

CROOK COUNTY - BEFORE THE PLANNING COMMISSION

**IN THE MATTER OF AN APPLICATION
FOR A CONDITIONAL USE APPROVAL**

**APPLICATION
217-18-000027-PLNG**

APPLICANT: Ochoco Solar, LLC - Cypress Creek Renewables
c/o Amy Berg Pickett
2660 NE Hwy 20, Suite 610, #30
Bend, Oregon 97701

OWNERS: Legacy Ranches, LLC
c/o Chad Feigel
500 Monroe Street, Suite 2630
Chicago, Illinois 60661

ATTORNEY: Laura Craska Cooper
Brix Law
15 SW Colorado Avenue, Suite 3
Bend, Oregon 97702

DESCRIPTION: Township 15S, Range 15 E WM, Tax lots 1210 and 4000.

REQUEST: The Applicant requested conditional use approval to construct and operate a photovoltaic solar power generating facility up to 20 Megawatts (MW) in the Exclusive Farm Use 3 - Powell Butte Area (EFU-3) under Crook County Code (CCC) Section 18.24. As part of this request, the Applicant also sought approval for three alternative routes for a 34.5kV generation distribution tie line (Gen-tie) connecting the proposed solar project to the grid (Baldwin Substation). The Applicant requested a determination that the portion of Gen-tie line zoned EFU is: (1) an "associated transmission line" necessary for public service as defined in ORS 469.30; (2) a permitted use under ORS 215.283 and the EFU zone; and (3) subject to ORS 215.274.

Notice of Hearing: February 7, 2018

Newspaper Notice: February 9, 2018

THE ABOVE ENTITLED MATTER CAME BEFORE THE Crook County Planning Commission for a public hearing on February 28, 2017. After consideration of the staff report, application materials, findings, facts, and testimony related to the proposed solar facility and alternative gen-tie lines, the application received 5 votes in favor and 0 votes opposed from the Planning Commission members present.

FINAL DECISION:	Approved subject to conditions	<u> X </u>
	Denied	<u> </u>

The Applicant's request to place a 20 MW commercial photovoltaic energy system on up to 180 acres and to construct one of three alternative gen-tie lines from the solar facility to a substation is approved, subject to the following conditions:

1. The Applicant shall sign and record in the deed records for Crook County, prior to receipt of any building permits, 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 practices as defined in ORS 30.930(2). (Non-remonstrance agreement).
2. The Applicant shall acquire all necessary building permits prior to commencing construction.
3. The Applicant agrees to provide an annual report, upon request, to the County including:
 - a. A summary of changes to the facility that do not require amendments
 - b. A summary of the wildlife monitoring plan:
 - c. Employment impacts during and after construction
 - d. Success or failure of weed control practices
 - e. Status of decommissioning bond or other financial mechanisms
4. The Applicant shall meet all requirements of Crook County Code 18.161.010(2)(d) regarding amendments to the facility including those changes that would:
 - a. Require an expansion of the established facility boundaries;
 - b. Increase the footprint of the photovoltaic energy system by more than 20%;
 - c. Increase generator output by more than 25% relative to the generation capacity authorized by the initial permit due to the repowering or upgrading of power generation capacity.

Notification by the facility owner/operator to the Crook County Planning Department of changes not requiring an amendment is encouraged, but not required.

5. The solar field and transmission line will be placed within the site boundary on the site plan submitted with the application. It is possible that the exact configuration of the solar field array and accessory structures (e.g., substation, operation and maintenance building) may change as the Project design is finalized. If these changes occur within the approved site footprint, the Applicant does not need to request an amendment. Otherwise, a revised site plan shall be filed with and approved by the Crook County Community Development Department.

6. The Applicant will work with the Road Department to determine the specific location of the construction access to Houston Lake Road as part of the road approach permit review process. The road approach permits will be approved prior to the start of clearing and grading.

7. Prior to initiation of clearing and grading, the Applicant shall consult with the Crook County Road Master regarding potential impacts to Houston Lake Road. If required, the Applicant shall enter into a road use agreement with the Crook County Road Master.

8. The Applicant agrees that the Project materials selected will be in substantial conformance to those described with the Applicant's "burden of proof" statement.

9. The Applicant agrees to establish a bond, letter of credit or other financial assurance, as required by CCC 18.161.010(2)(xvi). Implementation of final decommissioning and financial assurance will be provided entirely at the cost of Ochoco Solar LLC (or parent Cypress Creek Renewables) to the Crook County Community Development Department. The financial assurance will be one of the following: an irrevocable letter of credit, a surety bond or a trust fund in accordance with the approved financial assurances to guarantee the deconstruction work will be completed in accord with the decommissioning plan.

The decommissioning plan and financial assurance shall be submitted to the Crook County Counsel for review and approval. **County Counsel approval of the decommissioning plan, including the financial assurance, shall not be unreasonably withheld and shall be required prior to the start of clearing and grading on the Project site.** The financial assurance shall give consideration to the cost estimate and phasing schedule in the decommissioning plan, and shall provide adequate funding to restore the site, regardless of when construction or operation ends.

10. The solar field enclosure will be completely fenced at a minimum height of 8 feet. Secured gates will be in place at both of the Project entrances. The fence will be a chain link fence.

The fence that runs parallel to Houston Lake Road shall be located 100' from the road right of way along the western part of the Project and a minimum 300' from the right of way along the eastern part of the project. The Applicant shall include site-obscuring slats on the fence that runs parallel to Houston Lake Road. Prior to installing the fencing, the Applicant shall receive approval from the County Planning Director for the color of the slat material.

11. The Applicant has submitted a Voluntary Wildlife Mitigation Plan prepared in cooperation with ODFW and USFWS. The Applicant will work with the agencies to address their concerns and to implement the voluntary plan.

12. The Applicant shall notify Crook County Community Development in writing of a change in ownership of the facility, including, but not limited to, a transfer of title or lease for a term of years.

13. The Applicant shall submit a final stormwater management/erosion control plan to Crook County Community Development prior to the start of clearing and grading the site.

14. The Applicant shall submit a letter from Crook County Fire and Rescue approving the Project Emergency Management Plan prior to the start of clearing and grading the Project site.

15. Prior to commencement of any decommissioning work, all necessary permits shall be obtained, (e.g., Crook County Land Use Permits, road access and other permits from the Crook County Road master or other entities).

16. The Applicant shall provide a legal description of the Project Site, including the transmission corridor prior to issuance of building permits. Necessary easements shall be acquired for the gen-tie line prior to any clearing and grading of the gen-tie line portion of the Project.

17. The Applicant shall provide Crook County with a copy of the FAA Determination of No Hazard prior

to the issuance of building permits. The Gen-tie line and poles will be engineered and placed in a manner that does not conflict with runways 28/10 and 33/15.

18. All lighting on-site shall be directed downward or shielded. This includes any permanent security lighting and any temporary lighting during construction.

PROJECT BACKGROUND

NOTE: The staff report for the Planning Commission, application and attachments are incorporated by reference.

A. Location: The proposed photovoltaic solar power generating facility (the Project) is located in the northern portion of the subject property (T15 R15 tax lots 1210 and 4000). The Project will be developed on approximately 180 acres on the northwest corner of tax lot 1210. This is part of a vacant 1245 acre parcel owned by Legacy Ranches, LLC. (See Attachment A).

B. Zoning: The Project, including segments of gen-tie line routes, is located on property zoned EFU-3 (Exclusive Farm Use, Powell Butte Area). Segments of the Gen-tie line routes are proposed within the City of Prineville's jurisdictions and will be permitted separately, subject to City review and approval.

C. Project Summary: The Applicant has a lease for 180-acres of the subject property as the site for the proposed 20 MW solar facility. The Applicant is proposing three alternative routes for the electrical collector line easement over private and County owned property. Preference #1 is a 3.56-mile Gen-tie line, Preference #2 is 3.26-miles, and Preference #3 is a 6.43-mile Gen-tie line. (See Attachment B). The Project components include all equipment and facilities within the project area fence-line, as well as the collector line, and internal access roads. (See Attachment C). Conservatively, the proposed 34.5-kilovolt (kV) distribution gen-tie line (Preference 1, 2 and 3) and step-up transformer substation (two alternatives), located near (and interconnected to) the Baldwin Substation, have an impact disturbance of a little more than 3-acres.

The Applicant anticipates that site preparation and construction will begin in May, 2018. Construction is expected to take approximately six (6) months to complete with the facility becoming operational by November 2018. The Applicant expects the facility to operate for approximately 40 years before being decommissioned.

D. Project Size: The Project, in its entirety will not occupy more than 180 acres or exceed 20 MW.

E. Site Description: The subject property is currently vacant except for an existing BPA (Bonneville Power Authority) transmission line that extends from the southwest corner of the property across the northwest portion of the property. The proposed solar facility will be located on both sides of the BPA transmission line.

The Project area consists of two ecosystem types: sagebrush steppe and western juniper woodland. The dominant plant species on site include western juniper, rabbit brush, sagebrush and bitter brush. Most of the site is flat or gently sloped terrain. Approximately 39 acres (22% of the project footprint) has slopes greater than 10%. Only about 3 acres have more than 15% slope. The Applicant notes that while solar racks can be positioned on land with up to a 17% slope, locating solar racks on slopes less than 10% is ideal. Because the majority of the project area is relatively flat, the Applicant anticipates that minimal grading and/or compaction work will be necessary.

F. Surrounding Land Uses: All adjacent properties are zoned EFU-3. Property directly west is a 237-acre property. Property to the north across Houston Lake Road is a 257-acre agricultural parcel. There are two forty acre parcels to the northeast of the subject property. The 40-acre parcel to the east has an existing dwelling. The County's land fill is the next property to the northeast. Directly east of the project area, on the south side of Houston Lake Road, is vacant property owned by the Department of State Lands. East of that is property owned by Crook County for the Prineville Airport, including runways and terminal facilities, and airport related and dependent industrial uses. To the south of Legacy Ranch's property is the Ochoco Highway (Highway 126), power utility corridors and industrial use on the south side of the Ochoco highway.

G. Airport Approach: The Project area and subject property are mapped on the Airport's Master Plan as being just outside the Airport Approach (AA) Overlay Zone for the Prineville Airport. Portions of the transmission Gen-tie route are within the AA Overlay Zone. The Gen-tie line will be designed to not impact the zone, either by reducing pole height or burying the line underground. (See letter from Airport Manager - Attachment Q of the application).

H. Soils: According to the National Resources Conservation Service (NRCS), soils on the subject property are generally classified as Class 6, with some soils classified as Class 4.

Soils – Solar Facility Site – Area of Interest

Map Unit	Soil Type	Classification	Acres	Percent of acreage
037	Meadowridge Ashy sandy loam	4	494.7	38.7%
104Am	Redmond ashy sandy loam	6	15.7	1.2%
122	Era ashy sandy loam	6	109.4	8.6%
143	Stukmond-Lickskillet-Redmond complex	6	407.4	36.8%
144	Redmond-Stukmond complex	6	167.9	13.1%
162	Searles-Lickskillet complex	6	17.5	1.4%

Soils – Gen-tie Routes 1 and 2

Map Unit	Soil Type	Classification	Acres	Percent of acreage
026	Buckbert ashy sandy loam	4	0.4	81.4%
144	Redmond-Stukmond complex	6	0.1	18.6%

Soils – Gen-tie Route 3

Map Unit	Soil Type	Classification	Acres	Percent of acreage
143	Stuckmond-Lickskillet-Redmond complex	6	7.5	38.2%
144	Redmond-Stukmond complex	6	12.1	61.8%

I. **Ownership:** The Applicant has entered into a lease agreement with the property owner (Legacy Ranches, LLC) and will enter agreements for easements over other properties for the gen-tie line.

J. **Water Rights:** The subject property has no irrigation water rights.

K. **Wildlife – Sensitive Bird Habitat:** The subject property has not been identified as winter range habitat for pronghorn, mule deer or elk in the County’s Goal 5 big game habitat inventory. According to the Applicant, there is no identified sensitive bird habitat in the Project Area.

L. **Access:** The proposed solar array will be in two sections located on both sides of the BPA power transmission easement, each fully enclosed with fencing. Each array area will have its own access from SW Houston Lake Road for construction, and operation and maintenance. (Road approach permit applications 217-18-000023 and 000024-PLNG).

M. **Domestic Water:** The Applicant stated that they will contract for water to be delivered to the site for construction, dust control and operations.

N. **Fire Protection:** The subject property is located inside the Crook County Fire and Rescue District. Provisions for wildfire prevention and control are included in the Emergency Management plan (Attachment M of the application). The Emergency Management plan has been submitted to Crook County Fire and Rescue for their review and approval.

APPLICABLE CRITERIA: The Planning Commission considered the following criteria in evaluating the proposed Project:

CCC Title 18, Chapter 18.24	<u>Exclusive Farm Use, EFU-3</u>
18.24.020	Conditional Uses Permitted (ORS 215.283(2))
18.24.025	Commercial and Non-Commercial Energy Criteria
18.24.040	Limitations of Specific Conditional Uses
ORS 215.274	Associated transmission lines necessary for public service
ORS 215.283	
OAR 660-033-0120	<u>Uses Authorized on Agricultural Lands</u>
OAR 660-033-0130(5),(38)	<u>Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses</u>
CCC Title 18, Chapter 18.160	<u>Conditional Uses</u>
18.160.010	Authorization to Grant or Deny Conditional Uses
18.160.020	General Criteria
18.160.030	General Conditions
18.160.050	Standards governing Conditional Uses
18.160.050(19)	Commercial Power Generating Facilities
CC Title 18, Chapter 18.161	<u>Commercial Power Generating Facilities</u>
Crook County Comprehensive Plan (See discussion – CCC 18.160.020)	
Crook County Transportation System Plan	

RESPONSE TO CRITERIA:

The Planning Commission reviewed the application using the applicable criteria of the Crook County Comprehensive Plan, Crook County Code (CCC) Title 18 regarding uses permitted in the County's Exclusive Farm Use – Powell Butte Area (EFU-3), the general criteria for conditional uses (CCC 18.160), and the specific requirements for commercial energy facilities (CCC 18.161). The Planning Commission also considered relevant state statutes and administrative rules.

The following is a summary of the responses to required criteria. A detailed analysis of the applicable criteria is in the February 21, 2018 staff report, which is incorporated into this decision by reference. The Applicant's burden of proof statement and appendices were provided to the Planning Commission and are also incorporated by reference to support the Planning Commission's decision.

Specific code, administrative rule or statutory language is in standard font. Findings are in ***bold italics***.

Crook County Code 18.24 outlines requirements for development in the County's EFU-3 zone.

CCC 18.24.010 In an EFU-3 zone, the following uses and accessory uses thereof are permitted outright: all uses authorized by ORS 215.283(1), in conjunction with any other applicable provisions in this chapter.

ORS 215.283(1)(c) allows "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."

The Planning Commission found that the proposed gen-tie lines meet the definition of "utility facilities necessary for public service" as "associated transmission lines." The transmission towers will be less than 200 feet tall and the proposed gen-tie lines meet the requirements of ORS 215.274. Specifically, the proposed gen-tie lines will connect a commercial solar energy facility to an interconnected primary transmission system or distribution center and meet the definition of an associated transmission line necessary for public service and are permitted uses in the EFU-3 zone under ORS 215.283(1).

The Applicant is proposing three alternative gen-tie routes. A portion of each route is located outside the City of Prineville's urban growth boundary and crosses EFU-3 zoned land. (Attachment B of the decision). None of the alternative routes are located on high-value farmland nor located on arable lands.

The Applicant submitted soils data from the Natural Resources Conservation Service (NRCS) (see discussion above). The detailed soils information is found in Attachments D and E of the application. The proposed gen-tie routes are located on both the Subject property and on adjacent properties.

Based on information in the record, there is no evidence that lands located adjacent to or near the transmission line routes are being used or have been used historically for cultivation. None of these

properties has irrigation water rights. The three gen-tie line alternatives cross the subject property and will impact properties classified as Class VI (non-arable) and Class IV. Based on the evidence provided by the Applicant and the lack of irrigation water,, the County finds that the Class IV Meadowridge soils that are present along the Gen-tie routes on the subject property are non-arable soils under OAR 660-033-0130(38)(d) based on substantial evidence provided by the Applicant.

The Applicant provided information regarding the adjacent properties that the alternative gen-tie routes will cross. Alternative Gen-tie line routes 1 and 2 are just south of Highway 126. Properties along these routes are composed of class VI (nonarable) soils and class IV soils. The class VI soils (Buckbert (026)) would not be negatively impacted by the Gen-tie route because the power poles follow the property line between this EFU zoned parcel and property to the north zoned industrial by the City of Prineville. The route for alternative 3 follows the south property boundary zoned EFU and this property is composed of class VI, nonarable soils (see summary table above). The County finds that the proposed Gen-tie line routes meet the requirements of (3)(a) and are not located on high value farmland or on arable land.

18.24.020 In an EFU-3 zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Chapter 18.160 CCC and in conjunction with any other applicable provisions of this chapter: all uses authorized by ORS 215.283(2) and (3). ORS 215.283(2)(g) allows a local government to approve commercial utility facilities for the purpose of generating power for public use by sale.

Commercial utility facilities, such as the proposed solar photovoltaic facility, are authorized as conditional uses in exclusive farm use zones. The Applicant has demonstrated that the Project will meet the requirements of state law and the applicable criteria in CCC 18.160 (general conditional use requirements) and 18.161 (requirements for commercial energy facilities) as described below.

CCC18.24.040 Limitations of specific conditional uses. "...A use allowed under CCC 18.24.020 may be approved where the county finds that the use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The Applicant states that the Project will not significantly change accepted farming or forest practices on surrounding land. The Applicant evaluated land use within 1 mile from the Project boundaries. This area included approximately 1,984 acres. There are three irrigated farm parcels in this area ranging from 237 acres to 321 acres. There are six rangeland parcels ranging in size from 40 acres to 433 acres. There are two parcels with an existing pumice mine (20 and 30 acres).

The Applicant states that plowing, burning, application of herbicides and pesticides, disking, and machine or hand-harvesting are accepted farming practices that are or could take place on irrigated farmland within the study area. Limited grazing has or may take place on some of the other surrounding rangeland. The practices will not be impacted by the proposed Project.

The proposed Project will be setback from SW Houston Lake Road, These setbacks, along with retention of the existing vegetation, will minimize any potential impacts to farming occurring north of the subject property across SW Houston Lake Road. Irrigated farming and livestock management will not be impacted by the proposed solar facility. The facility will not cause any impacts that conflict with the farming or rangeland practices. The solar facility does not produce any vibrations, smoke or other particulates, temperature fluctuations, or stormwater impacts. The solar facility will be completely enclosed by perimeter fencing. The Applicant has submitted a vegetation management plan that includes noxious weed control management practices.

Based on information provided by the Applicant, It is not anticipated that the proposed solar farm will force a significant change in, or significantly increase the cost of accepted farm practices occurring in the surrounding area. This criterion is met and in turn meets the same criteria provided under OAR 660-033-0130(5).

OREGON ADMINISTRATIVE RULES (OAR) – USE OF AGRICULTURAL LAND

Commercial photovoltaic energy systems in EFU zones are subject to OAR 660-033-0120 and 660-033-0130.

OAR 660-033-0120 provides that a “photovoltaic solar power generation facility as a commercial utility facility for the purpose of generating power for public use by sale,” is allowed on agricultural lands after required review by the governing body under ORS 215.296. The use requires notice and the opportunity for a hearing.

Crook County is the governing body and reviewed the proposed use of agricultural land as part of the conditional use review. The County provided the requisite notice and opportunity for a hearing to the public and adjacent property owners. The hearing before the Crook County Planning Commission was held on February 28, 2018.

OAR 660-033-130(38) provides that a proposal to site a photovoltaic energy system is subject to certain definitions and provisions. Only certain subsections apply to this project.

660-033-130(38)(c) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

660-033-130(38)(d) “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.

The property where the solar array is proposed is vacant, uncultivated land. According to the Oregon Water Resources Department, the subject property does not have any irrigation water rights. According to aerial photos from between 1953 and 2012, the property shows no evidence of cultivation and vegetation is dominated by junipers. (See photos – Attachment F of the application). The site is composed of predominately of soils classified by the Natural Resources Conservation Service (NRCS) as Class VI non-irrigated soils (61% of project site). Class VI soils are considered nonarable and are not considered high-value soils. A smaller percentage of soils are Class IV. There are currently no irrigation water rights on the property and no evidence that the property has ever been irrigated or cultivated. Based on information provided by the Applicant, including information on soils on the subject property, the lack of availability of irrigation water, and no history of cultivation, the County

determines that the Meadowridge soils present on the subject property are nonarable based on substantial evidence in the record.

OAR 660-033-130(38)(e) "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.

The proposed Project includes the following equipment, components and facilities and meets the definition of a "photovoltaic solar power generation facility" in OAR 660-033-130:

- ***PV solar panels using a fixed-tilt or single-axis racking system, supported by driven piles.***
- ***Electrical equipment, including a direct current (DC) collection system from the solar panels to centralized inverters, and an altering current (AC) transformer system.***
- ***From the switch-pad, a 34.5kV overhead electrical collector line, shown as Preference #1, #2 and #3, overhead and underground distribution line, to interconnect the proposed facility to the Step-up transformer near the Baldwin Substation.***
- ***Separate security fencing around both array areas, including electrical equipment, internal access roads and turnaround areas.***
- ***Laydown and staging areas, including parking, storage for tools and parts, temporary office space, communications and facility monitoring hardware/software equipment.***
- ***Stormwater management facilities. The design of these facilities will be based on the final selection of the PV technology and layout.***
- ***Two 20-foot wide private access roads, one accessing the project array area east of the BPA transmission easement and the other accessing the project array area west of the BPA easement.***

According to the Applicant, the proposed 180 acre Project area will result in approximately 18 acres of permanent disturbance based on compacted soils from the internal access roads, inverter pads and electrical trenches. The total impact disturbance from the compacted soils resulting from Preferences #1, #2 and #3 Gen-tie routes will each be slightly over 3-acres in size. The estimated total temporary disturbance acreage for Gen-tie Preference #1 and #2 is 12.05 acres, and Gen-tie Preference #3 is 18.57 acres. All temporary disturbance areas and corridors will be restored and mitigated, if needed, following construction and installation, in accordance with a revegetation plan.

The proposed use meets the definition of a "photovoltaic solar power generation facility." The applicant does not own or control any existing or proposed facility within 1,320 feet of the subject tract. This is a stand-alone solar generating facility and will be operating independently from other approved or existing projects in this area of the County. The Project will not permanently occupy more than 320-acres of nonarable land.

OAR 660-033-0130(38)(f) requires that for high value farmland, as defined in ORS 195.300(10), a photovoltaic energy system shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

The Project site does not meet the definition of high value farmland in ORS 195.300. The soils are class IV and VI and are not (a) irrigated and classified prime, unique, Class I or Class II; or (b) not irrigated and classified prime, unique, Class I or Class II..."

OAR 660-033-0130(38)(h) states, for nonarable lands, a photovoltaic energy system shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

According to the Applicant, the photovoltaic system, including the solar array and all related and supporting facilities, will permanently impact less than 180 acres of nonarable land. The Project will not be located on high-value soils or arable soils as determined above. No exception is required.

(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;

OAR 660-033-0130(38)(f)(D) has been met. The Applicant consulted with the Crook County Weed Master and prepared a Vegetation Management Plan (Attachment J of the application).

(E) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan...

Not applicable. There are no Goal 5 resources on the subject property that have been identified and protected under the Crook County Comprehensive Plan.

(F) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies.

Not applicable. The proposed solar power generation facility is not located on land that the Oregon Department of Fish and Wildlife (ODFW) has determined has the potential for adverse effects to state or federal special status species. The Applicant engaged a consultant to review the site to determine if any federal or state listed threatened and endangered (T&E) species use the site. (see Attachment F of the application). There were no critical habitats for T&E species identified. Several migratory birds have the potential to occur on-site. If construction is to commence within the migratory bird breeding/nesting season, the Applicant will survey and provide buffers around active nests as directed by U.S. Fish and Wildlife (USFWS) and ODFW (See the proposed Voluntary Wildlife Mitigation Measures, Attachment S of the application).

After review of the proposed project area, design plans, and nearest raptor nesting territories, the U.S. Fish & Wildlife Service informed the applicant on December 11, 2017 that no spatial or temporal buffers are being recommended in order to avoid and/or minimize disturbance to nesting golden eagles.

(G)(i)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).

The Applicant agrees to execute a "covenant not to sue" for farm activities and provided a proposed form (See). This is included as a condition of approval.

(j) 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.

The Applicant addresses the County financial security and Project obligations in the discussion of Crook County Code 18.161.010.

CONDITIONAL USE STANDARDS CCC 18.160

18.160.050(19) Commercial Power Generating Facilities. A commercial power generating facility that is a conditional use in the applicable zone is governed by the general criteria and conditions in CCC 18.160.020 and 18.160.030 and the provisions of Chapter 18.161 CCC.

CCC 18.160.020 General criteria. This provision establishes general criteria for conditional uses.

The Planning Commission reviewed the criteria and determined that the proposal is consistent with the County's comprehensive plan and zoning ordinance. The proposal will have minimal impact on development of the surrounding area compared to the impact of development permitted outright; the location is well suited for such development and the Applicant has the intent and capability to develop the Project as proposed.

18.160.030 General conditions. In addition to the standards and conditions set forth in a specific zone (EFU-3), in permitting a new conditional use, the planning commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. These conditions may include the following:

- (1) Limiting the manner in which the use is conducted;
- (2) Establishing a special yard or other open space or lot area or dimension;
- (3) Limiting the height, size or location of buildings or structures;
- (4) Designating the size, number location and nature of access points;
- (5) Increasing street dedication;
- (6) Designating parking and loading areas;
- (7) Limiting signs;
- (8) Limiting outdoor lighting;
- (9) Landscaping
- (10) Fencing materials
- (11) Protecting existing vegetation
- (12) Other conditions

As discussed previously, the proposed use will not cause negative environmental impacts from noise, vibration, air pollution, glare or odor. Restoration and revegetation of temporary disturbance areas and corridors will commence once construction and installations are completed. Environmental effects that may occur during construction will be avoided or mitigated by limiting the hours of construction and controlling airborne dust with use of watering trucks in order to protect surrounding land uses.

No special setback, yard or open space is required. The panels will not exceed a total height of 12 feet. The temporary operation and maintenance building will be limited to one story in height. Gen-tie poles will be approximately 80 feet tall. The Applicant will address any height limitations associated with the Prineville Airport by adjusting pole locations or by burying the gen-tie line where necessary. (Attachment Q of the application.)

Access to the project will be by two private access roads connecting to SW Houston Lake Road - one to serve the project area on the east side of BPA transmission line easement, and the other to serve the project area on the west side of the BPA easement. Any new access road, or any portion of current private road or approach used to serve the proposed solar facility, will be constructed (or improved as necessary) to comply with the minimum requirements as directed by the County. No new street or public right-of-way dedication is required for the Project.

An area adequate for construction parking, materials delivery and unloading will be provided within the solar project footprint. Once operational, two parking spaces will be provided for employees engaged in facility inspection and maintenance.

Small signs will be placed at the Project entrance from SW Houston Lake Road to identify the Project location and to meet requirements specified in the Emergency Action Plan (See Attachment M of the application).

The Applicant anticipates limiting the amount of lighting at the Project site. Lighting may be needed for security. Lighting may include motion-detector-activated and manually energized floodlights around the Project site for occasional after-hours work. Any lights on the site will be directed downward and/or shielded.

No landscaping will be required. The Applicant states that the proposed solar power generating facility will be setback from Houston Lake Road by 100' on the west side and 300' on the east side.

The Applicant will fence the Project site for security and will incorporate recommendations from the County, ODFW and USFW regarding fence design that minimizes impacts to wildlife. The Applicant is proposing to enclose the project area with cyclone fencing to a height of 8 feet. Neutral colored slats, approved by the Planning Director, will be required on the fence along Houston Lake Road.

The Applicant has chosen a site to minimize impacts to trees, vegetation, water resources and wildlife habitat. There are no identified water resources or Goal 5 wildlife habitat on the site. Vegetation will be removed for the solar arrays but temporary impacts will be restored through revegetation following best management practices (e.g., use of native seed mix) and by noxious weed control practices.

The Planning Commission has included other recommendations to minimize impacts associated with the proposed Project.

**Title 18, Zoning, Crook County Code, Chapter 18.161 Commercial Power Generating Facilities,
18.161.010 (2) Commercial Photovoltaic Energy Systems**

(a) In addition to the requirements of this chapter, Commercial Photovoltaic Energy Systems in EFU zones are subject to OAR 660-033-0120 & 0130.

As discussed earlier in the staff report, the subject property and proposed energy facility meet or exceed the requirements of OAR 660-033-0120 and 0130.

The Applicant has met the application requirements in CCC 18.161.010(2)(b)(i) by providing a description of the proposed solar facility and its components and a proposed construction schedule. The Applicant also provided evidence of an active utility transmission interconnection request including a Small Generator Interconnection Agreement, executed with PacifiCorp on May 12, 2017. (See Attachment N of the application).

The Applicant provided a map and permitting plan for the three alternative gen-tie routes. Because of the height restrictions for power lines within the Airport Approach Zone and FAA standards the ability to use the proposed Gen-tie line for co-locating with other transmission lines in the future is not feasible.

A legal description of the Project Site, including the transmission corridor will be required as a condition of approval.

The Applicant identified no potential conflicts with accepted farming practices or other resource operations in complying with CCC 18.161.010(2)(b)(ii) The Applicant states that the construction and operation of the Project would not affect accepted farming practices on adjacent lands. These findings are discussed under CCC 18.24.040 above. The only identified resource site near the proposed Project is an existing pumice mine. However, because of the location of the proposed Project and distance from the mine, no potential conflicts should exist.

The Applicant provided a Transportation Assessment Letter describing potential traffic impacts associated with the Project in compliance with CCC 18.161.010(2)(b)(iii). The operation of the solar facility will not generate enough traffic to require a transportation impact analysis. The Applicant will consult with the Crook County Road Master to determine conditions necessary for a road approach permits and to address any impacts to Houston Lake Road associated with construction traffic.

The Project is not located in an area identified in the County's Comprehensive Plan's Goal 5 inventory of Big Game Habitat. The Applicant has conferred with Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service to address their concerns. The Applicant submitted a Voluntary Mitigation Plan (Attachment S of the application). This plan complies with CCC 18.161.010(2)(b)(4)(iv).

The Applicant has submitted an emergency management plan to the Crook County Fire and Rescue for their final review and approval. The plan will comply with CCC 18.161.010(2)(b)(v).

The Applicant will submit an erosion control plan upon completion of the civil engineering for the Project's final site plan in compliance with CCC 18.161.010(2)(b)(vi).

The Applicant has submitted a Weed Mitigation and Revegetation Management Plan for the Project including recommendations for dust control that meets the requirements of CCC 18.161.010(2)(b)(vii).

The Applicant provided a Wetland Delineation Report finding no wetlands or waterbodies are present on site. Further, the U.S. Army Corps of Engineers' jurisdictional determination, dated 8/24/17, concurs with this finding (See Attach I of the application). The proposed solar power generation facility is not located on land that is inventoried as wildlife habitat in the Crook County Comprehensive Plan. See also Applicant's Response to OAR 660-033-0160(38)(h)(F), above.

The Applicant's Emergency Management Plan addresses security issues such as theft and vandalism and meets the requirements of 18.161.010(2)(b)(viii).

The Applicant will provide a decommissioning plan to comply with the requirements of 18.161.010(2)(e). The plan will be subject to review by Crook County Counsel.

The Applicant provided an assessment of the socioeconomic impacts of the solar project consistent with the requirements of 18.161.010(2)(b)(x). According to the Applicant, development of the Project will increase economic diversity within Crook County, improving the stability and resiliency of the local economy. The Project will not impact productive agricultural land and the Project's lease and easement payments to the landowner would provide a steady source of supplemental income. The Applicant states that the Project is expected to result in substantial annual tax revenue for the County. The Project would create approximately 291 temporary construction jobs for a period of approximately 6-8 months. The Applicant states that they would hire as many local experienced contractors/workers as possible and commercially feasible during the construction phase and would obtain necessary goods and services from local businesses within the County whenever reasonably possible. Job creation will have a multiplier effect within the local community, increasing business for local restaurants, hotels and retail establishments.

Cypress Creek, the Project developer, stated that they are interested in partnering with K-12 schools in the area to encourage interest in Science, Technology, Engineering, Arts and Mathematic (STEAM) subjects. They offered to provide hosted tours, workshops and trainings to all grade levels.

The Project will have no substantial impacts on local or regional public services. Impacts on the transportation system will be temporary and primarily limited to traffic associated with Project construction.

COMMERCIAL POWER GENERATING FACILITIES CRITERIA

CCC 18.161.010(2)(c) includes specific requirements for commercial solar photovoltaic facilities. The planning commission reviewed the application and found that the applicant had addressed the following standards:

The proposed Project meets or exceeds all setback requirements as required by 18.161.010(2)(c)(i). No facilities will be located within 100 feet of any property zoned for residential use. Property

surrounding the facility is zoned for Exclusive Farm Use. The Project is set back from the nearest residence by approximately 1,700 feet.

The proposed Project meets or exceeds the requirements of 18.161.010(2)(c)(ii). No water resources or other significant natural resources have been identified on the site. Vegetation will be removed to allow for site development.

Clearing and grading would be limited to the areas needed for the solar array and the gen-tie line and the Applicant's proposal meets the requirements of 18.161.010(2)(c)(iii). The Project site is relatively flat, and ground leveling is expected to be minimal and only in areas needed to support the final design of the Project array. The general contours of the Project site will be maintained to the extent possible to meet construction standards for the specific technology and final design.

The Applicant has addressed the requirements of 18.161.010(2)(c)(iv) regarding designing the facility to reduce the likelihood of significant adverse effects on wildlife and wildlife habitat. They have submitted a Voluntary Mitigation Plan and are implementing suggestions for fence design.

Section 18.161.010(2)(c)(v) does not apply. The Project is not subject to review by the Energy Facility Siting Council.

The Applicant states that while operation of the solar facility does produce minimal reflective light (radiation), this will not cause any issues for the surrounding uses or vehicle traffic on Houston Lake Road. The solar panels are designed to absorb light and are treated with an anti-reflective coating. Reflected light is directed back towards the sky due to sun and panel angles. This is consistent with requirements of CCC 18.161.010(2)(c)(vi).

The subject property is not near or located within the portion of the Redmond Airport Control Zone located in Crook County. The Prineville Airport located immediately east of the project does not have a Control Zone. The Applicant has provided copies of FAA Determination of No Hazard for the solar facility. A copy of the FAA Determination of No Hazard related to the gen-tie line will be provided to the County prior to the issuance of building permits for the gen-tie line. The Project is consistent with the requirements of 18.161.010(2)(c)(viii).

According to Applicant, the panels would be washed no more than once per year using biodegradable products to the extent possible. This is consistent with the requirements of 18.161.010(2)(c)(ix).

The Project is located on private property that will be fenced and gated at the access road. There is no public access to the Project property in compliance with 18.161.010(2)(c)(x).

The Applicant states that all electrical cables within the solar array area that will be underground will be at a depth of three feet minimum. Outside of the array area, most cables will be overhead on transmission poles at typical safe heights. The poles and collector system will not have an adverse impact on farm use. Portions of the proposed Gen-tie cable will be underground to a minimum depth of three feet to address FAA regulations. This is consistent with 18.161.010(2)(c)(xi).

There will be no permanent operation and maintenance facility on site so CCC 18.161.010(2)(c)(xii) does not apply.

The Applicant shall covenant not to sue owners, operators, contractors, employees, or invitees of property zoned for farm use for generally accepted farming practices. This is included as a condition of approval and complies with 18.161.010(2)(c)(xiii).

The Applicant will enter into a road use agreement with Crook County Road Master to address impacts to County roads during and after construction, if required. A road approach permit application will be submitted and approved for the access roads at the intersection with Houston Lake Road. This proposal complies with 18.161.010(2)(c)(xiv).

The Applicant will provide a summary of “as-built” changes from the original plan, if any, to the County upon completion of construction as required by 18.161.010(2)(c)(xv).

The Applicant agrees to provide an annual report to the County, upon reasonable request in compliance with 18.161.010(2)(c)(xviii).

18.161.020(2)(d) The Applicant will seek an amendment to the conditional use permit if the Project triggers any of the requirements for an amendment, including if disturbance is required outside of the Project areas identified in the application, or if the footprint of the photovoltaic energy system is increased by more than 20 percent above that described in the current application.

As a condition of approval, the Applicant will submit a Decommissioning Plan for review by Crook County Counsel that addresses the requirements of CCC 18.161.010(2)(e). The plan shall describe the decommissioning process, the anticipated schedule and the cost of dismantling Project components and restoring the site. A final, approved, decommissioning plan shall be in place prior to any clearing and grading of the Project site.

The Applicant will provide financial security and credit support for the Project prior to beginning any clearing or grading of the Project site. The security will be subject to review and approval by the Crook County Counsel.

PUBLIC COMMENTS AND TESTIMONY

The Crook County Planning Commission held one public hearing on the proposed solar facility. At that hearing, the Commission received testimony on behalf of the Project from Laura Craska Cooper, the Applicant’s Attorney, and Amy Berg Pickett and Jason Carr of Cypress Creek, the Project developer. They testified regarding the Project site, the proposed gen-tie line alternatives and Cypress Creek’s experience regarding renewable energy production. They responded to Commissioners’ questions regarding the site, transmission lines and visual impacts. They addressed comments received from the City of Prineville regarding limits to co-locating in existing transmission line easements and some of the design factors that are being incorporated to address potential conflicts with the Prineville Airport. The Commissioners requested specific conditions to require shielded/down-ward directed lighting on the site and to require site-obscuring slats on the fence along Houston Lake Road.

The Planning Commission expressed support for the Applicant's willingness to work with the local schools and provide training on solar facilities to help encourage interest in Science, Technology, Engineering, Arts and Mathematics (STEAM) subjects).

No public testimony was received in support of or against the proposed Project.

FINDINGS AND SUPPORTING EVIDENCE

The Applicant provided a burden of proof statement describing the proposed use of the property. Appendices were attached to the application showing the site location, property zoning, soils, a noxious weed control plan, an emergency management plan, a traffic assessment letter, field investigation reports for project site wetlands and waterbodies, a draft construction schedule, and a wildlife impact and monitoring plan. The information provided by the Applicant, the staff report and findings demonstrate that the applicable criteria of the Crook County Comprehensive Plan, the Crook County Code, the Oregon Revised Statutes and the Oregon Administrative Rules, have been met.

DATED THIS 7TH DAY OF MARCH, 2018



Larry York, Chair, Crook County Planning Commission

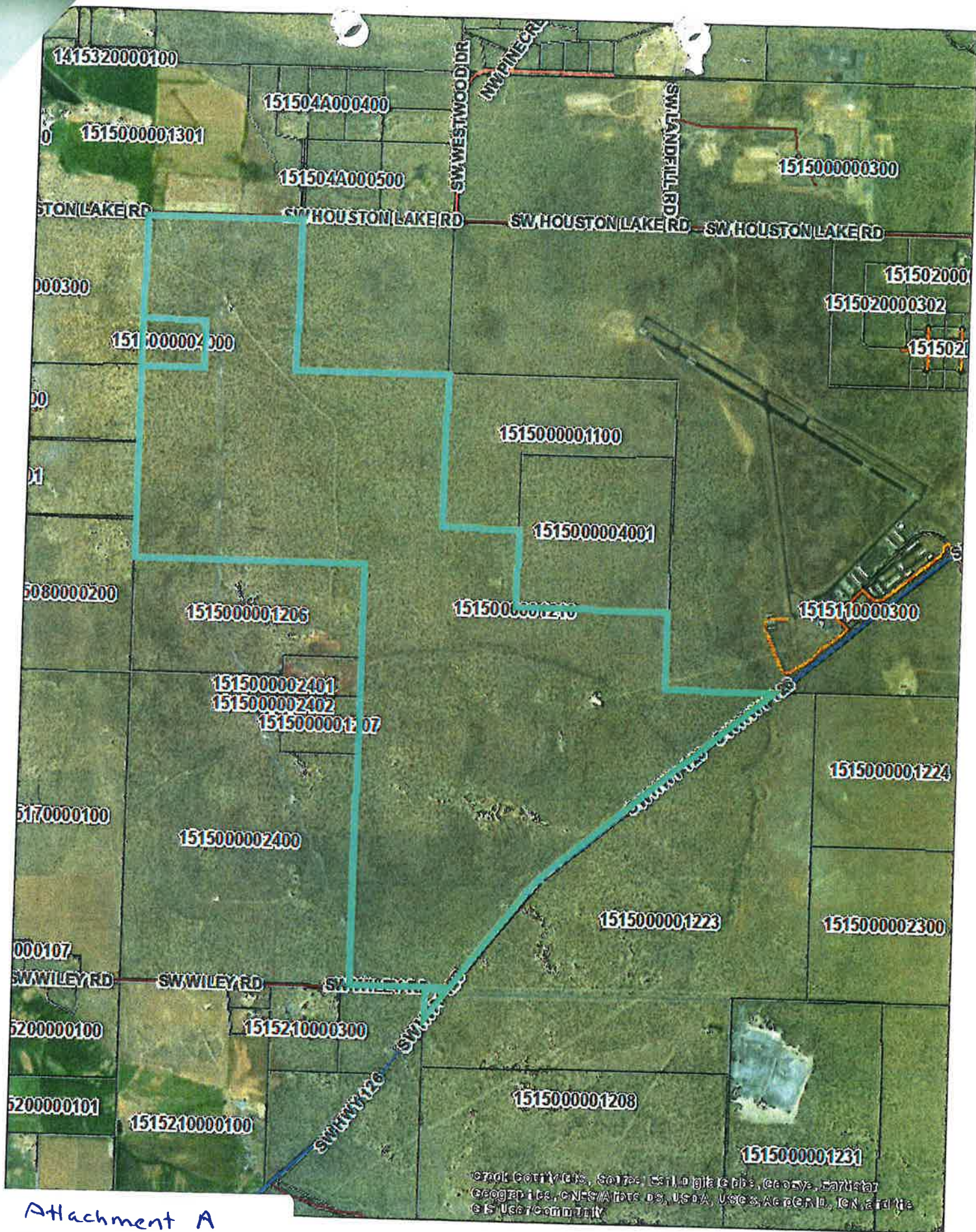


Ann Beier, Director, Community Development Department

APPEAL

This approval may be appealed to the Crook County Court no later than 4:00 p.m. on March 19, 2018. The written appeal must be submitted together with the appeal fee of \$1,850 plus 20% of the application fee to the Crook County Community Development Department. The Crook County Community Development Department is located in the County Courthouse at 300 NE Third Street, Room 12, Prineville, Oregon 97754.

Attachment A– Project Location
Attachment B – Alternative Gen-Tie Routes
Attachment C – Site Plan

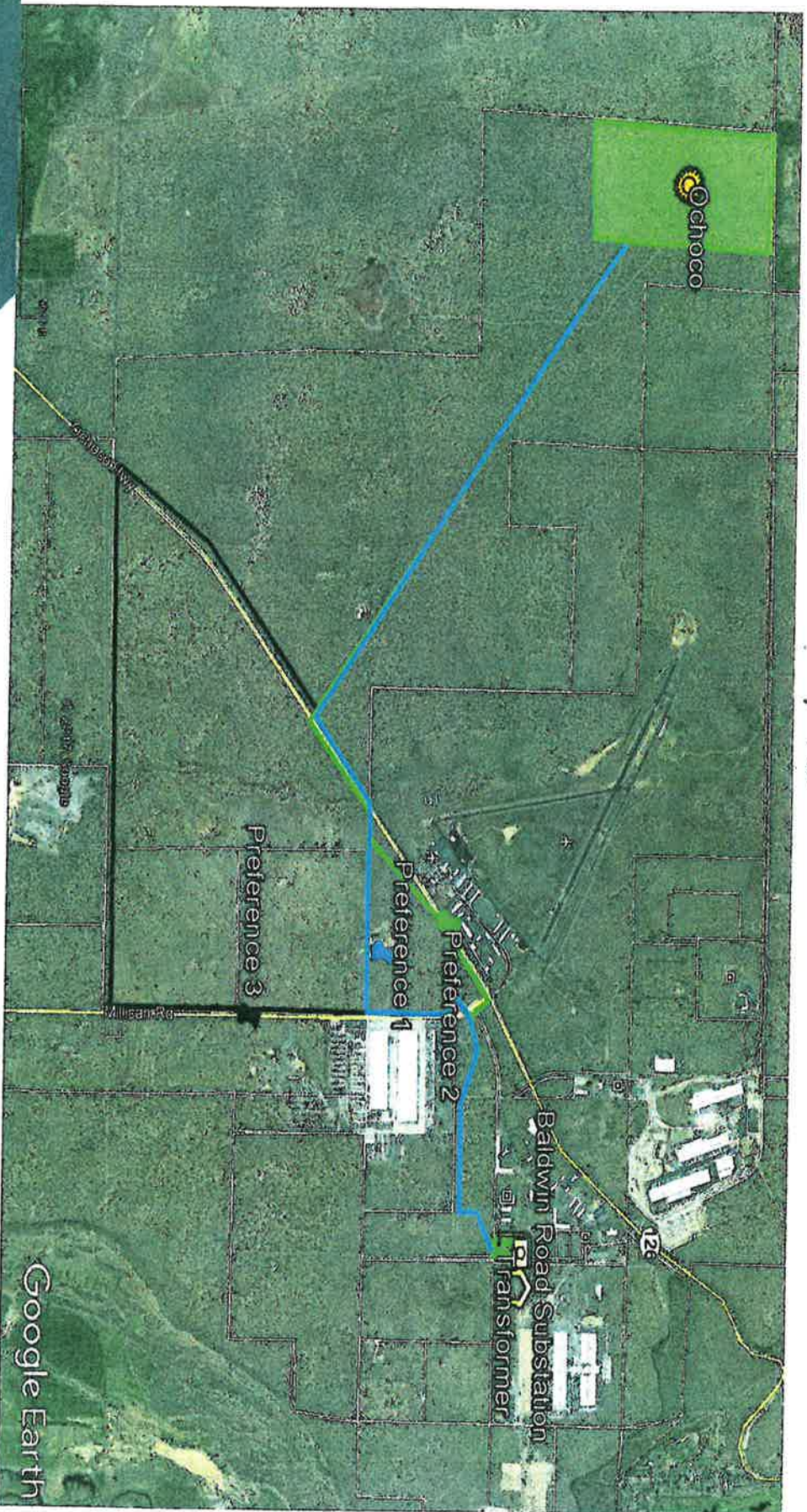


Attachment A
Ochocho Solar
Project Location

Ochoco Development Overview

A Hachmatt B
Gen Tie Route
A1 Alternative

Site 1



CYPRESS CREEK



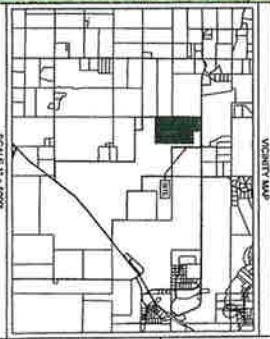
Preference 1

Preference 2

Preference 3

Google Earth

The map displays the Ojai Valley Center and Ojai Valley Inn area. A large 'X' is marked on the map, indicating the project location. The map includes labels for 'Ojai Valley Center', 'Ojai Valley Inn', and 'Ojai Valley Center Project Area'. A large 'X' is marked on the map, indicating the project location. The map also shows surrounding roads and property lines.



JEAN PARK BLVD :: SUITE 355 :: SANTA MONICA, CA 90405

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GENERAL NOTES

[illegible]

WORK COUNTY REQUIREMENTS

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GRAPHIC SCALE	NORTH
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PRELIM DATE: 01-11-11 TIME: 10:00 AM BY: JG	OCHOCO SOLAR, LLC 8880 SW HOUSTON LAKE RD,		REVISIONS NO. DATE DESCRIPTION	