



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Jen Patterson, Management Analyst
Will Groves, Planning Manager

DATE: May 29, 2024

SUBJECT: Fort Thompson Lane Property: Potential for Campground Development

I. Introduction and Background

The Board of County Commissioners has directed staff to explore the potential for campground development of the Fort Thompson Lane property. Prior staff efforts were directed towards exploring grant opportunities including the Oregon State Parks County Opportunity Grant Program (COGP). The COGP funding opportunity is expected to open late summer 2024. Staff have been researching the land use review process and potential next steps forward for campground development on the property. Prior presentations to the Board on this topic included:

Camping Feasibility Study Update: The County contracted with ECONorthwest to conduct a Camping Feasibility Study, which included the Fort Thompson Lane property just north of Bend as one of three areas evaluated for potential development of private or public RV parks and campgrounds. The study was finalized and presented to the Board on November 13, 2023.

Camping Feasibility Study - BOCC Retreat 2024: During a Board of County Commissioners retreat, the Camping Feasibility Study was discussed. At this retreat, the commissioners were looking for guidance on what steps to take forward from the Feasibility Study. Staff was directed to engage with the City of La Pine to look at campground development opportunities at the County-owned Drafter Road property.

Camping Grant Opportunity Update: On March 6, 2024, staff identified potential grant funding opportunities to the Board, including the State's County Opportunity Grant Program (COGP) administered by the Oregon Parks and Recreation Department to fund qualified projects for Oregon counties, including acquisition, development, rehabilitation, and planning of public camping facilities.

In this memorandum, staff summarizes applicable regulations and caselaw, outlines a potential land use review process, reviews the challenges of using the park master planning process, and provides an overview of potential grant funding opportunities for development of a public park campground at the Fort Thompson Property.

II. Applicable Law

ORS 215.283(2) sets out various uses that are permitted in an EFU zone subject to county approval. Subsection (2)(d) allows the County to approve “Parks and playgrounds,” and further specifies that “[a] public park may be established consistent with the provisions of ORS 195.120.” In turn, ORS 195.120 provides that the LCDC shall adopt administrative rules and necessary goal amendments to provide for a number of specified uses in state and local parks. These rules have been adopted in OAR Chapter 660-034.

ORS 195.120(4) specifies that a local government shall not be required to adopt an exception from a land use planning goal protecting agriculture or forestry resources to authorize a use in a state or a local park that is identified in a LCDC rule promulgated under ORS 195.120(2).

OAR 660-034-0010(8) defines a “local park” as “a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance.”

Under OAR 660-033-0130(19) (minimum standards applicable to the schedule of permitted and conditional uses on agricultural lands), **private** campgrounds on Exclusive Farm Use zoned land are subject to significant limitations. They are prohibited on high-value farmland, must be located at least 3 miles from a UGB (unless on a lake/reservoir), and cannot include intensively developed uses like swimming pools, tennis courts, retail stores or gas stations. Separate sewer, water, and electric hookups to individual campsites are also prohibited.

Under the administrative rules adopted by LCDC to implement ORS 195.120, governing public parks, OAR 660-034-0035 and -0040 are more permissive regarding **public** park campgrounds on exclusive farm use (EFU) lands. Note however, that OAR 660-034-0035 governs state parks, while OAR 660-034-0040 governs local parks, but references some of the uses listed in -0035.¹

Certain types of public park campground development may be permitted on resource lands without taking an exception to Goal 3 or Goal 4 (forest lands). However, higher intensity campground development requires a robust and complicated park master planning process preceding a public park campground application on resource lands in order to avoid taking a goal exception; public park campground development beyond that which is considered in a master planning process and adopted local park master plan would require a goal exception. Oregon Administrative Rules do not specify which higher-intensity public park campground uses would require a request to take a Goal 3 exception or to first engage in a robust and extensive local park master planning process prior to submitting an application for a public park campground on EFU-zoned land.

The intersection between ORS 215.283(2)(d), ORS 195.120(4) and LCDC’s regulations on agricultural lands (OAR 660-033-130(19)) and public park campgrounds (ORS 660-034-0035 and -0040) is murky.

¹ OAR 660-034-0035 provides for two additional types of uses in state parks than are allowed in local parks under OAR 660-034-0040.

Notwithstanding the direction in ORS 195.120(4) that local governments “shall not be required to adopt an exception” to allow uses authorized by LCDC in state or local parks, LCDC chose to allow some uses in state parks that in fact do require an exception to Goals 3 or 4. Rather unhelpfully, the rule does not specify which of the uses listed in OAR 660-034-0035(2) require a goal exception in the absence of a state parks master plan.

Two LUBA cases, summarized below, provide some guidance on how a public park campground may be permitted on EFU land without a Goal 3 exception and without having to have a local park master plan in place.

Linn County Farm Bureau v. Linn County I (LUBA 2010-006) (LCFB I)

LUBA considered whether the county’s approval of a conditional use permit for a proposed public park required exceptions to Goals 3, 11 (public facilities and services) and/or 14 (urbanization) where the county had not adopted a master park plan. LUBA determined that while the private campground restrictions in OAR 660-033-130(19) don’t directly apply to public campgrounds, they provide relevant context for determining which public campground uses are intensive enough to require a Goal 3 exception per OAR 660-034-0040, and/or would implicate Goal 14, necessitating an exception.

LUBA observed, “In our view, OAR 660-034-0040(4) is not ambiguous with respect to whether “some of the uses listed in OAR 660-034-0035(2)(a) to (g)” require an exception in local parks, in the absence of a local master park plans. There is no other way to read the rule other than to provide that “some” of the listed uses require an exception. **However, the rule is profoundly ambiguous regarding which listed uses require an exception in the absence of a local master park plan, and which do not.**” (emphasis added).

LUBA held that consideration of the agricultural land policies, particularly Policy 3, suggested that the more “urban” and service-intensive proposed park development is, the more likely it is to be inconsistent with Goal 3. It ruled that the county erred in not applying for goal exceptions for the proposed public campground that: (1) provide full sewer, water, electric hookups to individual RV sites, (2) include a camp store, and (3) include an enclosed 1200 sq ft "clubhouses" for all-season group use. LUBA stated that these intensive amenities pushed the proposed public park campground toward the "urban end of the scale" and required Goal 3 exceptions in the absence of a local park master plan. The county was directed to either remove from the proposal the camp store, clubhouses and full hookups to individual RV campsites, or take exceptions to Goal 3 for those aspects of the proposed park.

Notably, LUBA found a caretaker dwelling and administrative offices did not require a Goal 3 exception, as it determined such uses are necessary for campground operations. This campground did not involve park model RVs, and had a 7-day stay limit, so LUBA found it would not function as a dense residential or quasi-residential use that would otherwise implicate Goal 14.

Linn County Farm Bureau v. Linn County II (LUBA 2011-001) (LCFB II)

This LUBA decision followed the remand to the County in LCFB I. On remand, the county eliminated sewer hookups and proposed central restrooms and RV dump stations from its proposal. It retained water and electric hookups to individual sites. In the subsequent appeal, LUBA found central dump stations significantly reduce infrastructure compared to individual septic hookups, and water/electric connections to sites are not much more intensive than centralized facilities for those services. Therefore, it determined no Goal 3 exception was required.

The case establishes that public park campgrounds can provide RV dump stations and individual water/electric without a Goal 3 exception, even if less intensive designs are possible, but individual sewer hookups likely still require an exception absent a master park plan. LUBA again acknowledged the lack of clear guidance in the rules on this issue.

The final approval included:

- 50 RV campsites (reduced from the originally proposed 196 sites)
- Central restrooms
- Central RV dump stations
- Water hookups to individual campsites
- Electric hookups to individual campsites
- No sewer hookups to individual sites (eliminated from original proposal)
- No camp store (eliminated from original proposal)
- No clubhouses (eliminated from original proposal)
- 110-acre day use area with picnic shelters, restrooms, trails, etc.
- On-site wells for water supply, connected to a community water system
- On-site septic system capable of handling up to 25,000 gallons per day
- Caretaker dwelling for a full-time park ranger
- Administrative office, shop, equipment storage building
- RV stays limited to no more than 7 days (condition imposed in the original approval)

Staff understands these two decisions may be interpreted to establish a “safe harbor” of public park campground development that could be approved without a goal exception or public park master planning process.

III. Review Process

Should the Board want to develop a public park campground at Fort Thompson without first engaging in a park master planning process, the land use review would require several steps.

- 1) Legislative update of the Comprehensive Plan to designate specific property as public park, without changing the zoning or plan designation of that property.
- 2) This update could also include new supporting goals and policies describing the County’s overall approach to public parks and campgrounds(Optional) Legislative Updates to modernize and

streamline the existing campground regulations in DCC Title 18, maintaining consistency with statute and rule.

- 3) Quasi-Judicial conditional use and site plan review of the campground/park proposal.

IV. Potential Challenges

Proposals such as public parks and campgrounds often are a cause of concern for immediate neighbors, who typically raise issues relating to noise, traffic, visual impacts, change in neighborhood character, impact on property values, and potential for trespass. Staff has already received concerned outreach from neighbors regarding this property. Careful project design can often minimize or mitigate some of these impacts. In addition, prior projects involving Goal 3, Goal 14, Oregon statutes and regulations have been of interest to advocacy organizations and state agencies.

V. Park Master Planning

This memorandum does not explore in detail the opportunities and challenges for a public park campground developed under a master planning process. Should the Board wish to explore the park master planning process, staff can provide a more detailed presentation at a future meeting. A brief summary is provided, for reference, below.

Based on the Oregon Administrative Rules (OARs) in Chapter 736, Division 18, the state park master planning process in Oregon is extensive, time-consuming, and involves significant public input and compliance with restrictive rules.

The purpose of state park master plans is to plan for protection and public enjoyment of park resources. The process provides a forum for public and agency participation. (OAR 736-018-0010). The key elements of master planning for parks include:

1. The master planning process involves numerous steps, including resource assessments, suitability determinations, recreational needs evaluations, issues identification, steering committee formation, multiple public meetings, goal formulation, preliminary development proposals, impact assessments, and compatibility reviews. (OAR 736-018-0015)
2. Master plan decisions must be consistent with a long list of criteria covering resource protection, recreational opportunities, resource management, scenic values, local land use compatibility, and more. The rules require consultation with various agencies and groups for each criterion. (OAR 736-018-0020)
3. The process mandates formation of a steering committee with representatives from local governments, neighborhood groups, resource advocates, recreation interests, and others. Multiple committee meetings are required. (OAR 736-018-0015(6))
4. At least two public meetings must be held for the preliminary proposal, one near the park and one in a location encouraging broad participation, with 21-day comment periods. Similar meetings and a 30-day comment period are required for the draft plan. (OAR 736-018-0015(8) and (18))
5. The draft plan must be presented at a public Commission meeting before initiating rulemaking to adopt the plan. (OAR 736-018-0015(20))

6. Local government coordination involves participation on the steering committee, multiple hearing notices, comment periods, and potential plan amendments and adoption. Dispute resolution provisions add further time. (OAR 736-018-0028 and 736-018-0030)
7. Specific siting criteria, development standards, monitoring requirements, and impact restrictions apply to many traditional park uses. (OAR 736-018-0020 and 736-018-0025)

In summary, the required robust public involvement and resource protection outlined in the state park master planning rules entails numerous time-intensive steps, mandates extensive public and agency input, and involves restrictive, detailed approval criteria. Collectively, these factors make the park master planning process quite cumbersome and lengthy.

VI. Grant Funding

The State has a County Opportunity Grant Program (COGP) administered by the Oregon Parks and Recreation Department to fund qualified projects for Oregon counties. Projects include:

- Acquisition – Acquiring property for public camping facilities
- Development – Developing new campgrounds and/or support facilities
- Rehabilitation – Rehabilitating grounds or structures to meet ADA requirements
- Planning – Planning for future development of overnight camping facilities, including park master plans

Match criteria: 50% County match.

The grant opportunity is funded on an annual basis. The 2025 grant cycle is expected to open on August 1, 2024, with applications due October 1, 2024.

After consulting with the grant administrator and other experts in the field, if the Board would like staff to proceed with this grant application, staff recommends pursuing this grant opportunity to develop a site plan and pro forma. However, staff recommends first addressing the potential challenges of land use review outlined in this memo prior to pursuing funding.

VI. Next steps

Staff is available for Board questions or to receive further direction in this matter.