LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by **5:00 p.m. November 3, 2020**. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Taylor Solar **LANDOWNER:** Downing Family Ranch LLC

FILE NUMBER/TYPE OF REQUEST: PD20-0252; a conditional use permit application for a photovoltaic solar power generation facility, pursuant to Linn County Code (LCC) 928.620(B)(33).

LOCATION OF PROPERTY: The property is located at 46870 Lyons Mill City Drive, Lyons. The property is located at the intersection of Lyons Mill City Drive and Cedar Mill Road, approximately 1.83 miles east of the city limits of Lyons. (T09S, R02E, Section 27, Tax Lot 1200)

PLAN DESIGNATION/ZONE DESIGNATION: Farm/Forest / Farm/Forest (F/F)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: A conditional use permit application to establish a photovoltaic solar power generation facility as commercial utility facility for the purpose of generating power for public use by sale. The applicant proposes to construct solar arrays on 8.00 acres of the 60.64-acre subject property. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS:_____

_____

_____

_____

BY _____ **AGENCY (IF ANY)**_____ **DATE**_____

ADDRESS:_____

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STAFF CONTACT PERSON: Alyssa Boles; (541)967-3816, ext.2360 or aboles@co.linn.or.us

Linn County					State of Oregon				Other
x	EHP		Sheriff		DEQ		ODOT/OSHD		School:
	Parks	x	Bldg Official		DOGAMI		ODSF	x	Landowners
x	Assessor	x	Roads	x	DSL	x	DLCD		City Of:
x	GIS		Surveyor		Water		Parks		Other:
	Flood Official			x	ODFW	x	State Fire Marshal	x	RFD: Lyons RFPD

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.

   Section 933.310(B) of the Linn County Land Development Code and Oregon Administrative Rule (OAR) 660-033-0130(38) contain the decision criteria specified for use with this application.

   933.310 RRZ conditional uses; generally
   (B) *Decision criteria.*
   (1) The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system and an adequate supply of potable water.
   (2) The development will not be located within a mapped geologic hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements.
   (3) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.
   (4) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
   (5) If in the forest area of the F/F or in the FCM zoning districts, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
   (6) The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of nearby property. The proposed use will be reviewed with respect to scale, bulk, coverage, density, the availability of necessary public facilities and utilities, traffic generation, road capacity and safety and to other related impacts of the proposal.
   (7) If in the forest area of the F/F or in the FCM zoning districts, a written statement recorded with the deed or written contract with the county is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for the following uses.
   (a) parks and campgrounds;
   (b) reservoirs and impoundments;
   (c) medical hardship dwellings;
   (d) home occupations; and
   (e) private accommodations for fishing.

   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) 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), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:
(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.
(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 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;
(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;
(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;
(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);
(F) 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; and
(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.
(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) 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
(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:
(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);
(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;
(C) No more than 12 acres of the project will be sited on high-value farmland soils 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
(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.
(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 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 nonarable land:
(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);
(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) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
(D) No more than 20 acres of the project will be sited on arable soils;
(E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;
(F) 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, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and
(G) 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. A professional biologist shall conduct the site-specific assessment by using methodologies

accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(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.

(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).

(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.

(n) If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections (g), (i) and (j) of this section.

3. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

4. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.

5. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.

6. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.

7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.

   (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.

(b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.

9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.

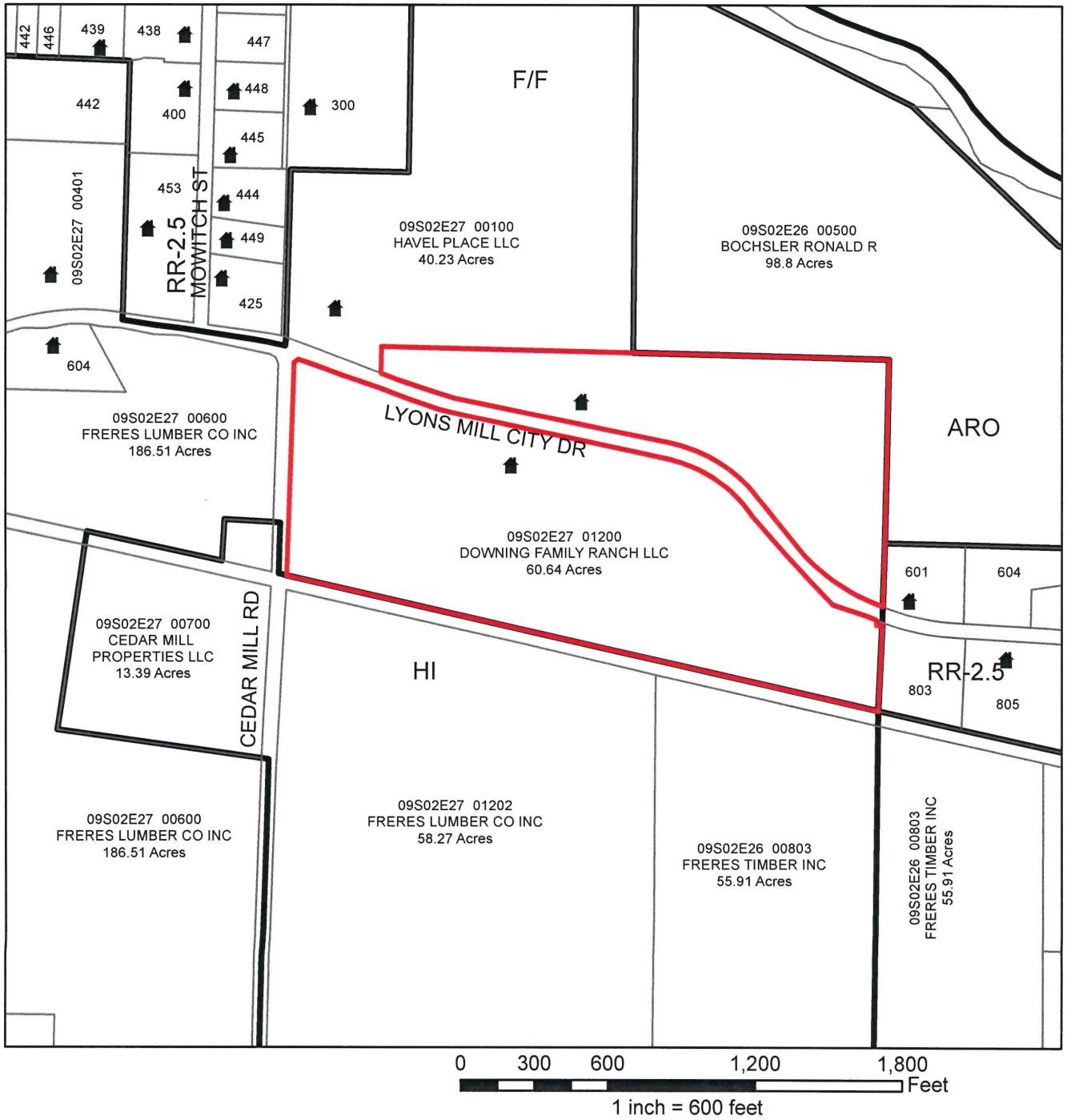
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.

11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

    If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.

Linn County Planning & Building Department

Notice Map



Subject Property

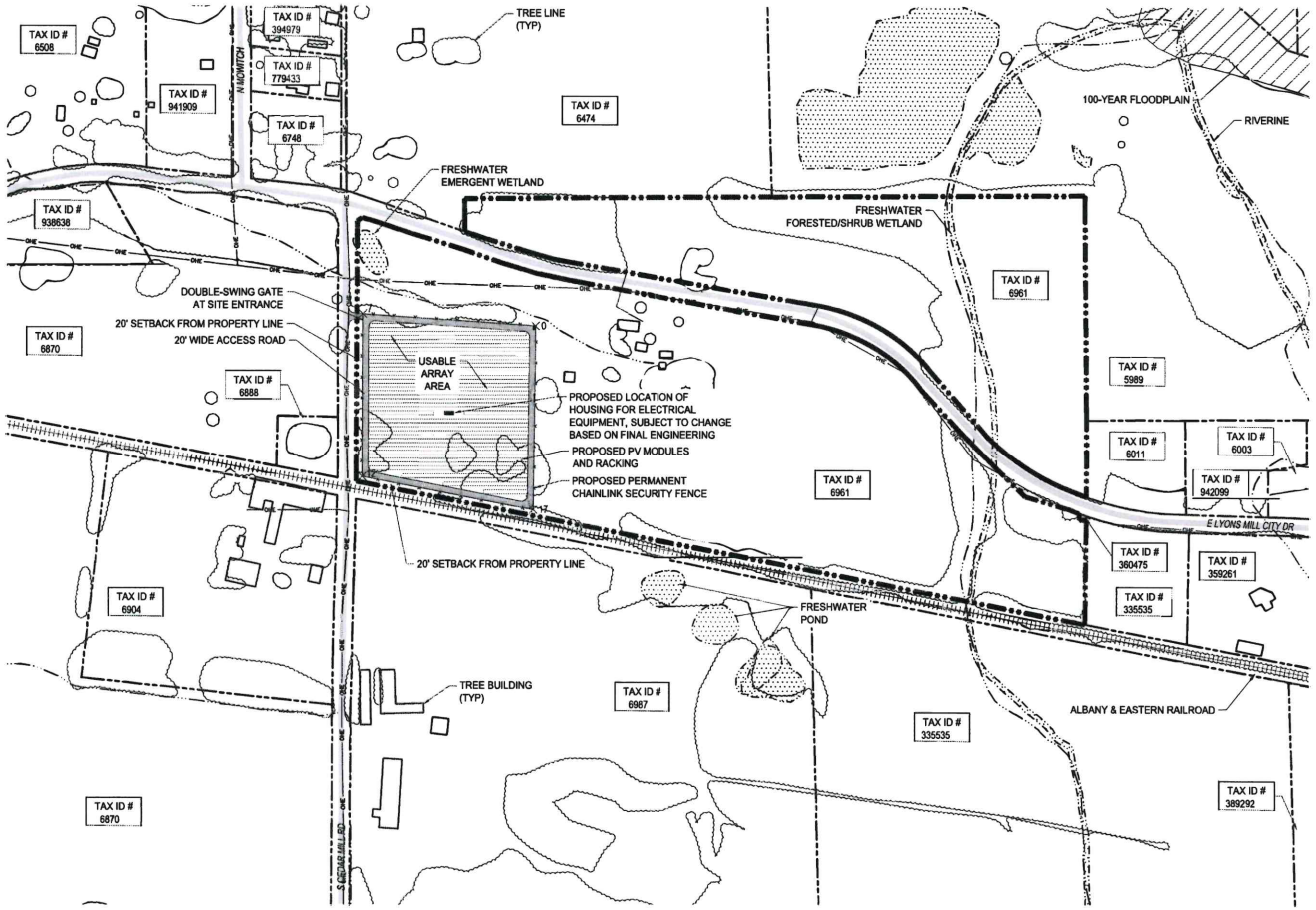
taxlots

Zoning

PD20-0252
09S02E27 01200
TAYLOR SOLAR
60.64 acres

N
W
E
S

10/13/2020



ZONING SITE PLAN

SCALE: 1" = 200'

Scale: 1" = 200'-0"

LEGEND

SYMBOL	DESCRIPTION
	PROPERTY LINE
	TAX LOT BOUNDARY
	EXISTING PAVED ROAD
	EXISTING RAILROAD
	WETLANDS
	100-YEAR FLOODPLAIN
	EXISTING OVERHEAD TRANSMISSION LINE (APPROXIMATE LOCATION)
	EXISTING TREE GROVE/WOODED AREA
	CHAIN LINK SECURITY FENCE
	COMPACTED NATIVE ACCESS ROAD
	PV MODULES & RACKING
X 0	EXISTING RELATIVE SPOT ELEVATION

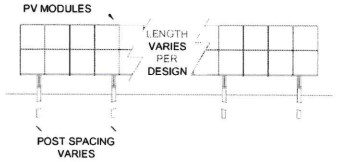
SITE DATA

LEGAL DESCRIPTION	SECTION 27 T.9S. R.2E. W.M. LINN COUNTY
TAX ID #	6961
SITE ADDRESS	46870 LYONS MILL CITY DR LYONS OR 97358
CURRENT LAND USE	FARM/AGRICULTURE
LEASED AREA	N/A
PROPOSED USE	SOLAR ENERGY SYSTEM
ZONING DISTRICT	FARM/FOREST (F/F) FRONT:
SETBACKS (MIN)	20' BACK: 20' SIDE: 20'

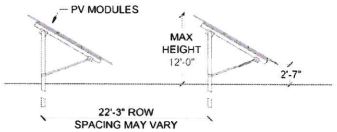
PV RACK DETAILS (TYP)

SCALE: NTS

PV RACK ELEVATION



PV RACK SECTION



GENERAL NOTES

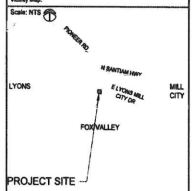
1. Boundary information shown on this plan is per Linn County GIS data.
2. Tax map information obtained from Linn County GIS Viewer.
3. Existing tax lots will be consolidated or redrawn prior to the issuance of building permits and all required set backs will be met.
4. Dimensions provided are for guidance only.
5. Sediment and Erosion Control Plan must be approved by ODEQ prior to construction.
6. Driveway permits must be approved by Linn County prior to construction.
7. Project area, including construction staging areas, will be cleared and grubbed as necessary. Retaining pre-development drainage patterns (i.e. no mass grading). The only permanent impervious surfaces will be concrete equipment pads and pile sections for support of the PV structure.
8. Proposed temporary lay down yard/construction. A portion of this area will be covered with gravel or other temporary surface to allow delivery of construction materials. Following construction, the entire area will be restored to pre-construction conditions.
9. Proposed 22' wide access gate (two 11' sections) is 6' tall chain link with 3 strands of barbed wire. Nox Box will be provided to allow emergency personnel access.
10. No lighting is proposed for the site.
11. Aluminum signs ("Danger - High Voltage" and "Danger - No Trespassing"), will be placed on permanent 6' tall security fencing.
12. Systems, equipment and structures will not exceed 12' in height when ground mounted. Excluded from this height requirement, are electric transmission lines and utility poles.
13. It is assumed within this preliminary design, that the useable space accommodates any eventual erosion & sedimentation control measures, that will be governed under ODEQ requirements. Assumed BMP's include but are not limited to silt fence, fiber rolls, washout pits, a temporary gravel construction entrance and seeding as necessary.
14. The location of proposed improvements, including but not limited to: fencing, solar array racking, inverter/ transformer pad, overhead poles & lines, etc., shown are approximate & are subject to modification due to site conditions, additional permitting requirements (ODOT, USACE, etc), equipment specifications, and/ or other constraints.
15. No wetlands would be disturbed per US Fish and Wildlife Service National Wetland Inventory Data.
16. Project will use string inverters, final locations dependent upon final engineering.

epg
208 East 800 South
Salt Lake City, Utah 84111
801.746.4457
www.epgllc.co

Project:
TAYLOR SOLAR PHOTOVOLTAIC PROJECT

Client:
TAYLOR SOLAR, LLC

Vicinity Map:
Scale: NTS



Drawing Title:
ZONING SITE PLAN

Issued for:
FOR ZONING PURPOSES ONLY
NOT FOR CONSTRUCTION

JULY 2020

Revisions:

No.	Revision	Date

FOR ZONING PURPOSES ONLY NOT FOR CONSTRUCTION

Project No. SULUS 0002.32

Drawing No. SP1

Sheet No. 1 of 1