



Oregon

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 10/24/2014
Jurisdiction: Marion County
Local file no.: ZC/CP/CU 14-003
DLCD file no.: 005-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 10/23/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 55 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 005-14 {22269}

Received: 10/23/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Marion County

Local file no.: **ZC14-003**

Date of adoption: 10/22/14

Date sent: 10/23/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 05/08/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Not different

Local contact (name and title): Joe Fennimore/Principal Planner

Phone: 5035664177

E-mail: gfennimore@co.marion.or.us

Street address: 5155 Silverton Rd NE

City: Salem

Zip: 97305-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY**For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

n/a

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from Rural Residential to Public 52 acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 7S; 2W; 29AD; 800, 2400, 2501; 5200 to 5400 blk Auburn Rd NE

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

n/a

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from Acreage Residential	to Public	Acres: 52
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: n/a Acres added: n/a Acres removed: n/a

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: none

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

None

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON**

In the Matter of the)	Case No. ZC/CP/CU 14-003
)	
Application of:)	Clerk's File No. 5687
)	
Portland General Electric Company)	

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. 1348

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

SECTION I. Purpose

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Portland General Electric Company to change the comprehensive plan designation from Rural Residential to Public, the zone from AR (Acreage Residential) to P (Public), and for a conditional use to establish a solar power generating facility on a 52 acre parcel in the 5200-5400 block of Auburn Road NE, Salem, Marion County, Oregon (T7S, R2W, S29AD, tax lots 800, 2400 and 2501; S29D, tax lots 100, 200, 300 and 400; and S28C, tax lot 900).

SECTION II. Procedural History

The Marion County Hearings Officer held a public hearing on this application on July 2, 2014. Mailed notice was provided to all property owners within 250 feet of the subject property at least 20 days before the hearing. On July 30, 2014, the Hearings Officer issued a report recommending the Board grant the request. The Board held a duly noticed public hearing on September 10, 2014, considered the Planning Division file, Hearings Officer's recommendation, and all arguments of the parties and is otherwise fully advised in the premises.

SECTION III. Adoption of Findings and Conclusion

After careful consideration of all facts and evidence in the record, the Board adopts as its own the ~~Findings of Fact and Additional Findings of Fact and Conclusions of Law contained in Exhibit A,~~ attached hereto, and by this reference incorporated herein.

SECTION IV. Action

The requested Comprehensive Plan designation change from Rural Residential to Public is hereby **GRANTED**. The requested zone change from AR (Acreage Residential) to P-LU (Public – Limited Use Overlay) zone and conditional use to establish a solar power generating facility is hereby **GRANTED**, subject to conditions identified in Exhibit B, attached hereto, and by this reference incorporated herein.

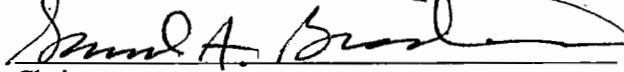
The property rezoned by this Ordinance is identified on a map in Exhibit C, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Code Section 17.110.660 to reflect the new zoning.

SECTION V. Effective Date

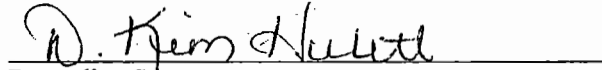
Pursuant to Ordinance 669, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this 22nd day of October,
2014, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS



Chair



Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

EXHIBIT A

The Marion County Board of Commissioners, after careful consideration of all of the testimony and evidence in the record, makes the following findings of fact and additional findings of fact in Comprehensive Plan Amendment-Zone Change-Conditional Use Permit Case 14-003 Portland General Electric Company:

I. Findings of Fact

1. This is an application by Portland General Electric Company (referred to as PGE, the Company, or the Applicant) to establish a solar photovoltaic generating plant for electric power generation, on its property (hereinafter referred to as "the subject property", "the subject parcels", or "the site") located south of Auburn Road, and east and west of Hampden Lane. The site consists of eight tax lots, as identified in the application. The subject property totals approximately 52 acres, and it is vacant land.

2. The site is immediately north of PGE's existing Bethel Power Sub-Station, which distributes electric power in this area. The sub-station was formerly the site of a power generation plant, which used diesel-fueled turbine generators to produce electric power. PGE acquired the subject property during the 1970's and early 1980's to serve as a noise buffer to the north of the power plant. There are power transmission lines located along Hampden Lane, adjacent to the subject property, which would transmit the power generated by the solar collection facility to the sub-station for distribution into the power grid. The existing power lines and substation provide necessary infrastructure to distribute the power that will be produced by the solar plant.

3. The subject property is generally level, and includes no uncommon terrain or visual features. The property has been leased for farming as a way to maintain it but the site is not designated or protected for farm use. Wooded areas, and wetlands along drainages, are located in the southwest corner and at the eastern edge of the property. Another small wetland has been located near the middle of the property, west of Hampden Lane. The wetlands have been identified and delineated in a report provided by the Applicant and included in the record.

4. The subject property is bordered by lands in rural residential, public, and industrial land uses and zoning. The property is bordered by lands zoned AR on the north, northwest and east, by lands zoned P on the west and south, and by land zoned I on the far southeast. The land zoned P to the south includes the PGE Bethel sub-station. As a result of its configuration the property has limited boundaries with adjacent parcels that include dwellings. These occur at northern ends of the property, and along the east side where it adjoins the residential parcels that border the west side of Hampden Lane. Other than along those boundaries there are no dwellings in close proximity to the subject property west of Hampden Lane. Similarly, the only dwelling in proximity to the property east of Hampden Lane, is on the parcel to the north. Another type of residential use, the Discovery Lane group care home, is located along Basil Street east of Hampden Lane, farther to the north and east of the property. There are no common boundaries with that use.

5. A preliminary site plan showing a conceptual layout of how the solar generating plant could be arranged on the property is included in the record. This preliminary plan shows the solar collectors and related equipment occupying about 27 acres of the 52 acre property. It shows the panels arranged in rows in an east-west alignment, and mounted on steel racks that are tilted to the south at a fixed angle of 17 to 25 degrees. The alignment of the rows and the angle of the racks are designed to provide optimum solar exposure. The southward angle faces the solar panels away from the homes to the north, and reduces their profile to the homes to the east. The site plan also shows setbacks between the solar panels and related electrical equipment from adjacent properties, and placement of the solar panels and related equipment outside of identified wetlands and wooded areas. A landscape plan in the record shows view-obscuring plantings around the perimeter of the solar field that will screen the view of the solar panels and equipment from the homes to the north and east. These design features will make the solar installation compatible with the existing residential uses on the adjacent surrounding lands.

6. The property is designated "Rural Residential" by the Comprehensive Plan, and it is zoned AR (Acreage Residential). Power generation is not included as a use in the AR zone. It is included as a Conditional Use in the P (Public) zone, Marion County Code (MCC) Chapter 17.171, section 17.171.030 K. In order to allow the proposed solar photovoltaic generating plant PGE has applied for a Comprehensive Plan Map Amendment from "Rural Residential" to "Public Lands", a corresponding Zone Change from AR to P, and a Conditional Use Permit.

7. Two public hearings were held on the application, at which time interested and affected parties were afforded the opportunity to provide oral and written testimony. Public notice of each hearing was provided as required by MCC Chapter 17.111 and included mailed notice to surrounding property owners and affected agencies, and published notice in the newspaper. A public hearing was held by the Hearings Officer on July 2, 2014. The Hearings Officer referred the matter to the Board on July 30, 2014, with a recommendation for approval. The second public hearing was held by the Board of Commissioners on September 10, 2014. There were no requests by any parties to leave the record open, and the Board's hearing and the record were closed on that date.

8. The Applicant provided thorough and complete information and substantial evidence for the case record in the form of written reports, site plans and schematic drawings, aerial photos, and oral testimony including that of the Project Engineer, to address all of the decision criteria, standards and requirements that apply to this application. The Board finds that the materials, information and evidence in the record provide substantial evidence in support of the application.

9. Testimony was provided for the record by individuals opposed to the proposal and by those presenting general comments and questions. This testimony was provided in writing, and in oral presentations at the public hearings. The testimony included questions and concerns about visual impacts, traffic and roads, noise, impact on property values, the use of pesticides and herbicides, loss of farm land, electromagnetic radiation, and the safety and security of the subject site. The testimony on these topics consisted of generalized information, opinions and personal observations. It included no sources that were similarly qualified as those of the

Applicant's, or that challenged or contradicted the Applicant's evidence. The testimony was not directed to specific approval criteria, and it was not supported by substantial evidence for the record. The testimony did not claim or show that the approval criteria have not been satisfied.

10. The Applicant responded to and addressed each of these topics with information from a qualified source. The landscape plan prepared by a Landscape Architect shows how visual impacts will be screened and mitigated. With regards to traffic and roads, the Project Engineer testified that traffic will consist of a few vehicles per week. With regards to noise the Engineer described the very low noise levels expected from the facility operation, and significantly, there is no noise at night since the facility is dependent on the sun for its operation. No credible or site-specific information was provided by opponents regarding potential impact on property values. The Project Engineer testified that the operation will not use pesticides, and use of herbicides will be minor if at all, and limited to landscape maintenance. The site is not designated or protected as farm land. The Project Engineer testified that the level of electromagnetic radiation is too low to be detectable at even a short distance from the facility, and it is about the same as a common home kitchen appliance. The site will be secured with a fence and monitored by remote cameras and alarms.

11. Based on all of the testimony and evidence in the case record the Board finds that there is substantial evidence to conclude that all of the criteria, requirements and standards that apply in this case have been addressed and have been satisfied. The Board's conclusion is based on the following:

II. Additional Findings of Fact

1. The application is for a Comprehensive Plan Amendment, Zone Change, and Conditional Use Permit. The criteria for a Zone Change are found in MCC 17.123.060, and the criteria for a Conditional Use Permit are found in MCC 17.119.070. The MCC does not provide specific criteria for a Comprehensive Plan Amendment, but the Plan Amendment must be consistent with applicable Comprehensive Plan policies, and the Statewide Planning Goals.

2. With regards to the Zone Change Criteria, MCC Chapter 17.123.060, the Board finds as follows:

A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; The Comprehensive Plan land use designation on the property is currently Rural Residential. The Comprehensive Plan land use designation is proposed to be changed to Public Lands, which is the appropriate Plan designation for the P zone. The Comp Plan map amendment is proposed concurrent with the zone change. Changing the Comp Plan land use map designation to Public Lands satisfies the requirement for the zone to be appropriate for the Comp Plan land use designation.

Comprehensive Plan Policies

Rural Development Chapter

The Goals and Policies for the Public Lands designation are included in the Rural

Development chapter of the Comprehensive Plan. The major focus of the Rural Development chapter is on non-resource uses outside of urban growth boundaries, such as dwellings, land divisions, residential subdivisions, schools, and commercial and industrial development. This proposal does not involve those types of uses or development. This chapter also discusses rural service issues including provision of schools, police and fire services, roads, transportation, and sewage disposal, as the basic support services for rural development. The proposal does not affect school enrollment or facilities, it will have minimal affect on police and fire services, its impact on the road system will be minimal and far less than rural residential use of the property, and it will not require sewer or water services.

A sub-section of this chapter, the Proper Location of Public and Semi-Public uses in Rural Areas, discusses the compatibility of various types of facilities, including public power generation facilities, with “management of resource lands in rural residential areas”. The subject property is not in a resource (farm or forest) area, and there is no resource land bordering the site. The property is zoned AR, and all of the surrounding land is zoned AR, P, and I. There is no bordering land in a farm or forest zone. All of the surrounding land is developed as home sites and for public and industrial uses. The proposed use is a Conditional Use in the Public zone, and it is therefore subject to the conditional use review process. Because the property is not in a resource area, the request is to change the land use designation to Public Lands, and the Public zone requires review of the proposed use as a Conditional Use, the proposal satisfies the recommendations in this section of the Plan.

The Rural Development chapter presents three general development policies applicable to rural lands. Policy 1 pertains to land divisions, and Policy 2 pertains to “strip-type” commercial or residential development. Those policies do not apply to this proposal because it does not involve a land division or a commercial or residential development. Policy 3 States: *“Rural industrial, commercial and public uses should be limited to primarily those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.”* The subject property is within a non-resource rural residential area. It is not in a farm or forest resource area and there are no surrounding resource lands. The agricultural goals and policies do not apply and are not affected at this location. The property is surrounded by land that is zoned for residential, public and industrial uses, which includes the former Bethel Power Plant site that is now an electric power substation. The proposed use is best suited to this rural location because of the adjacent substation and the existing power transmission lines, which provide the infrastructure to distribute the power that will be generated by the solar plant. In addition, the size and shape of the site offers unobstructed solar exposure, the PGE ownership to the south ensures that the solar exposure will not be blocked by future buildings or structures, and the site allows for a solar array large enough to produce a significant volume of electric power. The facility will be compatible with the existing rural development on surrounding properties because it will create no detectable noise off-site, produce no emissions to the air or water, will generate little traffic, and it will not be highly visible from the surrounding area because of its low height and landscape screening. For these reasons the proposal satisfies this Policy.

The Rural Services Policies apply to rural service facilities described as those services and facilities necessary to provide basic support systems for rural development, including farm and

forest related development, acreage residential development and rural commercial and industrial uses. The services and facilities discussed in the Plan as necessary for the basic support of those types of rural development include water supply, sewage disposal, schools, fire and police protection, and roads. The proposed use is not one of the systems that are discussed as basic to rural development, and for that reason the Board finds that the policies for rural residential development and special service districts do not apply to the proposal.

The General Policies of the Rural Services section apply and are addressed as follows:

1. *The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.*

The Board finds that the proposed solar generating plant will have little or no impact on existing services or additional facilities because the use does not create a residential population, there will be no on-site personnel, it does not require a water supply or generate waste water, it produces no solid waste, the requirements for fire and police protection will be minimal, and it will generate very low volumes of traffic. For these reasons there will be no need for additional facilities over existing levels that are available in this area.

2. *It is the intent of Marion County to maintain the rural character of the areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.*

The Board finds that the proposed solar generating plant will not alter the rural character of the area outside of the urban growth boundary because it does not increase the potential for urban services. Electric power facilities are commonly found outside of urban growth boundaries, as evidenced by the former Bethel Power Plant, and the existing substation, on the land to the south. For these reasons this policy is satisfied.

3. *Only those facilities and services that are necessary to accommodate planned rural land uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with maintaining the rural density and character of the area.*

The Board finds that the proposed solar plant does not provide a service or facility that will encourage additional development that affects the rural density and character of this area. Unlike water supply or sewage disposal systems, for example, that can have a direct influence on residential density and the potential for other types of development, the solar generating plant will not provide a service that is specific to a particular type of development or rural density. For these reasons this policy is satisfied.

4. *The sizing of public or private service facilities shall be based on maintaining the rural character of the area. Systems that cannot be cost effective without exceeding the rural densities specified in this Plan shall not be approved. The County shall coordinate private utilities to ensure that rural development can be serviced efficiently.*

This policy is applicable to the types of service facilities that are directly related to development and that can affect rural density and character, such as water and sewer systems and roads. The proposed solar power generation facility does not depend on the rural densities specified in the Plan to be cost effective because the power generated by the facility will contribute to the power supply that is provided to the greater service region. Because it is not affected by and will not affect the rural densities specified in the Plan, the Board finds this

policy is satisfied.

5. This policy refers to the County's participation in a regional solid waste program, and does not apply to the proposal.

Energy Chapter

The emphasis of the Energy Chapter is on directing land use and development in a manner that serves to conserve energy, and to provide a framework for land use controls that will promote energy savings. The Energy Goal states: *"The energy goal of Marion County is to direct land use and development in a manner that maximizes conservation of all forms of energy."* The intent is to encourage development to occur in a manner that reduces energy consumption, such as by clustering various types of land uses to reduce the energy used for transportation. These directives are not applicable to this type of proposed use. With regards to maximizing the conservation of energy, the proposed use will produce energy from a renewable source, which will help to reduce reliance on energy that is produced from non-renewable sources. Because the solar generating facility will help to reduce, therefore conserve, energy that is produced from non-renewable sources the proposal is consistent with the energy goal.

The Plan identifies a number of energy-related considerations, most of which are suggestions and recommendations for building design and siting, development patterns, and transportation. These suggestions are not applicable to this proposal. Consideration f specifically recognizes that it will be necessary to develop alternative energy sources because present energy sources will not be adequate to meet increasing demands, and that conserving energy and using alternative sources will be necessary to meet demands. The Board finds that the proposed solar generating plant is an alternative energy source consistent with that anticipated in the Plan, and the proposed modification of land use at this location is necessary in order to encourage the use of this type of alternative source of energy. For these reasons, the Board finds that the proposal satisfies the Energy Goal.

Energy Policies

Policy 1 presents requirements and guidelines for residential, commercial and industrial development and for future development patterns. The proposal does not involve development of those types.

Policy 2 states: *"It is the intent of the County to encourage conservation of present energy sources and the use and development of alternative sources."*

The Board finds the proposed solar generating facility is specifically consistent with this policy to encourage the use and development of alternative sources.

Subsection 2a states: *"The expansion of present energy sources must be examined with consideration for the impact such development would have in regard to natural resources, changes in land use patterns, and the economy of the area."*

This subsection speaks to the energy sources that were present at the time the Plan was adopted, such as those based on the use of fossil fuels and hydropower. The proposed solar generating plant is an alternative to those energy sources, and also to the predominant forms of energy production in use today. With regards to its potential for impacts on natural resources,

there are none identified that would be impacted by the proposed solar facility. The site is not designated as resource land, it is not a fish or wildlife habitat, and the use will not occupy wetlands or stream corridors. The use does not require water, it does not create waste water, and it produces no emissions to the land, air or water.

The proposed use will change the land use pattern in the area, but the change will result in less impact than could occur at present. The site is currently zoned for rural residential use, and at the allowed density of two acres per dwelling up to twenty-six homes could potentially be located on the 52 acre ownership. Each additional dwelling would require a source of water, a sewage disposal facility, require power, and generate traffic. In contrast, the proposed use will be "passive" in the sense that it requires no services and produces no significant off-site impacts. The economy of the area will benefit by having an additional, alternative energy source to contribute to the power that will be available to meet present and future demands in PGE's service territory. For these reasons the Board finds the impact on natural resources will be minimal, and the change in the land use pattern will not be significant, and that this policy is satisfied.

Subsection 2b pertains to the development of recycling facilities. Policy 3 pertains to transportation facilities. These policies do not apply to this proposal.

Policy 4 provides guidelines for facilities that will provide a framework for future urban growth in an energy efficient manner. Subsection d directs public utility providers, including the electric company, to coordinate provision of services with the goals and policies of the Comp Plan to promote the wise and efficient use of energy. This proposal is coordinated with the goals and policies of the Plan in terms of the location of the proposed energy facility and its relationship to the surrounding area. In addition, by designating the site for use by the solar generating facility, an alternate source of energy can be established that promotes efficient use of a renewable resource. For these reasons the Board finds this policy is satisfied.

Policy 5 provides guidelines to assist industrial development in becoming more energy efficient. Subsection e recommends exploring the potential to locate industry near energy sources such as geothermal reserves. The industrial land located to the south of the subject site provides the potential for industry to locate near this new energy source.

B. The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area;

The land uses surrounding the subject property are rural residential to the north, east, and northwest; public to the southwest and south; and industrial at the southeast. The pattern of development consists of rural residential parcels at the northern end of the property and along Hampden Lane; the Holland Park ball fields to the west; the PGE power substation and soccer fields to the south across the former railroad right of way, and an auto wrecking yard to the southeast. The density of the rural residential development bordering the property ranges from about a quarter acre to about 1.5 acres per dwelling, along with some larger parcels. The proposed solar generating plant will not affect the existing density and pattern of development in the area. The site is not proposed to be partitioned or subdivided and no new dwellings are proposed. The solar panels are a passive use, in that once in place there is no daily activity on

the site and no off site impacts that would adversely affect surrounding residential activity. The use is especially appropriate considering the existing overhead transmission lines along the west side of Hampden Lane and the proximity to the power substation located to the south. These facilities provide the necessary infrastructure for the power that will be generated by the solar generating plant. Because of the lack of offsite impacts, and the existing electric power infrastructure, the Board finds the proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area, and that this criterion is satisfied.

C. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property;

The proposed solar generating plant requires little in the way of public facilities and services. It does not require water, sewer or storm water disposal, or solid waste disposal services. It does not create an increased demand for police or fire protection. There will be no on-site employees, and following initial construction traffic to the site will consist of periodic monitoring and maintenance of the facility and landscape maintenance. Access to the property is provided by Auburn Road and Hampden Lane, which are paved County Roads. Auburn Road provides direct access to Cordon Road, which is designated as an Arterial on the County Transportation Plan "Functional Classification" map. The existing roads provide an adequate transportation network and no new public roads are needed to serve the property. Improvements to Hampden Lane are a condition of approval. Because the proposed use does not require most forms of public facilities or services, and those that are required such as the street network are in place and are adequate, or can be made adequate, to serve the proposed use, the Board finds that this criterion is satisfied.

D. The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors;

Public power generation facilities are a Conditional Use on lands in the P zone, and in the rural Industrial zone. There is no pre-existing inventory of vacant land in either designation. Property has been designated Public in recognition of an existing use, such as a school, park, or church, and various public facilities such as the PGE Bethel Substation; or Industrial for the same reasons. Neither designation was applied to vacant lands to create an inventory for future uses. Both are applied based on a site specific, case-by-case basis. As a result, the other lands in the county that are already designated Public or Industrial are unavailable because they are already occupied by other uses. The existing lands designated Public near the subject site are in use as the Holland Park ball fields, the Marion County Fire District 1 station, the Cascade Futball Club soccer complex, and the existing power substation, and the lands designated Industrial are in use as the auto salvage yard and a warehouse/distribution building. In addition, other sites that are designated Public or Industrial are not as well suited for the anticipated use because they are not located in proximity to the Bethel Substation and associated power transmission facilities, which provide needed infrastructure for the proposed solar plant.

The proposed change in the land use designation is site-specific based on the type of use proposed and the location of the site. The objective of this request cannot be achieved by

other land in the county that is already designated for the proposed use. Because other lands that are already designated Public or Industrial are unavailable for the proposed use, or are not located in proximity to the necessary infrastructure, the Board finds that the proposal satisfies this criterion.

E. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.

The P zone is specific to the Public Lands designation, and it is the only zone that implements that designation. There are no other zones that are appropriate for the Public Lands designation. Because there are no other zones that are appropriate for the land use designation, the Board finds that the proposal satisfies this criterion.

3. Comprehensive Plan Amendments must satisfy the Statewide Planning Goals. The Goals that apply to this application have been addressed in the application, and the Board finds as follows:

Goal 1 Citizen Involvement is satisfied because surrounding property owners and affected agencies were notified of the application, notice was published in the newspaper as required by the Code, public hearings were held, and all interested parties were afforded the opportunity to review and comment on the proposal.

Goal 2 Land Use Planning is satisfied because the County maintains a land use planning process, policy framework, and criteria, as the basis for land use decisions. The County Comprehensive Plan and Zoning Ordinance are Acknowledged to be in compliance with the Statewide Planning Goals. This application was reviewed according to the goals, policies, criteria and procedures established in the Comprehensive Plan and Zoning Ordinance.

Goal 3 Agricultural Lands does not apply because the property is not designated as agricultural land, and Goal 4 - Forest Lands does not apply because the subject property is not designated as forest land.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources is satisfied because the only natural resources on the property requiring consideration, which are three areas of wetlands, have been delineated and the preliminary site plan shows these areas will not be disturbed or affected. A Wetlands Delineation Report is provided in the record. A condition of approval will require continuing compliance with DSL rules and requirements. Because the identified wetland resource will be conserved and protected this Goal is met.

Goal 6 Air, Water and Land Resources Quality is satisfied because solar power generation does not discharge emissions into the air, water or ground; it produces no smoke, dust, noise, odors, or solid or liquid wastes; it does not require the use of water; and no waste water will be discharged to the ground. As a result the quality of the air, water and land resources will be maintained and improved.

Goal 7 Areas Subject to Natural Disasters and Hazards is satisfied because no natural hazards have been identified that are unique or specific to the subject site; it is not in a floodplain, and it is not in a MCCC-identified geologic hazard area.

Goal 8 Recreational Needs does not apply because the subject property is not identified or designated as a recreation site.

Goal 9 Economic Development primarily addresses commercial and industrial development in urban areas, which is not the topic of this application, but is otherwise satisfied because the Goal states that plans for economic growth and activity shall be based on considerations of factors that include the availability of energy, and the proposal will contribute to the available power supply.

Goal 10 Housing does not apply because it pertains to buildable lands within urban growth boundaries, and the subject property is not within an urban growth boundary.

Goal 11 Public Facilities and Services is satisfied because the proposed use will require little in the way of public facilities and services, and the services it will require are available or can be made available at this location. In addition, the subject site is proximate to transmission lines and the Bethel substation which provides the infrastructure to distribute the power that will be generated by the solar plant. Locating the solar plant at the proposed site results in an orderly and efficient arrangement of facilities, as the power distribution infrastructure exists at this location and does not need to be duplicated at another location.

Goal 12 Transportation is satisfied because the proposed use will have a minimal impact on the local roads that provide access to the site, an adequate road system is in place, and improvements to assure the future adequacy of the transportation system are a condition of approval.

Goal 13 Energy Conservation is satisfied because the proposed use will generate energy from a renewable resource, and the proximity to transmission lines and the substation makes electric power generation at this location efficient.

Goal 14 Urbanization does not apply because the subject property is not within an urban growth boundary and is not intended for urban use.

4. Because the proposal satisfies the applicable Statewide Planning Goals, and is consistent with the goals and policies of the Comprehensive Plan, the Board finds that the Comprehensive Plan Amendment is appropriate.

5. Because of its long term ownership by a utility company, its purpose related to the former generating plant to the south, the existing power distribution infrastructure on adjacent and nearby lands, and the size of the property and its ability to accommodate the solar generating plant with setbacks and protections for adjacent residential uses, the Board finds that the subject site is an advantageous and appropriate location for the proposed use, and the "Public Lands" Comprehensive Plan map designation and P zone are appropriate for the site.

6. With regards to the Conditional Use Criteria of MCC Chapter 17.119, the Board finds as follows.

MCC 17.119.070 A *"That it has the power to grant the conditional use"* is satisfied because the proposed use is included as a Conditional Use in the P zone, and section 17.119.030 grants the power to grant the Conditional Use to the Director, the Hearings Officer and the Board of Commissioners.

MCC 17.119.070 B *"That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone"* is satisfied because the proposed use is a solar power generation facility, the site is owned by Portland General Electric Company, a regulated electric utility provider; and the solar generating plant is a passive use that creates no significant on- or off- site impacts.

MCC 17.119.070 C *"That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood"* is satisfied because the passive nature of the use results in few on- or off-site impacts, and because conditions of approval have been adopted to protect the public health, safety or welfare, the health or safety of persons working or residing in the area, and property or improvements in the area.

7. Because the Board has the power to grant the Conditional Use Permit, because the proposed conditional use is in harmony with the purpose and intent of the P zone, and because the conditions of approval are directly related to the public health, safety or welfare or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood, the criteria for a Conditional Use Permit are satisfied.

III. Conclusions

Based on the testimony and evidence in the entire record, the Board concludes as follows.

The proposed use is a solar photovoltaic generating plant. This use will not affect the type of development in the surrounding area, affect the appropriate rural development density, or alter the character of the area with regards to its rural development density. The site is appropriate for the proposed use because of its physical characteristics that provide for unobstructed solar exposure, and because the nearby power substation and existing transmission lines provide the necessary infrastructure for the proposed use. The use does not require urban services, and it will not increase the need for rural services at this location. Because the subject property has been a long term ownership of the Applicant, a regulated utility company, the proposal will have little effect on the overall land use and development pattern in the area. The subject site is particularly suitable for the solar generating plant because of its long-term ownership by the Applicant, its size, its non-resource designation, and its location proximate to the existing electric power infrastructure. The subject site is not resource land, and the surrounding area is not resource land or in resource use. The proposal is consistent with the Comp Plan's policies

and intent to encourage the development and use of alternate sources of energy in the county. For these reasons the Board finds the proposed use is appropriate for the subject site, it meets the requirements and directives of the applicable Rural Development and Rural Services Policies, and it meets the directives of the Energy Goal and Policies to promote and encourage the development and use of alternative sources of energy.

The proposed P zone corresponds to the Public Lands Comp Plan designation. Changing the Plan designation and the zone concurrently result in conformance with the Plan. There is no inventory of vacant land in the P zone, and no vacant land zoned P in proximity to the power substation. The proposed use is less intensive than other uses that could occur in the existing AR zone with regards to traffic impacts, and requirements for public services, facilities and utilities.

For these reasons, and based on consideration of all of the information and evidence that is in the record, the Board finds and concludes that the proposal satisfies the criteria for a Comprehensive Plan Map Amendment, a Zone Change, and a Conditional Use Permit.

EXHIBIT B

The Marion County Board of Commissioners adopts the following conditions in ZC/CP/CU14-003/Portland General Electric Company.

CONDITIONS OF APPROVAL:

Pursuant to Marion County Zone Code 17.123.070, the following conditions apply to the P-LU (Public – Limited Use Overlay) zoning granted in this action. These conditions are reasonably related to the specific development proposed, will serve the public interest of reducing land use conflicts, and are based upon standards adopted by the County. The P-LU zoning intensifies the use of the land. The conditions are necessary for the public health, safety and welfare.

1. Limited Use Overlay Zone

Pursuant to Marion County Code Section 17.176.030, no zone includes a list of permitted and conditional uses where all uses would be appropriate. The proposed P zone is the best suited to accommodate the desired use; however, it is necessary to limit the permitted or conditional uses in the P zone.

- A. The following uses, when developed under the applicable development standards in title 17 of Marion County Code, are allowed in the P zone:
 - 1. Farm use;
 - 2. Forest use;
 - 3. Dwellings and other structures customarily provided in conjunction with farm or forest use subject to MCC 17.139.030;
 - 4. Utility facilities necessary for public service except public power generation;
 - 5. Fire and emergency services stations and police substations;
- B. All other listed permitted and conditional uses in Chapter 17.171 of the Marion County Code are permitted in the P zone with conditional use approval.

Conditional Use

- 2. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
- 3. Prior to application for building permits applicant shall dedicate a 30-foot right-of-way half-width along the Auburn Road subject property frontage, and a 30-foot NE property corner radius to meet the County standard for a local road. Dedications should be to the public, not Marion County.
- 4. Prior to application for building permits, either remove fencing, including a metal swing gate, from within the southern portion of Hampden Lane public right-of-way adjacent to the 320 Hampden Lane subject property address, or obtain a Gate Permit from MCPW.
- 5. Prior to application for building permits, obtain a work in right-of-way permit from MCPW to widen the Hampden Lane gravel section to 20 feet from the southern terminus of the asphalt pavement to the proposed gate location meeting MCPW engineering standards for a local gravel road.

6. Applicant will coordinate NPDES permitting, SMA and other water retention or drainage requirements with MCDPW.
7. Applicant shall provide proof from DSL that any DSL-required permits have been obtained or that no permits are required.
8. Applicant shall install and permanently maintain mature plantings in accordance with its preliminary landscape plan.
9. Applicant shall submit a final noise mitigation plan, prepared by a registered acoustic engineer, for Planning Director review and approval showing that OAR 340-035 standards will be met.

EXHIBIT C

The following described property is rezoned from AR (ACREAGE RESIDENTIAL)
to P-LU (PUBLIC - LIMITED USE OVERLAY) zone.
ZC/CP/CU 14-003/PORTLAND GENERAL ELECTRIC COMPANY.

