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BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF APPEAL OF FILE NUMBER CUP 23-15**FINAL ORDER**

WHEREAS, Saturn Power Corp., applicant, filed a timely appeal of the Planning Commission's denial of a 9.9 megawatt solar power generating facility on approximately 73 acres of a 118 acre parcel within the Exclusive Farm Use – Crops & Grazing (EFU-CG) Zone.; and

WHEREAS, the Klamath County Planning Department provided proper notice for the de novo appeal hearing held on March 31, 2016 before the Klamath County Board of Commissioners; and

WHEREAS, based on testimony entered at the appeal hearing and consideration of the whole record from the Planning Commission's review and public hearing, including the Revised Staff Report and the Applicant's Burden of Proof, the Board of Commissioners concluded that the project does meet the required criteria contained in Article 54.040 of the Klamath County Land Development Code and APPROVED the request of Planning File CUP 23-15 subject to the following Conditions of Approval;

Conditions of Approval

1. *Prior to construction, the Planning Dept. must sign off on the Land Use Compatibility Statement (LUCS) for the project.*
2. *Prior to Planning signing off on the LUCS, the owner shall record a restrictive covenant with the deed recognizing the rights of adjacent and nearby landowners to conduct farm and forest operations consistent with accepted farm practices and the Oregon Forest Practices Act. A copy of the recorded covenant shall be provided to the Planning Department.*
3. *The applicant shall obtain all applicable building permits prior to construction.*
4. *Prior to issuance of the Planning approval (LUCS), the subject site shall be disqualified from farm tax deferral through the Assessor's Office.*
5. *Prior to solar project construction, a certified anthropologist, with a degree, shall conduct a Phase 1 cultural survey on the site and contact the State Historic Preservation Office to verify any cultural records or sites in the area. A certified cultural monitor shall be present, to the satisfaction of the Klamath Tribes, while all ground disturbing activities are taking place.*
6. *The applicant shall make the improvements stipulated to in their letter dated December 3, 2015 (Exhibit 27) with the following additional details:*
 - a. *Prior to construction of the solar field, the applicant shall enter into an agreement with the owner(s) of Cattle Drive to improve the roadway to the design standards of the KC Public Works Standard Drawing No. 114 (from Appendix "A" of the KC Land Development Code) including subgrade, base material, surface material, grade,*

drainage and other elements. The improvement shall include any drainage retention/detention area necessary for managing drainage from the street which shall be designed in accordance with County Public Works Standards.

In addition, the private street shall include the extra width and improvements to meet the requirements stated in the letter from the Chiloquin-Agency Lake Fire District and be designed to support a minimum 80,000 pound fire vehicle weight.

A copy of the above plans shall be submitted to the Planning Dept. prior to project construction.

The agreement shall also include maintenance of the roadway in this condition as long as the solar project exists.

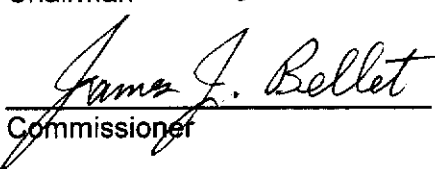
All other improvements identified in the letter from the fire district shall also be completed.


- b. Screening trees shall be located along both the west and south sides of the property and shall be a minimum height of 5 feet with 15-foot spacing in a staggered alignment. The tree species shall be appropriate to the soil moisture conditions where they are planted.
7. Prior to issuance of the Planning approval (LUCS), the project owner shall provide security sufficient for decommissioning costs in the form of a performance bond to ensure the availability of funds to cover such costs. The security bond is to cover removal of equipment and restore the land to its original condition at the end of the project, or project abandonment and for hazard abatement. A decommissioning plan shall be provided to the Planning Dept. prior to issuance of the LUCS. An estimate of the decommissioning costs shall be provided with the bond and may include a salvage and recycling estimate that would reduce the bond amount.
8. If the perimeter fencing for the solar field is within 50 feet of a public highway or is directly visible from the ground level of a residence that is less than 500 feet from the perimeter fence, the applicant shall plant a 10 foot wide strip of natural vegetation buffer before final permits and activation. The natural buffer should cover at least 50% of the surface area of the fence within 5 years of solar field activation.

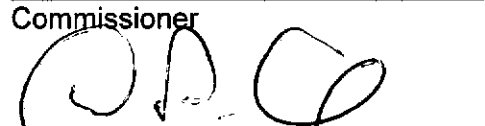
Dated this 1 day of April, 2016

FOR THE BOARD OF COUNTY COMMISSIONERS


Chairman


Commissioner


Commissioner


County Counsel

Approved as to form

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or mail at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.