

**CITY OF COOS BAY CITY COUNCIL**  
**Agenda Staff Report**

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| <b>MEETING DATE</b><br>March 7, 2017 | <b>AGENDA ITEM NUMBER</b> |
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TO: Mayor Benetti and City Councilors  
FROM: Eric Day, Community Development Director  
THROUGH: Rodger Craddock, City Manager  
ISSUE: Removing of an Easement Restriction

**SUMMARY:**

In 1967, through Ordinance 2249, the City vacated a right-of-way (ROW) between Broadway St. and Bayshore Dr. and bordered by Alder Ave. (see attached map). As a part of this vacation the City left a perpetual utility reservation in its place. Natural Grocers, who has received Planning Commission approval for a new grocery store on the site is requesting the City Council remove this utility reservation so that the new store can be built over the reservation. The current site of Kozy Kitchen was built over the reservation area.

**ACTION REQUESTED:**

If it pleases the Council, enact Ordinance XXX (attached) which removes the perpetual reservation established by Ordinance 2249.

**CITY OF COOS BAY  
JOINT CITY COUNCIL / URA WORK SESSION  
Agenda Staff Report**

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| <b>MEETING DATE</b><br>February 28, 2017 | <b>AGENDA ITEM NUMBER</b> |
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TO: Mayor Benetti and City Councilors

FROM: Eric Day, Community Development Director

THROUGH: Rodger Craddock, City Manager

ISSUE: Removing of an Easement Restriction

**SUMMARY:**

In 1967, through Ordinance 2249, the City vacated a right-of-way (ROW) between Broadway St. and Bayshore Dr. and bordered by Alder Ave. (see attached map). As a part of this vacation the City left a perpetual utility reservation in its place. Natural Grocers, who has received Planning Commission approval for a new grocery store on the site is requesting the City Council remove this utility reservation so that the new store can be built over the reservation. The current site of Kozy Kitchen was built over the reservation area.

**ACTION REQUESTED:**

If it pleases the Council, adopt Ordinance XXX (attached) which removes the perpetual reservation established by Ordinance 2249.

**BACKGROUND:**

In 1967, through Ordinance 2249 (attached), the City vacated a right-of-way (ROW) described as:

North one-half of Park Avenue West between the East Line of Broadway and the West Line of First Street North lying between the center line of Park Avenue West and the South Line of Alder Avenue West, all of the above described streets being in Coos Bay, Coos County, Oregon. Further described as lot #5600 bordered by Bayshore Drive, Broadway Street and Alder Avenue. (see attached map).

As a part of this vacation the City left a perpetual utility reservation in its place. Natural Grocers, who has received Planning Commission approval for a new grocery store on the site is requesting the City Council remove this utility reservation so that the new store can be built over the reservation. There are no current utilities in the reservation area nor are there any plans to locate future utilities within the reservation as there is a current building sited in the reservation area (Kozy Kitchen).

**BUDGET IMPLICATIONS:**

None identified.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

# NE1/4 SW1/4 SEC. 26 T25S R13W W.M. COOS COUNTY

1" = 100'

## 25S 13W 26CA COOS BAY

CANCELLED NO.



- 5600A1
- 7200
- 7300
- 3300
- 1900
- 2000
- 2200
- 2300A1
- 3901
- 6401
- 1201
- 5800
- 6000
- 6100
- 6200
- 300
- 400
- 1100
- 1300
- 1800
- 2600
- 3000
- 5601L1
- 8003L
- 1402
- 1403
- 3600L1

09-07-2016

## 25S 13W 26CA COOS BAY

ORDINANCE NO. 2249

AN ORDINANCE providing for the vacation, with certain reservations to the City of Coos Bay, of the following portions of streets, avenues and alleys within the City of Coos Bay, Coos County, Oregon and declaring an emergency.

THE CITY OF COOS BAY DOES ORDAIN AS FOLLOWS:

Section 1. That the City of Coos Bay has heretofore adopted a Resolution declaring its intention to take appropriate proceeding to vacate the following portion of streets, avenues and alleys within the City of Coos Bay, Coos County, Oregon, described as follows, to wit:

Then North one-half of Park Avenue West between the East Line of Broadway and the West Line of First Street North lying between the center line of Park Avenue West and the South Line of Alder Avenue West, all of the above described streets being in Clement's Plat to Marshfield (now Coos Bay), Coos County, Oregon, according to the map and plat thereof on file and of record in the office of the County Clerk of Coos County, Oregon,

With certain reservation to the City of Coos Bay, and setting the hour of 7:30 pm on the 13<sup>th</sup> day of December, 1965, in the Council Chambers of the City Hall in Coos Bay, Oregon as the time and place for a public hearing on the matter of said vacation, at which time and place all persons whomsoever having any objections thereto are invited to be heard thereon by the Common Council, and directing the Recorder of the City of Coos Bay to give notice of such hearing as prescribed in Oregon Revised Statutes, Sections 271.080 – 271.230, which Resolution declaring the Common Council's intentions to take appropriate proceedings to vacate the above mentioned portion of the streets, avenues, and alleys, all within the City of Coos Bay, Coos County, Oregon, was filed with the Recorder of said City of Coos Bay on the 11<sup>th</sup> day of October, 1965, and by reference made a part hereof.

Section 2. Pursuant to the said Resolution the Recorder of said City of Coos Bay, Oregon, gave notice of time and place of said hearing, said notices as follows:

That all of said posting were in conspicuous places where the same could be easily ready by any individual approaching from either end of said proposed vacation and on entering the City Hall. That said notices remained posted from the date of said posting up to and including the 13<sup>th</sup> day of December, 1965, which said proof of posting of notices is by reference made a part hereof.

That notice of the time and place of said hearing was also published in the World, a newspaper of general circulation printed and published in Coos Bay, Oregon, and said

notice was published in the entire issue of said newspaper for four consecutive and successive weeks in the following issues, to-wit: November 5, November 22, November 29, and December 6, 1965, as all shown on the Affidavit of Publication which is by reference made a part hereof.

Section 3. Pursuant to said notice, a hearing was held before the Common Council of said City of Coos Bay on the 13<sup>th</sup> day of December, 1965, in the Council Chambers of the City Hall, Coos Bay, Oregon at the hour of 7:30 pm on said day at which time and place all persons whomsoever had an opportunity to object to the vacation of the portion of streets, avenues and alley as described in Section 1 hereof, all within the City of Coos Bay, Coos County, Oregon, and no objections whatsoever were made and filed in reference thereto.

Section 4. It is hereby declared to be the best interests of the City of Coos Bay and the City of Coos Bay does hereby vacate that portion of alleys, streets and avenues as described in Section 1, hereof, all within the City of Coos Bay, Coos County, Oregon.

~~Such vacation is now and ever subject to a reservation on the part of the City of Coos Bay of a perpetual right and easement to lay, construct, maintain, operate, repair and improve any sewer pipe line, water main, electrical or telephone lines, over, across, and beneath the surface of the property so vacated.~~

~~In the event future development of the vacated property by the abutting owners should require the removal of any sewer, pipe line, water main, electrical or telephone line from the property hereby vacated, the reasonable cost of such removal shall be paid upon demand by the abutting property owner part of the property owner so benefiting, and his heirs, administrators, executors, successors and assigns.~~

Section 5. That the City Manager prepare within a reasonable time an intelligent map of the property hereby vacated and that the City Recorder cause the same to be filed in the office of the County Clerk of Coos County, Oregon.

Section 6. WHEREAS, It is the judgment of the Common Council that an emergency exists and it is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Coos Bay, that this Ordinance take effect from and after its passage and approval by the Mayor.

THEREFORE, An emergency is declared to exist, and this Ordinance shall be in full force and effect from and after its passage.

The foregoing Ordinance was duly passed by the Common Council

This 8<sup>th</sup> day of May, 1967..

YEAS: John Bergen, Robert Hale, Douglass S. Johnson,  
Jack Schneiderman, Harvey Duerksen and William Huggins  
and Mayor William L. Morin

NAYS: None

ABSENT: None

Approved by the Mayor this 8<sup>th</sup> day of May, 1967

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Mayor of the City of Coos Bay  
Coos County, Oregon

Attest: \_\_\_\_\_  
Recorder of the City of Coos Bay  
Coos County, Oregon.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE PROVIDING FOR THE AMENDMENT OF ORDINANCE No. 2249, OF THE CITY OF COOS BAY RELATING TO THE RESERVATION OF EASEMENT RIGHTS AND PUBLIC UTILITIES DESCRIBED AS FOLLOWS, TO WIT:**

North one-half of Park Avenue West between the East Line of Broadway and the West Line of First Street North lying between the center line of Park Avenue West and the South Line of Alder Avenue West, all of the above described streets being in Coos Bay, Coos County, Oregon. Further described as lot #5600 bordered by Bayshore Drive, Broadway Street and Alder Avenue.

**THE CITY OF COOS BAY DOES ORDAIN AS FOLLOWS:**

**WHEREAS**, Under and pursuant to ordinance No. 2249, the City of Coos Bay reserved the right on the part of the City to a perpetual right and easement to lay, construct, maintain, operate, repair, and improve any utility line within the specified reservation set forth in Ordinance No. 2249.

**WHEREAS**, As the City of Coos Bay does not require the perpetual right and easement obtained through Ordinance No. 2249, and therefore is hereby amended by the relinquishment therefrom of any and all reservations and easement rights by the City of Coos Bay.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the \_\_\_\_\_ day of March 2017.

Yes:

No:

Absent:

\_\_\_\_\_  
Joe Benetti  
Mayor of the City of Coos Bay  
Coos County, Oregon

ATTEST:

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