

# City of Bandon

<b>CITY COUNCIL AGENDA DOCUMENTATION</b>	<b>DATE:</b> 01/03/2022
<b>SUBJECT:</b> Public Hearing and Ordinance NO 1640 Vacating an Alleyway between Spyglass Drive and Windcrest Drive within the Ocean Terrace Subdivision in the City of Bandon.	<b>ITEM NO:</b> 4.4.1

## **BACKGROUND:**

On November 6<sup>th</sup>, 2021, the City Council initiated the process to vacate an alleyway between Spyglass Drive and Windcrest Drive in the Ocean Terrace Subdivision. The required public hearing notices have been published, in the newspaper and on-site.

The alleyway is 20 feet wide and approximately 585 feet long, abutting Lot 70-77 of Phase 3 and Lot 26 of Phase 2 in the Ocean Terrace Subdivision. Vacation of the alley will grant to each listed lot the full portion abutting each lot due to ORS 271.140, which states that if an area was originally dedicated by certain persons, then the original boundary lines shall be adhered to.

Staff recommends that as a condition of approval the variance granted to these lots in 2005 for a reduced front yard setback is deemed null and void as the purpose was to provide for greater area for rear-loading alley access. The Findings from that variance are made part of this record.

## **FISCAL IMPACT:**

The cost of noticing has been covered by the owners.

## **RECOMMENDATION:**

Make a motion to adopt Ordinance **1640**.

## **SUBMITTED BY:**

*Dana Nichols*

\_\_\_\_\_  
Dana Nichols, *Planning Manager*

ORDINANCE NO. 1640

AN ORDINANCE VACATING THE ALLEYWAY BETWEEN SPLYGLASS DRIVE AND WINDCREST DRIVE IN THE OCEAN TERRACE SUBDIVISION IN THE CITY OF BANDON.

WHEREAS, on its own motion pursuant to ORS 271.130, the City Council, after due notice as required by ORS 271.110, held a hearing on the proposed vacation of an alleyway as hereinafter described; and

WHEREAS, at the hearing held by the Council on the vacation, no objections were heard; and

WHEREAS, the Council determined that the property is not needed as an alley for access or utilities and the City benefits by the vacation; and

WHEREAS, the City Recorder has file or otherwise endorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the land by the alley vacation.

NOW, THEREFORE, THE CITY OF BANDON ORDAINS AS FOLLOWS:

Section 1. The Bandon City Council agrees that it is proper and expedient that said vacation be granted, with the condition that the variance to the front yard setback is now null and void for Lots 70-77 of Phase 3 and Lot 26 of Phase 2 in the Ocean Terrace Subdivision and that the surveys conducted for the plat amendments are the responsibility of the property owners of said lots.

Section 2. The Bandon City Council agrees that the alley described in Attachment A and shown on the Map in Attachment B shall be vacated with title to said alley portion abutting each of the Lots 70-77 of Phase 3 and Lot 26 of Phase 2 in the Ocean Terrace Subdivision in full, pursuant to ORS 271.140.

Section 3. That the City Recorder is hereby directed to record this ordinance with the Coos County Clerk and file certified copies of this ordinance with the County Surveyor and County Assessor of Coos County, Oregon, as required by law.

PASSED to a second reading this \_\_\_\_ day of January, 2022 on a roll call vote, \_\_\_\_\_.

ADOPTED by the City Council this \_\_\_\_ day of January, 2022 on a roll call vote, \_\_\_\_\_.

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Mary Schamehorn, Mayor

*Attest:*

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June Hinojosa, City Recorder

## Attachment A

**Submitted TO:**  
**City of Bandon Planning Department**  
**VACATION OF A 20' ALLEY WAY-Ocean Terrace Subdivision Phase 2 & 3**

**SUBJECT PROPERTY:**  
TAX MAP 29 15 01 AB- TAX LOT's 6400 THRU 7100 and Tax Lot 3300  
EUREKA FOREST PRODUCTS – JOHN GUYNUP

**OWNER:** EUREKA FOREST PRODUCTS etal  
**ZONING:** CD-1 (ALL PARCELS)  
**Parcel Size:** 1.48 ACRES (AGGREGATE)

### **SUBMITTALS:**

#### LAND USE APPLICATION

Reduced Copy Phase 3 Ocean Terrace Subdivision

Reduced Copy Phase 2 (Re-Plat) Ocean Terrace Subdivision

Reduced Copy of Tax Map

Vested Legal Descriptions (All Parcels)

Alley Way Legal Description

Tax Summary Sheets (All Parcels)

Ownership Summary List

Ownership Signature Sheet

Authorization Letter (Dodge)

Tentative Plan of VACATION                      10 Copies (Full Scale) 5 Copies (Reduced)

### **Background Information**

The Applicant/Owner(s) wish to apply for a Vacation of a 20' Wide Alley Way Dedicated by Phase 3 of Ocean Terrace Subdivision. The Parcels presently consist of Lots ranging in size from 5400 Square Feet to 6930 Square Feet. There are no buildings or improvements on any of the Parcels. They are currently owned by Various Parties of which Eureka Forest Products will serve as the main party as they own multiple parcels. They are characterized as Individual Lots, sized to provide Residential Homesites. The land is fairly flat with native grasses as ground cover.

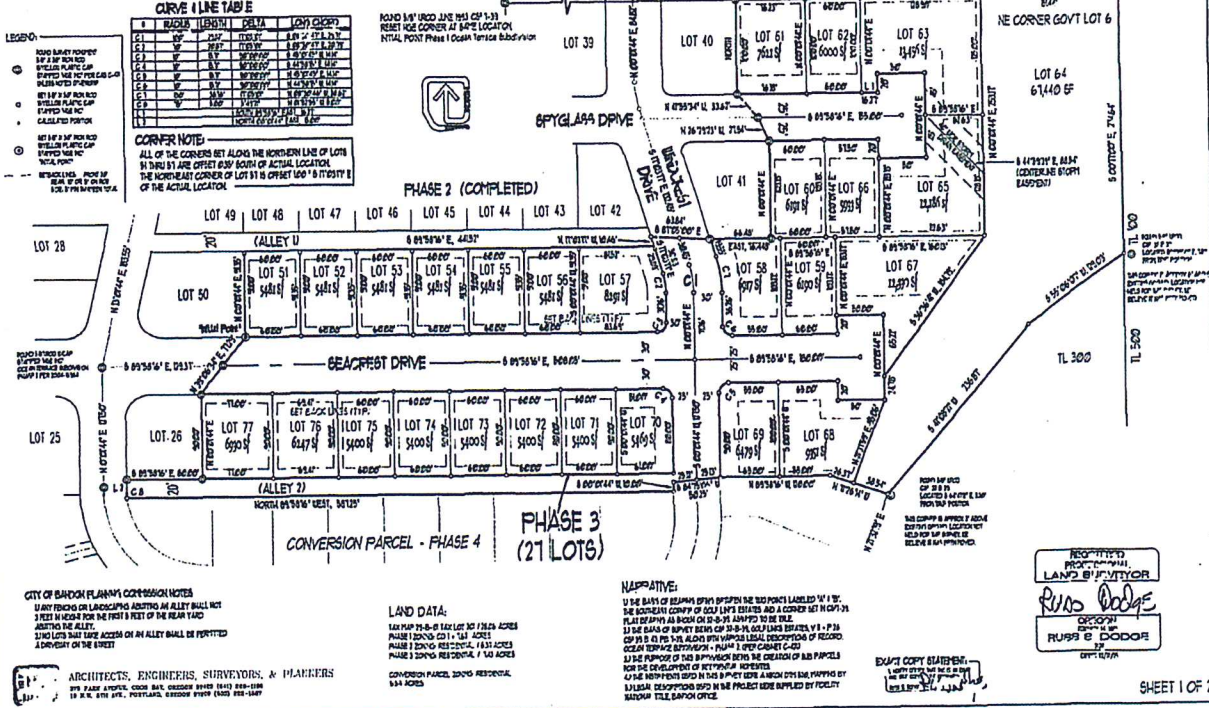
The Applicant/Owner(s) wish to Vacate the Alley Way in its entirety. Each Parcels side line would be extended southerly to the South Plat Line (As Platted Originally). The Applicant(s) acknowledge the Vacation will alter the Front Yard Setback dimension, Increasing the Front Yard Setback to 20'. Individual Site Plans will be submitted as part of the Building Permit Phase.

*dodge surveying & planning*  
*SIX FIVE SIX S. 12<sup>th</sup> CT – STE 1*  
*Coos Bay, Oregon 97420*  
*(541) 404-3799*  
*October 5, 2021*

**FINAL PLAT**  
**OCEAN TERRACE SUBDIVISION - PHASE 3**  
 PORTION OF SECTION 1, T. 29 S. - R. 15 W., WM.  
 BANDON, COOS COUNTY, OREGON

VOL 14 PG 2  
 CAB C-470

DATE: NOVEMBER 21, 2005  
 SCALE: 1" = 60'



**CURVE & LINE TABLE**

NO.	RADIUS	CHORD	DELTA	LOW POINT
1	100.00'	100.00'	180.00°	50.00'
2	100.00'	100.00'	180.00°	50.00'
3	100.00'	100.00'	180.00°	50.00'
4	100.00'	100.00'	180.00°	50.00'
5	100.00'	100.00'	180.00°	50.00'
6	100.00'	100.00'	180.00°	50.00'
7	100.00'	100.00'	180.00°	50.00'
8	100.00'	100.00'	180.00°	50.00'
9	100.00'	100.00'	180.00°	50.00'
10	100.00'	100.00'	180.00°	50.00'

**CORNER NOTES:**  
 ALL OF THE CORNERS SET ALONG THE NORTHERN LINE OF LOTS 44 THRU 51 ARE OFFSET 60' SOUTH OF ACTUAL LOCATION. THE NORTHEAST CORNER OF LOT 51 IS OFFSET 60' S 15° WEST OF THE ACTUAL LOCATION.

**CITY OF BANDON PLANNING COMMISSION NOTES:**  
 1. ANY TRUCKS OR LAUNDRYING EXCEEDING AN ALLEY SHALL NOT BE PERMITTED FOR THE FIRST 3 FEET OF THE REAR YARD ADJACENT TO THE ALLEY.  
 2. NO TRUCKS SHALL HAVE ACCESS ON AN ALLEY UNLESS PERMITTED BY ORDINANCE OF THE CITY.

**LAND DATA:**  
 1. 27 LOTS 25-51 (27 LOTS)  
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**NARRATIVE:**  
 1. THE BASIS OF BEARING IS THE TRUE POINT LABELED 'A' IN THE NORTHEAST CORNER OF GOLF LINKS ESTATES AND A CORNER SET IN PLACE BY THE SURVEYOR ON 02-18-1998 AS SHOWN ON THE TITLE.  
 2. THE BASIS OF BEARING BEARS AN ANGLE OF 120° 06' 36" WITH THE TRUE POINT LABELED 'A' IN THE NORTHEAST CORNER OF GOLF LINKS ESTATES AND A CORNER SET IN PLACE BY THE SURVEYOR ON 02-18-1998 AS SHOWN ON THE TITLE.  
 3. THE PURPOSE OF THIS APPROXIMATION IS THE CREATION OF THE PARCELS FOR THE DEVELOPMENT OF NETWORK INTERESTS.  
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NOTIFIED  
 PROJECT  
 LAND SURVEYOR  
 Russ Dodge  
 SECTION  
 RUSSELL DODGE  
 11/21/05



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

NW1/4 NE1/4 SEC.1 T29S R15W W.M.  
COOS COUNTY

29S 15W 01AB  
BANDON

CANCELLED NO.

- 901
- 601
- 701
- 800
- 801
- 1100
- 100
- 903
- 401
- 502
- 3200
- 6100

SEE MAP 29S 15W 38DC



SEE MAP 29S 15W 01B

SEE MAP 29S 15W 38E

SEE MAP 29S 15W 01

1/16 COR

12-02-2020

29S 15W 01AB  
BANDON

**LEGAL DESCRIPTION  
PROPOSED ALLEY WAY VACATION  
[PORTIONS OF OCEAN TERRACE SUBDIVISION PHASE 2 AND 3]**

**A 20' WIDE ALLEY WAY – CREATED AND DEDICATED BY OCEAN TERRACE  
SUBDIVISION – PHASE 3. RECORDED IN COOS COUNTY RECORDS, VOLUME 14, PAGE  
2, CABINET C-470. BEING LOCATED IN THE NORTHWEST QUARTER OF THE  
NORTHEAST QUARTER OF SECTION ONE (01) TOWNSHIP TWENTY NINE (29) SOUTH,  
RANGE FIFTEEN (15) WEST, W.M., COOS COUNTY, OREGON.**

**BEGINNING** AT THE SOUTHWEST CORNER OF LOT 26 OF OCEAN TERRACE SUBDIVISION, PHASE 2, AS RECORDED IN VOLUME 14, PAGE 3, CABINET C-474, RECORDS OF COOS COUNTY, OREGON, SAID POINT BEING LOCATED ON THE EASTERLY LINE OF SPYGLASS DRIVE; THENCE, ALONG THE SOUTHERLY LINE OF SAID LOT 26 OF OCEAN TERRACE SUBDIVISION PHASE 2 AND ALONG THE SOUTHERLY LINE OF LOTS 77 THRU 70 OF OCEAN TERRACE SUBDIVISION PHASE 3, AS RECORDED IN COOS COUNTY RECORDS, VOLUME 14, PAGE 2, CABINET C-470, INCLUSIVE, SOUTH 89°58'16" WEST A DISTANCE OF 587.25 FEET TO THE SOUTHEAST CORNER OF SAID LOT 70, THIS POINT BEING LOCATED ON THE WESTERLY LINE OF WINDCREST DRIVE; THENCE, ALONG SAID WESTERLY LINE OF WINDCREST DRIVE, SOUTH 00°01'44" WEST A DISTANCE OF 20.00 FEET; THENCE, LEAVING THE WESTERLY LINE OF WINDREST DRIVE AND ALONG THE SOUTHERLY PLAT LINE OF SAID PHASE 3 OF OCEAN TERRACE SUBDIVISION, NORTH 89°58'16" WEST A DISTANCE OF 587.25 FEET TO A POINT LOCATED ON THE EASTERLY LINE OF SPYGLASS DRIVE; THENCE, ALONG SAID EASTERLY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 03°49'21", (WHOSE LONG CHORD BEARS N 01°52'52" E, 5.00') AN ARC DISTANCE OF 5.00'; THENCE, NORTH 00°01'44" EAST A DISTANCE OF 15.00 FEET TO THE POINT OF **BEGINNING**.

CONTAINING 0.27 ACRES, MORE OR LESS



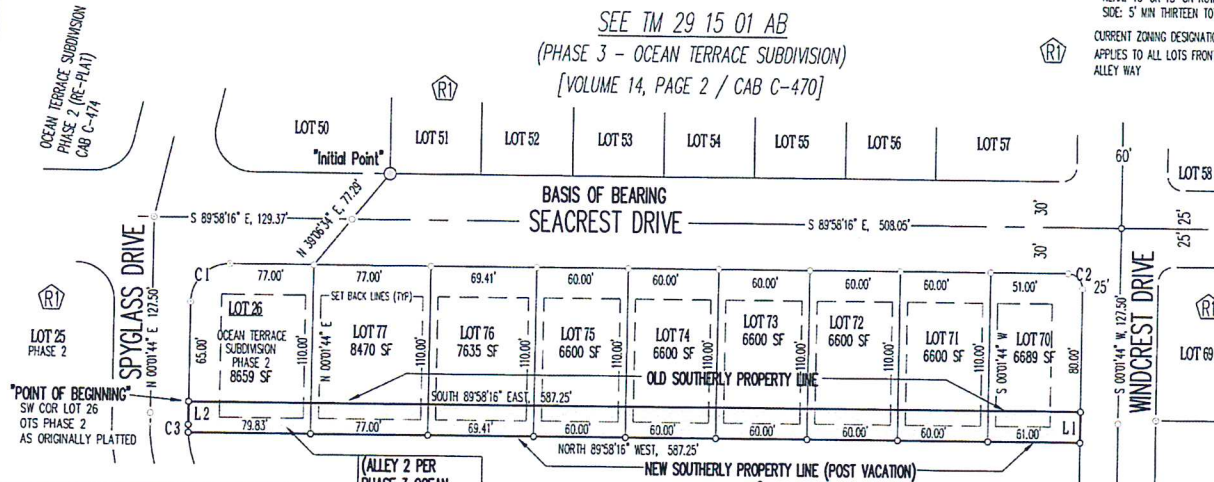


TENTATIVE PLAN - VACATION OF A 20' WIDE ALLEY WAY  
 LOTS 70 THRU 77 OF PHASE 3 AND LOT 26 OF PHASE 2  
 OCEAN TERRACE SUBDIVISION  
 PORTION OF SECTION 1, T. 29 S. - R. 15 W., W.M.  
 BANDON, COOS COUNTY, OREGON

NOTE: ALL PARCELS ADJOINING OR ADJACENT TO THE EXISTING ALLEY WAY WILL OWN A 20' PORTION OF THE PREVIOUS CORRIDOR. ALL SIDELINES WILL BE EXTENDED SOUTHERLY TO THE SOUTH BOUNDARY OF THE ALLEY WAY.

- LEGEND:
- ORIGINAL PLAT CORNER OTS PHASE 2 & 3
  - CALCULATED POSITION
  - SETBACK LINES: FRONT 20' REAR: 10' OR 15' ON ROW SIDE: 5' MIN THIRTEEN TOTAL
  - Ⓡ CURRENT ZONING DESIGNATION APPLIES TO ALL LOTS FRONTING ALLEY WAY

SEE TM 29 15 01 AB  
 (PHASE 3 - OCEAN TERRACE SUBDIVISION)  
 [VOLUME 14, PAGE 2 / CAB C-470]



NOTE:  
 ALL DIMENSIONS SHOWN REFLECT POST VACATION  
 ALL SETBACKS SHOWN REFLECT POST VACATION

SURVEY FOR:  
 EUREKA WOOD PRODUCTS  
 P.O. BOX 1  
 LANGLOIS, OR 97450  
 JOHN GUYNUP

SURVEY BY:  
 dodge surveying & planning  
 SIX FIVE SIX S. 12TH CT.  
 COOS BAY, OREGON 97420

(ALLEY 2 PER  
 PHASE 3 OCEAN  
 TERRACE SUBDIVISION)

TM 29 15 01 - TAX LOT 201  
 (CONVERSION PARCEL - PHASE 4)

LINE AND CURVE TABLE

L 1	SOUTH 00°01'44" WEST, 20.00'	C 3	CHORD N 01°52'57" E, 5.00'
C 1	CHORD N 45°01'44" E, 35.36'		DELTA: 03°49'21" R= 75.00' L= 5.00'
	DELTA: 90°00'00" R= 25.00' L= 39.27'	L 2	NORTH 00°01'44" EAST, 15.00'
C 2	CHORD S 44°58'16" E, 14.14'		DELTA: 90°00'02" R= 10.00' L= 15.71'

LAND DATA:

VACATED AREA = 0.27 ACRES  
 PHASE 1 ZONING: CD 1 = 7.62 ACRES  
 PHASE 2 ZONING: RESIDENTIAL / 6.37 ACRES  
 PHASE 3 ZONING: RESIDENTIAL / 7.43 ACRES  
 CONVERSION PARCEL ZONING: RESIDENTIAL & NR  
 6.64 ACRES

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

Russ S. Dodge

OREGON  
 RUSSELL S. DODGE  
 23  
 000 000

SIX FIVE SIX S. 12TH CT  
 COOS BAY, OREGON 97420

dodge surveying & planning  
 (541) 404-3798 | rds@ds&p.com

EXISTING CONDITIONS MAP [ECM]  
 LOCATED IN THE NW 1/4 OF THE NE 1/4 SECTION 1  
 T. 29 S. - R. 15 W., W.M. - COOS COUNTY, OREGON

DRAWN BY rd  
 SCALE: 1" = 60'  
 DATE: SEPT 29, 2021  
 DS&P 21-28

**Final Order**  
**of the Bandon Planning Commission**

**ON THE PROPOSAL FOR AMENDING THE TENTATIVE  
SUBDIVISION PLAN APPROVAL, PHASE 3 of OCEAN  
TERRACE**

**PROCEDURE:** Planning Commission Review of the proposed amendment to Ocean Terrace, Phase 3, a 27-lot Subdivision Tentative Plan pursuant to Titles 16 and 17 of the Bandon Municipal Code. This is a limited land-use decision as defined by ORS 197.195.

**OWNER/APPLICANT:** NSA Management/Walter Urbach

**LOCATION:** East of Golf Links Road, south of Natalie Way

**ZONE:** R-1

**HEARING DATE:** May 12, 2005

**I. REQUEST:**

Review of a proposal to amend the tentative subdivision plan consisting of 27 lots, by creating alley access for some parcels and allowing a variance to front yard setbacks from 20' to 10' on lots that take access from the proposed alleys.

**II. AUTHORITY:**

The Planning Commission of the City of Bandon has been vested with the powers to rule on Subdivision tentative plan amendment applications pursuant to Title 16 of the Bandon Municipal Code.

**III. APPEAL PROCEDURE:**

Pursuant to Chapter 17.124.010, the applicant or any other person with standing may, within ten days of the notice of decision being mailed, file a written request with the City Recorder appealing the decision to the City Council. The written request appealing the decision of the Planning Commission shall state specific reasons for the appeal based upon pertinent, applicable criteria. The fee for appeal of this decision would be **\$480.00**.

## **IV. BACKGROUND:**

### **A. General**

Phase 1 Ocean Terrace Subdivision was approved by the Planning Commission with 22 lots. Phase 2 was subsequently approved for 28 lots. The Phase 3 Tentative Plan created an additional 27 lots.

### **B. Characteristics of Property**

1. **Size:** 28.06 acres total, **5.74 acres** in Phase 3. Density-6.5 dwellings/acre
2. **Access:** From Seacrest Dr. and Natalie Way.

### **3. Public Utilities:**

**Water:** Water service is proposed to be provided by extending an 8 " water line from the existing line in Seagate and looping the line to tie in at Natalie Way.

**Sewer:** The applicant proposes to tie into an existing 8" sanitary sewer line located in Seagate.

**Storm Drainage:** The applicant proposes to develop an underground stormwater drainage collection system as indicated on the tentative plat. The general direction of the drainage will be easterly and will terminate in Johnson Creek.

### **5. Natural Hazards:**

None noted.

### **6. Natural Resources:**

Johnson Creek to the east.

### **7. Existing Land Use:**

**a. On site:** There is one single-family residence on the site, which is in the process of being removed.

**b. Surrounding:** To the west are residential lots that are part of Ocean Terrace Phase 1, as well as the Inn at Face Rock. To the east is Johnson Creek and the City Limits. To the north is Phase 2 of Ocean Terrace and Golf Link Estates. To the south are future residential parcels and the Face

Rock Golf Course.

**8. Land Use Designation:**

**a. Comprehensive Plan:** Residential

**b. Zone District:** R-1

**V. CONFORMANCE WITH APPLICABLE CRITERIA:**

This application shall be reviewed under the requirements of Titles 16 and 17 of the Bandon Municipal Code and the applicable subsections.

There are 2 amendments being proposed by the applicant:

1) Creation of alley access. As illustrated in the proposal, the applicant proposes to construct and dedicate 2 east/west alleys in the project. The provision of these alleys would allow rear vehicle access and parking. The applicant believes that this will create a more desirable urban streetscape by removing garages and driveways from the front of the houses. The lots will still meet the depth requirements with a minimum of 90'.

*Finding: The Commission finds and concludes that the provision of alleys for vehicular access will improve the aesthetics and functionality of the project.*

2) Variance of front yard setbacks from 20' to 10' for the lots served by the alley. In conjunction with the alleys, the applicant is requesting that the lots that take access on the alleys in Phase 3 have reduced front yard setbacks, from 20' to 10'. This will allow the houses to be built closer to the street and allow room in the rear for both access and the maintenance of a 10' rear setback off the alley for vision clearance and vehicle maneuvering room.

A. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control;

*Finding: The Commission found that the provision of functional alleys eliminates the need for a 20' front setback due to the fact that vehicular access will occur at the rear of the lots, negating the need for driveways at the front of the property.*

B. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity;

*Finding: The property in the vicinity is part of Ocean Terrace Subdivision and is zoned R-1. The proposal allows the creation of alleys and an accompanying reduction in front*

yard setbacks from 20' to 10'. Other owners have the right to request a variance of this nature.

C. The authorization of the variance will not be materially detrimental to the purposes of this title, be injurious to property in the zone or vicinity in which the property is located or otherwise conflict with the objectives of any city development plans or policies;

*Finding: The provision of the alleys in this circumstance would not be materially detrimental or injurious. The provision of a 10' front setback will be applied only to the properties in Phase 3 of the subdivision and only those lots that access via an alley. The objective of the city development policies is to create safe, functional, and attractive developments. The proposal allows this to occur in a traditional alley accessed development which places dwellings closer to the street, creating a greater sense of neighborhood.*

D. The variance requested is the minimum variance which will alleviate the hardship. (Ord. 1336 § 11.010, 1994)

*Finding: The proposal is the minimum that would allow the alley access development to function properly.*

***Conclusion: It has been found that the criteria for a variance have been met.***

## **DECISION:**

Based on compliance with the relevant sections of the Bandon Municipal Code, the Commission hereby approves the amendments proposed and the variance for Phase 3 of the Ocean Terrace Subdivision with the following conditions:

1. A utility plan shall be prepared and stamped by a registered engineer for approval by the Public Works Supervisor, Electric Supervisor, and City Engineer. This Plan shall include streets, alleys, water, sanitary sewer, and stormwater drainage.
2. Sanitary sewer improvements shall be subject to Department of Environmental Quality approval.
3. Fire hydrant placement shall be subject to Fire Chief approval and hydrants shall be spaced no more than 500' apart.
4. The applicant shall obtain or update an existing DEQ NPDES 1200-C Erosion control permit prior to construction.
5. The applicant shall pay into the Parks and Recreation Fund the sum of \$14,413 in lieu of providing opens space/parks in Phase 3.
6. The alleys shall be engineered and approved by the City Engineer prior to construction.
7. The alleys will be dedicated to the City with the accompanying 20' right-of-way.

8. Any fencing or landscaping abutting an alley shall not exceed 3 feet in height for the first 5 feet of the rear yard abutting the alley.

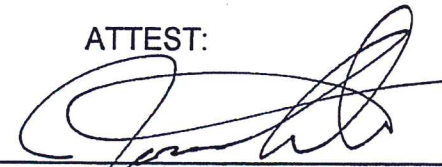
Based on compliance with the relevant sections of the Bandon Municipal Code, the Planning Commission hereby approves the amendment to Phase 3 of the Ocean Terrace Subdivision with the conditions noted above.

This FINAL ORDER of APPROVAL issued this 25<sup>th</sup> day of May, 2005 in Bandon, Oregon.

BANDON PLANNING COMMISSION:

  
\_\_\_\_\_  
Vice Chairman  
Bob Hundhausen

ATTEST:

  
\_\_\_\_\_  
Community Development Director  
Jason Locke

there would fall between the 500-1000 gallons a minute sprinkler requirements and would be handled at the Zoning Compliance and Plan Review level. The Development Review Board had no notable issues. They thought it made sense for in-fill development. Estimated square footage of the two lots is about 6,000 and 7,200 square feet.

**TESTIMONY:** Vice Chair Hundhausen read procedures. He noted that Ms. Doty reminded them that proponents and opponents can cross examine.

**David L. Davis, Applicant, 1010 Newport Street, Bandon 97411,** said for those who went out and looked at the property, it seemed to him to be a good common, ordinary use that doesn't threaten the public health or safety and would be a fine thing to do. Whether it fits the ordinance, Mr. Locke will guide you through that. The house was circa 1991 and the sewer predates that.

**OPPONENTS:** There were none.

**DELIBERATION:** *Ridgway moved, Koch seconded and it was unanimous, to close the Hearing to public comment at 8:00 p.m.* Koch was not particularly troubled by the 10 foot setback frontage on Polaris. Regardless of however the Code determines where the frontage is and having been on Beach Loop, it has always been accessed off of Polaris. That has always been the frontage and that is the existing scenario. He had no problem granting the Variance in that respect. If the property has two distinct levels--as the Applicant has described and the two Commissioners who visited it observed--it seemed a natural way to divide up the property and to allow it to be developed. **Burke** agreed that it would a good move to allow development of the front, easterly portion of the property. He preferred to limit access along Beach Loop. The property asks to be developed and this would allow it to happen. **Locke** advised that Applicant has proposed access off of Polaris for Parcel 2 with no driveway access on Beach Loop. **Ridgway** thought it a reasonable request, as did **Fisher**. *Burke moved, Ridgway seconded, for approval of the Variance and the Partition Applications, as submitted, that is consistent with the Staff recommendation and it was unanimously approved on a roll call vote: 5 - 0.*

**4.3 URBACH/OCEAN TERRACE, PHASE 3 - 27 LOT SUBDIVISION  
E OF GOLF LINKS RD, S OF NATALIE WAY/MAP 29-15-1, TAX LOT 201  
TENTATIVE PLAN AMENDMENT & VARIANCE FROM FRONT YARD REQUIREMENTS**

**Chair Allen** stepped down from the podium as she was in the Notice area. **Vice Chair Hundhausen** opened the Hearing at 8:00 p.m. by reading hearing procedures *Ex-Parte Contact:* **Fisher** visited what he believed to be the site. **Hundhausen** visited the site to be familiar with the area. No bias or challenges to Commissioners' qualifications were received.

**Staff, Locke,** stated that there will be implications from the application to Phase 2 as well as Phase 3. Applicant is proposing to amend the Phase 3 Tentative Approval as well as a Variance for front yard setbacks that are related to that amendment. Originally, there were two islands within the middle of the property that were essentially being developed as blocks. There are also blocks to the south, as part of Phase 4, that overlook the golf course, and the lots to the north that back up to an existing subdivision on Natalie Way. This is the creation of two interior blocks. The Applicant, after going through the process for Phase 2, decided that he wanted to take a more traditional approach by providing alleys through both the north and south blocks. The purpose of the alleys is to provide rear loaded parking and vehicle access so that there will be no driveway cuts in the front. It will be a more traditional type of neighborhood. In order to do that, at least in Phase 3, is to apply the Variance of reducing the required front yard setback from 20 feet to 10 feet to lots 50 through 57 and lots 70 through 77

and lot 26. What results is structures closer to the street with steps and pathway down to the sidewalk. The issue was how was it going to work and function with larger, modern day vehicles. Keep in mind, when considering a front yard setback reduction, that ordinarily a 50 or 60 foot right-of-way plus 20 feet on either side totals 90 to 100 feet between houses in a standard subdivision. By reducing that, you are saying that 70 feet between the front of houses is acceptable. There are not going to be any driveways or garages. All access will be taken from the rear. There are some poverty concerns as well, in terms of having a really steep driveway to get to some of the lots. The lot sizes are in conformance: 5400 square feet, 90 feet of depth, and in some cases 65-70 feet of width. Generally, there is a 20 foot dedicated right-of-way for alleys. The proposed alleys will probably be an 18 foot concrete paved surface with 1 foot on either side. This creates a situation that if you had, which was initially proposed that you do it off of an easement, there would be no rear yard setback from that alley. So essentially you could have garages right on the alley. If you only have 20 feet, you have problems of maneuvering, sufficient clearance, and other problems. With two dedicated travel lanes plus the rear setback being 10 feet—the back garages have to be 10 feet off the alley which allows yard space and potential for pull up parking without blocking the travel surface. Applicant requests, and Staff concurs, to moving the front setback up 10 feet. One of the primary reasons for the 20 foot setback is to accommodate automobiles. Since the automobiles are not going to be utilizing that space, it will be up to the builder of the lot as to whether they are going to want to connect to the street. They might want to connect to the sidewalk in a traditional sense that would be invigorating. The DRB looked at the application because of the functional concerns. The alley will become a public right-of-way and Applicant will be required to have the appropriate signs such as no parking. There may be vision clearance issues on a lot by lot basis. The perimeter lots will have driveway access that will contribute to an interesting street scape. The alley right-of-way, maintained by the City, will be constructed of 6 inches of concrete over a base that probably exceeds the requirements. It will be a valley gutter type with catch basin, depending on the run and the slope, so that water does not run all the way to the end. The alley gives better fire access as it is an addition to the street access. No parking will be allowed in the alleys. A lot's final design could allow for parking adjacent to the alley. He showed where a lot could have a garage and additional parking. The 10 foot rear setback provides for occasional parking. Sidewalks and parking would be on both sides of Seacrest.

**Hundhausen** read that Applicant states there are no exceptional or extraordinary conditions and the Variance is not necessary for the preservation of property rights. Two of the conditions required to grant a Variance, are not applicable, not met. Does this moot the request? Don't all the conditions have to be met? Locke did not think so, suggested that Applicant might give a better explanation, and noted that in that determination you have to look at the totality of the circumstances.

**TESTIMONY: Vice Chair Hundhausen** read procedures. He added that the ordinance allows for cross examination of both the proponent and the opponent. At the end of testimony, the applicant will be granted 5 minutes for rebuttal, and if necessary, the opponent could be granted time for rebuttal.

**Walter Urbach, Applicant, 3210 Golf Links Road**, handed out photos of alleyways in other communities. He had been working on the project since 1989. Bandon was becoming a retirement community with two types of housing demands—large and small lots. His project takes care of those who want smaller lots, especially in this subdivision. He didn't really pick up on that fact until driving down the actual street. The lots were so close together that when building a house, all you would see would be driveway, garage, driveway, garage on both sides of the street. That seemed to be, architecturally and aesthetically, too closed in. The way to open it up would be to put an alleyway in the back and move the driveways and garages to the back in order to provide some architectural distinction to the front. Some areas did not have the room but he wanted to take advantage of the change to those areas that did. It was an additional expense to put in an alley as they had already put in



a larger street than was required, but it looks and functions better. Bandon needs this type of project and approach. It used to be the way things were done, but for cost saving reasons, they eliminated the alleyways and just went for front yards, driveways, and garages.

**Parking:** Urbach didn't really want on-street parking but it can't be eliminated. Federal Express, UPS, parents picking up and dropping off kids will park where it is convenient. Long term guests and residents will be aware that the CC&R's will require them to park in the back of the property or in their garage. Parking in the driveway will not be allowed unless the garage is full of vehicles, not full of stuff. Some regulations are hard to police.

**Security:** Burke, having lived in an environment similar to the proposal, noted that less visible pathways are a temptation for missing stuff. Urbach referred to a CC&R rule that garage doors must remain closed after going in and out. He described additional off street parking further in or alongside the garage. Hundhausen also brought up Sun City's high fences along the alley and security becoming a problem with a low fence or no fence. Urbach grew up there, there is crime, but it happens everywhere.

**Fences:** Burke asked if they could fence to the rear lot line. Locke responded that vision clearance would be determined on a case by case basis, either by Urbach or at the single family dwelling application stage under the Commission's purview.

**Storm Drainage:** Burke recalled an aggressive effort with the depth of sewer lines dealing with the drainage problems and water runoff down the alleys. Urbach did not think there would be a problem.

CC&Rs state that all homes are stick built, all single family, and no vacation rentals are allowed. Accessing the property from the main street would not be an option. The streets are wider than City standards.

**Variance Criteria:** Hundhausen questioned Applicant's statement that the Variance really isn't necessary and there are no exceptional or extraordinary conditions, that this is basically for marketing and to allow for some access to the main road by not having vehicles back onto the main road. Urbach said the application is aesthetic which is one of the conditions of the City Charter to provide for all types of housing. A need that is not being met is a reason to grant the Variance. Hundhausen, concerned with setting a precedent, said the Variance really wasn't necessary in totality and could be handled on a case by case basis. Locke said that was theoretically true but Applicant was asking for a setback Variance on those lots that have rear alley access. Urbach said it was more difficult to market a property when you have to tell them that they then have to go to the City, another issue for them to deal with. That was why he was there. As part of the overall subdivision plan, he felt it was a positive, not a negative precedent. They were dedicating the land area in the back, actually giving up something in order to get something. He acknowledged that it was good for marketing and also good for the community.

**OPPONENTS:** No one responded.

**DELIBERATION:** Burke moved, Koch seconded, to close the Hearing to public comments and deliberate at 8:35 p.m. Burke liked the proposal. It was invigorating, gave diversity to market place opportunities, and he hoped that Urbach was successful in his endeavor. He appreciated the idea being brought to the Commission. Personally, they have gone to great lengths in the last few years to avoid what has been characterized in other parts of the State as snout houses by introducing a different configuration with not so much lawn out front that

is mandated by setbacks in a community that still struggles with its water supply. **Ridgway** was surprised to see the change with the dedicated right-of-way and the garages in back. After working on a project for years, there is a tendency to say there it is and not consider a re-think. It made good sense doing all the lots together rather than taking up time for each and every one to come in later. **Fisher** was in favor. Staff addressed his parking concerns in the alleyway and providing signage. It was a great idea. **Koch** was in favor of the application. The Applicant was presenting a plan at the subdivision approval stage, the big picture, which is a far better scenario than having piecemeal applications with individual variances, developed in an unplanned fashion. Applicant recognizes that he has to come back for that portion in Phase 2 and may have to do that on an individual basis. Koch hoped that Urbach does it rather than letting the purchasers so that it does get accomplished and become part of the overall plan. He appreciated his creative approach, for recognizing that this is the type of development that was not in the area, for recognizing that it works successfully in other communities, and that it can be a much more pedestrian friendly neighborhood for families, for people who want to go out walking. Vehicle traffic will be reduced on the road which will make the neighborhood itself safer and more appealing.

**Rear Setback:** Koch recognized that Applicant was offering the alleyway in order to gain an additional ten feet to the front of the properties in order to allow it to be developed better. His concern was making sure that there is adequate space in the alleyway area for potential off-alley parking in the back. He was opposed to seeing fences right up to the alleyway, given the 20 foot narrowness of it. *If there was going to a minimum 10 foot rear setback for structures, Koch proposed a minimum 10 foot setback for fences as well on that back line as a condition of the Variance in giving him the extra 10 feet in the front.* Koch thought it appropriate to give Urbach the opportunity to respond as to whether or not it would be feasible for him to meet that condition. **Burke** did not agree with Koch's suggested condition as the Code has considerations on the placement of backyard fencing for traffic flow and visual clearance issues. He was not for 6 foot fencing for the duration of the alley but he had faith that each lot would be different with staggered balances. He hated to impose the 10 foot setback because then all they have done is impose a wider corridor. Burke wanted to see what he is accustomed to in urban alleys, some variability. **Locke** said vision clearance was looked at as part of the review process and suggested a middle ground of half the distance, 5 feet, as adequate to provide vision clearance. **Koch** said the only reason he brought it up was for his concern on vision clearance and the 20 foot width of the alley not providing for pull out areas for cars and having the situation of parking in the back obstructing the alleyway. If there are fences all the way along the alley, the potential is there for an untenable access and parking situation.

**Variance Criteria:** **Hundhausen**, was sure he was in the minority, but the conditions for a Variance were not met. The Applicant doesn't claim that the conditions are met. Granting a Variance of this nature would be too broad, is unnecessary, and may set a bad precedent. For the benefit of the Applicant, if the alley is a good idea for marketing purposes, for the cost of the lot, the project and the structures will reflect that in the long run. But planning is good planning. A Variance for the Applicant to construct an alleyway in this case is not necessary. If we grant the request, we are giving up 10 feet of front yard setback, landscaping, areas that are not likely to be impermeable surfaces. The proposed alley is an impermeable surface. **Locke** stated that the impermeable percentage requirement did not apply to the zone. **Hundhausen** spoke of garage sizes and potential buyers not wanting a 10 foot front setback. If they did wish to come in for a Variance they could. Otherwise it was not necessary.

*Koch moved, Burke seconded, and it was unanimous to re-open the Hearing for the limited purpose of hearing testimony from the Applicant on fencing setbacks.*

**TESTIMONY:** Urbach said the proposal for the alleyway was meant to provide for architectural distinction, something different that the City does not have. By not granting the 10 foot Variance, it would take something away from him. They are taking the same building envelope and moving it off the alleyway toward the front,

not having more area but just moving it. But moving the fencing area 10 feet back, he is losing that area. He just wants the same building envelope. An 8 foot fence along the alleyway was not likely, but it would be okay. The garage areas are set back 10 feet so that when they back out they have 30 feet to back out from. That is unless someone built a garage right across from them, then they would have 40 feet. **Koch** asked about back out vision clearance with the neighbor's fence on one side and their fence on the other side 8 feet high on the back alleyway? **Urbach** opined that they would have to back out carefully. The only people backing out will be the people who live there. If you regulate everything, it sort of defeats the purpose of getting rid of the snout house look and everything starts to look the same. The photos show the look that functions with houses built right along the edge of the alley. He has never seen accidents in this type of area that he has lived in all his life. A discussion on view clearance and public safety in the alleyway culminated in **Urbach** suggesting a scaled setback--an 8 foot fence would require a setback 3 or 4 feet from the property line. A 3 foot hedge or fence would be allowed on the property line as he wanted people to be able to have a garden or a privacy fence in their back yard but not 10 feet back from the property line. The building envelope is small. They were taking it from the front and moving it to the back and vice versa which provides for variation and architectural distinction. He didn't want the same thing in house after house.

It was the consensus to apply the first 5 feet of the rear property line as a setback with a potential of 36 inches in height for fencing or sight obscuring vegetation. **Locke** said that if they wanted the 8 foot high fence (or higher under current regulations) at the 5 foot setback line they could. **Koch** asked what the difference was between 36 inches and 42 inches for sight clearance. **Locke** said it depended upon what kind of car you drove. He had problems seeing over 42 inches high. **Burke moved, Koch seconded, to close the Hearing which they then withdrew for additional testimony.**

**OPPONENTS and PROPONENTS:** Vice Chair **Hundhausen** called for additional testimony on the Applicant's response to the proposed backyard setback condition. There was none.

**DELIBERATION:** **Burke moved that they close the second segment of the re-opened Hearing for Deliberation, Koch seconded, and it was unanimous.** **Ridgway** asked what happens if the Variance is granted but not required? The Applicant states that it is not required but that is one of the requirements of a Variance. **Locke** said there were points made during deliberation that may actually address that particular criteria. **Burke** noted that there are assertions that the Applicant hasn't satisfied the conditions for a Variance because it doesn't preclude development of the property or exercise a hardship. **Hundhausen** added that it is not necessary for the preservation of property rights--all the conditions for a Variance are not met. **City Attorney Carleton** said once a Variance is granted then the Variance is granted. **Koch** opined that it was an issue to take up on appeal. **Carleton** agreed. Once past the criteria to make a decision then it is done. **Koch** asked if there was a guarantee that all properties would have to be accessed from the alleyway? **Locke** confirmed that the property owner had no option to access from the street. **Koch moved approval of the Variance application with a condition that no fencing be allowed within 5 feet of the rear setback area that exceeds a height of 36 inches; and approval of the two amendments: 1) Creation of alley access; 2) Variance of front yard setbacks from 20 feet to 10 feet for the lots served by the alley; and Staff's five conditions listed in the Staff Report. Ridgway seconded and the motion passed on a roll call vote: 4 yes - 1 no (Hundhausen).**

**Chair Allen** returned to the podium.

## 5.0 DISCUSSION/OTHER

**HEARING PROCEDURES:** **Ridgway** asked what **Hundhausen** meant when he twice brought up that cross

# Attachment D

Country Media Inc.  
PO Box 670  
Salem OR 97308  
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## Advertising Receipt

CITY OF BANDON  
PO BOX 67  
BANDON, OR  
97411

Cust# : 39787  
Tel # : (541) 347-2437  
Ad # : 332522  
Date : 12/14/21  
Classification : z-Legals SoCo  
Salesperson : House

Edition	Insertion Date	Amount
The Coos Bay World -TF	12/17/21	171.92
The World ONLINE	12/17/21	2.50
The Coos Bay World -TF	12/24/21	171.92
The World ONLINE	12/24/21	2.50
	<b>Sub Total</b>	348.84
		0.00
		0.00
	<b>Grand Total</b>	348.84

## Ad Text

NOTICE OF PROPOSED ALLEY VACATION Notice is hereby given that Bandon City Council passed Resolution No. 21-23 on December 6th, 2021, which initiated proceedings by the Council's own motion – and, pursuant to ORS 271.080 and ORS 271.130 – for the vacation of a portion of an unimproved alley between "Spyglass Drive and Windcrest Drive", as described below, within the corporate limits of Bandon, Coos County, Oregon: A 20'-wide alley way created and dedicated by Ocean Terrace Subdivision -Phase 3. Recorded in Coos County records, Volume 14, Page 2, Cabinet c-470. Being located in the Northwest quarter of the Northeast quarter of Section One (01) Township Twenty-Nine (29) South, Range Fifteen (15) West, w.m., Coos County, Oregon. Beginning at the Southwest corner of lot 26 of Ocean Terrace Subdivision, Phase 2, as recorded in Volume 14, Page 3, Cabinet c-474, records of Coos County, Oregon, said point being located on the Easterly line of Spyglass Drive; thence, along the Southerly line of said Lot 26 of Ocean Terrace Subdivision Phase 2 and along the southerly line of Lots 77 thru 70 of Ocean Terrace Subdivision Phase 3, as recorded in Coos County records, Volume 14, Page 2, Cabinet c-470, inclusive, South 89°58'16" West a distance of 587.25 feet to the Southeast corner of said Lot 70, this point being located on the Westerly line of Windcrest Drive; thence, along said Westerly line of Windcrest Drive, South 00°01'44" West a distance of 20.00 feet; thence, leaving the Westerly line of Windcrest Drive and along the Southerly plat line of said Phase 3 of Ocean Terrace

Subdivision, North 89°58'16" West a distance of 587.25 feet to a point located on the Easterly line of Spyglass Drive; thence, along said Easterly line along a curve to the right having a radius of 75.00 feet and a central angle of 03°49'21", (whose long chord bears N 01°52'52" E, 5.00') an arc distance of 5.00'; thence, North 00°01 '44" East a distance of 15.00 feet to the point of beginning. Containing 0.27 acres, more or less.

The resolution to initiate the vacation of the above described alley is available for inspection from the City Recorder at City Hall, 555 Hwy 101, Bandon, Oregon 97411 or on the website [www.cityofbandon.org](http://www.cityofbandon.org). The City Council of the City of Bandon has fixed the hour of 7:00 P.M., on January 3, 2022, in the Council Chambers at City Hall, 555 Hwy 101, Bandon, Oregon, as the time and place for the Hearing. Any and all objections/claims concerning said proposed vacation must be filed by email at [jhinojosa@cityofbandon.org](mailto:jhinojosa@cityofbandon.org) or in writing with the City Recorder of the City of Bandon by December 29, 2021, at 12:00 p.m. will be heard and considered. Published: December 17 and December 24, 2021 The World & ONPA (ID:332522)

**Notice**

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