

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 7, 2015	

TO: Mayor Shoji and City Council

FROM: Eric Day, Community Development Director
Through: Rodger Craddock, City Manager

ISSUE: **Public Hearing on Proposal to Vacate Portion of Fir Avenue**

BACKGROUND

The proposed vacation was initiated by Council motion on April 21, 2015 at the request of the applicant. After the hearing on June 9, 2015, the Planning Commission voted unanimously to recommend approval of the proposed vacation as described above, with the condition that an access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and permanent structures are prohibited in the vacated area.

Fir Avenue, east of North Front Street is a triangle area of approximately 1,400 square feet. The platted right of way does not extend to the bay and it is unlikely that this portion of Fir Avenue right-of-way would ever be developed (*Attachment B - Aerial map*).

The attached "Notice of Planning Commission Recommendation" addressed the Decision Criteria, Findings and the Conclusion for the proposed vacation (*Attachment A*). As indicated in the notice, the Port of Coos Bay, Coos Bay/North Bend Water Board, Coos Bay Fire Department had no objections to the proposed vacation. The City of Coos Bay, Engineering Department is concerned about the location of an existing storm water line (or setback from the line) as shown on the attached aerial map and required an easement (as described in paragraph one).

The use of the property will be to provide connectivity of a pedestrian walkway on their property to a public walkway and to provide vehicular access for maintenance and event vehicles.

ADVANTAGE

Vacating the right-of-way as proposed would allow the applicant to provide future pedestrian access to a continual pedestrian walkway from the North Bend Boardwalk to the Coos Bay Boardwalk.

DISADVANTAGE

The area proposed for vacation would not be available for public purposes in the future.

BUDGET IMPLICATIONS

The application fee (\$795) was waived. The publishing fee (\$234.53) was paid by the applicants.

ACTION REQUESTED

If it pleases the City Council, **enact the attached Ordinance** approving the vacation of Fir Avenue, East of the North Front Street right of way and abutting Lot 19, Block 65, in the Bennett's Addition to Marshfield, found in Section 26BD, Township 25, Range 13 West of the Willamette Meridian, Coos County, Oregon, subject to the noted conditions.

ATTACHMENTS

- A - Final Recommendation by the Planning Commission
- B - Aerial Map with sanitary and storm sewer
- C - Draft Ordinance with exhibits
- D - Draft Planning Commission minutes of June 9, 2015



City of Coos Bay

Community Development Dept.

500 Central Ave., Coos Bay, Oregon 97420
Phone (541) 269-8918 Fax (541) 269-8916

NOTICE OF PLANNING COMMISSION RECOMMENDATION STREET VACATION

- APPLICATION:** Vacation #187-ZON15-017
- APPLICANT:** CCHS Real Estate Holdings, LLC
1220 Sherman Avenue, North Bend, OR, 97459
- PROPOSAL:** **Filed on April 15, 2015**
Vacate Fir Avenue, located between North Front Street and the bay, found in Section 26BD, Township 25, Range 13 West of the Willamette Meridian, Coos County, Oregon.
- RECOMMENDATION:** June 9, 2015 the Planning commission recommended approval for the proposed vacation as described above, subject to the conditions that an access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and that permanent structures are prohibited in the vacated area.
- Final Vote:
Yea: *Chairman Phil Marler, Commissioners Jim Berg, Christina Coles, Katherine Flores, Jeff Marineau, Rex Miller and John Peery.*
Nay: None **Abstain:** None
- APPEAL PROVISIONS:** Page 2.
- DECISION CRITERIA AND THE COMMISSION'S ADOPTED FINDINGS OF FACT, CONCLUSIONS:** See pages 3-4

FINAL RECOMMENDATION

Based on the applicant's submittal, attached herein by reference, and the Findings and Conclusions in Exhibit A, recommend City Council approve the proposed vacation of Fir Avenue, east of the North Front Street right-of-way, subject to the following conditions:

1. *An access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property.*
2. *Permanent structures are prohibited in the vacated area.*

APPEAL PROVISION

The final decision will be made by the City Council, and the decision may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830.

Questions regarding the appeal procedure may be directed to the Community Development Department, City Hall, 500 Central, Coos Bay, Oregon or phone (541) 269-8918.

DECISION PROCESS - EFFECTIVE DATE

The Planning Commission makes a recommendation to the City Council after hearing public testimony and addressing the decision criteria applicable for the proposed street vacation.

The Council shall review the record and affirm, amend, or reverse the Commission recommendation, or remand the matter back for further consideration. Upon approval of the proposed vacation, the City Council shall have prepared an ordinance declaring the changes. The proposed changes will become effective 30 days after the enactment of the ordinance.

Sincerely,
CITY OF COOS BAY

Tom Dixon, Planning Administrator

Date June 24, 2015

EXHIBIT "A"

DECISION CRITERION #1: Consent of the affected property owners has been obtained.

STATEMENTS OF FACT AND FINDINGS:

- 1a. The City received the required notarized signatures of all abutting property owners and the required notarized signatures of property owners in the affected area as required by CBMC, Chapter 17.375.020.

CONCLUSION: Notarized consent of the affected property owners was received. The decision criterion has been adequately addressed and approval can be supported.

DECISION CRITERION #2: Notice has been duly given.

STATEMENTS OF FACT AND FINDINGS:

- 2a. On April 12, 2015 the Coos Bay City Council initiated the vacation process at the applicant's request.
- 2b. The Community Development Department has given notice of the hearings in accordance with Coos Bay Municipal Code (CBMC) Chapter 17.300 and state statute. Notice of the time and place of the hearings were:
 - Mailed to all property owners within 250 feet of the area to be vacated on May 20, 2015 and June 25, 2015.
 - Published in "The World" newspaper on May 21, 2015 and May 28, 2015.
 - Posted in the area of the vacation on May 22, 2015 (North Front Street at Fir Avenue), and posted on the bulletin board at Coos Bay City Hall and Coos Bay Library.

CONCLUSION: All notice required by the Coos Bay Municipal Code and state statute has been given. The decision criterion has been adequately addressed and approval of the proposal can be supported.

DECISION CRITERION #3: The proposal does not conflict with the comprehensive plan, including the adopted Coos Bay Transportation Plan, or other ordinances.

STATEMENTS OF FACT AND FINDINGS:

- 3a. After reviewing the city's comprehensive plan, and other ordinance provisions, city staff did not find any specific conflicts between the city's regulations and the proposed vacation.

CONCLUSION: The decision criterion has been adequately addressed and approval of the proposal can be supported.

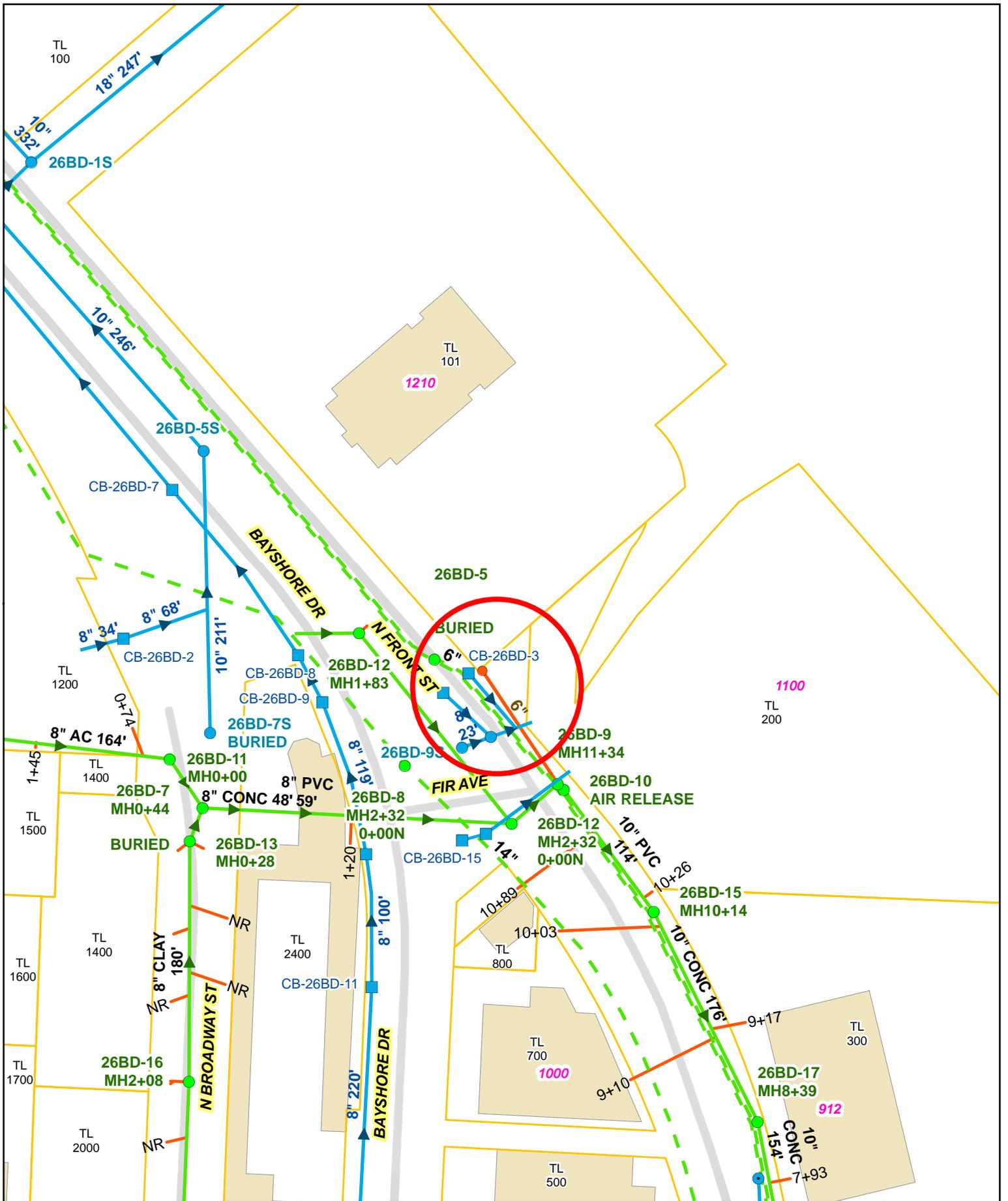
DECISION CRITERION #4: The public interest will not be prejudiced by the vacation.

STATEMENTS OF FACT AND FINDINGS:

- 4a. Fir Avenue, east of North Front Street is a triangle area of approximately 1,400 square feet. The platted right of way does not extend to the bay and it is unlikely that this portion of Fir Avenue right of way would ever be developed.
- 4b. Published notice, posted notice and mailed notice of hearings concerning the proposed vacation was provide to the public and affected utility agencies with an opportunity to express their opinions concerning a proposed vacation. The notice indicate written comments may be submitted prior to the hearing.
- 4c. The proposed vacation is located within 1,000 feet of the harbor. A letter dated March 31, 2015 (along with notarized consent and minutes of their March 30, 2015 meeting) was received from the Oregon International Port of Coos Bay indicating their approval and fully support the proposed vacation of Fir Avenue from the East line of North Front Street.
- 4d. The City received an e-mail from Coos Bay Fire Chief, Mark Anderson, dated May 26, 2015, indicating the fire department has no concerns regarding the proposed vacation.
- 4e. The City received an e-mail from Mr. Ron Hoffine, Coos Bay North Bend Water Board, dated May 26, 2015 indicating they have no objections to the proposed vacation.
- 4f. A written response dated June 2, 2015 from the City of Coos Bay Engineering Department indicates there is an existing storm drain that runs easterly across the property. An access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and permanent structures are prohibited in the vacated area.
- 4g. According to a phone conversation with the applicant's representative, Steve Grief, on June 2, 2015 upon completion of the vacation process, they intend to conduct bank stabilization to stop further erosion and landscape the area. The use of the property will be to provide connectivity of a pedestrian walkway on their property and to provide vehicular access for maintenance and event vehicles.

CONCLUSION: Fir Avenue, east of North Front Street is a triangle area of approximately 1,400 square feet. The right of way does not extend to the bay. The decision criterion has been adequately addressed and approval of the proposal can be supported, subject to the following Conditions:

CONDITIONS: An access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and permanent structures are prohibited in the vacated area.



Disclaimer:
 This document is produced using a Geographic Information System (GIS).
 The data contained herein is intended to be a graphical representation only
 and is by no means an official survey or legal interpretation thereof. The City
 of Coos Bay provides this data in good faith and makes no warranties,
 guarantees or representations of any kind, either expressed or implied, as
 to the content, accuracy, completeness or reliability of this data.

Date: 6/24/2015



Agenda Item #9
 1 inch = 94 feet

ORDINANCE NO. ____

AN ORDINANCE PROVIDING FOR THE VACATION OF THE FIR AVENUE, FROM THE EAST LINE OF NORTH FRONT STREET RIGHT OF WAY TO THE LOW WATER LINE BY PLAT IN THE BENNETT'S ADDITION TO MARSHFIELD, FOUND IN SECTION 26BD, TOWNSHIP 25, RANGE 13 WEST OF THE WILLAMETTE MERIDIAN, COOS COUNTY, OREGON.

The City of Coos Bay ordains as follows:

Section 1. CCHS Real Estate Holdings, LLC filed a petition for the vacation of the portion of Fir Avenue, east of the North Front Street right of way, within the City of Coos Bay, more particularly described as follows:

Beginning at the Southwest corner of Lot 19, Block 65, in the Bennett's Addition to Marshfield; thence, northeasterly along the line of Lot 19 approximately 53 feet; thence, southwesterly along the low water line by Plat approximately 77 feet, thence northwesterly approximately 56 feet to the TRUE POINT OF BEGINNING.

Section 2. The City Council of the City of Coos Bay set the hour of 6:00 p.m. on May 12, 2015 in the Council Chambers of the City Hall in Coos Bay, Oregon, as the time and place for a public hearing before the Coos Bay Planning Commission on the matter of the vacation, at which time and place all persons having any objections were invited to be heard.

Section 3. The City of Coos Bay Community Development Department provided notice of the hearing as prescribed in ORS Sections 271.080 - 271.120, which notice declared the Council's intention to consider, upon recommendation by the Planning Commission, to vacate the above-described right of way within the City of Coos Bay, Coos County, Oregon, as follows:

(1) The City of Coos Bay Community Development Department gave notice of time and place of the hearings before the Planning Commission on June 9, 2015 and the City Council on July 7, 2015 by posting notice on May 22, 2015 labeled "Notice of Street Vacation" at the intersection of North Front Street and Fir Avenue, and posting on the bulletin board in the City Hall for the City of Coos Bay and the Coos Bay Library. The notices were posted in a conspicuous place where they could be easily read.

(2) Notice was published in The World, a newspaper of general circulation printed and published in Coos Bay, Oregon, once a week for two consecutive weeks in the May 21, 2015 and May 28, 2015 issue, as shown on the affidavit of publication which is attached hereto as "Exhibit A" and incorporated herein by reference.

(3) Notice of time and place of the hearing before the Planning Commission was mailed to all the affected property owners, as defined by Oregon law, on May 20, 2015.

(4) Notice of time and place of the hearing before the City Council was mailed to all the affected property owners, as defined by Oregon law, on June 25, 2015.

RETURN TO: City of Coos Bay
500 Central Avenue
Coos Bay OR 97420

Section 4. The public hearing was held before the Coos Bay Planning Commission on June 9, 2015, in the Council Chambers of Coos Bay City Hall, at the hour of 6:00 p.m. at which time and place all persons had an opportunity to appear and object to the vacation of the above-described real property.

Section 5. After careful consideration of all evidence and testimony presented during the public hearing, the Planning Commission found that the public interest would not be prejudiced by the vacation of the above-described real property and recommended the City Council vacate the above-described area, subject to the Condition that an access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and permanent structures are prohibited in the vacated area.

Section 6. The Port Commission of the Port of Coos Bay consented to the vacation of the above-described portion of right of way on March 30, 2015 as required by Resolution 90/91 -14 adopted March 20, 1991.

Section 7. The public hearing was held before the City Council on July 7, 2015 and after having reviewed the Planning Commission's findings of fact, conclusions and final recommendation and the record of the public hearing held on June 16, 2015, the City Council hereby adopts the following findings of fact, conclusions and Condition of the Commission:

(1) CCHS Real Estate Holdings, LLC submitted the required notarized signatures of the abutting property owners and of two-thirds in area of the property embraced within the plat proposed to be vacated.

(2) Notice procedures under ORS 271.110 have been complied with.

(3) The proposal does not conflict with the comprehensive plan, including the adopted Coos Bay transportation system plan, or other ordinances.

(4) Granting the requested street vacation will not prejudice the public interest, subject to the Condition that an access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property and permanent structures are prohibited in the vacated area.

Section 8. The City Manager shall have prepared within a reasonable time an intelligible map of the property hereby vacated and the City Recorder shall cause the map to be filed with this ordinance in the office of the County Clerk, Coos County, Oregon as "Exhibit "B".

Section 9. It is hereby declared that public interest will not be prejudiced by the vacation of the above-described portion of Fir Avenue, that such vacation is in the best interests of the City of Coos Bay, and that the City of Coos Bay does hereby vacate the entire area described in Section 1 of this ordinance.

Section 10. This Ordinance shall take effect 30 days after enactment by the Council and signature by the Mayor, whichever is later.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this 7th day of July 2015 by the following vote:

Yes:

No:

Absent:

Crystal Shoji,
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Susanne Baker
Recorder of the City of Coos Bay
Coos County, Oregon

State of OREGON)
County of COOS)
City of Coos Bay)

On this ____ day of _____ before me personally appeared the within named Crystal Shoji, Mayor of the City of Coos Bay, and Susanne Baker, Recorder of the City of Coos Bay, and the seal affixed hereto is the official seal of the City of Coos Bay.

Notary Public for Oregon
My Commission Expires: _____

EXHIBIT "A"

AFFIDAVIT OF PUBLICATION

The World

Lee Enterprises - Coos County
350 Commercial Ave. Coos Bay, OR 97420
P.O. Box 1840, Coos Bay, OR 97420

STATE OF OREGON - COUNTY OF COOS

City Of Coos Bay
Attn: Debbie Ertler
500 Central Avenue
Coos Bay, OR 97420

REFERENCE: 60005035/20273699

I, Kirk A. Morris, first duly sworn, deposed and say that I am the Legal Advertising Clerk for THE WORLD, a newspaper of general circulation published at Coos Bay, Oregon, in the aforesaid county and state; that I know from my personal knowledge that the Notice Is Hereby Given, was published in the entire issue of said newspaper Two time(s) in the following issue(s):

PUBLISHED: May 21 and 28, 2015

TOTAL COST: \$234.53

Kirk A. Morris
Legal Clerk, Kirk A. Morris

Subscribed and sworn to before this 28th day of May, 2015

Joanna F. McNeely
Joanna F. McNeely
Notary Public of Oregon - 930339
My Commission expires: 13th day of July 2018



FILED ON: 05/28/15

NOTICE IS HEREBY GIVEN that the Coos Bay Planning Commission and City Council will conduct public hearings at the times and locations noted below for the purpose of taking testimony on the matter of vacating the Fir Avenue, located between North Front Street and the bay, found in Section 288D, Township 25, Range 13 West of the Willamette Meridian, Coos County, OR.

Land Use #187-ZON15-017 was filed by applicants CCHS Real Estate Holdings, LLC on April 15, 2015. The Planning Commission will make a recommendation to the City Council following a public hearing on the matter. The hearing will take place on June 9, 2015 at 6:00 p.m. in the City Council Chambers at 500 Central Avenue, Coos Bay. The City Council will consider the matter and the Planning Commission's recommendation at a public hearing which will occur on July 7, 2015 at 7:00 p.m. at the same location.

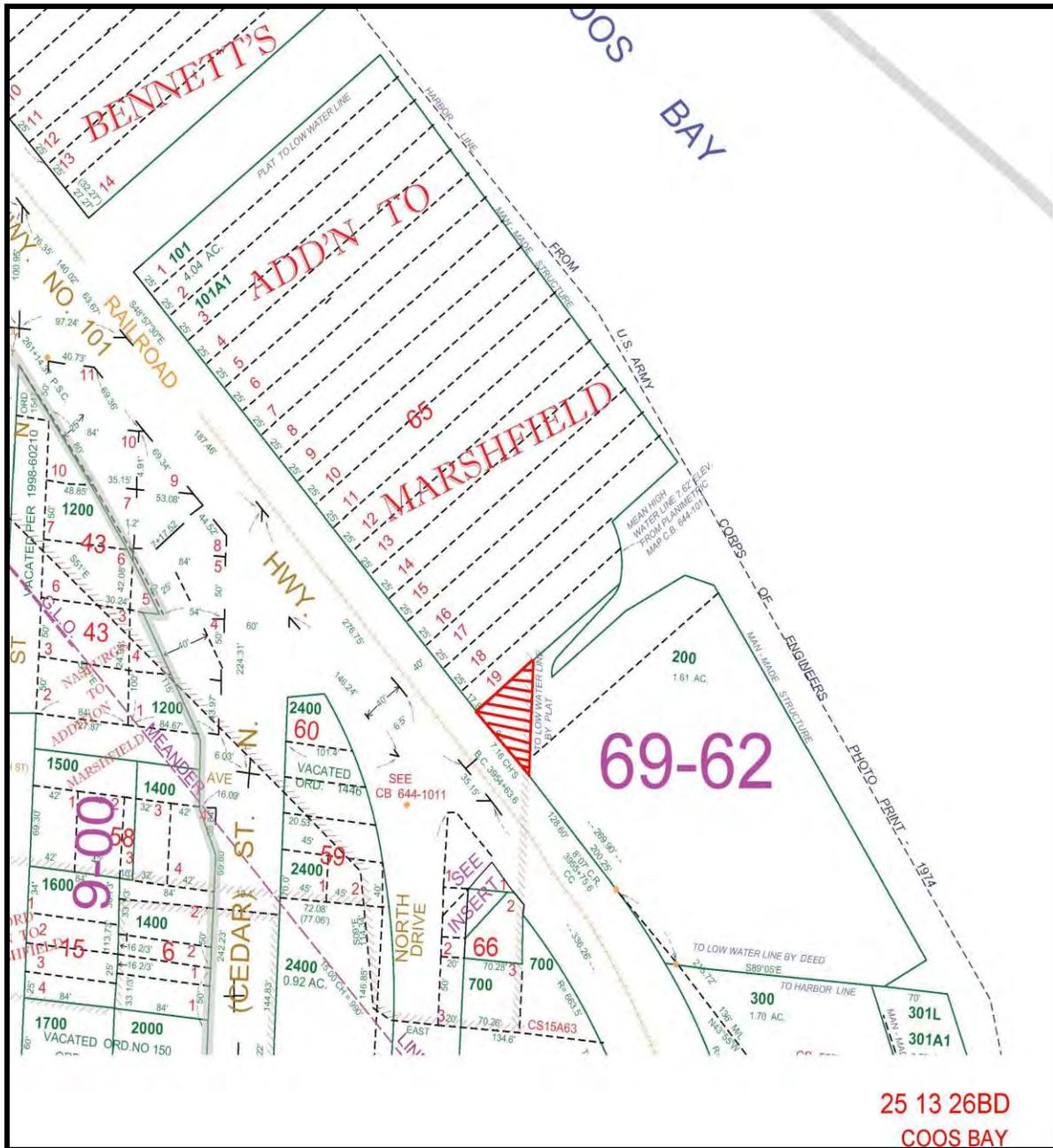
The hearings are open to the public and all interested parties are encouraged to attend. Written objections may be filed with the Community Development Department, City Hall, 600 Central Avenue, Coos Bay, prior to the hearings and will be considered at the time of the hearings. The final decision by the City Council may be appealed to the Land Use Board of Appeals pursuant to ORS 197.830. Those wishing further information shall contact Debbie Ertler, Planner at (541) 268-1181 extension 2258.

PUBLISHED: The World - May 21 and 28, 2015 & ONPA website (ID-20273698)

EXHIBIT "B"

AREA OF VACATION

Fir Avenue, east of the North Front Street right of way, to the "Low Water Line by Plat"
T.25, R.13, S.26BD



**CITY OF COOS BAY
PLANNING COMMISSION MINUTES
Tuesday, June 9, 2015, 2015 at 6:00 P.M.
Coos Bay City Hall, 500 Central Avenue, Coos Bay**

ATTENDANCE

COMMISSIONERS: Chairman Phil Marler, Commissioners Jim Berg, Christine Coles, Katherine Flores, Jeff Marineau, Rex Miller and John Peery

STAFF: Eric Day, Director of Community Development
Tom Dixon, Planning Administrator

SIGNED-IN GUESTS: None

APPROVAL OF MINUTES

Approval of Planning Commission minutes of May 12, 2015.

Commissioner Coles noted corrections on page 1 and 3 "*She asked if any Planning Commissioner had ex parte contract or conflict of interest to report*". She also noted that on page 4 the final motion is missing the names of the Commissioners that made the motion and seconded the motion.

MOTION: Commissioner Coles – Approved the minutes of May 12, 2015 as revised.

SECOND: Commissioner Miller

VOTE: Unanimous

ABSTAIN: Chairman Marler, Commissioners Berg and Marineau

CCI/PUBLIC COMMENTS None

PUBLIC HEARING

ITEM A: Vacation #187-ZON15-017 – The Applicant is requesting to vacate a portion of Fir Avenue east of the North Front Street right-of-way. The Planning Commission will make a recommendation to the City Council.

Chairman Marler asked if there were any objections to the Planning Commission hearing the item on jurisdictional grounds. He asked if any Planning Commissioner had ex parte contact or conflict of interest to report.

Chairman Marler opened the public hearing.

Tom Dixon read the disclosure statement and outlined the applicant's request.

Frank Smoot, Director, Coos Historical Museum, outlined their plans for the future of the site and the need for the vacation area to help complete a pedestrian pathway.

Steve Greif, Coos County Historical Society Board Member, stated they have no plans to construct a building on the vacated area. Also the bank on that section of the bay has begun to erode, that they intend to shore up the area and preserve the area for pedestrian traffic.

Commissioner Berg asked why the City would restrict building on the vacation area. Mr. Grief stated because there is a public line in the area, an area to access the line is required. Mr. Day stated that the exact location of the line is unknown. He added that if the applicant completes a survey the easement area can be better defined.

Chairman Marler closed the public hearing.

MOTION: Commissioner Berg- Based on the adopted findings, conclusions and conditions, as supported by the applicant's submittal, attached hereto and incorporated herein by reference as Attachment "A" recommend the City Council approve Vacation #187-ZON15-017 to vacate the portion of Fir Avenue east of the North Front Street right-of-way, subject to the following conditions:

1. *An access and utility easement for the entire vacated piece is required for an existing storm drain line that runs easterly across the southern limits of this property.*
2. *Permanent structures are prohibited in the vacated area.*

SECOND: Commissioner Marineau
VOTE: Unanimous

ADMINISTRATIVE

Director Day updated the Planning Commission on a \$400,000 EPA grant that the City received for Front Street.

ADJOURNMENT 6:32 p.m.

Phil Marler, Chairman
City of Coos Bay
Coos County, Oregon

ATTEST: _____
Debbie Erler, Planner
City of Coos Bay