

**March 29, 2022**

**PUBLIC HEARING CONTINUANCE FOR THE PURPOSE TO CONSIDER THE PROPOSED  
GEARHART PARKS AND RECREATION MASTER PLAN DRAFT**

The public hearing was reopened at 6:00 pm by Mayor Cockrum. Present were Mayor Paulina Cockrum, Councilor Reita Fackerell, Councilor Kerry Smith, Councilor Brent Warren, Councilor Austin Tomlinson, City Administrator Chad Sweet, City Attorney Peter Watts, City Planner Carole Connell, Executive Assistant Krysti Ficker, and City Treasurer Justine Hill.

Mayor Cockrum re-opened the public hearing to consider file # 21-004 CP.ZTA amending the Comprehensive Plan, zoning ordinance, and subdivision ordinance and read the disclosure statement.

Mayor Cockrum communicated that the city received new correspondence from Carol Lucas, Penny Sabol, Skyler Archibald, and Deb Papadopoulos. Three proponents of bicycles on the Ridge Path with one opposed.

Mayor Cockrum asked if there were any proponents that would like to speak. No response. Would any opponents like to speak? No response. Last, any neutral comments? No response.

On MOTION by Councilor Smith, 2nd by Councilor Tomlinson to close the public hearing. The public hearing closed at 6:04 pm.

Discussion with councilors commenced after a brief overview pertaining to some of the changes highlighted in yellow was given by Mayor Cockrum.

Mayor Cockrum asked if there were any questions on the staff report.

A brief discussion occurred regarding name recommendations for the Trails End/Centennial/City Center Park. Was there a preference for what name to use for the park? Is there a formal process with public input in order to name the park? It was suggested the name be decided before the plan is finalized. Sweet said that there is no process in the city's ordinance that he knows of, and that they would determine a civil process to establish a permanent name. There was discussion about the riparian setbacks and the estuary pertaining to pages three, eight, and nine. It was mentioned by Councilor Warren that it is difficult for people to assess where the high tide mark is from which the 50 feet is measured, and suggested that there be some monuments to be used as aids in that effort.

Mayor Cockrum had comments on page eight 1.2 The transportation system for walking, biking, rolling, that is indeed a reference to shared pathways and a transportation policy. It does exist in the comp plan that was updated with the transportation plan. It is not a typo, it is rolling like a skateboard, scooter, or rollerblades.

Discussion for Parks Master Plan commenced.

Councilor Warren questioned the name change from the parks and open space to parks and recreation master plan. Why from the earlier draft to this draft was the name changed? Carole Connell explained that Parks and Open Space reference is actually the title of the city parks zone (parks and open space). In general, and with the grant, parks are often one thing and recreation another. A Parks and Recreation Master Plan is more inclusive of all methods of recreation, as well as open space. One is more general and the other may erroneously just refer to the city zone for a park. Technically it is a Parks and Recreation Plan, and it happens that many of our parks are open spaces.

Councilor Tomlinson brought up that on page three, number five, he did not remember what iteration they did, but mentioned they changed it from parks commission to parks advisory committee.

2.A.1, Council decided to delete the area highlighted in yellow at bullet point eleven and leave just the South end of S. Ocean Ave.

2.A.2 Under Improvements: The last sentence; "Public sentiment seems to be against any further development of this park which would include construction of any permanent above-ground structures." Council is striking this sentence.

2.A.4 Under Improvements: The last sentence; "In the recent past, the Gearhart Homeowners Association proposed consideration of constructing a low wall at the base of the new flower beds to provide seating." Council is striking this sentence.

In the same section, where it states, "No lighting, no off-street parking", Council mentioned changing no parking to "limited to ADA parking".

On pages six and seven, some of these sections have descriptions and some don't. Council asked to have the acreage or linear data added to where the information is available. To calculate the size of the parks, measure the Ridge Path and add that information, if available.

2.A.5 Council discussed having consistency throughout the plan over trail bikes. Councilor Warren mentioned that the width of the tires shouldn't dictate whether it's a bicycle or not.

2.A.3 Council removed, "on the west side by Marion Avenue, and on the east side by private property that is now undeveloped but zoned for medium-density residential use".

Discussion occurred over page seven, namely bicycles and horses on the Ridge Path. The decision of no horses or ponies on the Ridge Path was made, and further Council discussion on bicycles would occur later.

2.A.7 Under Improvements: Council removed, "and has from time to time considered adding pavement westward to prevent erosion and potholes".

Discussion for clarification on Gearhart Meadows LLC 5.5 acres of undeveloped land along the western edge occurred. This area is not the Meadows Court subdivision that's being developed. It is a part of the development that cannot be developed because it's within wetlands. Walking along the Ridge Path trail towards Gearhart Lane, it's the newer section near the wetlands and Neacoxie Creek. The purpose for the extension of the Ridge Path trail was to separate the wetlands from that neighborhood so all the property to the east of that trail is easily identified as wetland and not developable. Mayor Cockrum also clarified that bikes and horses listed in the second to last sentence of that section are part of their CC&Rs.

2.C.7 Second to the last sentence, "no indigenous vegetation" the council changed to non-native vegetation.

2.D.3 Yellow highlighted area "Wetlands are located on the east side of the property", was discussed; leaving it in.

Discussion occurred on page eleven, Councilor Tomlinson brought up that he believed the notes themselves should be in the full appendix, letting the policies stand by themselves. He was not sure what councilors thought about leaving them in the final document. They were George's rationale behind making the case for each of the policies, and they give you a historical context of the decision-making process. However, he believes there should be a reference in the back as a footnote, not with the policies in the front of the document. Mayor Cockrum agreed that the policies should stand on their own, but to still allow people to easily go back and reference them. Unless they come up with a better idea, calling it Appendix G and calling it policy reference notes or footnotes was the suggestion.

3.1 "The city will not take any action which would result in any meaningful portion of any such park property being converted to any other public or private use." Councilor Warren believed that this is a pretty broad policy, and does not allow for mitigation of changing use; it ties the hands of a future City Council.

Attorney Watts agreed with Councilor Warren, that there could be some concerns about whether we are able to articulate clear standards for people to understand, such as the park across from City Hall. There's an art center on it. Maybe at some point in the future, the City Council would want to add bathrooms so they could be used more broadly. This kind of language the council could come in and interpret but it's within the purview of what happens in our parks.

Councilor Warren asked, how do you define meaningful portion? He believed that this would cause complexity.

Council decided to delete, "Notwithstanding any provision of the Zoning Ordinance which otherwise would allow any other permitted use of such properties, whether permitted outright or conditionally, the City will not take any action which would result in any meaningful portion of any such park property being converted to any other public or private use", and move the notes to the appendix. In NOTE one,

the last line, "ADA" was inserted after "construction of a", and before "parking". Policy seven on page fourteen, Councilor Tomlinson said addresses this as well.

The council stated that all notes are to be in the back as a reference.

3.3 NOTE one, on page twelve, Councilor Smith was concerned with the last sentence, "*This policy is not intended to preclude the possibility of the City adopting a Fore-dune Management Plan in the future.*" He believed it would be better not to do anything to the dunes as far as management is concerned because they use the dunes and vegetation as a friction coefficient in figuring out what the run-up for tsunamis is. Different tsunamis make a big difference because of where the fire station might be located.

Mayor Cockrum stated adopting a fore-dune management plan is in the Comp Plan as a possible future thing to do. Further discussion led to the decision to leave it as is and move it to the back.

Councilor Tomlinson suggested adding "but not limited to" at the end of the last sentence after "including".

3.4 C, Council agreed with what was taken out ("and beaches", "and from"), and kept the addition of "and the adjoining adjacents".

Discussion on wood chips for this section; good or bad? Mr. Sweet said the city had left some wood chips but is not leaving wood chips anymore. The city has not really investigated the pros and the cons of doing that. Sweet was indifferent; if we say no now then we may be limiting ourselves to some sort of noxious weed control that may not take much work, such as mowing. Until we really study whether or not the chips are good or bad, he suggested not placing them in the plan at the moment. We can get some more information about best practices with the community to improve upon. Right now, we are not putting any wood chips out there because it says that we shall not spread the wood or leave any other wood. It's already in the policy of vegetation that we do not have to do chips.

H. Council felt this was redundant and deleted this sentence.

3.4 At the end of the policy in the last sentence, the council added "and to preserve native vegetation" at the end.

3.6 In the last sentence, the council discussed deleting "will continue to be maintained for such uses, as currently arranged when this plan was adopted", and rewording it to say sports courts. Mr. Watts stated that this is a problem with tying yourself down. A lot of parks master plans he has seen are just an inventory of the parks, and a vision and values for how they will develop going forward, versus a very specific grant of authority. Some hard criteria for what you can or can't do to the point that Mr. Sweet was making earlier. On some of this stuff, we really don't know what best practices are, particularly on invasive species, because we just don't have clarity on it yet. With having that level of specificity in a parks master plan, theoretically, the current Council can't bind a future Council. Mr. Watts thinks this would create litigation risk. For example, what if there was no longer demand for

basketball, and there was increased demand for pickleball, and the community was asking for that. The council would want to clearly and unambiguously be able to do what the public desired, if that was their desire as well, with as much flexibility as possible. A lot of these sections are just incredibly descriptive. Maybe that's a good thing; but particularly when your code addresses these as well, at the very least, it would need to be consistent between the code in this plan.

Councilor Smith said on page three, "a purpose and objectives of the whole plan". It says this plan is not intended to provide specific short-term project plans and is not intended to dictate any detailed operational activities, however, it does seem to go on and dictate activities.

3.8 Item E, Council discussed having bicycles included here, and the effects it may or may not have on the Ridge Path. Council decided to delete the word "bicycles". Yellow highlighted area in the NOTES "preferably *at least six feet wide, but in all areas*" council agreed to delete.

3.9, B, seven was added and council was good with this being added.

3.12 There was extensive discussion regarding the parks advisory committee, or perhaps, maybe a joint session with the council and planning commission, once or twice a year. (It was suggested twice a year.) Sweet gave a brief background, that the frustration for something like this is to move it forward, how do we get forward motion on this plan? Number one, we've never had a plan so there hasn't been any forward motion necessarily in any of our parks. That has created some frustration with people. Now that we're working on this plan, after over 30 years, we'll actually have a plan. The implementation of where to go forward is really driven by the City Council. If there's a goal for the City Council that they want to implement this plan at a certain pace, set that goal. Once the goal is set, then we can budget. Once we budget, then we can accomplish it. Without having this plan in place, that hasn't been able to happen. The intention of this plan is to make sure something happens in the future.

There is controversy with 3.12. Watts went on to say this reads as if the parks advisory committee has spending authority. He has two concerns with the way it reads. One is that they request a budget/funds from the city's operating budget to carry out its duties. The other is, when getting into park planning land use, it raises the question of the group's authority when it would need to go to the planning commission. And then, it either gets appealed to the city, or the city takes it on in order to make a final decision. In order to get through any land use process and/or litigation, we would need to do this. Mr. Watts does not think that the city could have a direct appeal from a parks committee to LUBA. Legally speaking, the city would need to have the hearing in front of the city council, either on the record or de novo. He thinks we'd need that, at the very least. If the city wants to have an advisory committee that looks at some of these and makes a presentation to the council, he believes there's not a whole lot of legal risk with that. But if we're talking about a separate entity with spending authority, in the final judgment, is the city going to want to give up that much control? The other question is, can the city give up that much control under its charter?

The parks master plan isn't a binding plan, it's purely aspirational. However, in section after section, it sure doesn't read that way. It is specifically prescribing what you can or can't do in that park, including saying whether you can put a sign there and how that sign can read. The city could be dealing with

this down the road in a litigation fashion. It would be nice to have some clarity on the fact that this is kind of a vision and values plan, but not binding. Or if the city does not have that understanding right now at the time of adoption, putting that in. But for an aspirational plan, this is just incredibly prescriptive.

This is part of your comprehensive plan. Cities have a parks master plan, and it usually identifies your inventory, and then it speaks to vision and values. An example such as striving to have a park within a half-mile of any neighborhood. It seems like we had a citizen advisory board that understood that most park plans do not get to dictate what happens but also preferred to dictate what would happen and then would put in notes. (Their rationale for what happened.) Ultimately, the Council is the decider; it's their vision and values. Mr. Watts stated he just advises the city on legal risk and there are sections that give him high concern. He believes an overarching policy statement that this is our parks master plan, but really just represents the vision and values and is not going to be binding, or not going to dictate what a future council can do, would probably be helpful. Going forward, clarity is needed regarding how much weight to give this plan when compared to the city code. Watts' advice was that the city constructs a plan that is aspirational in nature. If the city wants to make the plan binding, they're going to want to specifically cross-reference the code and make sure it's consistent to prevent litigation.

Councilor Tomlinson asked for Mr. Watts to go through the plan and red line areas of hard policy. Sweet suggested that we take this to a Special Council meeting.

Mr. Watts said that the city can make it known the plan is aspirational, building it into the preamble.

Mayor Cockrum wants that to be on the first couple of pages.

Mr. Watts will flag some issues.

More discussion briefly on the parks advisory committee and the material of the benches.

Council stopped at page sixteen and will further reconnect on this in April.

  
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Paulina Cockrum, Mayor

  
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Chad Sweet, City Administrator