included a section devoted to the Energy Sector, identifying policies in support of energy generation and movement of energy in and through Morrow County. This energy generation request fits the model of the types of energy development that was anticipated when updating the Economic Element of the Comprehensive Plan.

The final decision related to this request needs to balance removing agricultural land from production and converting the use of that land to energy production. Both the Planning Commission and the Board of Commissioners need to balance both the economic needs under the Morrow County Comprehensive Plan and the need for agricultural land to determine if a Goal 3 exception is warranted. The applicant's narrative addresses these factors under the legal framework for an Exception to a Statewide Planning Goal (see attached applicant narrative).

MORROW COUNTY ZONING ORDINANCE: SECTION 8.040. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).

No change in zoning is requested. The applicant has requested approval for a solar photovoltaic energy generation facility which is being reviewed as Conditional Use Permit CUP-N-331. A portion of this review and potential approval is contingent upon impacts on either or both high value soils or arable soils. The Conditional Use Permit does review this requirement and determines that an Exception to Goal 3 is needed, hence these Findings of Fact and the included analysis.

- B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.**
- 1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**
 - a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;**
 - b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,**
 - c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.**

No land use designations are changing nor are any transportation systems being affected at this time. The Conditional Use Permit CUP-N-331 does analyze transportation impacts and any needed development permits or review specific to the proposed solar photovoltaic energy generation facility would be evaluated and conditioned there. Planning staff would find these criteria not applicable or otherwise evaluated.

- 2. A plan or land use regulation amendment significantly affects a transportation facility if it:**
 - a. Changes the functional classification of an existing or planned transportation facility;**
 - b. Changes standards implementing a functional classification;**
 - c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
 - d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)**

Please see the analysis just above. Planning staff would find that no changes would occur, based on the proposed development, to the current functional classification or level of service of the adjacent or area roads. Planning staff would find these criteria to be not applicable based on the proposed development and its associated impacts. Additionally these types of impacts are addressed as part of Conditional Use Permit CUP-N-331.

- C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.**

Additionally the State of Oregon has adopted a Renewable Portfolio Standard and development of solar photovoltaic energy generation facilities does fit within those standards. Other renewable energy development within Morrow County has been asked to limit the impacts from associated transmission lines and this applicant has identified a location that allows direct connection to the Energy Grid by allowing for connection within or immediately adjacent to the project footprint to the in place Bonneville Power Administration 115 kV transmission line that serves the Columbia Basin Electric Cooperative.

The applicant has also completed an analysis of the environmental, economic, social and energy consequences and found that they favor the Goal 3 exception. Planning staff can find no concerns with their analysis and would concur.

Planning staff have not identified any concerns with public health or welfare. The associated Conditional Use Permit CUP-N-331 addresses various environmental concerns related to the proposed project. Planning staff would find that any environmental impacts are better reviewed, and conditioned if necessary, within that context.

- 4

VII HEARING DATES:

Planning Commission
April 24, 2018
Morrow County Bartholomew Building
Heppner, Oregon

Board of Commissioners
May 30, 2018
Morrow County Bartholomew Building
Heppner, Oregon

IX RECOMMENDATION: The Planning Department recommends that the Planning Commission adopt the following Findings:

- ▶ The proposed solar photovoltaic energy generation facility by OE Solar 1, LLC, known as HARP, does require an exception to Goal 3 Agricultural Lands as it will impact over 20 acres of arable land and may impact over 12 acres of high value farm land.
- ▶ The Morrow County Comprehensive Plan Economic Element when updated in 2016 identified the Energy Sector and was written envisioning projects like this one and supports responsible renewable energy development that has limited impacts. The Energy Sector discussion ends as follows: "...and provide mechanisms to maintain and improve energy generation and movement in and through Morrow County." This application achieves that desire.
- ▶ Economic Element Goal 3 states, "To diversify local businesses, industries and commercial activities and to promote the economic growth and stability of the County." This activity creates a new energy facility which would achieve this stated Goal.
- ▶ Economic Element Policy 3A state, "To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally." Clearly there is a market demand as well as state policy that supports this development. This is a new and emerging product in Morrow County and fits the vision around Policy 3A.
- ▶ Economic Element Goal 4 states, "To encourage the development of compatible land uses throughout the County and to protect areas suitable for industrial development from encroachment of incompatible land uses." This Economic Element goal can be interpreted to allow renewable energy development on land zoned Exclusive Farm Use where it is allowed conditionally when an applicant can meet the determined standards. The related Conditional Use Permit CUP-N-331 evaluates a variety of criteria and has determined that the application can be approved if an exception to Goal 3 Agricultural Lands is granted.
- ▶ Another interpretation of Economic Element Goal 4 would be that allowing this activity on land zoned for Exclusive Farm Use protects land zoned Port or General Industrial from uses that consume large amounts of acreage, but do not either create jobs or significant tax base. Placing the proposed solar photovoltaic energy generation facility on land zoned for Exclusive Farm Use preserved industrial land for higher density and impact uses.

Based on these Findings the Planning Commission recommends that the Morrow County Comprehensive Plan Agricultural Lands Element is amended (see attached) to authorize a Goal 3 exception allowing the solar photovoltaic energy generation facility

proposed by OE Solar 1, LLC, and known as HARP. Additionally the Planning Commission recommends establishing an Exceptions Element to capture this and future exceptions to the Comprehensive Plan and contain the necessary exceptions documents. The proposed Exceptions Element would contain the Planning Commission Final Findings of Fact, a map representing the area of the exception similar to the current vicinity map, the applicant or other project narrative concerned with the Goal 3 Agricultural Lands exception, and the Board of Commissioners adopting Ordinance and other documents deemed necessary at the time of final adoption.

The Morrow County Planning Commission recommends that the Morrow County Board of Commissioners adopt these Findings of Fact approving the Goal 3 Agricultural Lands element exception and thereby allowing development of the associated Conditional Use Permit CUP-N-331.

Jeff Wenholz, Chair

Date

Attachments:

Vicinity Map

Morrow County Comprehensive Plan Agricultural Lands Element - DRAFT

Applicant Narrative