

December 8, 2010

To: Clackamas County and ODOT Staff and other Interested Parties

From: Mike McCallister, Land Use and Zoning Manager

RE: Baldock North Rest Area – NWREC / Solar Array Partnership Opportunities

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The purpose of this memorandum is to follow up on several land use issues discussed at the December 6, 2010 meeting at the North Willamette Research and Extension Center.

#### A. Land Use Alternatives

1. The Baldock Rest Area and NWREC site are zoned EFU (Exclusive Farm Use – 80 acre district).
2. Development on either site is subject to Section 401 of the Clackamas County Zoning and Development Ordinance, Oregon Revised Statutes and Oregon Administrative Rules.
3. Exclusive Farm Use Zoning – Section 401 of the Clackamas County Zoning and Development Ordinance (ZDO). The following highway related uses and power generating facilities are identified in the EFU zoning district.

a. Primary Uses Allowed on Low and High Value Farmland: **“Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-ways existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.**

b. Uses Subject to Review By The Planning Director: **Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.”**

c. Conditional Use – Allowed on Low and High Value Farmland (Section 401.07B(4)): **“ Roads, highways and other transportation facilities, and improvements not allowed under Subsections 401.04 through 401.06. Such uses may be established, subject to the adoption of an Exception to Statewide Planning Goal 3, Agricultural Lands, and to any other applicable Statewide Planning Goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in Oregon Administrative Rules 660-012-0035 and 660-012-0065.”**

d. Conditional Use - Allowed on Low and High Value Farmland (Section 401.07B(6)): **“Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.”**

4. OAR 660, Division 12.

a. OAR 660-0012-0065 – Transportation Improvements on Rural Lands. **Allows transportation improvements and accessory transportation improvements that are allowed or conditionally allowed by ORS 215.283.** Pursuant to OAR 660-0012-0035(1) the uses identified in paragraphs 2(a and b) do not require an Exception to Statewide Planning Goal 3 – Agricultural Lands because those uses are identified in ORS 215.283.

## **B. Processing Timelines**

1. A final decision on any land use application in the rural area of the County must be issued by the County within 150 days of the receipt of a complete application. Final decisions issued by the County are subject to appeal to the Land Use Board of Appeals (LUBA).

2. A Planning Director Review application generally takes 5-6 weeks from the time to a complete application is submitted to a decision. The decision is subject to appeal for a period of 12 days. If the application is appealed, it would be reviewed through the public hearing process as outlined in paragraph 3 below.

3. A conditional use permit requires review through a public hearing process. A land use hearings officer conducts the hearing and issues the final decision. Once an application is submitted, the County has 30 days to deem the application complete. However, the completeness review is normally completed within 7-10 days. Once the application is complete, it is scheduled for a public hearing. Hearings are scheduled every week (Thursdays) on a first come first serve basis. The hearing can be scheduled in 6-7 weeks after the application is deemed complete. At the conclusion of the first hearing, the hearings officer can take a number of actions. The hearing and record can be closed in which case a written decision will be rendered within 2 weeks. In some cases the hearing will be closed but the record will remain open to submit additional written testimony. In most cases, a decision will be rendered within 10-14 weeks after submittal of a complete application.

## **C. Public Notification and Outreach**

1. The County ZDO outlines minimum notification requirements for land use applications. For Planning Director Review and Conditional Use permits, the County is required to send notice to adjacent and nearby property owners located within 750' of the boundary of the subject property, to the recognized CPO, Hamlet or Village (recognized neighborhood organization) and to affected agencies (fire district, water district, etc.). A public notice is also required in a newspaper of general circulation at least 20 days prior to the hearing for a conditional use permit. These are the minimum notice requirements. The County can provide additional public notice such as notifying neighbors more than 750' from the property, conducting open houses, other media releases, etc.

## **D. Permit Costs**

1. The application fee for a Planning Director Review application is \$775.00 and \$3,650.00 for a conditional use permit.

2. Other costs necessary for this project will include but are not limited to the costs of preparing and presenting the land use applications, engineering and permit costs for any necessary on site or off site improvement permits and associated improvement costs, building permit costs for the solar array, transportation system development charges, and other fees associated with any

permits required by federal and state agencies. A pre-application conference can be scheduled with the County staff to discuss this proposal in more detail. The purpose of the pre-application meeting is to discuss the specifics of the proposal, outline the process, timelines, approval criteria, submittal requirements, permitting costs, transportation system development fees and other information to assist in the formal application process.