



# **Conserving the Park at Beaty Presentation to Board of Commissioners July 9, 2019**



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# Endorsements for Conserving the Park at Beaty

- Public comment (in concept)
- Beaty Park Task Force (in detail)
- Livability Board (in detail)
- Board of Commissioners & Mayor (in concept)
- DLC Board & organization (in detail)

# Shaping the Park at Beaty Conservation Easement

1. DLC drafted conservation easement & exhibits
2. Review & approval by DLC legal counsel
3. Review & approval by Beaty Park Task Force
4. Review & approval by DLC Land Acquisition Committee
5. Review & approval by DLC Board of Directors
6. Review & approval by Cindy Reid (& Town staff)
7. Review & approval by TOD outside counsel
8. Distribution to, and review by, Town Board

# Timeline for Conserving the Park at Beaty

1. Community meeting or nearby residents – May 30
2. Town Board presentation – July 9
3. Town Board vote – July 23 (or August)
4. Complete survey, baseline & title work – July & August
5. Execute conservation easement – August or early Sept
6. Celebration & unveiling – October 5

## Other

- Invasive eradication – Phase I – late August
- Geo-tech evaluation – on-going
- Search for dam funding – on-going

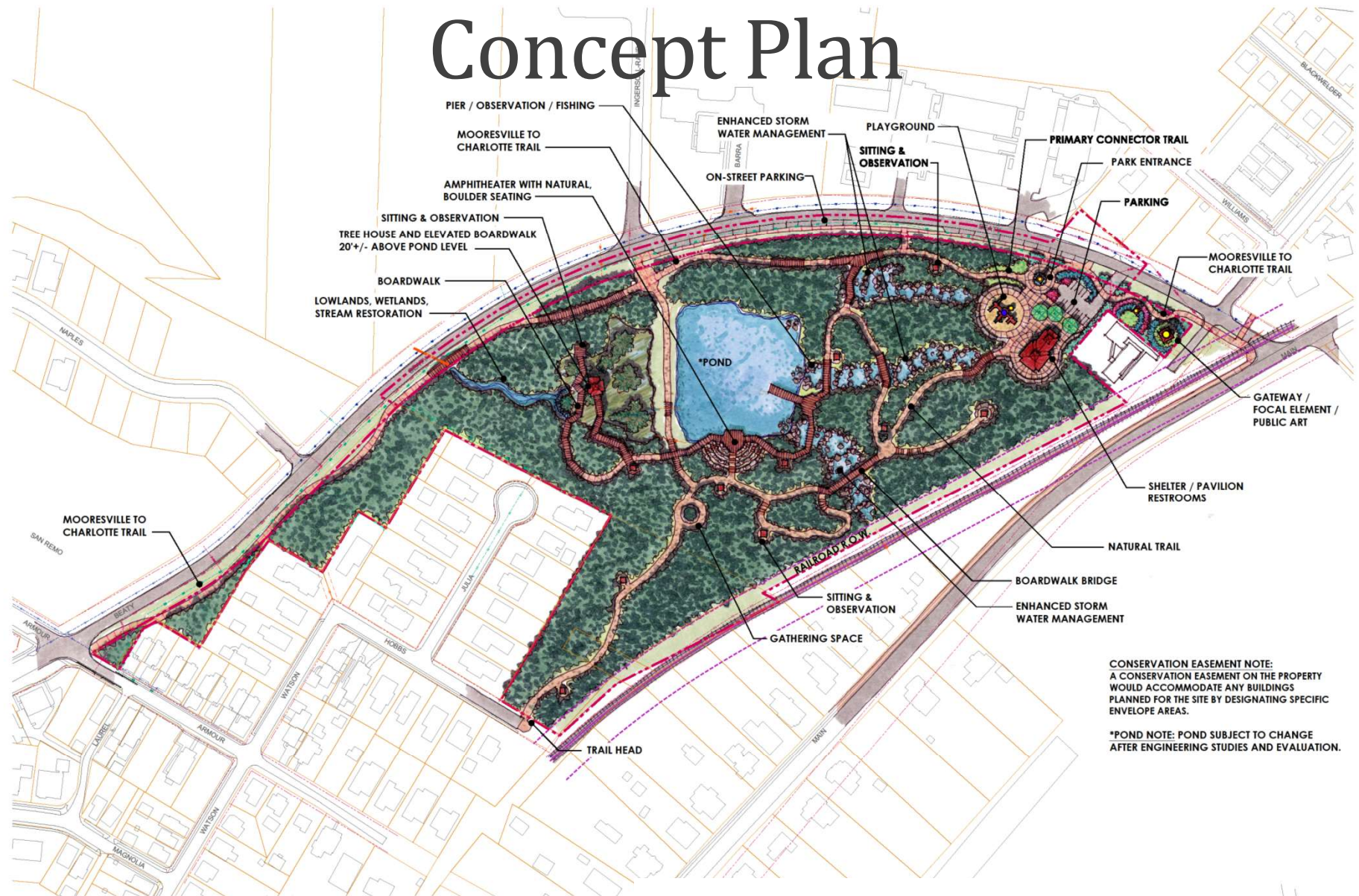




*Existing Site - Aerial*  
**Beaty Street Property**  
 June 6, 2018



# Concept Plan



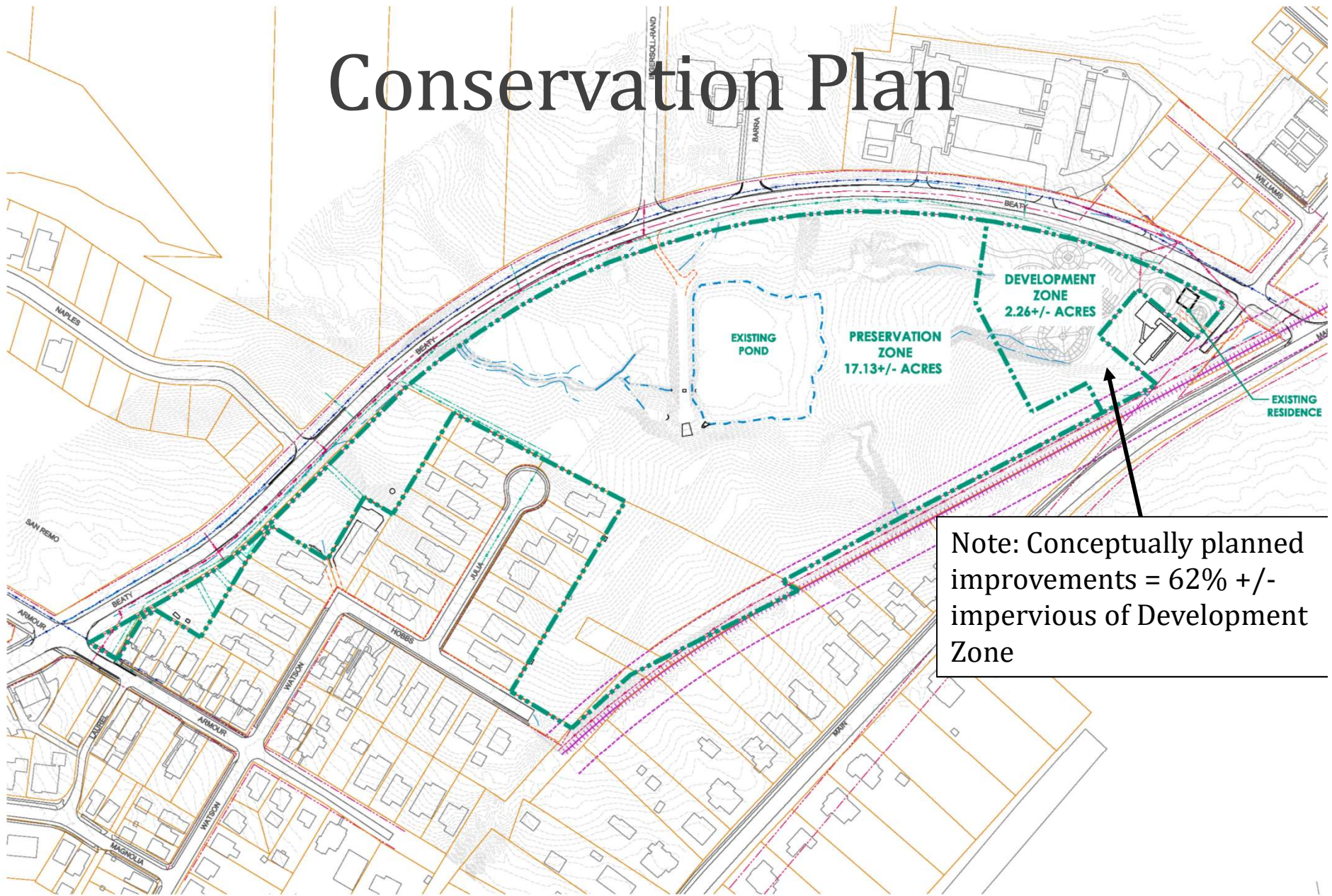
*Schematic Master Plan*  
**Park at Beaty**  
February 19, 2019



**VIZ**  
VIZ, PLLC  
Urban Design • Land Planning • Landscape Architecture  
300 West 7th  
Columbia, SC 29201  
803.401.4111  
viz@viz-plc.com



# Conservation Plan



Note: Conceptually planned improvements = 62% +/- impervious of Development Zone



*Conservation Easement Zones*  
**Park at Beaty**  
June 24, 2019

# Conservation Easement Terms

## Overview

- Property will be permanently protected by conservation easement
- Easement is a permanent legal agreement, recorded in Land Records
- Easement can only be extinguished by judicial process
- Amendments to easement are possible under special conditions
- Property to be used as a public park
- Easement restrictions consistent with Concept Plan
- Acknowledges that water features are not optimized at present, and that “substantial alterations” to the water features, yet to be defined, are anticipated
- DLC will permanently monitor, steward & defend the easement
- If ever condemned, 100% of proceeds to Town



# Conservation Easement Terms

## Prohibited Uses

- Subdivision of the property
- Commercial uses other than those ancillary to park use\*, and all residential uses.
- Cell towers or towers for any purpose except for park use
- Surface alteration except associated with: utility services and buildings and site improvements permissible under the easement; water feature establishment, enhancement or maintenance; trails and other permitted park related features\*
- Mining, mineral extraction, alteration of water courses, erosion, or pollution\*
- Installation of utilities, except as needed to support permitted structures and for park use
- Billboards and signage except for entry signs, boundary conservancy signs, educational and directional signage
- Motorized vehicles except on appropriate trails for maintenance and emergency access, for construction of permissible improvements or enhancements, or in the Development Zone
- Equestrian activities
- Disposal of hazardous substances, and unlawful use of hazardous substances
- Removal of vegetation and timbering, except for eradication of invasive plants, safety and health of the forest, proper forestry management, or park development.

\* See addenda for detail

# Conservation Easement Terms

## **Preservation Zone – 17.1+/- acres**

Designed to limit use and development to passive recreation uses, except for sidewalks or multipurpose paths

Development is limited to unenclosed structures such as tree houses, amphitheaters, docks and foot bridges, public art installations, shelters, and decks, picnic areas, benches, trails, multi-purpose paths, and the establishment or enhancement of water features including erosion control installations, dams and ponds, and wetlands and stream alteration installations.

Roads, driveways, and utility lines and utility facilities are prohibited except as required for public safety or for permitted uses.

Prohibited are active recreational uses (other than multi-use paths) such as ball fields, disc golf, playfields, playgrounds, tennis courts, volleyball courts, basketball courts, shuffleboard courts, bocce courts, horseshoe areas, swimming pools, mountain bike trails, enclosed structures, parking areas, or driveways.



# Conservation Easement Terms

## **Development Zone – 2.3+/- acres**

Designed for the development of active recreational park facilities including play structures, active recreation improvements, structures, utilities lines and services, public art installations, patios, walkways, landscaping, parking and driveway areas, and other improvements supporting public park use of the property.

The extent of development of impervious area in the Development Zone is limited to local, state, or federal land use regulations and is also not to exceed 70% (concept plan at 62%+/-) of the land area in this Zone. Building height is limited to 30 feet.

# Conserving the Park at Beaty – Estimated Transaction Costs

## Transaction Costs

◦ Legal – title search, title insurance, recording	\$5,000 – DLC
◦ Boundary Survey – perimeter and zone line	\$5,500 – Town
◦ Appraisal	N/A
◦ Environmental – Phase I & clean up	Complete - Town
◦ Baseline Inventory	<u>\$1,000</u> – DLC
◦ <b>Total Transaction Costs</b>	<b>\$11,500 (\$5,500 Town, \$6,000 DLC)</b>



# Park at Beaty – Stewardship

## Stewardship and Legal Defense

- **One-time** Fund Contribution Request to Town     \$30,000

The contribution creates an asset offsetting DLC's perpetual (for all time) obligation to monitor, steward, & defend the conservation easement. Funds will be used to steward & protect Park at Beaty conservation values; none of the funding to be used for DLC operations. Stewardship endowment donations are normal and typical for conservation projects.

Unique factors enhancing stewardship risk and potentially threatening conservation values:

- 25 abutting property owners, with some history of encroachments
- Public park use of property; substantial reserved rights
- Potential for reactivation of abutting railroad and associated risks
- Pending park development and site disruption, over multiple phases and years
- Location in urbanizing area



## **Addenda**

1. DLC obligations
2. Commercial uses defined
3. Amendments to draft easement



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# Conservation Easement Terms

## **DLC's Obligations**

- To monitor and steward the land to prevent activity or use of the property inconsistent with, or damaging to, the conservation values, and to fully enforce the terms of the easement against any violations.

# Conservation Easement Terms

## **Commercial Uses – Permitted by Reserved Right**

“Grantor shall be permitted to conduct commercial uses only to the extent uses are ancillary and contributory to public park use of the Property and provide public benefit. Examples include concession stands, small vendor carts and operations, office uses by the Town’s Park and Recreation staff, farmers’ markets, and limited not-for-profit office and retail uses”.

# Conservation Easement – Amendments to Draft

## Issues raised by Town Attorney and outside counsel

1. Affirmative right that Grantor (Town) “...***must*** permit others to engage in public park and recreational uses of the Park....”.
2. Do CE provisions limit removal or re-establishment of water features?  
“The Property’s water features existing as of the date of this Agreement, including a dam, pond, spring and perennial and ephemeral streams, do not maximize water quality, Conservation Values, and public enjoyment and benefit. Substantial alterations of the water features, of undetermined scope and extent, are anticipated following execution of this Agreement. ***Nothing in this Agreement is intended to restrict the enhancement, alteration, removal, establishment, or re-establishment of water features to maximize the Property’s Conservation Values and public benefit***”.
3. What is basis for 75% valuation of Conservation Easement? ***Changed to reflect 100% of proceeds go to town for any act of condemnation.***
4. Miscellaneous wording changes for “remedies” and adjustments to Exhibit.