



City of Coos Bay
Community Development Division
500 Central Ave., Coos Bay, Oregon 97420
Phone (541) 269-8918 Fax (541) 269-8916

STAFF REPORT

Right-of-Way Vacation

TO: Planning Commission

FROM: Debbie Erler, Planner
Community Development Division

HEARING DATE/TIME: **Tuesday, October 10, 2017 at 6:00 p.m.**

LOCATION: City of Coos Bay Council Chambers
500 Central Avenue, Coos Bay

APPLICANT: Gregory Drobot, P.O. Box 1902, Bandon, OR 97411

APPLICATION: **VACATION #187-ZON2017-062 – Filed on August 15, 2017**
Request to vacate an unimproved portion of Hemlock Avenue, located between U.S. Highway 101 and the bay, found in Section 26BB, Township 25, Range 13 West of the Willamette Meridian, Coos County, Oregon.

I. APPLICANT'S REQUEST

The applicant is requesting approval to vacate the unimproved portion of Hemlock Avenue, located between U.S. Highway 101 and the bay.

II. BACKGROUND/HISTORY

The applicant owns the property on both sides of the proposed vacation. They intend to utilize the vacated area in their overall development plans.

III. APPLICABLE REGULATIONS

Coos Bay Municipal Code Chapter 17.130 Procedures
Coos Bay Municipal Code Chapter CBMC 17.345 Vacation
Coos Bay Transportation Plan
Coos Bay Comprehensive Plan

IV. STAFF RECOMMENDATION

Staff prepared the following report based on the applicant's submittal, information available at City Hall and the City of Coos Bay Land Development Code (CBMC Title 17). Staff finds there is sufficient evidence in the record upon which an approval can be based; therefore, staff is recommending the Planning Commission support and pass on a recommendation to the City Council for approval of application #187-ZON2017-062, as found on page 5 of this staff report.

V. DECISION CRITERIA AND STATEMENTS OF FACT/ FINDINGS AND CONCLUSIONS

It is the responsibility of the director or designee to review each plan for compliance with the applicable provisions of this chapter and any other applicable regulations.

The following is a list of the decision criteria applicable to the request. According to Chapter 17.345.050 of the City of Coos Bay Municipal Code (CBMC) a Vacation request must be supported by each of the criteria followed by findings or justification statements that may be adopted by the Planning Commission to support their conclusions. Although each of the findings or justification statements specifically apply to at least one of the decision criteria, any of the statements may be used to support the Commission's final recommendation.

Based on their conclusions the Commission must recommend approve or deny the application. Conditions may be imposed by the Commission in order to address concerns about the compatibility of the proposed request.

VI. STATEMENTS OF FACT / FINDINGS AND CONCLUSION

DECISION CRITERION A: Owners of the majority of the area affected did not object to the vacation in writing prior to the hearing

STATEMENTS OF FACT AND FINDINGS:

- A1. As allowed by Coos Bay Municipal Code Chapter 17.345.020, on September 5, 2017 the City Council initiated the proposed vacation and set a public hearing before the Planning Commission on October 10, 2017 to begin the public review process.

17.345.020 Initiation. (2) The city council may initiate a vacation by a majority vote without a petition or consent of property owners and prior to giving public notice.

CONCLUSION: The City Council initiated the proposed vacation as allowed by CBMC 17.345.020. The decision criterion has been adequately addressed and approval can be supported.

DECISION CRITERION B: The vacation of a street will not substantially affect the marketability of abutting property in terms of access, utility services, or protective services, unless the owners of the affected property consent or provisions have been made to pay damages.

STATEMENTS OF FACT AND FINDINGS:

- B1. The property on both sides of the proposed vacation area are owned by the applicant. The owner intends to use the vacated area in the development of the property.

CONCLUSION: The proposed vacation will not substantially affect abutting property in terms of access, utility services, or protective services. The decision criterion has been adequately addressed and approval of the proposal can be supported.

DECISION CRITERION C: The city-provided notice has been provided consistent with CBDC 17.130.120, Notices

STATEMENTS OF FACT AND FINDINGS:

- C1. On September 5, 2017 the City Council initiated the proposed vacation and set a public hearing before the Planning Commission on October 10, 2017 to begin the public review process.
- C2. The Community Development Division 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 300 feet of the area to be vacated on September 18, 2017.
 - Published in "The World" newspaper on September 28, 2017 for the Planning Commission and will be published on October 26, 2017 for the City Council.
 - Posted in the area of the vacation on September 20, 2017 (Hemlock Avenue), and posted on the bulletin board at Coos Bay City Hall and Coos Bay Library.

CONCLUSION: The City provided mailed, published and posted notice at required. The decision criterion has been adequately addressed and approval of the proposal can be supported.

DECISION CRITERION D: The proposal does not conflict with the comprehensive plan, including the adopted Coos Bay transportation system plan, or other applicable ordinances.

- D1. 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.

DECISION CRITERION E: The vacation does not prejudice the public interest.

STATEMENTS OF FACT AND FINDINGS:

- E1. The platted right-of-way of Hemlock Avenue is 60-feet. The right-of-way extends to the bay and is currently undeveloped.
- E2. 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.
- E3. The platted right-of-way of Hemlock Avenue extends to the bay therefore, approval of the International Port of Coos Bay is required prior to approving the proposed vacation. The Port Board of Commissioners will meet on October 16, 2017 to discuss the proposal and make a determination.
- E4. Access to the water front would still be available from Ivy Avenue to the north and Greenwood Avenue to the south. The owner of the abutting property intends to provide public access to the waterfront as part of their future development.
- E5. The City received an e-mail from Mr. Matt Whitty, Coos Bay North Bend Water Board, dated October 3, 2017 indicating the Water Board has a 2" PVC water main within a few feet of the proposed vacation area. They inspected the site and researched their records and determined the main is outside the vacation area.
- E6. The City received an e-mail from Michael Smith, Estimator Pacific Power, dated October 2, 2017 indicating Pacific Power has an overhead line very near that area that appears to parallel the Hemlock Avenue portion slated for vacation. The western most pole near the bay, may be inside the Hemlock Avenue right-of-way. These poles/lines would retain the legal right to exist in their current locations, regardless of ownership change of the property.
- E7. The City received an e-mail from City of Coos Bay Operations Administrator, Randy Dixon, dated October 3, 2017, indicating Operations has no issue the proposed vacation request.
- E8. A written response dated October 3, 2017 from Greg Hamblet, Engineering Technician for the City of Coos Bay Engineering Department indicates the Engineering Division has no objections with the proposed vacation. According to City of Coos Bay GIS information, there are no public sanitary or storm sewer lines located within the proposed limits.

CONCLUSION: Public access to the bay is available from Ivy Avenue to the north and Greenwood Avenue to the south. According to responses from affected utility companies/agencies there are no existing or proposed utility line in the section of Hemlock Avenue proposed to be vacated.

Public notice of the proposed vacation was provided to property owners within 500 feet of the proposed vacation and was published and posted as required. No public comments were received. The decision criterion has been adequately addressed and approval of the proposal can be supported, subject to the following Conditions:

1. Prior to vacation of the proposed right-of-way, the Board of Commissioners for the International Port of Coos Bay must approve the vacation.
2. Utility easements will be provided, if needed, for existing water and power lines.

Staff prepared the preceding report based on the applicant's submittal and information that is available in City Hall. These findings and information may be used by the Commission to justify their final decision.

STAFF RECOMMENDATION

Based on the Findings and Conclusions set forth above, the Planning Commission recommends the City Council approve Vacation application #187-ZON17-062, for the vacation of Hemlock Avenue, located between US HWY 101 and the bay, found in Section 26BB, Township 25, Range 13 West of the Willamette Meridian, Coos County, Oregon, subject to the following Conditions:

1. **Prior to vacation of the proposed right-of-way, the Board of Commissioners for the International Port of Coos Bay must approve the vacation.**
2. **A perpetual, non-exclusive easement to construct, install, maintain, repair and replace existing utilities and all necessary appurtenances thereto on, under, over and across the vacated portion of Hemlock Avenue right-of-way.**



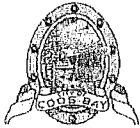
Debbie Erler, Planner
Community Development Division

Date: October 3, 2017

Attachments: A - Applicant's submittal
B - Aerial /Tax lot overlay

c: Applicants, Dave Perry, DLCD

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CITY OF COOS BAY
 Public Works & Community Development Department
 500 Central Avenue, Coos Bay, Oregon 97420
 Phone 541-269-8918 Fax 541-269-8916

Permit No. 187-ZON17-062
 Date Received: 8-14-17

LAND USE DEVELOPMENT REVIEW APPLICATION

For Office Use Only	
STAFF CONTACT <u>Debbie Erler</u>	PROJECT No(s). <u>Hemlock Vacation</u>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Home Occupation | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Appeal and Review | <input type="checkbox"/> Legislative/Text Amendment | <input type="checkbox"/> Temporary Use |
| <input type="checkbox"/> Architectural Design Review | <input type="checkbox"/> Lot Line Adjustment | <input checked="" type="checkbox"/> Vacation |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Partition | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Estuarine Use/Activities | <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Other _____ |

Pre-Application applications require a different application form available on the City website or at City Hall.

Site Location/Address: <u>Hemlock Ave (between N Front/Bay)</u>	Assessor's Map No./Tax Lot(s): <u>26 BB</u>
	Zoning: _____
	Total Land Area: _____

Detailed Description of Proposal:

Applicant/Owner Name: <u>Gregory Drobot</u> <small>(please print)</small>	Phone: <u>(541)</u>
Address: <u>P.O. Box 1902</u>	Email: <u>Gdrobot@face rock creamery.com</u>
City State Zip: <u>Banden, OR</u>	
Applicant's Representative: <u>Daniel Graham</u> <small>(please print)</small>	Phone: <u>(503) 312-8397</u>
Address: <u>P.O. Box 1902</u>	Email: <u>DGraham@face rock creamery.com</u>
City State Zip: <u>Banden, OR</u>	

- Provide evidence that you are the owner or purchaser of the property or have the written permission of owner(s) to make an application.
- Copy of the deed for the subject property.
- Address the Decision Criteria or Goals/Standards outlined in the Coos Bay Municipal Code chapter(s) related to your request.
- Additional information: Date construction is expected to begin; estimated completion date of the total project and of individual segments; and anticipated future development.
- Type II requires three (3) **complete hard-copy sets** (single sided) of application & submitted documents must be included with this application. **One (1) complete set** of digital application materials must also be submitted electronically or on CD in Word format. Additional copies may be required as directed by the Coos Bay Director of Community Development.
- Type III requires **Ten (10) complete hard-copy sets** (single sided) of application & submitted documents must be included with this application. **One (1) complete set** of digital application materials must also be submitted electronically or on CD in Word format. Additional copies may be required as directed by the Coos Bay Director of Community Development.

Per City of Coos Bay Resolution 17-03, a 5% Technology Fee will be assessed on all permit and plan review fees.

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Coos Bay Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

	<u>7-31-17</u>		<u>7-31-17</u>
Applicant's signature	Date	Owner's signature (required)	Date



Proposed Vacation Area
of Hemlock Avenue

HEMLOCK AVE

BAYSHORE DR

N FRONT ST

N 4TH ST

TL
300

TL
400

TL
500

TL
100

TL
118

1221

TL
201

TL
3200

TL
3300

TL
1200

TL
101



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Image Date: 5/1/2015



Date: 8/16/2017

1 inch = 127 feet