



JENNIFER HUGHES, PLANNING DIRECTOR
LINDSEY NESBITT, PLANNING MANAGER
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045
503-742-4500 | ZONINGINFO@CLACKAMAS.US

PLANNING COMMISSION AGENDA

Monday, July 22, 2019

6:30 p.m.

DSB Auditorium, 150 Beaver Creek Rd., Oregon City

Contact: Darcy Renhard
Email: drenhard@clackamas.us
Phone: 503-742-4545

Also published on the internet at:
<http://www.clackamas.us/planning/>

1. CALL TO ORDER, WELCOME & INTRODUCTIONS

2. ROLL CALL

3. PUBLIC COMMENT

This is an opportunity for attendees to provide comment to an item that is not on the agenda.

4. STUDY SESSION

| | |
|--|--|
| a. Update to Rules re: Commercial Solar Facilities ‡ | Martha Fritzie MFritzie@clackamas.us 503-742-4529 |
| b. Park Ave. Plan ‡ | Karen Buehrig KarenB@clackamas.us 503-742-4683 Lorraine Gonzales LorraineGo@clackamas.us 503-742-4541 |

5. OTHER BUSINESS ‡

6. MINUTES ‡

7. SCHEDULE REVIEW

Planning Commission – see attached schedule

Board of County Commissioners

ADJOURN

‡ Attachments

Brian Pasko, Chair * Mary Phillips, Vice-Chair * Christine Drazan * Louise Lopes * Gerald Murphy *
Thomas Peterson * Steven Schroedl * Tammy Stevens * Michael Wilson *

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at least three (3) business days before the meeting at 503-742-4696 or email swilliams@clackamas.us.

503-742-4696: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

| Planning Commission Meeting Dates | Agenda Items / Notes |
|--|--|
| January 14, 2019 | Study session / training |
| January 28, 2019 | Z0375-18-C / Z0376-18-ZAP: Washman Comp Plan/Zone Change |
| February 11, 2019 *5:30 pm | PC/BCC annual dinner / visioning discussion |
| February 25, 2019 | Study session re: Annual Work Program |
| March 11, 2019 | |
| March 25, 2019 | |
| April 8, 2019 | Public meeting re: Annual Work Program adoption |
| April 22, 2019 | CANCELLED |
| May 13, 2019 | CANCELLED |
| May 27, 2019 | CANCELLED – Memorial Day |
| June 10, 2019 | Short Term Rentals-Study Session |
| June 24, 2019 | CANCELLED |
| July 8, 2019 | CANCELLED |
| July 22, 2019 | Park Ave. Development and Design Standards-Study Session |
| August 12, 2019 | CANCELLED |
| August 26, 2019 | Nothing scheduled @ this time |
| September 9, 2019 | Nothing scheduled @ this time |
| September 23, 2019 | PC/BCC dinner, start time TBD |
| October 14, 2019 | |
| October 28, 2019 | |
| November 11, 2019 | CANCELLED – Veteran's Day |
| November 25, 2019 | |
| December 9, 2019 | |
| December 23, 2019 | Not officially cancelled at this time, but unlikely to meet. |

MEMORANDUM

To: Clackamas County Planning Commission

From: Martha Fritzie, Senior Planner

Date: July 22, 2019

RE: Planning Commission Work Session – Update on Recent Changes to Rules for Commercial Photovoltaic Solar Power Generation Facilities

Siting renewable energy projects on rural lands is not new to Oregon's land use program. Commercial wind energy generation projects have been underway for more than a decade and several large "wind farms" have been permitted on Oregon's farm and ranch lands, mostly in central and eastern parts of the state (rather than in the Willamette Valley). More recently, however, advances in technology, increases in the costs of fossil fuels and changes in public policy have allowed other renewable energy disciplines, and particularly the development of commercial solar projects, to emerge as feasible. Whereas the deserts of central and south central Oregon may be what first comes to mind when contemplating commercial-scale solar facility development, the reality is that almost all of Oregon, including the Willamette Valley and coastal locations, have a sufficient amount of solar resource to support commercial solar development.

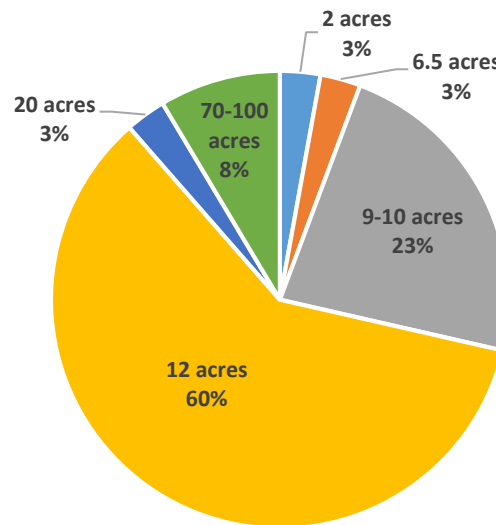
A successful solar project necessarily begins with selection of an appropriate site. To be a candidate for solar development a property must have three things: 1) access to the solar resource, 2) access to transmission lines and 3) be quite flat, preferably with 2% slope or less. As would be expected, in the Willamette Valley, parcels of land that are large enough to accommodate this type of use and meet these criteria are found outside of urban areas and are more often than not, farmland. In the last several years, an increasing number of proposals for commercial solar facilities on farmland, and particularly on high-value soils, have prompted concern among farmland advocates and other policy-makers, including those in Clackamas County.

Commercial Solar Facilities in Clackamas County

Between 2011 and January 2019, Clackamas County received 35 land use applications for commercial solar power generation facilities. Thirty-four of these facilities have been approved and one is pending a decision; two of the approvals have been appealed.

The solar facilities range in size from two to 98 acres, with the vast majority being 12 acres or smaller (see Figure 1, below). These sizes are largely due to rules in place until January of 2019 for solar facilities on land zoned EFU (Exclusive Farm Use), which made it fairly easy to approve a facility on up to 12 acres of high-value farmland, but extremely difficult to approve a larger facility on such farmland. Over 90% of the acreage included in these facilities is located on land zoned EFU.

**Figure 1. Photovoltaic Solar Power Generation Facilities by Facility Size (Acres)
Approved or Pending, Clackamas County (July 2019)**



To date, only six of the approved facilities in the County have been constructed or are under construction. It is interesting to note that the majority of the smaller (12 acres or less) facilities are not constructed or under construction, but all three of the large facilities (70-100 acres each) are currently under construction.

Rules for Commercial Solar Facilities on Farmland and How They Changed in 2018-2019

Oregon Administrative Rule (OAR), 660 Division 33 contains provisions specific to photovoltaic solar power generation facilities that are to be located on land zoned for farm use (EFU). Under State law, and the County's zoning code, "photovoltaic solar power generation facilities as commercial utility facilities for purpose of generating power for public use..." are allowed on land zoned EFU, subject to meeting all the applicable provisions found in OAR 660-033-0130(38). A conditional use application is also necessary.

Among other provisions, this OAR specifies how large, in terms of acreage, such a facility may be on EFU land, and under what circumstances.

Prior to July 2018, allowances for commercial solar facilities on EFU land included the following:

- On high-value farmland, a facility *shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless* an Exception is taken to [Statewide Planning Goal 3].
- On arable land (generally – non-high value farmland that is or has been cultivated), a facility *shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless* an Exception is taken to [Statewide Planning Goal 3].
- On non-arable land (generally – non-high value farmland that is not and never has been cultivated, or contains primarily Class V-VIII soil types), a facility *shall not preclude more*

than 320 acres from use as a commercial agricultural enterprise unless an Exception is taken to [Statewide Planning Goal 3].

In July 2018, the Land Conservation and Development Commission (LCDC) adopted temporary rules, that changed the language noted in each of the above from *shall not preclude more than 12 acres from use as a commercial agricultural enterprise* to *shall not use, occupy, or cover more than 12 acres*.

This change was in direct response to two large (70-80 acre) photovoltaic solar power generation facilities in Clackamas County, that, after attempting unsuccessfully to obtain Goal Exceptions, were approved through conditional use permits as a dual-use, apiary and solar facilities. Under State law, raising bees (apiaries) are considered a farm use and the applicants successfully argued that the size of the apiaries proposed on each site was sufficient to *not preclude more than 12 [or 20] acres from use as a commercial agricultural enterprise*.

Subsequent to that temporary rule change, LCDC entered into rulemaking to explore the possibility of a permanent change to the rules for establishing commercial photovoltaic solar facilities on EFU. What came out of this rulemaking were a series of new temporary rules, in effect from January 2019 until July 2019, which, after a public hearing, became permanent rule changes in July 2019. The single most significant change is that the rules now effectively prohibit the development of commercial solar facilities on high-value farmland. Specifically, OAR 660-033-0130(38)(h)(E), requires that *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)*[emphasis added]. OAR 660-033-0020 (8)(a) lists the following as “high-value farmland” soils: (A) *Irrigated and classified prime, unique, Class I or II; or (B) Not irrigated and classified prime, unique, Class I or II*.

In other words, photovoltaic solar facilities are simply no longer allowed to locate on Class I, II, prime or unique soils. While Clackamas County staff has not calculated the actual acreage or amount of EFU land affected by this change, the State did generate the a map (found in Attachment 3) of Class I, II, prime and unique soils, which makes it very apparent that most of the County’s EFU soils fall into these categories.

Since the rules for commercial solar facilities on EFU lands changed in January 2019, there have been no new land use applications for commercial solar facilities in Clackamas County.

Attachments:

1. *Commercial Solar Facilities in Clackamas County*, Clackamas County, 12/10/2018 (note: this map is for illustrative purposes only and the status of many facilities is not current)
2. *Land Conservation and Development Department, Chapter 660 Division 33 Agriculture Land, May 2019 Amendments – Final*, DLCD (May 2019)
3. *Clackamas County Soils*, DLCD, 1/23/2019

If you have any questions, please contact me at 503-742-4529 or by email at mfritzie@clackamas.us

Commercial Solar Facilities
In Clackamas County

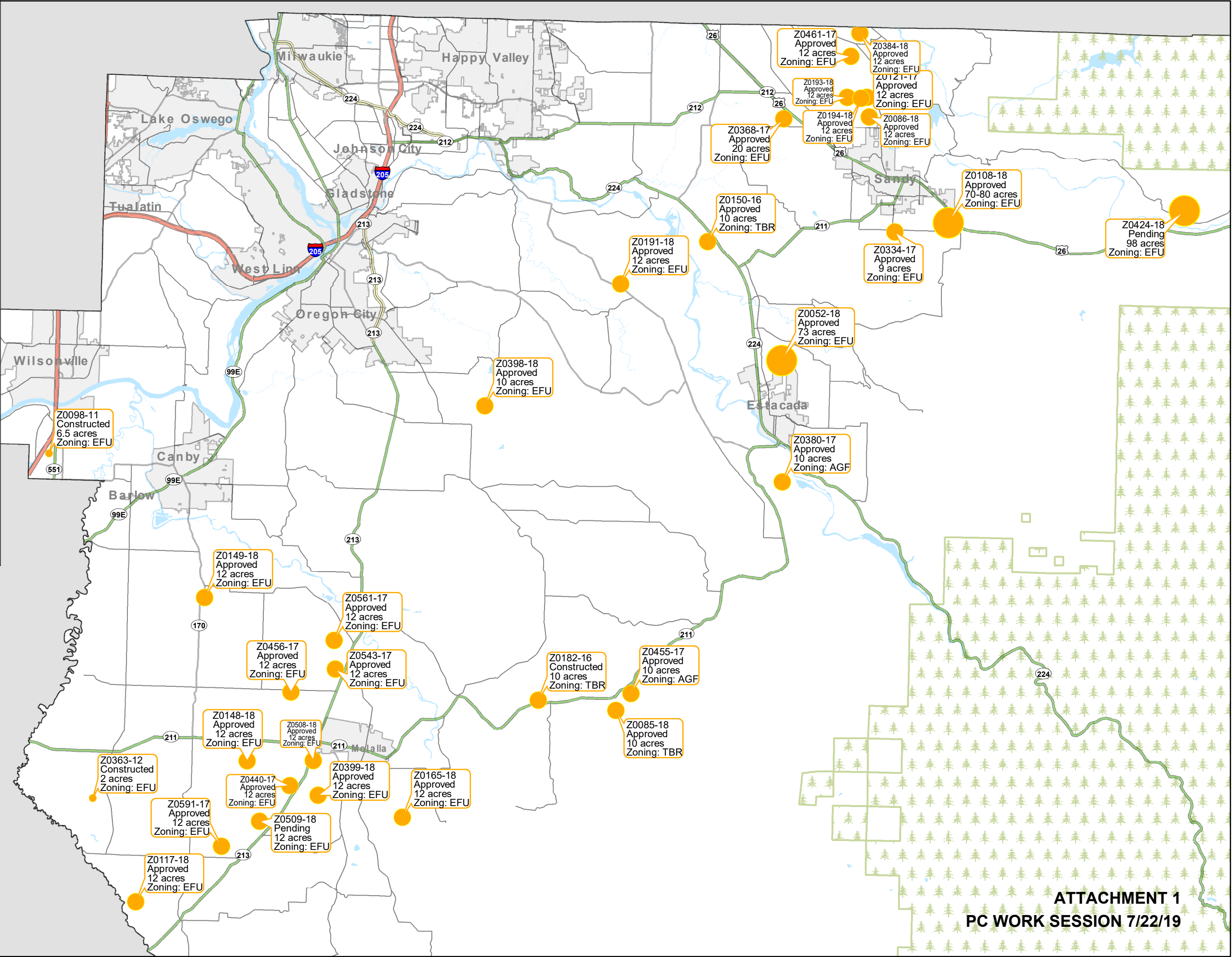
Acreage of Solar Facilities

- 2 - 7
- 8 - 20
- 21 - 98
- Clackamas County
- Incorporated City Boundary
- Mt. Hood National Forest

The information provided was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information from Land Surveys may have been used in the creation of this product, in no way does this product represent or constitute a Land Survey. Users are strongly cautioned to verify all information before making any decisions.

Map created by Planning & Zoning Division

Date: 12/10/2018



**Land Conservation and Development Department
Chapter 660
Division 33 Agricultural Land**

May 2019 Amendments – Final

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

* * *

(17) Permanent features of a power generation facility shall not ~~[preclude]~~ **use, occupy, or cover** 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. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

* * *

(22) Permanent features of a power generation facility shall not ~~[preclude]~~ **use, occupy, or cover** more than 20 acres ~~[from use as a commercial agricultural enterprise]~~ unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

* * *

(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) [(e)] “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(e) [(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.

(f) [(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. 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) [(f)] For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not ~~[preclude]~~ **use, occupy, or cover** 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 or the requirements of paragraph (G) are met. The governing body or its designate must find that]:~~

(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 ~~[and how topsoil will be stripped, stockpiled and clearly marked]~~. 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) [(E)] 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) [(F)] 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 ~~[energy]~~ **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 ~~[energy]~~ **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, ~~[or]~~ acquire water rights, or ~~[will reduce]~~ **diminish** the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(H) [(G)] 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) [(g)] For arable lands, a photovoltaic solar power generation facility shall not [preclude] **use, occupy, or cover** more than 20 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 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) [(A)] 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) [(B)] No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) [unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4];

(D) ~~[(C)]~~ 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 ~~[energy]~~ **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 ~~[energy]~~ **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) ~~[(D)]~~ The requirements of OAR ~~[660-033-0130(38)(f)]~~ **660-033-0130(38)(h)**(A), (B), (C) and (D) are satisfied.

(j) ~~[(h)]~~ For nonarable lands, a photovoltaic solar power generation facility shall not ~~[preclude]~~ **use, occupy, or cover** 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]~~. 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) ~~[(A)]~~ 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) ~~(B)~~ No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(D) ~~(C)~~ No more than 20 acres of the project will be sited on arable soils~~[unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4];~~

(E) ~~(D)~~ The requirements of OAR ~~[660-033-0130(38)(f)(D)]~~ **660-033-0130(38)(h)(D)** are satisfied;

(F) ~~(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, 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) ~~(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. 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.

~~[(G) The provisions of paragraph (F) are repealed on January 1, 2022.]~~

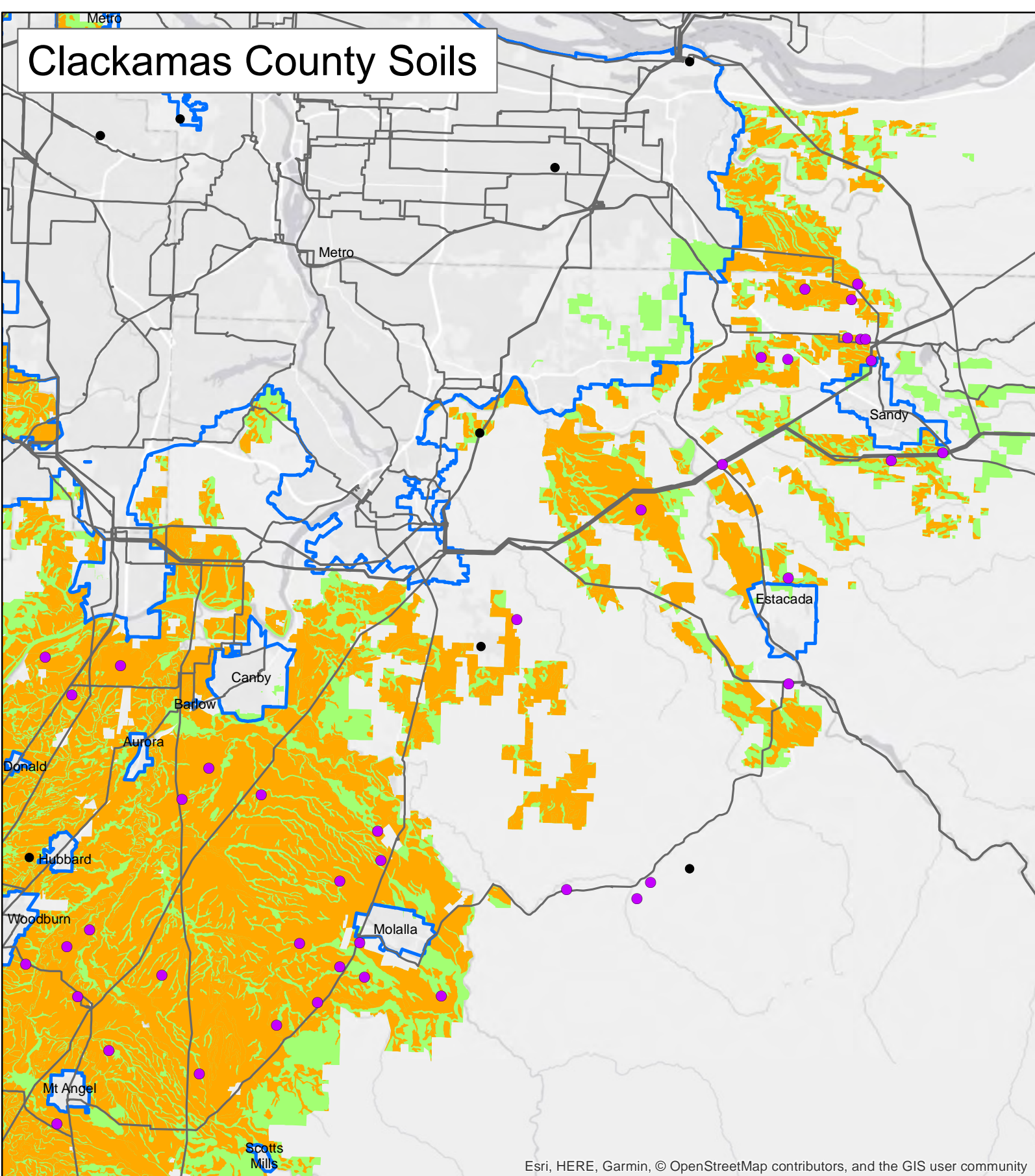
(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(l) ~~[(f)]~~ 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) ~~[(f)]~~ 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) ~~[(k)]~~ If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections ~~[(f)]~~ **(g)**, ~~[(g)]~~ **(i)** and ~~[(h)]~~ **(j)** of this section.

Clackamas County Soils



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Legend

- Substations (WECC)
- Solar Projects
- Transmission Lines (HIFLD)
- ▭ UGB
- Prime, Unique, Class 1 or 2 soils (NRCS)
- EFU zoning

Data Sources:

Substations: Western Energy Coordinating Council (WECC)
 Solar Projects: DLCD
 Transmission Lines: Homeland Infrastructure Foundation-Level Data (HIFLD)
 UGB: DLCD
 Prime, Unique, Class 1 or 2 Soils: Natural Resources Conservation Service (NRCS)
 EFU Zoning: DLCD

Date Created: 1/23/2019

This product is for informational purposes and based on data available to DLCD. It may not be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

ATTACHMENT 3
PC WORK SESSION 7/22/19



JENNIFER HUGHES, PLANNING DIRECTOR
LINDSEY NESBITT, MANAGER
PLANNING & ZONING

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

July 15, 2019

TO: Clackamas County Planning Commission
FROM: Karen Buehrig, Long range Planning Manager
Lorraine Gonzales, Senior Planner
RE: Park Ave Community Project – Phase II

In 2017, the McLoughlin Area Plan – Implementation Team (MAP-Team) requested a Long Range Planning Work Program item to work with County staff to develop a Metro 2040 grant application to create development and design standards that will focus on the intersection of McLoughlin Blvd and Park Ave to leverage the public infrastructure (light rail) investment. The project was awarded funding in late 2017. Staff worked closely with community members identified by the MAP-Team to draft a Scope of Work for the project.

Previously the McLoughlin Area Plan (MAP) I and II were completed in 2010 and 2011 respectively, and a Park Ave Neighborhood and Station Area Planning project was completed in 2012 (but not adopted). In order to gauge the community's understanding of the previous work, the project was divided into two Phases (Phase I and Phase II). By separating the project into two phases, a consulting team was hired to assess, prepare, and document a community and neighborhood assessment that included the community's knowledge of the MAP vision, guidelines, principles, programs and projects and to create development and design standards for the project area.

The Phase I: Park Ave Community Project was underway between December 2018 and June 2019. The purpose of the first phase was to get a better understanding of who lives, works and owns property in the ½ mile radius around the Park Ave Light Rail Station. Three memos detail the work conducted during Phase 1. The memos, which can be found on the Park Ave Project website at <https://www.clackamas.us/planning/parkave>, include:

- Memo 1: Community Overview and Development Trends
- Memo 2: Summary of Engagement and Key Themes
- Memo 3: Recommended Revisions for Phase II

The data collected and analyzed in Memo 1: Community Overview and Development Trends provides the community a better understanding of the demographic breakdown of the area and the development trends between 2012 and 2017. Memo 2: Summary of Engagement and Key Themes includes information provided by community members within the project area through five (5) round table discussions with commercial and residential property owners, business owners, regional developers, mobile home and senior living management representatives, two (2) community meetings and a February online survey. The online survey focused on questions

related to people's understanding of the McLoughlin Area Plan (MAP) and MAP priorities for MAP programs and projects. Using the information learned during the development of Memo 1 and Memo 2, the consultant team reviewed and made recommendations for the Phase II project draft scope of work.

This draft scope of work was created with the assistance of community members in the spring of 2018. Memo 3: Recommended Revisions for Phase II includes changes to the scope of work as recommended by the consultant. These changes will support future investment in the area, and will guide future development for a walkable, mixed use environment around the Park Ave Light Rail station.

On June 11, 2019, the Board of County Commissioner approved moving forward with Phase II: Park Ave Community Project. The work expected to be conducted during Phase II includes the following tasks:

1. Project Management
2. Equitable Public Engagement
3. Anti-Displacement Strategy
4. Creation of Park Ave Guiding Principles that are aligned with the McLoughlin Area Plan
5. Framework Plan
6. Draft and Refine Development and Design Standards
7. Implementation Action Plan

Currently, we are moving forward with establishing a Park Ave Community Advisory Community for Phase II to work closely with the consultant and County and Metro staff to guide project recommendations. The applications for the Park Ave Community Advisory Committee can be found online. An application form is attached.

ATTACHMENT – Park Ave Community Advisory Committee - Application

Community volunteers needed for Park Avenue Community Project, Phase II

Help shape the future of the McLoughlin Blvd/Park Ave light rail station area!



The McLoughlin Area Plan Implementation Team and Clackamas County are working with the community to create updated land use design and development standards for commercial and multi-use areas in unincorporated Clackamas County within ½-mile of the light rail station at Park Avenue and McLoughlin Boulevard. The standards will help to encourage economic development and create anti-displacement strategies to protect and preserve the community.

Phase I of the Park Avenue Community Project focused on gaining a better understanding of who lives, works and owns property in the area through focus groups, public meetings, a survey, and a review of economic and demographic conditions.

Phase II will build on this base with extensive and inclusive community-led public engagement, refined community values, and new development and design standards to support a walkable, transit-oriented area along and near McLoughlin Blvd. The process will be led by the Park Ave Community Advisory Committee, made up of 18 project area residents, workers, property owners and business owners as well as people representing seniors, youth, schools and other diverse interests.

The PACAC will meet about 10 times over the next year to select and closely work with consultants on public engagement, vision plan, community values, anti-displacement strategy, and development and design standards. Final recommendations from the community will be presented to the Board of County Commissioners in summer 2020.

If you live, work and/or own or lease property or a business in this project area and would like to be considered for the committee, please submit an application by **July 29, 2019**. Learn more about this community project and complete an online application at www.clackamas.us/planning/parkave or contact *Ellen Rogalin* at ellenrog@clackamas.us or 503-742-4274.

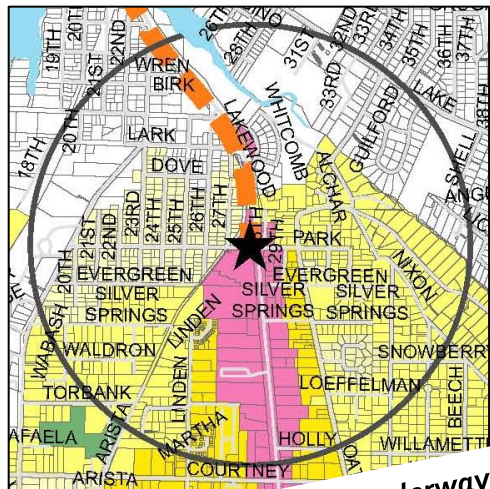
Karen Bjorklund, Chair
MAP Implementation Team

Karen Buehrig, Project Manager
Clackamas County

503-742-4274: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



Planning and Zoning
Clackamas County Development Services Building
150 Beaver Creek Road, 2nd floor
Oregon City, OR 97045



Park Ave Project Phase II is underway.
If you are in the area shown above,
please read this postcard!



Park Ave Community Advisory Committee Membership Application: July 2019

Please complete the following application to let us know you are interested in serving on the Park Ave Community Advisory Committee (PACAC). Since the project area is the unincorporated area of Clackamas County within one-half mile of the Park Avenue Light-Rail Station (see attached map), preference will be given to people who live, work or own or rent property or a business in that area.

Questions or comments? Contact Ellen Rogalin at 503-742-4274 or ellenrog@clackamas.us.

REQUIRED INFORMATION

Name (last, first, middle) _____

Street address _____ **Community** _____

State _____ **Zip** _____ **Phone** _____ **Email** _____

Mailing address (if different than home address) _____

Occupation (current or, if retired, former) _____

What experience or educational background do you have that might relate to this committee?

☐ *Multi-modal transportation (walking, bicycling, transit) (specify: _____)*

☐ *Natural habitat protection and enhancement (specify _____)*

☐ *Affordable housing advocacy (specify _____)*

☐ *Social justice advocacy (specify _____)*

☐ *Economic development (specify _____)*

☐ *Real estate/developer (specify _____)*

☐ *Other (please specify: _____)*

What are your community interests, including committees, organizations, activities?

Why are you interested in serving on this advisory committee?

ADDITIONAL INFORMATION

Please respond to the questions below to help us ensure the PACAC includes community members with a wide variety of interests and backgrounds. Thank you.

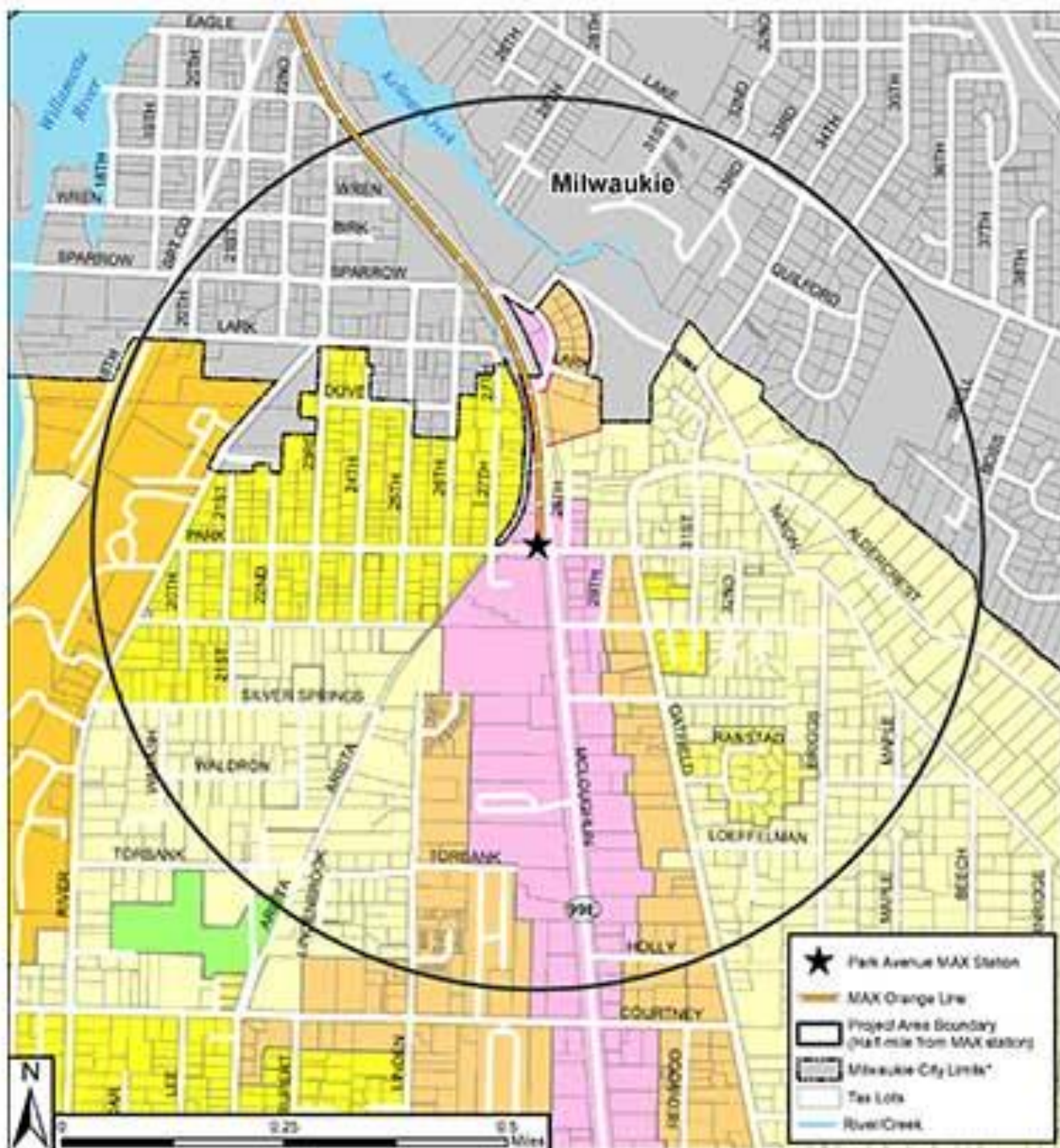
Please check all of the following items that are true for you:

- ☐ I have lived in the project area since _____ (address: _____)
- ☐ I work in the project area (employer: _____)
- ☐ I have owned or leased commercial or residential property in the project area since _____
(name/address: _____)
- ☐ I have owned or rented a residence in the project area since _____ (check all that apply)
 - ☐ Single-family home (address: _____)
 - ☐ Mobile home (address: _____)
 - ☐ Apartment, condominium, townhouse or duplex (address: _____)
- ☐ I have owned or managed a multi-family residential property or mobile home park in the project area since _____ (name/address: _____)
- ☐ I have owned or run a business in the property area since _____ (name/address: _____)
- ☐ I am under age 21
- ☐ I am over age 65
- ☐ I work or have a student at Oak Grove Elementary School

Please return this completed form by **July 29, 2019 to Community Relations Specialist Ellen Rogalin:**

- By email: ellenrog@clackamas.us
- In person or by mail: Development Services Building 3rd Floor, 150 Beavercreek Road, Oregon City, OR 97045

Thank you!



CLACKAMAS COUNTY DESIGNATIONS

- Single-Family Residential, 7,500 sq ft max (R-1)
- Single-Family Residential, 8,500 sq ft max (R-2)
- Single-Family Residential, 10,000 sq ft max (R-3)
- Medium-Density Residential District (MD-1)
- High-Density Residential (H-1)
- Open Space Management
- General Commercial (C-2)

*NOTE: The review of development and design standards proposed to occur during Phase II will only apply to commercial areas in unincorporated Clackamas County that are within or intersecting the project boundary.

Park Avenue Community Project

STUDY AREA

Department of Transportation & Development
150 Beaver Creek Rd., Oregon City, OR 97045

December 10, 2018

6:\Transportation\Projects\2018\ParkAvenue_StudyArea.mxd

Hughes, Jennifer

From: Joseph Edge <joseph.edge@gmail.com>
Sent: Thursday, April 25, 2019 9:59 PM
To: Renhard, Darcy
Cc: Hughes, Jennifer; Buehrig, Karen
Subject: Follow up from 4/8 Planning Commission meeting
Attachments: C2BreweryZoningSuggestions.pdf

Hello Darcy,

At the April 8th meeting, chair Pasko requested that I share a document with the Planning Commission that relates to project L-18 Small scale manufacturing and production in the Community Commercial and General Commercial districts. This document (attached) was prepared by a prospective investor who was looking into the Historic Downtown Oak Grove neighborhood for available sites to open a brewpub, but encountered challenges with the zoning and development ordinance. The document describes the scale of operation that would be compatible with a surrounding residential neighborhood and enable a profitable business venture. Some of these elements are not permitted uses in the C-2 zoning district, which is why we're calling attention to this matter. We're optimistic that these challenges could be addressed with minor amendments to the ZDO as recommended by the Planning Commission on April 8th.

Please let me know if you have any questions.

Thank you,

Joseph P Edge
Chair, Oak Grove Community Council

Spam Email
Phishing Email

C-2 Zoning – Brewery Public House Recommendations

Production and Distribution:

- Adhere to Oregon State Law License Type Brewery Public House (471.200): May sell and distribute directly to licensees in Oregon in a calendar year no more than 7,500 barrels (31 U.S. gallons to a barrel) of malt beverages produced by the brewery-public house licensee
- May sell malt beverages, wine, and cider for consumption on or off the licensed premises.
- May sell malt beverages, wine, and cider to individuals in a securely covered container ("growler") for consumption off the licensed premises (the container for wine and cider may not hold more than 2 gallons; however, the container size limit does not apply to malt beverages).
- May sell malt beverages in a container holding seven or more gallons ("keg") directly to consumers for consumption off the licensed premises. A "keg" is defined in ORS 471.478(4). If sell kegs must follow OAR 845-006-0441 (keg tag).
- Eligible to obtain a 2nd location to do all license privileges except manufacture.
- May process malt (milling for mash). Not for resale. *I've never seen a brewery mill or mill room big enough to disrupt people's health or lives. This really shouldn't be of too much concern for county officials.
- May process (slice, puree, mash, etc) fruits, vegetables, spices, adjuncts, etc. as a secondary fermentation catalyst and flavor contributor to beer. Not for resale.

Operation:

- Brewery hours of operation: All day
- Restaurant hours of operation: Early AM - Most close at 10PM. Some 11PM. Others, 1AM. McQueens in Oak Grove closes at 2:30AM. I would suggest midnight for a boundary and assume most close from 10-11PM.

Equipment:

- There is no equipment that will be "out of place" in a small community where less than 7,500bbls of beer is being produced. All tanks and equipment are inspected by USDA, the fire marshall, and inspectors. If the laws are followed, it'll be a semi-normal operation / restaurant.

Deliveries:

- In my experience, we usually received 4-5 shipments from UPS, box trucks, and semis per day at our brewpub. Of course this varies during setup, normal operation, or expansion. Most shipment vehicles are able to fit in a company parking lot.

Outdoor Seating / Pet Policy:

-Outdoor seating is allowed on the premises or a special permit for seasonal seating on public sidewalks / parking spots. See: Wine:30 Bistro in Milwaukie.

-Pets (dogs) are allowed at outdoor seating areas. Employees must adhere to Oregon Law when in proximity of animals to remain compliant with food safety laws.

Parking

-Expand allowable (countable?) parking areas for denser neighborhoods with little land to comply.

Events

-I'm not sure what permits Oak Grove did for their event over the summer, but I would LOVE to build on that. A summer event and an Oktoberfest event. I'm incredibly interested in such gatherings (I'm not sure if alcohol would be permitted for such "block parties," but I would like to institute some traditions around those times of year.) and whatever needs to happen for that. Security, borders, etc.

**PLANNING COMMISSION
DRAFT MINUTES**

June 10, 2019

6:30 p.m., DSB Auditorium

Commissioners present: Brian Pasko, Gerald Murphy, Mary Phillips, Michael Wilson, Steven Schroedl, Tammy Stevens, Louise Lopes, Christine Drazan

Commissioners absent: Thomas Peterson

Staff present: Jennifer Hughes, Martha Fritzie, Nikki Cross

1. Commission Chair Pasko called the meeting to order at 6:30 pm. We welcome Tammy Stevens back to our Planning Commission!

General public testimony not related to agenda items: John Niemeyer of Clackamas River Drive spoke to the PC regarding the Pepsi distribution center across the river from him. There should have been more notification to property owners on the south side of the river who look directly at this building. Also, there is no screening of the building from the river. There are no ordinances in place that would require this industrial building to add screening of any type. Once it falls within the Metro UGB, there is nothing that the County can do to require it. There are requirements for screening no streetscapes, but nothing that requires it from the river side. There should be something in the County ordinance that would allow staff to implement a requirement for screening. Commissioner Pasko and Jennifer Hughes said that this is something we can look at during the ZDO audit process when we do Section 1005.

Jennifer explained that tonight's hearing is an educational session on short-term rentals, it is not for public testimony or for the PC to make a recommendation to the BCC. We are still going through the process of gathering input and comments. There is a BCC study session on STRs tomorrow morning.

Martha Fritzie and Nikki Cross presented a powerpoint explaining what staff is considering regarding short-term rentals. Short-term rentals are only stays that are less than 30 days, it would not apply to long-term rentals. There are a lot of homes that are already being used as short-term rentals, especially up on the mountain. There are a lot of these homes that are "problem" homes, which is what prompted the County to start taking a look at this. Nikki gathered information from other jurisdictions to find out what their best practices are. We also asked other stakeholders for their input. Staff gathered information comparing how other jurisdictions were regulating STRs, either through the zoning ordinance or municipal code. All jurisdictions collect transient lodging taxes. The biggest theme from all of the other jurisdictions was the difficulty in enforcement, which means there would have to be something written into the code to allow the most manageable enforcement methods. One jurisdiction restricts STRs within neighborhoods by requiring 250 feet minimum between STRs, other jurisdictions only allow them in certain zones.

Martha reviewed the public outreach process that staff initiated, which was extensive and involved staff presenting this information at 8 public meetings, mostly hosted by CPOs, hamlets, and the County.

By and large, the public appears to overwhelmingly support allowing STRs within all of the unincorporated areas of the County. The PC agreed that this seems to be more of a business license issue rather than land use, especially if they are allowed outright.

Commissioner Phillips nominated Commissioner Pasko to serve as Chair for another year. Commissioner Drazan seconded the motion. *Ayes=7, Nays=0. Motion is passed.* Commissioner Pasko nominated Commissioner Phillips to serve as Vice-Chair for another year. Commissioner Murphy seconded. *Ayes=6, Nays=0, Abstain=1 (Phillips). Motion is passed.*

Jennifer provided an update on the slightly edited version of the Long Range Planning Work Program. The three items that the PC asked to have included were the dog daycare facilities/kennels in rural areas, small scale manufacturing, and extending hours of operation for marijuana retail. The Board would like to keep the small scale manufacturing to a limited scope of work. The Board does not want to make any changes to hours of operation for marijuana retailers at this time. There was discussion around notification to rural property owners, although the discussion was not specific. There will be further discussion on that at a future date.

Commissioner Drazan asked for Jennifer's input on what is being proposed at the legislative level and how it might affect us. Jennifer replied that we are expecting some sort of housing related legislation. We also allow for some time sensitive ordinance updates within the Work Program schedule.

The Planning Commission would like to have another 'retreat' in the Fall, most likely in September. Staff will keep the PC informed.

Commissioner Phillips moved that the minutes from the April 18th meeting be approved as drafted by staff. Commissioner Wilson seconded. *Ayes=4, Nays=0, Abstain=3 (Lopes, Stevens, Schroedl). Motion is approved.*

Jennifer provided a schedule overview.

There being no further business, the meeting was adjourned at 8:24 p.m.