




City of Bandon


555 Hwy 101, PO Box 67
Bandon, OR 97411
(541) 347-2437

Bandon by the Sea

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Torrey Contreras, City Manager 

INITIATED BY: Dana Nichols, Planning Director 

DATE: March 18th, 2024

SUBJECT: **3.1 PUBLIC HEARING: ORDINANCE 1664, AN ORDINANCE VACATING A PORTION OF 6TH STREET BETWEEN LINCOLN AVENUE AND KENSINGTON AVENUE, A PORTION OF KENSINGTON AVENUE SOUTH OF JETTY ROAD, AND AN ALLEY BETWEEN LINCOLN AVENUE AND JETTY ROAD IN THE AMENDED BREAKWATER ADDITION IN THE CITY OF BANDON.**

BACKGROUND:

The Planning Department was contacted by Tribal One regarding unimproved rights-of-way that abut or cross the land owned by the Coquille Indian Tribe containing the Pacific View Senior Living Community. Tribal One requested that the City initiate a vacation of these rights-of-way. Please see their attached request.

At the January 9th meeting, the City Council discussed this proposal and directed staff to prepare a report assessing the feasibility of initiating the vacation request for consideration at a future meeting. This report was provided to the Council at their February 5th, 2024, meeting and a motion was made to initiate proceedings to schedule a public hearing for consideration of the matter.

City Staff posted notice of the proposal and public hearing on the City's website, on the physical site, and in three public places in the City, according to the requirements of ORS 271.110, Notice of Hearing.

ANALYSIS OF THE ISSUES:

The request consists of certain sections of unopened city right-of-way, including an alleyway between Lincoln Ave and Jetty Road, the southern terminus of Kensington Ave, and a portion of Sixth St between Lincoln Ave and Kensington Ave. The sections are described in Attachment 1. In reviewing existing files related to the development of the adjacent parcels, it appears that the city manager at the time retained those parcels thinking they might be needed for a future access point from Jetty Road. At this time, the rights-of-way proposed for vacation do not provide any current or future service to the City as they do not increase circulation or access to additional parcels.

The City owns a sewer pump station that was constructed in the City right-of-way adjacent to an area proposed for vacation. The property owner has included a statement on the vacation plat for Vacation Parcel 3 that describe the parcel with the following exception: "...excepting therefrom that portion of alley lying within the existing pump station facility, both above and below grade and its appurtenances." This statement essentially allows the pump station to remain in its current location without specifically determining the boundaries of the facility. If the pump station is located in the Lincoln Avenue right-of-way, or if the pump station is ever moved, this portion of the vacation is irrelevant, but wouldn't require additional vacation or replatting.

Staff finds that the vacation request meets the requirements of ORS 271.130, including that:

1. The vacation request was initiated by the City Council, as authorized in ORS 271.080, and any property owners abutting the proposed vacation have consented to the vacation (ORS 271.130(1)).
2. The proposed vacation consists of streets and an alley that either intersect or are parallel to each other (ORS 271.130(2)).
3. All liens and taxes have been paid on the lands covered by the portion of the land to be vacated (ORS 271.130(3)).

FISCAL IMPACT:

Staff recommends that all costs associated with the vacation, including noticing, surveying, and recording, be borne by the property owner, or the representative, requesting the vacation. City Staff will prepare a billing with any costs incurred for this request.

RECOMMENDATION:

The following is recommended to the City Council:

1. Review and discuss the information provided; and
2. Hold a public hearing to consider ORDINANCE 1664, AN ORDINANCE VACATING A PORTION OF 6TH STREET BETWEEN LINCOLN AVENUE AND KENSINGTON AVENUE, A PORTION OF KENSINGTON AVENUE SOUTH OF JETTY ROAD, AND AN ALLEY BETWEEN LINCOLN AVENUE AND JETTY ROAD IN THE AMENDED BREAKWATER ADDITION IN THE CITY OF BANDON; and
3. Request the City Attorney read Ordinance 1664 by Title only (First Reading); and
4. Make a motion to approve ORDINANCE 1664, AN ORDINANCE VACATING A PORTION OF 6TH STREET BETWEEN LINCOLN AVENUE AND KENSINGTON AVENUE, A PORTION OF KENSINGTON AVENUE SOUTH OF JETTY ROAD, AND AN ALLEY BETWEEN LINCOLN AVENUE AND JETTY ROAD IN THE AMENDED BREAKWATER ADDITION IN THE CITY OF BANDON, by a roll call vote; and
5. If a full Council is present, request the City Attorney read Ordinance 1663 by Title only (Second Reading); and
6. Make a motion to adopt ORDINANCE 1664, AN ORDINANCE VACATING A PORTION OF 6TH STREET BETWEEN LINCOLN AVENUE AND KENSINGTON AVENUE, A PORTION OF KENSINGTON AVENUE SOUTH OF JETTY ROAD, AND AN ALLEY

PUBLIC HEARING: ORD 1664

MARCH 18, 2024

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BETWEEN LINCOLN AVENUE AND JETTY ROAD IN THE AMENDED BREAKWATER
ADDITION IN THE CITY OF BANDON, by a roll call vote.

Attachments: Attachment 1: Tribal One Request to City to Initiate Right-of-Way
Vacation Proceedings

Attachment 2: Ordinance 1664

Attachment 3: Notice of Public Hearing



December 18, 2023

Via Email: dnichols@cityofbandon.org

Bandon City Council
c/o Dana Nichols, Planning Director
555 Highway 101
Bandon, Oregon 97411

Re: Request for City to Initiate Right-of-way Vacation Proceedings
Portions of 6th Street and Kensington Street, Bandon, Oregon
Tax Map No. 28S15W25BD

Honorable City Council Members,

In late September, our team met with City of Bandon (“City”) staff to discuss the status of some right-of-way adjacent to land owned by the Coquille Indian Tribe. Because the right-of-way is unimproved and indistinguishable from the adjacent lots, it was unclear whether the portions of street and alley had previously been vacated. Following the meeting, City staff reviewed City records and clarified that the right-of-way remains under the City’s jurisdiction despite its lack of public use. Thus, for the reasons discussed below, please accept this letter as a request for the City to initiate right-of-way vacation proceedings under ORS 271.130 for the alley and street right-of-way described below.

Proposed Vacation Areas

The three areas of right-of-way proposed to be vacated are located in and adjacent to Lots 900, 6800, and 6900 in Block 24 of the Amended Breakwater Addition, Coos County, Oregon as depicted on the Tax Map No. 28S15W25BD. The proposed vacation areas are generally described as follows:

- Alley – Lot 6900
Lot 6900 is divided by an undeveloped alley. However, the City built a pump station across the alley right-of-way effectively eliminating the use of the alley. To ensure the City retains a right of access to the pump station, the Tribe is willing amend any existing easement or agree for the City to reserve an easement for the pump station.
- 6th Street between Lot 6900 and Lot 900
The proposed vacation area is a portion of 6th Street W. located between Lincoln Avenue and Kensington Avenue. This portion of 6th Street was never constructed and due to the pattern of development in the area, will never be constructed.
- Kensington Street Terminus at Lot 900

The proposed vacation area is a portion of Kensington Avenue from Jetty Avenue to its southern terminus located in the Amended Breakwater Addition. Kensington Street terminates at Lot 900 and serves no public purpose. Also, this portion of Kensington Street is not needed for access to Lot 900 from Jetty Road because of the access easement.

The above-described rights-of-way are more particularly described and depicted on document titled "Exhibit A" enclosed with this letter. To further facilitate Council's review, below is an enlarged area generally showing the right-of-way proposed to be vacated. For reference, Tax Lot 900 is the property commonly known as Heritage Place and currently houses the Pacific View Senior Living Community. TL 6900 (also referred to as Lots 5-12 in Block 24 of the Breakwater Addition) is owned by the Coquille Indian Tribe. TL 6800 is also owned by the Tribe.



Reason for City to Initiate Vacation Proceedings

As mentioned above, the proposed vacation areas are indistinguishable from the adjacent tax lots due to landscaping and lack of development. Additionally, given the pattern of development and land use in the area, the rights-of-way will not be improved or used for their intended purposes as an alley and streets.



The Tribe is responsible for maintaining the above-referenced tax lots. The City, on the other hand, retains responsibility for maintaining the rights-of-way adjacent to the tax lots. Maintenance responsibilities generally include, among other things, Gorse removal. By vacating these three small portions of right-of-way, the City will benefit by no longer having any maintenance obligations or liability associated with the right-of-way, including any Gorse abatement. Rather, the properties may be maintained more efficiently as a whole.

Also, the Tribe has recently partnered with the Port of Bandon to recover portions of Grandmother Rock from the Bandon boat ramp project. Portions of Grandmother Rock are being restored back to its historical location near Tax Lot 900. Vacating the proposed right-of-way will enable the Tribe to continue relocating portions of Grandmother Rock to its historical origin without inadvertently disposing the rock in portions of City-owned right-of-way.

Thus, as these portions of public right-of-way have been shown to be unnecessary for public use, we respectfully request that the City Council initiate vacation procedures as identified in this letter. If you have any questions regarding this request, please contact me at 541-297-6805 or by email at judyfarm@tribal.one.

Thank you for your consideration of this matter.

Kind regards,

Judy Farm
CEO
Tribal One

Encls. Tax Map No. 28S15W25BD
Description and Depiction of Vacation Areas

ORDINANCE NO. 1664

AN ORDINANCE VACATING A PORTION OF 6TH STREET BETWEEN LINCOLN AVENUE AND KENSINGTON AVENUE, A PORTION OF KENSINGTON AVENUE SOUTH OF JETTY ROAD, AND AN ALLEY BETWEEN LINCOLN AVENUE AND JETTY ROAD IN THE AMENDED BREAKWATER ADDITION IN THE CITY OF BANDON

WHEREAS, the City Council, after due notice as required by ORS 271.110, held a hearing on the proposed vacation a portion of 6th Street between Lincoln Avenue and Kensington Avenue, a portion of Kensington Avenue south of Jetty Road, and an alley between Lincoln Avenue and Jetty Road in the Amended Breakwater Addition in the City of Bandon 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 for access or utilities; and

WHEREAS, the City Recorder has filed or otherwise endorsed 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 no conditions.

Section 2. The Bandon City Council agrees that the Vacations described in Attachment A shall be vacated with title to said alley attached to the area from which it was originally dedicated, 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 March 2024 on a roll call vote,

_____.

ADOPTED by the City Council this ____ day of March 2024 on a roll call vote,

_____.

Mary Schamehorn, Mayor

Attest:

June Hinojosa, City Recorder

Exhibit A

Located at:
SE1/4, NW1/4 Section 25, Township 28 South, Range 15 West,
W. M., Town of Bandon, Coos County, Oregon

The intent of the following legal descriptions are to describe areas along West 6th Street between Lincoln Avenue and Kensington Avenue and Kensington Avenue lying south of Jetty Road and also the alley in Block 24, between Lincoln Avenue and Jetty Road. These parcels are located in the SE1/4, NW1/4 Section 25, Township 28 South, Range 15 West, W.M., City of Bandon, Coos County, Oregon and more particularly described thus:

Vacation Parcel 1:

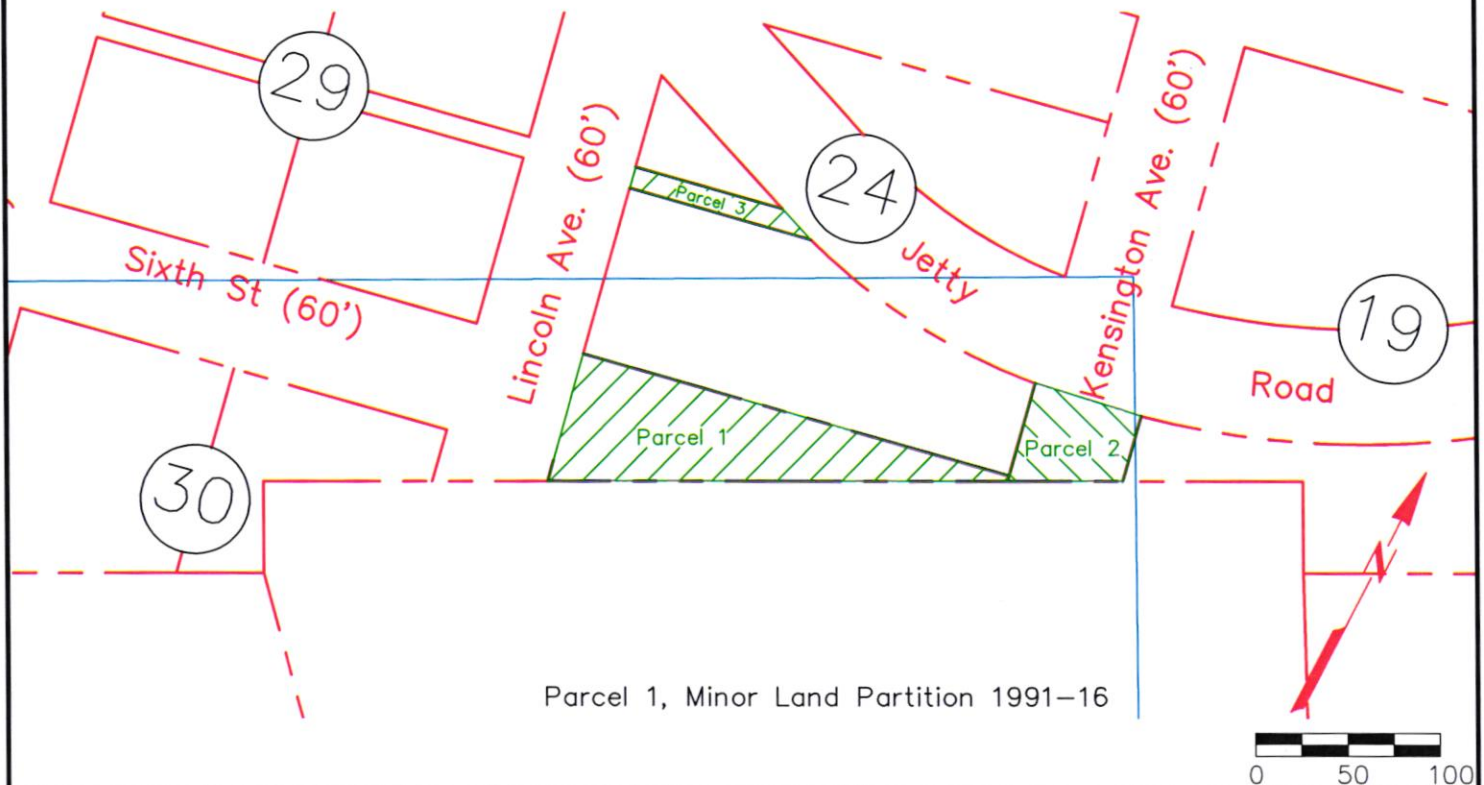
That portion of West 6th Street right of way, lying easterly of the east line of Lincoln Avenue, westerly of the west line of Kensington Avenue, southerly of Block 24, Amended Breakwater Addition and lying northerly of parcel 1, Minor Land Partition 1991-16 Coos County Surveyors office.

Vacation Parcel 2:

That portion of Kensington Avenue right of way, lying southerly of south line of Jetty Road and lying northerly of parcel 1, Minor Land Partition 1991-16 Coos County Surveyors office.

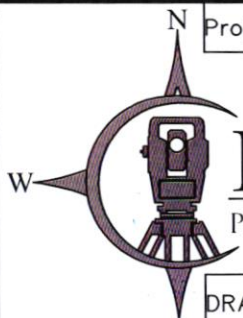
Vacation Parcel 3:

That alley way located in Block 24, lying easterly of the east line of Lincoln Avenue and westerly of the southwesterly line of Jetty Road, excepting therefrom that portion of alley lying within the existing pump station facility, both above and below grade and its appurtenances.



Parcel 1, Minor Land Partition 1991-16

Project: **Vacation Areas**



Pariani Land Surveying

PHONE: (541) 890-1131 EMAIL: JOHN@PARIANILS.COM

DRAWN BY: **JRP**

HORZ SCALE: **1" = 100'**

DATE: **March 6, 2024**

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

OREGON
July 13, 1999
JOHN R. PARIANI
#51382

Renews: December 31, 2024

NOTICE OF PROPOSED

ALLEY AND STREET VACATION

Notice is hereby given that the City will hold a public hearing to consider a vacation of areas along West 6th Street between Lincoln Avenue and Kensington Avenue, Kensington Avenue lying south of Jetty Road, and also the alley in Block 24, between Lincoln Avenue and Jetty Road. These parcels are located in the SE1/4, NW1/4 Section 25, Township 28 South, Range 15 West, W.M., City of Bandon, Coos County, Oregon, as described below:

Vacation Parcel 1:

That portion of West 6th Street right of way, lying easterly of the east line of Lincoln Avenue, westerly of the west line of Kensington Avenue, southerly of Block 24, Amended Breakwater Addition and lying northerly of parcel 1, Minor Land Partition 1991-16 Coos County Surveyors office.

Vacation Parcel 2:

That portion of Kensington Avenue right of way, lying southerly of south line of Jetty Road and lying northerly of parcel 1, Minor Land Partition 1991-16 Coos County Surveyors office.

Vacation Parcel 3:

That alley way located in Block 24, lying easterly of the east line of Lincoln Avenue and westerly of the southwesterly line of Jetty Road.

The City Council reviewed this request at their July 17th meeting and found that a public hearing be scheduled. Materials related to the hearing are available for inspection from the City Recorder at City Hall, 555 Hwy 101, Bandon, Oregon 97411 or on the website www.cityofbandon.org.

The City Council of the City of Bandon has fixed the hour of 1:30 P.M., on March 18th, 2024, 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 or in writing with the City Recorder of the City of Bandon by March 13th, 2024, at 12:00 p.m. will be heard and considered.