

# Comprehensive Plan Map Amendment Zone Change Staff Report for Planning Commission Public Hearing Case File CPA ZC 2023-06

**Date:** March 13, 2023

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**Property Owner:** Oregon Parks & Recreation Department  
725 Summer St NE, Ste. C  
Salem, OR 97301

**Situs Address:** 95 SW Hwy 101

**Location:** West side of Hwy 101, approx. 145 feet south of NW 1<sup>st</sup> Ct

**Tax Map and Lot:** 07-11-15-AC-00101-00

**Comprehensive  
Plan Designation:** Recreation-Commercial District (R-C)

**Zoning District:** Recreation Commercial (RC) Zone

**Site Size:** 4.28 acres

**Proposal:** Comprehensive Plan Map Amendment to Park and Zone Change to Park

**Surrounding  
Land Uses  
and Zones:** North: Restaurant, hotels; RC  
South: Condominiums, retail; RC  
East: Hwy 101, retail; GC  
West: Pacific Ocean

**Authority:** Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.

**Procedure:** The Planning and Community Development Department mailed notice to the owners of all properties within 500 feet of the site on February 28, 2023. The *News Guard* published the public hearing notice on March 7, 2023. The Oregon Department of Land Conservation and Development was notified on February 9, 2023.



**Applicable Substantive Criteria:** Oregon Statewide Planning Goals  
Lincoln City Comprehensive Plan  
LCMC 17.77.050 and 17.77.150

**BACKGROUND**

The subject property (site) is addressed as 95 SW Hwy 101 and identified as Tax Map 07-11-15-AC-00101-00. The site is approximately 4.28 acres in the RC zone. The site is owned by the Oregon Parks & Recreation Department. North of the site is developed as a restaurant, with hotels north of the restaurant – all in the RC zone. South of the site is also in the RC zone, developed as condominiums and retail businesses. East of the site is Hwy 101 and east of that is retail and a hotel being converted to multi-unit residential development in the GC zone. West of the site is the Pacific Ocean.

The site is owned by the Oregon Parks & Recreation Department and is the D River State Recreation Site. Billed as the shortest river in the world, D River flows a mere 120 feet from Devils Lake into the roaring ocean. The site does not contain designated trails, aesthetic resource, floodway, or natural resource overlay. The site does contain bluff erosion hazards and both VE and AE flood hazard areas.

**COMMENTS**

Comments were received from the Confederated Tribes of Siletz Indians on February 16, 2023, via email, stating: “We have no objections to the rezoning of the D River State Recreation Site from Recreation Commercial to Park status.”

**ANALYSIS**

**A. Lincoln City Comprehensive Plan**

**1. Land Use Planning Goal**

*“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”*

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

*“Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development.”*

The proposed map amendment and zone change would designate the site with the P zone to align with its use as a state park. Staff finds the proposal is consistent with Goal 1.

**2. Citizen Involvement Goal**

*“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”*

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The city has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Comprehensive Plan.

Among the policies under the city’s Citizen Involvement Program goal is one that states: “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the city’s website. The city holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are available to attend remotely via Zoom, televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the city’s website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

### **3. Public Services and Utilities Goal**

*“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.”*

City water and city sewer currently serve the public restrooms located on the site. The site is also served by electricity. This goal is met.

### **4. Urbanization Goal**

*“To promote an orderly and efficient transition of land uses from rural to urban.”*

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the city limits, thereby already establishing the site as urban. The proposed amendment and zone change will not move the site out of the urban growth boundary or out of city limits back to rural. The site is developed as an urban area and the proposed zone change will not change the urban development. The proposal is consistent with this goal.

### **5. Natural Hazard Goal**

*“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”*

The city’s maps show the site contains bluff erosion hazards and flood hazard area. The municipal code provides the prohibitions, restrictions, rules, and standards for development in the bluff erosion hazards and flood hazard areas to satisfy the natural hazard goal. All development must comply with the municipal code. This goal is satisfied.

### **6. Housing Goal**

*“To provide for the housing needs of all citizens.”*

The site is not currently zoned for housing, so the proposed zone change from RC to P does not take away from any provisions for housing on the site. The change does not impact other residential zones in the city that do provide housing. This goal is not applicable.

### **7. Economy Goal**

*“To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”*

The Comprehensive Plan states that the city’s primary industry is tourism and concludes that tourism will continue to function as the city’s basic industry. The site is open to the public and tourists for viewing and accessing the ocean. A welcome center is planned for the park site that will increase the number of visitors and tourists to the site and the city. Staff finds that the request is consistent with this goal.

### **8. Aesthetic Goal**

*“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”*

The site does not contain any aesthetic resources, but it is east of the Pacific Ocean. The proposal will align the zone with the use as a state park. This will preserve the area for use as a park, conserve the aesthetics of the site’s view of and access to the Pacific Ocean, and serve to preserve the aesthetic quality of the area. The request is consistent with this goal.

### **9. Transportation Goal**

*“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”*

The site is bordered by Hwy 101 and has direct access to Hwy 101. Hwy 101 is a principal arterial running through the city moving people from end to end and through the city. This goal is satisfied.

### **10. Energy Goal**

*“To conserve energy.”*

The site will remain in use as a park. No energy will be expended in the continued existence as a park. Any new building taking place must meet the energy codes in place at the time of construction. The goal, therefore, is satisfied or not applicable.

### **11. Overall Environmental Goal**

*“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”*

The entire site will be preserved as a park to protect the view of the Pacific Ocean. This goal is satisfied.

### **12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal**

*“To conserve, protect, and enhance the coastal resources of the city.”*

The site will remain in use as a state park to conserve, protect, and enhance the coastal resources portion of the Pacific Ocean that is adjacent to the site. The proposed request is consistent with this goal.

## **B. Statewide Planning Goals**

**Goal 1 – “Citizen Involvement”** “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the city’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The city published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the city’s website in advance of the meeting. The request is consistent with Goal 1.

**Goal 2 – “Land Use Planning”** “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

**Goal 3 – “Agricultural Lands”** “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the city’s urban growth boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

**Goal 4 – “Forest Lands”** “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the city’s urban growth boundary and currently zoned for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

**Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources”** “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as a park, which will also protect the natural resources (the Pacific Ocean) on the site and conserve the scenic area of the Pacific Ocean on the site. The proposal is consistent with Goal 5.

**Goal 6 – “Air, Water and Land Resources Quality”** “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as a park, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

**Goal 7 – “Areas Subject to Natural Disasters and Hazards”** “To protect people and property from natural hazards.”

The city’s maps show the site contains bluff erosion hazards and flood hazard area. The municipal code provides the prohibitions, restrictions, rules, and standards for development in the bluff erosion hazards and flood hazard areas to satisfy the natural hazard goal. All development must comply with the municipal code. This goal is satisfied.

**Goal 8 – “Recreational Needs”** “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as a park for the use and enjoyment of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

**Goal 9 – “Economic Development”** “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the city’s urban growth boundary and will remain in use as a park. The Comprehensive Plan states that the city’s primary industry is tourism and concludes that tourism will continue to function as the city’s basic industry. An area preserved as a park that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to this area of town. Staff find the proposed rezoning is consistent with Goal 9.

**Goal 10 – “Housing”** “To provide for the housing needs of citizens of the state.”

The site is a state park. State parks are precluded from development. Goal 10 is not applicable.

**Goal 11 – “Public Facilities and Services”** “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The site contains city water and city sewer facilities. The site also contains storm drainage facilities and electrical service. The request is consistent with Goal 11.

**Goal 12 – “Transportation”** “To provide and encourage a safe, convenient and economic transportation system.”

The site is bordered by and accessed from Hwy 101. Hwy 101 is a principal arterial running from end to end moving people to and through the city. The request is consistent with Goal 12.

**Goal 13 – “Energy Conservation”** “To conserve energy.”

The site will remain developed as a park. Any new construction must comply with energy codes in place at the time of construction. The goal, therefore, is satisfied or not applicable.

**Goal 14 – “Urbanization”** “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the city limits thereby already establishing it as urban. The proposed amendment and zone change will not change the already-existing urban designation by removing it from city limits or the urban growth boundary, nor will it prevent more urban development of the surrounding area. The proposed amendment and zone change are consistent with Goal 14.

**Goal 15 – “Willamette Greenway”** “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

**Goal 16 – “Estuarine Resources”** “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

**Goal 17 – “Coastal Shorelands”** “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The proposal will preserve the area as a state park, thus protecting the resources of the Pacific Ocean that are adjacent to the site. The findings concerning the city’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

**Goal 18 – “Beaches and Dunes”** “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The site is already a state park and nothing in the proposed rezoning will impact that use. The findings concerning the city’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

**Goal 19 – “Ocean Resources”** “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The site is a state park and the proposal will preserve the site as a park. The zone change will not affect the near shore, ocean, and continental shelf because no change in use of the site is proposed. The findings

concerning the city's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met.