## EXHIBIT SCHEDULE

**FILE NUMBER:** ZC-20-003  
**APPLICANT:** CTUIR, Economic and Community Development Program  
**HEARING DATE:** August 11, 2020

<table>
<thead>
<tr>
<th>EXHIBIT</th>
<th>NATURE OF EXHIBIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Eight (8) Page Staff Report</td>
</tr>
<tr>
<td>2</td>
<td>Three (3) Page Application</td>
</tr>
<tr>
<td>3</td>
<td>Seven (7) Page Dissemination Record</td>
</tr>
</tbody>
</table>
STAFF REPORT
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
TRIBAL PLANNING OFFICE

File No: ZC-20-003
Public Hearing: Land Protection Planning Commission
Public Hearing Date: August 11, 2020

Subject:
Land Development Code (LDC) text amendments to permit small scale solar power projects in the Industrial zone, update the definition of Net Metering, and amend related definitions and standards. Changes are proposed to LDC Chapters 2, 3 and 17.

Applicant:
CTUIR Department of Economic and Community Development (DECD), Nixyáawii Governance Center, 46411 Timíne Way, Pendleton OR 97801

Nature of Request:
DECD manages Industrial zoned lands at Coyote Business Park South and Wanapa, and has requested the proposed code change to permit small scale solar energy generation in Industrial areas.

Proposed Request:

1. To permit solar power projects in Industrial zones. Within industrial zones, facilities up to 3 MW (small scale solar power projects) would be permitted while facilities greater than 3 MW would be allowed only through a conditional use approval.
2. To revise the definition of Net Metering consistent with Oregon Public Utility Commission requirements.

Background Information:

Recently, Coyote Business Park has been presented with an opportunity to lease a parcel to a company for “Community Solar” energy generation. Community Solar is a program of the Oregon Public Utilities Commission where customers are given the option of choosing a solar or otherwise “green” portfolio as the source of the electricity they purchase. Pacific Power’s Blue Sky Program offers this option to customers and must be supported by sufficient solar-generated power.

The Department of Natural Resources, Energy and Environmental Services Division has researched the possibility of solar for the Reservation and previously alerted the Planning Department of the need to broaden the Land Development Code’s regulations regarding solar in response to Climate Change.

Currently energy generation within the CTUIR is limited to Net Metering by the Land Development Code with Solar net metering allowed outright in all zones (except the F-2 zone), and wind net metering allowed through a Conditional Use in all zones (except the F-2 zone). Net Metering limits the amount of energy produced on a site to roughly the amount that can be used on that site. In contrast a solar power project would generate energy that would be sold back to the grid to be utilized by the larger community.
The proposed code change would allow up to a 3 MW Solar project (small scale solar project) within Industrial zones through a Development Permit and greater than 3 MW through a Conditional Use permit.

Design standards for solar power projects in Industrial zones would require systems be located and sited to minimize off-site glare. 20 foot setbacks would be required.

The land in Coyote Business Park South (CBPS) is zoned Industrial and well-suited to a small scale solar power project. The location is south of I-84, and the solar panels would face south, minimizing visibility from I-84. The location is also well-positioned to tie into the existing electrical system. The Wanapa Industrial area would also be appropriate for solar energy development. A facility greater than 3 MW may be appropriate there.

The proposed change to the Land Development Code would also update the definition of Net Metering to specify a maximum size of 25 KW for residential and 2 MW for commercial, consistent with the Oregon Public Utilities Commission limits. This is a simpler way of setting limits than the current definitions’ 200% of the average actual or estimated energy use for a site.

For Solar Net Metered facilities, existing setbacks for each zone would continue to apply.

**STAFF FINDINGS**

1. **LDC Amendment Initiation:** LDC Chapter 9 provides for amendments to the Land Development Code when “public necessity and convenience and the general welfare requires such an amendment.” An amendment may be initiated by an application from a property owner or their authorized representative. The Department of Economic and Community Development manages Coyote Business Park and the Wanapa Industrial area and represents the CTUIR interests in regards to development of these Industrial lands. DECD sought input on this proposal from the Economic & Community Development Commission (ECDC) at their July 7, 2020 meeting. The Commission was fully supportive of this code change to permit Solar development in Industrial areas.

2. **Tribal Staff Review Committee (TSRC):** The Tribal Staff Review Committee was sent a copy of the proposed amendments on July 2, 2020 and met on July 9, 2020 to discuss the proposal. Comments were also received in writing through July 16, 2020. The Energy and Environmental Services (EES) division of the Department of Natural Resources (DNR) submitted comments which were reviewed and incorporated into the proposed language.

3. **Approval Criteria:** LDC Section 9.015 contains five standards that must be met for LDC amendments. The standards are listed below in **bold font**, staff findings are *italicized*.

   a. **Conformance with the Comprehensive Plan.**

      The following Elements and Objectives of the Comprehensive Plan were found to be applicable to the proposed amendments:
Element 5.15 – Energy

Objective 8. Utilize all available energy programs that provide incentives for energy efficiency and funding for renewable energy development.

The proposed amendment supports this objective. It will permit land in Industrial areas to participate in a program that was set up by the State to encourage development and use of solar power.

Objective 3. Diversify the CTUIR economy through energy investment in all feasible aspects of energy including power generation and bio fuels.

The proposed amendment supports this objective by permitting solar power generation in Industrial zones above what is currently allowed under Net Metering.

b. Conformance with all applicable codes.

The change to allow small scale solar supports a 2016 amendment by the Oregon Legislature designed to help promote solar energy production in Oregon. The proposed change to the definition of Net Metering is in alignment with the Oregon Public Utilities Commission definition.

The change also supports the CTUIR Energy Policy, adopted by the Board of Trustees in 2009 under Resolution No. which includes the following goals:

- DECD Goal No. 21 – Pursue economically feasible opportunities to invest in or develop renewable generation projects.

The proposed change would permit Solar to be developed at an economically feasible size. DECD would also be able to take advantage of a current opportunity to generate income by leasing land at Coyote Business Park South for Solar power production.

- TPO Goal No. 37 - Promotion of small scale solar generation at home sites.

The revised definition of net metering supports solar generation at home sites.

c. That there is a public need for a change of the kind in question.

Yes. This change is needed to allow greater production of renewable energy on the Reservation. This is good for the environment, and good for the CTUIR. It will allow utilization of vacant land at Coyote Business Park South that has been set aside for Industrial use. As an industrial use, it has a low impact on the environment. It supports the Oregon Public Utilities’ Commission desire to increase solar energy production, and Pacific Power’s Blue Sky Program.
d. That need will be best served by changing the classification of the particular piece of property in question as compared with other available property.
   Not applicable, no properties are proposed to be rezoned or reclassified.

e. That there is proof of a change of circumstances or a mistake in the original zoning.
   A change of circumstance has occurred. Climate Change has intensified and the need for renewable energy to replace Fossil Fuels has become more important and readily apparent. Technologies have improved and become more available. Provisions like the one passed by the Oregon legislature support increased production of renewable energy.

CONCLUSIONS

The proposed amendments meet the criteria for a change to the Land Development Code.

DECISION OPTIONS:

The Land Protection Planning Commission (LPPC) is acting in a legislative role as advisor on this matter and may recommend to the Board of Trustees approval, denial, or modification of the proposed amendments. In acting on this request, the LPPC must choose one of the following options:

1. Recommend approval of the proposed amendments to the Board of Trustees;
2. Recommend disapproval of the proposed amendments to the Board of Trustees;
3. Recommend modification of the proposed amendments to the Board of Trustees;
4. Continue the hearing to a specified time, date, and place; pending further testimony or information;

RECOMMENDATION:

Based on the preceding facts, findings and conclusions, staff recommends that the Land Protection Planning Commission recommend APPROVAL of the proposed Land Development Code text amendments to the Board of Trustees without conditions.
CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION
Tribal Planning Office
46411 Timine Way, Pendleton, Oregon, 97801

AMENDMENT / ZONE CHANGE APPLICATION

Fee: $150.00 Please Print

Amendment To: Land Development Code -- Section Number 2.020(63) & 3.185(10)

Zone Change: Present Zone Industrial Proposed Industrial
Revise the definition of “Net Metering” and allow “Small Scale Solar Projects” as a permitted use in industrial zoned land.

Applicant’s Name: Bill Tovey, Director - Department of Economic and Community Development
Address: 46411 Timine Way, Pendleton, OR 97801 Phone: 541-429-7480

Lot Owner’s Name: Confederated Tribes of the Umatilla Indian Reservation (Tribal Trust Land)
Address: Coyote Business Park South Phone:

Property Description (If Applicable):
Section Township Range
Tax Lot ( ) Allotment (X): T 2103-C Present Zone: Industrial Total Acreage: 500+

Legal Access: Public Road - South Market Road

Present Use of Property (Description, including any existing structures and the current use): Industrial - Tribal Environmental Recycling Transfer Station (TERF) - Farming

Proposed Amendment/Zone Change: (Explain in detail)

• A response shall be submitted with this application explaining how this request relates to the applicable decision criteria (see Attached).

I understand that any false statements made on this application may cause subsequent approval by the Natural Resources Commission to be null and void. I hereby certify that I understand that by signing this permit application, I am giving the CTUIR Tribal Planning Office the authorization to conduct any site inspections necessary in reviewing this application.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED!

Date: 7/2/2020 Applicant: CTUIR
Agent: 

I am the (Circle One): Owner/owner’s authorized representative (If authorized representative, attach letter signed by owner)

Exhibit# 2
Page 1 of 3
June 10, 2020

J. D. Tovey, Director
Tribal Planning Office
46411 Timine Way
Pendleton, OR 97801

RE: Land Development Code Zone Change Request – Coyote Business Park

The Department of Economic and Community Development (DECD), as the authorized manager of the property known as the Coyote Business Park, would like to request that the Tribal Planning Office work with DECD staff to review and propose changes to the Land Development Code for the Coyote Business Park. This request is being made to allow the Confederated Tribes the opportunity to evaluate and consider the following small scale solar projects at the Coyote Business Park:

1. Solar Net Metering Projects;
2. Oregon Community Solar Program Certified Facilities; and

Since the Land Development Code was originally changed to accommodate net metering solar projects as a permitted use within Industrial and Commercial Development Zones, a couple of key events have occurred. First, PacifiCorp has made a policy change whereby virtual net metering is now allowed. Second, the 2016 Oregon Legislature passed SB 1547 establishing the Oregon Community Solar Program. By changing the Land Development Code to allow small scale solar projects as a permitted use within Industrial and Commercial Development Zones such as the Coyote Business Park, the Confederated Tribes would be able to take advantage of the policy change by PacifiCorp and the Oregon Community Solar Program. DECD is currently in discussions with a potential developer to locate an Oregon Community Solar certified facility at the Coyote Business Park.

Please contact Bruce Zimmerman so that the Tribal Planning Office staff and DECD Staff can work together to develop a plan and timeline to review the current Land Development Code and propose the necessary amendments to allow for the development of small scale solar projects at the Coyote Business Park.

If you have any questions please let me know.

Sincerely,

Bill Tovey, Director
Cc: Ted Wright, Executive Director

1. This request is being made pursuant to Chapter 9, Section 9.005 of the Land Development Code. This letter is being submitted as requested by JD Tovey, Planning Director to start the initial review process.
2. Please note that the current PacifiCorp feeder circuit 5W403 (Coyote Business Park) only has 1.87 MW of available capacity, without further up-grades to the system. PacifiCorp is planning to up-grade the feeder circuit 5W403 (which will be renamed 5W857), but has not yet provided what additional capacity may be available on the new feeder circuit.
ATTACHMENT: AMENDMENT/ZONE CHANGE DECISION CRITERIA.

The Land Development Code and zoning may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. Such a change may be proposed by the Natural Resources Commission on its own motion, or by motion of the Board of Trustees. Any proposed quasi-judicial amendment or change shall first be submitted to the Natural Resources Commission and the Commission shall, within forty (40) days after a hearing, recommend to the Board of Trustees' approval, disapproval, or modification of the proposed amendment.

Standards for Zone Change 1

The burden of proof is upon the one seeking change. The degree of that burden increases proportionately with the degree of impact of the change which is sought. The applicant shall in all cases establish:

1. Conformance with the Comprehensive Plan.
2. Conformance with all applicable statutes.
3. That there is a public need for a change of the kind in question.
4. That need will be best served by changing the classification of the particular piece of property in question as compared with other available property.
5. That there is proof of a change of circumstance or a mistake in the original zoning.
PUBLIC HEARING NOTICE DISSEMINATION RECORD

File #: ZC-20-003; Conditional Use request filed by CTUIR Economic and Community Development Department

Land Protection Planning Commission Public Hearing Date: August 11, 2020

Newspaper and Date Published;
1. East Oregonian: August 1, 2020
2. Confederated Umatilla Journal: August 6, 2020

Posted in six public Places;

1. Mission Market: July 31, 2020
2. Yellowhawk Tribal Health Clinic: July 31, 2020
3. BIA Umatilla Agency: July 31, 2020
4. CTUIR Housing Department: July 31, 2020
5. Nixyáawii Governance Center: July 31, 2020

Attached are copies of the public hearing notices that were posted, published and mailed to all interested parties, subject property owners and adjacent property owners, as required by Land Development Code Section 13.020.

Exhibit 3
Page 1 of 7
PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that the Land Protection Planning Commission (LPPC) of the Confederated Tribes of the Umatilla Indian Reservation will hold the following public hearings:

**Land Development Code (LDC) Text Amendment #ZC-20-003 – Applicant: CTUIR Planning Office, 46411 Timine Way, Pendleton, OR.** The Tribal Planning Office seeks a recommendation from the Land Protection Planning Commission (LPPC) to the CTUIR Board of Trustees for text amendments to the Land Development Code (LDC) to permit Small Scale Solar Power Projects in the Industrial zone, update the definition of Net Metering, and amend related definitions and standards. Changes are proposed to Chapters 2, 3, and 17 of the LDC. Amendments to the LDC are subject to Chapter 9, Zone Change, Amendments, and Chapter 13, Hearings.

The public hearing will be held on **Tuesday, August 11, 2020 beginning at 9:00 a.m.** Due to the current health emergency (COVID-19) the hearing will be held via Zoom. If you would like to participate in the hearing or provide testimony starting at 9:00 a.m., please join us online at [https://us02web.zoom.us/j/84702713904](https://us02web.zoom.us/j/84702713904) or by phone at 1-253-215-8782. The meeting ID will be 847-0271-3904.

The public is entitled and encouraged to participate in the hearing and to submit testimony regarding the request. Materials relating to this conditional use request are available from the Tribal Planning Office, 541-276-3099 or online at [https://ctuir.org/information-technology/notice-public-hearing-zc-20-003](https://ctuir.org/information-technology/notice-public-hearing-zc-20-003).

Written comments may be sent via e-mail to hollyanderson@ctuir.org or by US mail to the Tribal Planning Office at 46411 Timine Way, Pendleton OR 97801. Written comments must be received no later than 4 p.m. on Friday, August 7. Note that the Tribal Offices may be closed to the public except by appointment. Staff can be reached at 541-276-3099. Thank you.

Lindsey Watchman, Secretary
Land Protection Planning Commission

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Exhibit 3
Page 2 of 7
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Lindsey Watchman, Secretary
Land Protection Planning Commission

Exhibit 3
Page 3 of 7

Treaty June 9, 1855 ~ Cayuse, Umatilla and Walla Walla Tribes
July 31, 2020

PUBLIC HEARING NOTICE

Dear Property Owner:

On August 11, 2020 the Land Protection Planning Commission of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) will hold a public hearing concerning a Conditional Use request.

You are receiving this notice because you are an owner of property located within the I-D Industrial Development zone.

Land Development Code (LDC) Text Amendment #ZC-20-003 – Applicant; CTUIR Planning Office, 46411 Timine Way, Pendleton, OR. The Tribal Planning Office seeks a recommendation from the Land Protection Planning Commission (LPPC) to the CTUIR Board of Trustees for text amendments to the Land Development Code (LDC) to permit Small Scale Solar Power Projects in the Industrial zone, update the definition of Net Metering, and amend related definitions and standards. Changes are proposed to Chapters 2, 3, and 17 of the LDC. Amendments to the LDC are subject to Chapter 9, Zone Change, Amendments, and Chapter 13, Hearings.

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Regards,

Holly Anderson
Associate Planner

Exhibit 3
Page 4 of 7
ZC-20-003 Public Notification Recipients

Trust/Allotment Notification

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Taxlot Notifications

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Public Agency Notifications

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<tr>
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<tbody>
<tr>
<td>Wendy Neal</td>
<td>UEC</td>
<td>P.O. Box 1148</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hermiston, OR 97838-3148</td>
</tr>
<tr>
<td>Rivera Miroslava</td>
<td>Bonneville Power Association</td>
<td>P.O. Box 3621</td>
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<tr>
<td></td>
<td></td>
<td>Portland, OR 97208-3621</td>
</tr>
<tr>
<td>Operations Manager</td>
<td>Pacific Power</td>
<td>PO Box 220</td>
</tr>
<tr>
<td></td>
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<td>Pendleton, OR 97801</td>
</tr>
<tr>
<td>Michael Jackson, BIA</td>
<td>Umatilla Agency</td>
<td>e-mail</td>
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<tr>
<td>Superintendent</td>
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</table>
DATE: July 2, 2020
TO: Tribal Staff Review Committee
FROM: Holly Anderson, Associate Planner, Tribal Planning Office
REGARDING: Meeting Thursday, July 9, 2020, 11:00 am, Waluula
Zone Change Request – ZC-20-003

The Tribal Staff Review Committee is scheduled to meet on Thursday, July 9, 2020 at 11:00 am., in the Nixyáawii Governance Center Waluula Conference Room to review the following application:

Zone Change File #ZC-20-003 – Applicant, CTUIR Department of Economic and Community Development, 46411 Time Way, Pendleton, OR 97801 seek a recommendation of approval from the Land Protection Planning Commission to the Board of Trustees for an amendment to the Land Development Code to allow small scale solar photovoltaic energy generation in the industrial zone and to revise the definition of Net Metering. Zone Change amendments are subject to the CTUIR Land Development Code Chapters 9 and 13.

A public hearing with the Land Planning Protection Commission is proposed to be scheduled for August 11, 2020 at 9:00 a.m.

The application and supporting materials for this request are posted on the Free4all shared Drive in the TPO/ZC-20-003 folder.

If you have questions or need further information, please contact Holly Anderson at ext. 7517.

Each committee member should review the proposals:

- To determine its compatibility with the Tribes’ Comprehensive Plan, Land Development Code, and other Tribal Statutes, Resolutions, and Policies;
- To determine the overall impacts this request may impose on Tribal services and utilities, the environment, wildlife, and on the Reservation

Call-in to the TSRC meeting is available at:

Dial-in Info: +1 (541) 429-7050
Extension: 7050
Participant Code: 777-581-22

Written comments will be accepted until the end of the day on Thursday, July 16, 2020.

Exhibit 3
Page 7 of 7