



Peaks Island Council

Paper Roads and Comprehensive Planning Community Forum

August 16, 2016

Start of Meeting: 6:22 PM

Peaks Island Council, Paper Roads Subcommittee Members Attending:

- Timmi Sellers, Tim Wyant, Tim Murphy, John Kiely

City of Portland Representatives Attending:

- Christine Grimando, Sr. Planner and Tuck O'Brien, City Planning Director

Number of Audience Members (AM) in attendance: 75

Background: Approximately 400 paper roads have been identified to exist within the City of Portland, with roughly 25% (about 102) of those existing on Peaks Island. The deadline for the City Council to take action with regard to paper roads is September 2017. The PIC Zoning Committee formed a Paper Roads subcommittee which has been gathering and researching information related to the topic. Ultimately, the City will decide whether to accept, vacate or continue the paper roads in question.

- o There is a multi-department group working to address the paper roads from a city-wide perspective, including review and consideration of the statewide process that took place in 1997.
- o The paper roads exist due to a variety of reasons over the years including zoning changes by the city, creation of subdivisions, and expanding utilities services to name a few.
- o There is information many different locations, much of it in deeds referring to page numbers of other documents. The PIC subcommittee has researched as much as possible, and have tried to consolidate and share it here.
- o The subcommittee is reviewing anything that was not labeled 'vacate' in the 1997 process.

Meeting Kick-off:

Sellers, Chair of the Zoning Committee, explained that the paper roads issue has been under research and review by the subcommittee for almost two years. She introduced both PIC and City representatives present, explaining that the paper roads issue is related to the City's Comprehensive Planning efforts which will also be discussed. The following is a tentative working position that will be submitted to the Peaks Island Council, and if accepted will then be presented to the Portland City Council for consideration:

"The subcommittee's position is to recommend to the PIC zoning committee that the City accept all publicly owned paper roads, paper beach paths and paper paths and paper paths (excepting, of course, paper roads on PILP protected lands. Individual cases should be pursued with legal help to the proper City office."

Murphy explained that many of the paper roads came into existence as the City began to ask for subdivisions around 1910-1925. He gave several examples of paper streets existing on the island including public through ways, and roads leading to beaches. He explained that if anyone has questions about property ownership or location of a paper road, that he can assist in advising where

to start and what information to look at on your deed and relating to the subdivision, but is by no means an expert and advised that working with the City and in some cases a title search or even attorney review may be needed.

Paper Roads Slide Presentation

Wyant presented slides of some of the maps and documents that have been researched and discovered. He has created a website to make this information available in a central location. The website is a work in progress. Wyant encourages everyone to visit the site, review, submit feedback and ask questions. *Note: The information on the website is what has been collected by the PIC subcommittee, but is not guaranteed to be complete or accurate.*

Website resources:

- o Website for information related to Peaks Island paper roads:
 - <http://pi-paper-roads.deciph.com/>
 - or
 - Conduct a Google search for “Peaks Island Paper Roads”
- o Slides that were shown can be found at <http://pi-paper-roads.deciph.com/wp-content/uploads/2016/03/meeting-slides.pdf>

The highlights of the information Wyant presented are as follows:

- o The information in the slides included plats going back as far as 1911, aerial photos and maps.
- o From 1997 City of Portland Memorandum: “What is a paper road? Under State law, the City must determine before September 29, 1997 whether it wishes to extend existing public rights in paper streets located within the City. A paper street is one that was dedicated to public use by being shown on a subdivision plan that is recorded in the Registry of Deeds but has not been accepted as a City Street by the Council.”
- o The city filed the required list with the Registry of Deeds, identifying 435 paper streets in 142 subdivisions within the City of Portland.
 - For Peaks, the list named 102 paper streets in 29 subdivisions.
 - Of these, 5 were vacated, and 3 partially vacated. Vacated means the city gives up any rights to any part of that street and no public access remains.
 - The City has the right to accept the paper roads as a city street, at which point the city is responsible to take over maintenance as with other city streets.
- o There are numerous considerations for consideration with paper streets:
 - Abutter’s rights
 - Public access to public amenities (utilities)
 - Some paper roads are paved, others are gravel, and some are a grassy path through the woods, others don’t physically exist
 - Some paper streets may run right through a home, through a private yard, or even under water
 - Some are deemed undesignated roads which means technically it is not a city street (Tolman Rd is an example). Undesignated roads are not part of the paper roads review process, therefore these are not under review at this time. (the map being reviewed at this time is available on the website provided)
- o Examples of some of the areas in question were discussed, beginning with Welch Hilborne and Charlotte Shaw subdivisions. (identified in the slide presentation on website listed above) The subcommittee is not trying to change what people have, but rather make sure everyone is informed of what is public. The law states that 60 years must pass until a landowner is safe from being deemed out of compliance if he/she has built on a paper or unaccepted street.
- o Reviewing the post-1997 map of Peaks Island Paper Streets, yellow and green is what is in question and consideration at this point.

- o Much of this determination goes back to what exists in deeds. Through deeds research, Evergreen Landing area roads in question were reportedly deemed to be private roads rather than paper roads.
- o Residents are encouraged to become informed and review original or oldest available deeds. If one has questions or uncertainty about property, the best way to determine what exists is to have a survey completed. A survey can be quite costly as an individual, but getting a group together can help reduce the cost.

O'Brien explained that the current consideration of paper roads and how to proceed is tied directly in the City Comprehensive Planning effort as well as the zoning reform for 2017 and beyond. He gave the following example: If you live in North Deering and you wanted to build on a paper street that was not developed to City standards, you would be responsible for bringing that street to the current standard before being allowed to build. This would include storm water, sewer, curbing, paving and the like. There's really no mechanism for addressing an intermediate condition island road. That will be something that the City will need to take into consideration, exploring the unique situation and needs of the island.

O'Brien stated that Peaks is in a great place with the mapping, and further along than some other neighborhoods in Portland. He stated that in the Comprehensive Planning Process it is so important to communicate what one would like to see happen with paper streets, and overall in your community over the next 10 or so years. He explained the Comprehensive Plan will drive the City's land use reform process that will follow.

He explained that certain rules pertaining to paper streets do not apply on the island, giving the example of 35 feet clearance in order to build. What does apply to the island, as on the mainland, is the building standard for the condition of the road. O'Brien explained that the uniqueness of the current state, needs and impact to the island will need to be considered. He stated that accepting all and building all of them to current standards would not make sense, and the City is hoping for direction from the PIC Zoning Committee and the Comprehensive Plan input.

Portland Comprehensive Plan Presentation

Grimando explained that currently the City is currently working to update its Comprehensive Plan, which is a high- level, long-range policy document centered on growth and development. She stated that areas of consideration include but are not limited to: housing, natural environment, land use, transportation and so on. Grimando explained that since last fall, resources involved in this city-wide effort have researched related statistics, reviewed current policy, and have held a number of public forums to gather input from the community regarding priorities and concerns. She stated that all of this information will be the basis for the recommendations and action items to be included in the new Comprehensive Plan document. Grimando presented several examples of the feedback collected as broken down by neighborhood. She stated that collaboration with other organizations such as the United Way and Portland Trails have also been sources of good information where efforts overlap.

Grimando gave an overview of the most common recurring themes in the feedback gathered thus far:

Equitable: housing, public transportation, access to open space, etc.

Connected: transportation, broadband, neighborhood connections, trails, etc.

Sustainability: natural resources, energy efficiency, fiscally sound City, etc.

Dynamic: active downtown, arts & culture, diversity, energy, etc.

Authentic: sense of place, preservation of history, architecture and design, etc.

Grimando explained that the City is interested in receiving input from the island and will take any items that are specific to this community into consideration for the overall plan.

O'Brien stated that items under consideration for the island communities include but are not limited to: paper streets, affordability of housing especially for year-round residents, ability of people to stay on the island and commute to work, accessibility and affordability of parking on the mainland. He stated that, as Portland continues to gain tourism popularity, the City will continue to explore options to meet parking and transportation needs. He mentioned aging in place and corresponding housing needs, and encouraged attendees to share what they feel is most important. O'Brien encouraged attendees to take the 'Headline Exercise' papers available to fill out and submit later. He also offered to take note of statements made tonight as well as connecting with the City on Facebook, Instagram, Twitter, email, mail, and he offered to return for another forum if requested.

Sellers asked what the timetable is for the City's review of paper roads, as well as a general idea of the decision making process. O'Brien explained the paper streets deadline is 2017, stating the goal is to come out of the Comprehensive Plan with some direction and then engage with land use and zoning reform in order to come up with a solution or at least map out a solution to get started in resolving the paper roads. He explained that by the end of 2017, the City hopes to have a road map for getting through the paper roads issue resolved in a holistic manner. O'Brien stated that the final decisions on all the paper roads will not be made by the end of 2017, but rather a plan in how to proceed with the decisions on the remaining paper roads over the next several years.

Question and Answer Session

Q: What is the definition of an accepted road?

A: An accepted road is a City road or street, with full public access and right of way as well as City responsibility for repair and maintenance.

Q: There are streets, roads, paths, right of ways...are they interchangeable?

A: Paper roads exist in many different forms currently, paved, gravel, grassy path and so on.

Q: What is a private road?

A: It is privately owned by the homeowner, sometimes by an association, and is not the responsibility of the City to maintain. Woods Road on Peaks Island was given as an example.

Q: Have you found a situation where a paper road has been blocked off by a homeowner? And what happens in those situations?

A: Yes, there have been situations like this but they will not be addressed in the current paper roads effort. The first step is to make a determination of accepting or vacating. The access issues may be addressed in a second or future effort.

Q: What about right of ways for houses that do not have street access?

A: Right of ways are not part of this process, as they are usually private access and are different than public paper roads.

Q: What is required to vacate?

A: Notification is required with both private and public access considerations. Because of the legal nature involved, it is best to consult a lawyer to guide you through the process.

Q: Are you saying that the PIC is asking the City to arbitrarily accept all paper roads?

A: Murphy explained that the PIC recommendation is such that further City review and homeowner action will be needed. There is a legal way to have a street vacated or dismissed, but that is up to the nearby homeowners. Murphy stated that the recommendation of accepting all paper roads was made, knowing that the City would then need to review and make more detailed review and decisions on a case by case basis.

Q: If the City agrees to accept the paper roads in general, will there then be a discussion to make exceptions with homeowners?

A: To have a road discontinued or vacated, it is a separate process that can happen independent of this review process. O'Brien explained that the City will not accept all roads, as they need to be in acceptable use conditions. He stated if no action is taken in 2017, the roads will be automatically discontinued or vacated in 20 years.

Q: Is the map on the website current? There was water/sewer work done three years ago on Maple/Winding Way and the crews were working off of three maps.

A: Wyant reiterated that the information and maps available are not complete, but they have done their best to consolidate and offer what has been discovered.

Q: If a road is continued, does it have to be improved or paved?

A: If a street is continued, it will continue to exist in its current state until further action is decided. Murphy explained there is a document the subcommittee has that will be discussed with the City related to roads building and maintenance on the island.

Q: If the City did nothing and the roads were vacated, does it go back to the homeowner? And is not taxable?

A: Maybe back to the homeowner, maybe back to the creator of the subdivision, or some third party entity. That property would not exist on your survey. There is an equity issue to ensure it is fair to all the taxpayers.

Q: What is the status of a road that is being maintained by the City that doesn't exist on a map?

A: There's really not a specific answer. There are so many different variations among the paper roads issue.

Q: Where is the list of which streets were vacated and which were accepted in 1997?

A: Wyant explained his website houses the maps and information collected by the subcommittee, but reiterated that there is no guarantee that the information is complete.

Q: Who do we address regarding concerns about specific roads?

A: Residents are encouraged to contact Mike Murray, Island/Neighborhood Administrator or Belinda Ray, City Councilor. Tuck O'Brien offered to be a point of contact also.

Q: What is the process for an individual road of interest for either an individual homeowner or a group of neighborhood homeowners?

A: O'Brien explained there is currently not a specific process in place, but suggested that homeowners begin by working through the Peaks Island Council to identify the low-hanging fruit and ask questions, then the contact the City for more specific or complex concerns, and finally consulting an attorney if needed. He stated that the City may not be able to give specific answers, and property rights play a large role in the issue of paper streets. O'Brien stated that it may be easier for the City to set Peaks apart with a unique process, but that is yet to be determined.

Q: As individual homeowners complain or request that a paper street be vacated, who protects the public interest in those situations? Often it is the loudest person who gets what they want, but as an island, the entire community has some interest in each paper street.

A: O'Brien explained that is why vacating all paper roads would not occur, as there is a matter of public rights to these roads involved, which are different than the rights of a property owner or abutter. He stated that notifications will occur before actions are taken.

Q: If paper roads are accepted, does that override the information on your deed?

A: O'Brien explained that would have to be on a case by case review, stating that homeowners may retain their fee interest, but accepted roads become city streets.

Q: Can there be a distinction made between islander use of a paper road and the thousands of summer tourists?

A: It was suggested that an attorney be consulted for this, as establishing a hierarchy of resident and non-resident is not something the City would undertake. Further discussion included creating island use trails in some paper roads cases, giving an example of alleviating congestion for the down front area. O'Brien explained that the City may vacate a road, but choose to maintain a trail there. He stated there may be an option for the City to accept a paper street with a limited use easement. O'Brien explained the impact of the thousands of summer tourists is important for consideration of the Comprehensive Plan, not just for paper streets, and encouraged everyone to reach out to offer their input.

Q: For people who are not able to afford an attorney, what would you suggest?

A: The City will do its best to assist, but generally speaking with property rights it is a legal matter and an attorney is the best way to resolve the issues.

Q: If you don't see your road listed, does that mean it is vacated?

A: Contact the PIC subcommittee first to inquire regarding the information they have collected, otherwise you may need to have a survey conducted.

Q: Who has legal rights now while the paper roads are under review or continued?

A: There are certain private rights to abutting homeowners, different rights for other owners in the subdivision and possibly certain public rights for travel.

Q: If you build on a paper road is the City responsible for providing services?

A: Most likely not. The City is only obligated if the road is accepted. If a homeowner wants to have a road accepted, they would likely be responsible to upgrade the road to current structural and zoning code requirements.

Further discussion was held briefly regarding the increase of tourism on the island, and the impact on getting on or off the island in a safe & timely manner. There was mention of the volume of vehicles being too high for CBL to handle, and that the Plante barge had been utilized to alleviate the overcrowding. It was suggested that the City partner with Plante or CBL to better manage the needs. O'Brien observed that the needs of Peaks are unique from other neighborhoods in Portland, and that the City has a responsibility to provide services that match the unique needs of each neighborhood.

Meeting Adjourned at 8:02 PM