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May 16, 2024

Via Email to Jacyn.normine@columbiacountyor.gov

Columbia County Board of Commissioners
c/o Jacyn Normine
230 Strand St.
St. Helens, OR 97051

Re: *In the Matter of the Proposed Vacation of Luma Vista Drive and Skyline Terrace near Scappoose, Oregon*

PUBLIC COMMENT / OBJECTION

To the Commissioners of Columbia County:

I live at 32256 JP West Road, Scappoose, together with my partner Brian Rosenthal and our four minor children. Our home is located a few hundred yards past Luma Vista Drive, and right before Dwight Drive. I maintain a general civil law practice in Scappoose. I submit the following comments in objection to this proposed Vacation of these Local Access Roads (the "Roads").

A map of ownership along the Roads was missing from the Petition, but one is attached here as Exhibit A. Six of seven total property owners abutting Luma Vista and Skyline have consented to this Petition. To date, various City and County officials have formally objected to this petition, together with a few other citizens.

EXISTING LAWS BAR APPROVAL OF THIS PETITION

There are currently no savings to Columbia County if this Petition is approved. The County currently has no maintenance obligations with regard to Luma Vista and Skyline. Local Access Roads are regulated by ORS 268.031, and the County is not required to undertake these tasks and costs in the vast majority of circumstances.

Instead, the residents of Luma Vista and Skyline are parties to a Road Maintenance Agreement which governs their mutual responsibilities for the maintenance of the Roads. A copy

of this document was included as an Exhibit to their Petition. This agreement is legally binding upon all current and future owners in the Luma Vista and Skyline neighborhood. They were aware of it when they chose to purchase property in this neighborhood. If they want to amend it in any way, they can do so by mutual agreement.

The County cannot approve this Petition under the requirements of ORS 368.331. This statute forbids the vacation of public lands “if the vacation would deprive an owner [City of Scappoose] of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.” As described by City of Scappoose Public Works Director Dave Sukau, privatizing the Roads would have significant impact on the City’s property. Specifically, limiting emergency vehicle access to the property to the Bella Vista entrance alone could be devastating. There have already been scuffles with the City’s immediate neighbors regarding the City’s need to access their property for logging and heavy maintenance.

The City’s property has a better chance of being improved and made more welcoming for public use if existing public access from Luma Vista is guaranteed. It would be a waste of public resources for the City to be forced to purchase alternative access rights to their property, either via private sale or by means of condemnation. A viable means to access the Vista Property already exists.

**THIS PETITION IS NOT IN THE PUBLIC INTEREST
AND SHOULD BE DENIED**

The County can only approve this Petition if it is in the “public interest.” See ORS 368.356.

The Petition on its face cannot be in the “public interest” where it cuts off public access to City of Scappoose public property known as the “Vista Property” – for the current benefit of just six total households. (Note that Cynthia Darling is no longer an owner of any property affected by this Petition.)

The Vista Property is a miniature “Forest Park.” It is a watershed for Scappoose and a magnet for wildlife. It contains natural elements that do not exist at other Scappoose public properties, and it has unique potential for the development of nature trails and other public forest recreational uses. For these reasons, the City of Scappoose has included the Vista Property in its Parks, Trails, & Open Space Plan adopted March 4, 2024. Relevant pages of that document are attached here as Exhibit B. I defer to Councilor Kim Holmes and the Scappoose Parks and Recreation Committee’s comments on the current importance and future potential of this site to the greater Scappoose community.

This Petition is overwhelmingly for the benefit of private interests over public interests. Please consider the following points 1 through 8 in the applicants’ cover letter.

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1. **“Adequate Security.”** The Petitioners express concerns about “unidentified vehicles,” “illegal activity,” and “unwanted behavior” in their neighborhood. These concerns are not unique to Luma Vista and Skyline. They are general community concerns that are already able to be addressed by established legal procedures. For example, “illegal activity” can be reported to law enforcement and prosecuted. “Unidentified vehicles” can also be reported to law enforcement, who can identify and/or tag the vehicles for towing if appropriate under ORS 98.810 (Unauthorized parking of vehicle on proscribed property prohibited) et. seq. or ORS 819.100 (Abandoning a vehicle) et. seq.
2. **“Enhanced Safety.”** Petitioners’ safety concerns are overstated, and are not out of the range of “normal” for Scappoose or rural Columbia County. They simply want safety from the teeming masses of the general public. They openly admit in their Petition that they want to restrict access to “residents and authorized personnel” only, despite the existence of public property at their northernmost boundary. Michael Russell’s memorandum to the Board of County Commissioners regarding this project mentions as well that

residents also expressed concern that adjacent property, owned by the City of Scappoose, could be developed as a public park in the future, and that this park might access from the right-of-way for Luma Vista Drive. The concern is based on the perception that the development of this parcel as a city park will exacerbate traffic and use issues...

3. **“Full Control Over Road Maintenance.”** As already explained, the Roads are Local Access Roads. Petitioners already have control and decision-making power over road maintenance and improvements, provided that these decisions meet County code.
4. **“Preservation of Community Character.”** If this Petition is denied, these few applicants will not be prevented from “creating a close-knit community where families can live harmoniously in a serene environment,” or from “foster[ing] a sense of unity and belonging” among themselves. Conversely, if this Petition is approved, the restriction of public access to public lands will reduce the ability of hundreds of other Columbia County residents to establish their own geographic ties to their community. It will reduce their ability to experience the serene environment of the Vista Property. It will foster feelings of exclusion, and exacerbate existing tensions between the “haves” and the “have-nots” of this County.
5. **“Property Value Enhancement.”** A well-maintained private road serving the Luma Vista and Skyline residents could increase the Petitioners’ property values. However, the County has a responsibility to all of its residents, not just a chosen few. Funneling all Vista Park traffic through the Bella Vista neighborhood could just as easily decrease property values on the north end of the park. Ensuring additional access to Vista Property from the south end would simultaneously relieve pressure on Bella Vista, protect existing Bella Vista property values, and increase property values for the

community as a whole. Depending on the improvements made to the Vista Property, the Petitioners' property values may appreciate significantly anyway due to proximity to a City amenity.

6. **"Flexibility in Road Improvements."** The Roads at issue are Local Access Roads. Petitioners already have control over road maintenance and improvements.
7. **"Easing the County's Burden."** These Roads are Local Access Roads. This statement is disingenuous where the County does not currently expend any resources for Luma Vista or Skyline road maintenance and improvements.
8. **"Established maintenance agreement."** These Roads are Local Access Roads! The idea of a "smooth transition" to private ownership is a red herring where Petitioners already have full control over road maintenance and improvements.

CONCLUSION

In Oregon there is a legal doctrine known as "coming to the nuisance." This doctrine can operate a party from making a successful legal claim for "nuisance" if the "nuisance" was present, and the party knew of that "nuisance" before they acquired the property subject to the "nuisance."

If the Petitioners did not want to live on a Local Access Road that had been dedicated to the public as part of the conditions of original approval of their subdivision years ago – they should not have purchased property on Luma Vista or Skyline. If they were concerned about being burdened by road maintenance and improvement costs – they should not have purchased property subject to a Road Maintenance Agreement. And, if they did not want to live next to the "nuisance" of City property, or public lands, or a Park – they should not have purchased property on Luma Vista or Skyline.

This Petition should not be granted. It would be a giveaway of more than just the Roads to private parties.

Regards,



Joanna M. Wagner
Attorney at Law

Enclosures



EXHIBIT A Page 1 of 1



CITY OF SCAPPOOSE

Parks, Trails, & Open Space Plan

EXHIBIT B Page 1 of 10

Adopted March 4, 2024

Acknowledgments

This Plan reflects the values and future vision of the Scappoose community. We appreciate the guidance and involvement of the Scappoose City Council, Planning Commission, Parks and Recreation Committee, Project Management Team and City staff, and all the involved and engaged community members who shared their time, energy, and ideas for this Plan.

City Council

Mayor Joe Backus

Megan Greisen, Council President *(former)*

Peter McHugh, Councilor *(former)*

Tyler Miller, Councilor

Jeannet Santiago, Councilor

Kim Homes, Councilor

Andrew LaFrenz, Councilor

Marisa Jacobs, Councilor

Planning Commission

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Bruce Shoemaker, Member *(former)*

Sara Jones-Graham, Alternate Member

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JJ Duehren, Vice Chair

Ian Holzworth, Member

Paul Fidrych, Member

Bryan Hammond, Member

Terry Brooks, Member

Elizabeth Meinke, Member

Nathan Haner, Member

Cara Heinze, Chair *(former)*

Project Management Team

Dave Sukau, Public Works Director

Charlotte Baker, Public Works Contract Administrator

Alexandra Rains, City Manager *(former)*

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Isaac Butman, Assistant to the City Manager

Huell Whitehaus, Assistant to the Public Works Director *(former)*

Prepared By



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INTRODUCTION

This Parks, Trails, and Open Space Plan (the Plan) reaffirms the direction for the City of Scappoose’s system of parks, recreation facilities, and open space. The Plan provides a cohesive vision, with goals, strategies, and objectives based on community input and analysis. The Plan inventories existing parks and facilities, identifies community needs, and directs funding and investment over the next twenty years.

Purpose of the Plan

The Parks, Trails, and Open Space Plan sets a renewed direction for the City of Scappoose’s parks and recreation system. This Plan presents the long-term vision and strategy for the future of parks, trails, open space, natural areas, recreation facilities, programs, and related services for the next 20 years.

The City last updated its Parks, Trails, and Open Space Plan in 2017. Since then, parkland acquisitions, shifts in funding and staffing levels, changing demographics, aging recreation amenities, and new emerging community priorities require focused attention and a guiding framework. Specifically, this plan update:

- Provides an updated inventory of parks and facilities, as well as a review of the existing strengths and weaknesses of the system.
- Describes the planning context, including a demographic profile and current levels of service.
- Identifies new or emerging park needs and opportunities for the park system, particularly those resulting from a growing community.
- Recommends projects and actions to meet community needs and create efficiencies across the system.
- Prioritizes a set of recommendations to guide future implementation.

Planning Process

Over the past year, the City of Scappoose has developed an updated Plan based on community and stakeholder input and a technical analysis of the park system. The planning process consisted of five phases.

Figure 1-1: Planning Process



The Plan update kicked off in the summer of 2022 with an inventory and analysis of the existing park system. This included a strengths, opportunities, weaknesses, and challenges analysis and an update of the parks and

open space inventory to include acquisitions and developments that have been added since the last plan update. Phase two included an online community-wide survey to gain insights on the recreation opportunities and needs in Scappoose. This was combined with a technical analysis of the existing level of service and park access to document gaps in the system. Phase three work included identifying the vision, goals, and objectives that make up the framework of the Plan and drafting specific site recommendations based on community and decision-maker input. Recommendations for the City's park sites informed an action plan that includes a capital improvement plan along with a framework for prioritizing future improvement and strategies for funding and implementation. The final phase of the Plan process includes the development, review, and adoption of the Plan.

Scappoose residents were directly involved in identifying system-wide needs and suggesting ideas and priorities to carry out the Plan. The community engagement process involved a variety of activities designed to understand community preferences and needs. Outreach included several pop-up events during the Fall of 2022, a citywide online survey, and an interactive work session at the Spring 2023 Annual Town Meeting. The Scappoose Parks and Recreation Committee (SPRC), Planning Commission, and City Council also provided input throughout the planning process and guided development of the Plan.

Related and Concurrent Plans

The Parks, Trails, and Open Space Plan is not a standalone document, but rather an effort to integrate park planning with many other Citywide visions. The Plan works in concert with both Citywide and site-specific efforts to achieve shared goals. Updating the Plan fulfills one of the City Council's main goals as the community works to establish a long-term vision for Scappoose. Planning for the parks system supports other Council goals, including promoting and supporting county-wide tourism and supporting public art. The Plan is intended to be complementary to achieve the goals and vision set forth in the following guiding plans and documents:

- City of Scappoose Comprehensive Plan (2018). The City of Scappoose Comprehensive Plan, adopted in 2018, is a guide for land use, transportation, infrastructure, and other investments within the City.
- Transportation System Plan (2016). As the transportation element of the adopted Comprehensive Plan, the TSP embodies the community's vision for an equitable and efficient transportation system. The TSP outlines strategies and projects that are important for protecting and enhancing the quality of life in Scappoose over the next 20 years.
- Housing Capacity Analysis (2023). Forecasts housing needs within the City of Scappoose over the next 20 years.
- The 50-Year Plan, the long-term community vision for how Scappoose will grow in the future. The analysis and outcomes of the Parks Plan were considered a part of this multi-phase project that is expected to conclude in Fall 2024.
- The Crown Zellerbach Trail Development Concept Plan (2007), which establishes that the Crown Zellerbach (Crown Z) Trail will be jointly development and managed in partnership between Columbia County and the cities and agencies that own and/or manage lands that the trail crosses.
- The Grabhorn Property site conceptual plan. The City's process for developing a site plan for this new park helped identify a final design for the future park site, which is now incorporated into the Parks Plan.
- Vista Park Conceptual Plan (2019) was developed with assistance from a National Parks Service Rivers, Trails & Conservation Assistance Program grant. This conceptual plan lays out steps to develop a "trail park" and informed discussions around desired improvements.

The City also collaborates with the Scappoose Bay Watershed Council (SBWC) on restoration projects on a five-mile stretch of South Scappoose Creek that flows through the City. This creek segment was identified as a priority for further assessment due to local concerns about erosion and flooding and the opportunities to enhance conditions for salmon and other organisms that rely on a high-quality aquatic habitat. Restoration projects are detailed in the 2009 South Scappoose Creek Assessment and Restoration Plan and include riparian plantings, fish passage projects, and controlled public access.

Plan Overview

Chapter 1. Introduction outlines the purpose of the Plan, how it relates to other City efforts, the planning process, and Plan organization.

Chapter 2. Scappoose's Park and Recreation Assets provides an overview of the existing parks and recreation facilities managed by the City.

Chapter 3. Needs Assessment incorporates extensive community engagement, presents unique opportunities for system enhancements, and reviews the park and recreation system needs.

Chapter 4. Recommendations conveys the park system vision framework, goals, and policies established by the community and presents the future vision for existing and proposed parks and trails in Scappoose.

Chapter 5. Implementation discusses the 10-year capital improvement plan and a 5-year action plan for priority short term projects, as well as prioritization criteria, funding strategies, and other implementation considerations.

Appendix A. Park and Facility Inventory summarizes and classifies existing park and facility data.

Appendix B. Public Outreach Results presents the full results from community outreach activities.

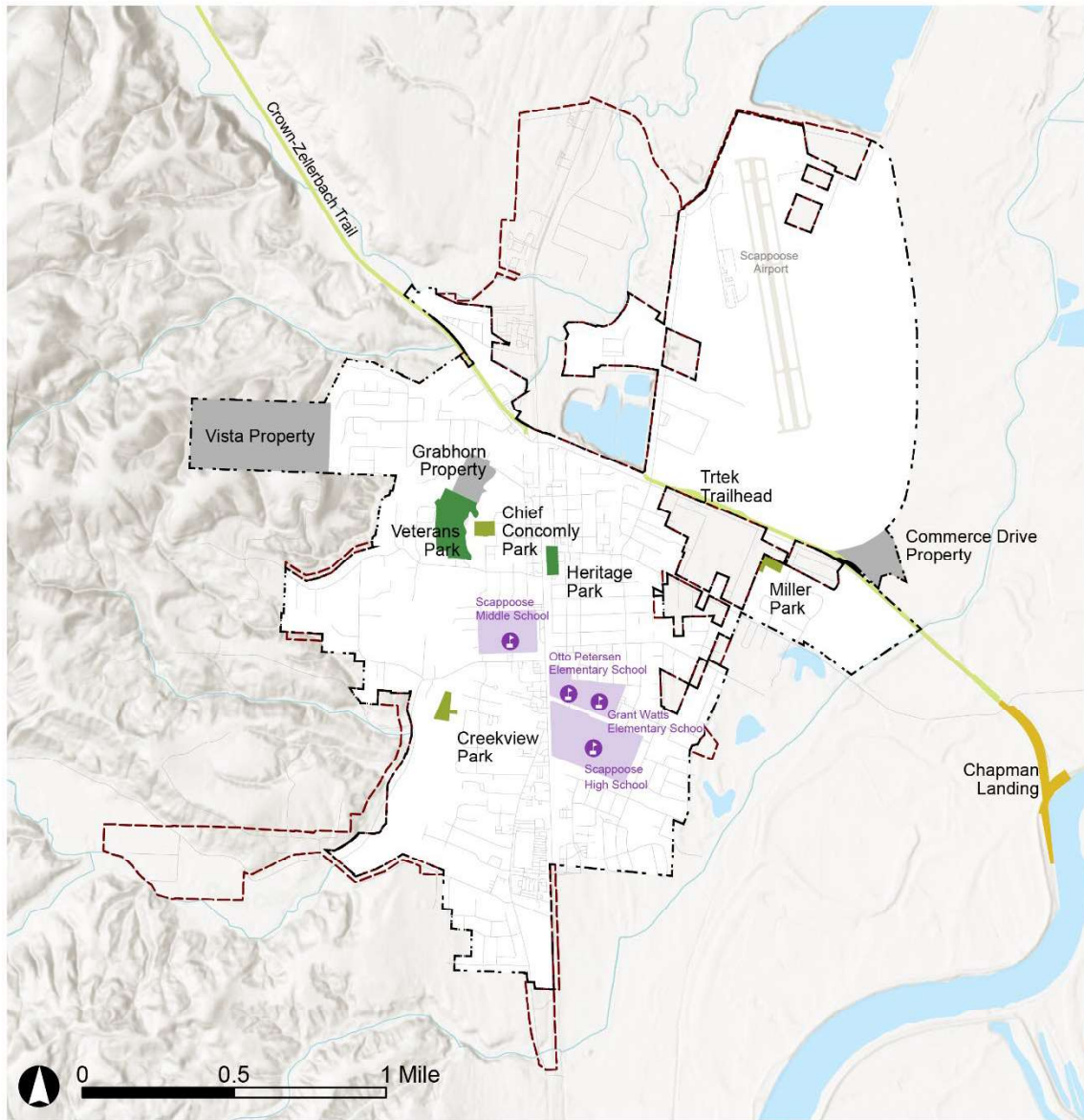
Appendix C. Capital Improvement Plan introduces planning level cost estimates and phased implementation for identified projects.

Appendix D. Funding Opportunities provides options for implementing the desired system improvements.

Appendix E. Proposed Vision, Goals, Policies & Actions includes guiding policy language and related actions the City can take to achieve the desired future embodied in this Plan.



Figure 2-1: Existing Park System



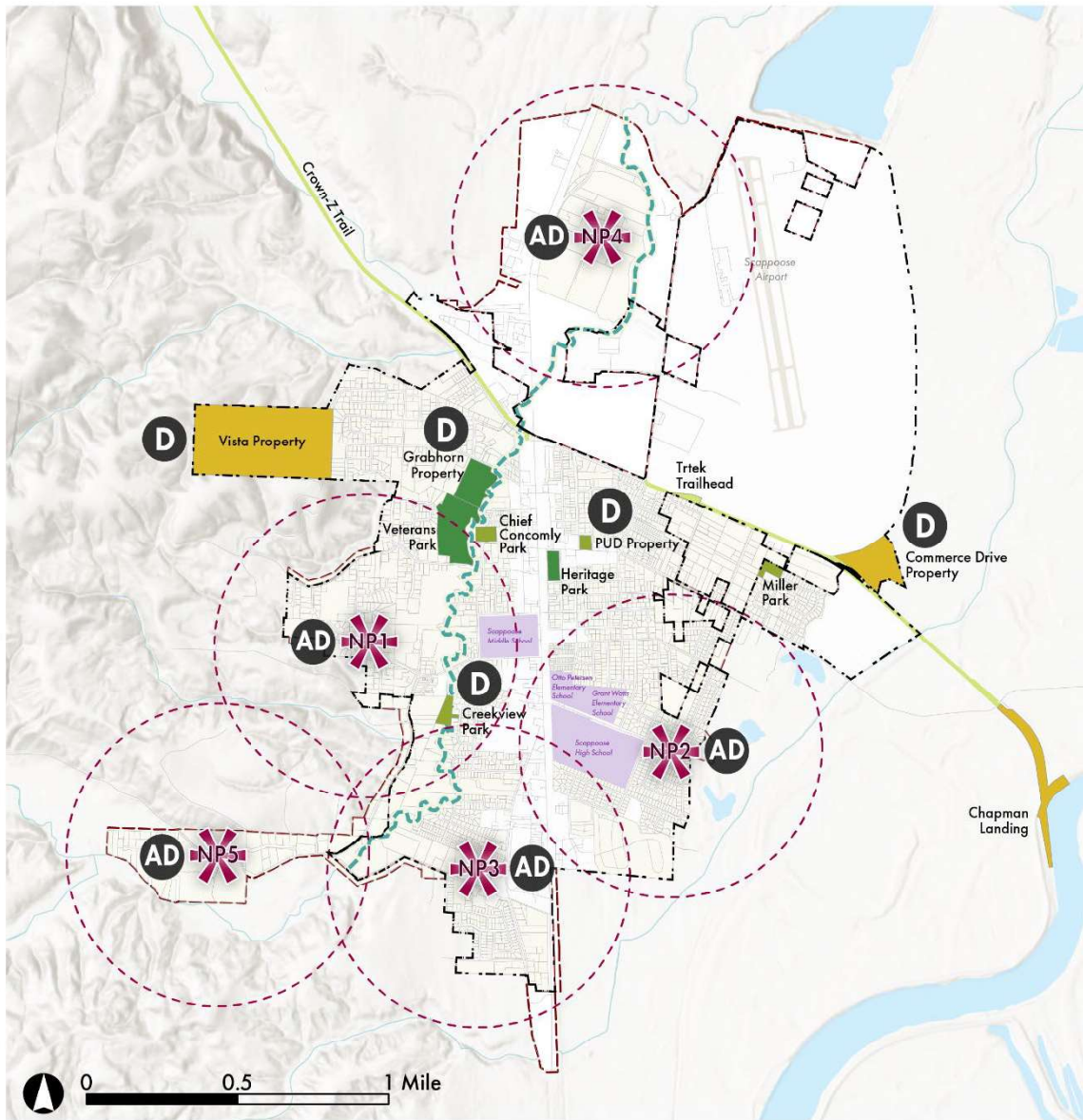
- | Park and Recreation Facilities | Base Map Features |
|--------------------------------|--------------------------|
| Community Parks | Streets |
| Neighborhood Parks | School District Property |
| Linear Parks / Trails | Water Bodies |
| Special Use Sites | City Boundary |
| Undeveloped Parks | Urban Growth Boundary |



Parks, Recreation & Open Space Plan

Source: City of Scappoose, 2022

Figure 4-2: Recommended Parks System Map



Potential Parks and Trail Development, 20+ Years

- Proposed Neighborhood Park
- Acquisition and Development of New Parkland
- Development of Existing Undeveloped Parkland
- Proposed Shared Use Paths
- Residential Gap Area

Existing Parks and Trails

- Community Park
- Neighborhood Park
- Linear Park / Trail
- Special Use Site

Base Map Features

- Streets
- Residential Zones
- School District Property
- Water Bodies
- City Boundary
- Urban Growth Boundary



Parks, Recreation & Open Space Plan



VISTA PROPERTY

Park Classification	Size (acres)	Development Status
Special Use Site	77.0	Undeveloped; Proposed for Development



EXISTING SITE CHARACTER

The Vista property is located at the western edge of the City on a hill overlooking Scappoose and the Columbia River Valley. This large, wooded parcel is characterized by steep terrain and second-growth forest. Access is gained via NW Bella Vista Drive, but the drive onto the property is gated and vehicular access is currently restricted. The site currently has some unofficial trails used by people and wildlife.

FUTURE VISION

Vista Park will provide formal trails for pedestrians, mountain bikes, and horses.

- Develop trails to enhance recreational opportunities and incorporate viewpoints.
- Provide a trailhead with parking and restrooms.
- Explore the possibility of designing a challenging disc golf course on the site.