

ENGINEERS ANALYSIS

For

THE CITY OF YACHATS

OCEAN VIEW DRIVE TRANSFER OF OWNERSHIP

December 27, 2017

The Lincoln County Road Department desires to legalize a portion of Ocean View Drive (County Road #813). Below is a list of pavement and roadway conditions and recommendations as observed on December 08, 2017. A site visit was performed to inspect the condition of Ocean View Drive. The road was walked, beginning south at West 2nd street and walking north to Marine Drive and back to Highway 101. The first two items below are not within the scope of the proposed Lincoln County pavement overlay. Refer to exhibit A for exact location of each item listed below.

- 1) The road narrows down to 11-feet wide and has potholes off the shoulder. The shoulder is gravel and approximately 6-feet wide. (photos 1a & 1b)
- 2) There is a channel of surface wearing that runs down the center of the road. The surface has roughened by the stormwater runoff concentrated flows in this area. This section is located in the Yachats State Park and therefore will not be the subject of pavement overlay. (photo 2)
- 3) Minor settlement issues with sub-base repair needed on the southbound edge of pavement. This section is adjacent to the concrete barriers that have been placed to prevent traffic from driving off a cliff caused by erosion to the bank. (photo 3)
- 4) At the intersection with West 3rd Street there is an area of sub-base repair needed as well as potholes to be fixed. See recommendation strategies below. (photo 4)
- 5) Between 4th and 6th Streets, there are areas of rough surface and a small section of alligator cracking. (photos 5a & 5b)

Recommended Repairs:

Settlement:

For those areas that have settled adjacent to slopes, it is our opinion that settlement may continue if only the upper few feet of soft subgrade is strengthened. However, complete replacement of poorly compacted fill slopes is likely not economical. As such, we recommend consideration be given to partial removal and replacement of the settlement areas. The pavement of the settlement area and extending out at least 4 feet on all sides, should be removed. At a minimum, we recommend an over-excavation depth of 2 feet below the bottom of the pavement. When the existing material is removed, a representative of the Engineer should evaluate whether the excavation should be extended deeper due to poor soil conditions. For small repair areas, probing with a metal probe rod will be acceptable. For larger areas that allow for access by a loaded, rubber tire dump truck, the exposed subgrade should be proofrolled.

After the over-excavation depth is approved by a representative of the Engineer, we recommend the surface of the exposed soils be recompacted. A stabilization geogrid (i.e. Tensar BX1200 or equivalent) should be placed on the recompacted subgrade and then the area can be backfilled with properly compacted, well graded crushed base rock with a maximum particle size of 2 inches and no more than 5 percent passing a no. 200 sieve. Any of the existing base rock that meets our specification can be reused. We recommend an additional layer of geogrid be placed in the middle of the well graded crushed base rock. If the over-excavation thickness is greater than 4 feet, then 2 layers of geogrid should be placed at one-third and two-thirds of the fill thickness.

Alligator Cracking:

For areas of alligator cracking that are not associated with slope settlement, we recommend the failing pavement area plus 2 feet on all sides be removed. At least the top 12 inches of base rock should be removed and replaced with properly compacted, well graded crushed base rock with a maximum particle size of 2 inches and no more than 5 percent passing a no. 200 sieve.

For small repair areas we recommend a jumping jack or hoepack be used for compaction. For larger areas we recommend a large smooth drum vibrating roller be used for compaction.

Potholes:

For pothole repair, we recommend the asphalt pavement be removed and at least the top 12 inches of base rock be removed and replaced with granular structural fill as described in the structural fill section below. When the existing base rock is removed, a representative of the Engineer should evaluate whether the excavation should be extended deeper due to poor soil conditions. For small repair areas, probing with a metal probe rod will be acceptable. For larger areas that allow for access by a loaded, rubber tire dump truck, the exposed subgrade should be proofrolled.

The pothole repair should extend out at least 1 foot further than the size of the pothole on all sides. In no case, should the pavement removal area be less than 3 feet square in order to facilitate properly compacting the backfill. For small pothole repair areas we recommend a jumping jack or hoepack be used for compaction. In areas where several potholes are clustered together, we anticipate it will be more practical to remove all of the pavement and if the area is large enough then a large, smooth drum roller will be appropriate for compacting backfill.

Traffic and pavement modifications for consideration:

Refer to Exhibit B for further information in regard to the following recommendations for consideration.

1) Closure of road section:

Remove a portion of Ocean View Drive pavement beginning just west of the intersection with Pontiac Street and ending at the State Park. This can be performed by grinding in place and regrading or by physically removing and disposing the existing pavement. A third option would

be to leave the pavement in place. Install a "Road Closed to Thru Traffic" signs at both ends of the road section with permanent Type III barricades to prevent vehicles from driving through this section. Install a "No Outlet - Dead End" sign at West 2nd Street the entrance to the Yachats State Park. It is recommended that discussions with the State Park and the Fire Marshal be held before taking any action on this closure.

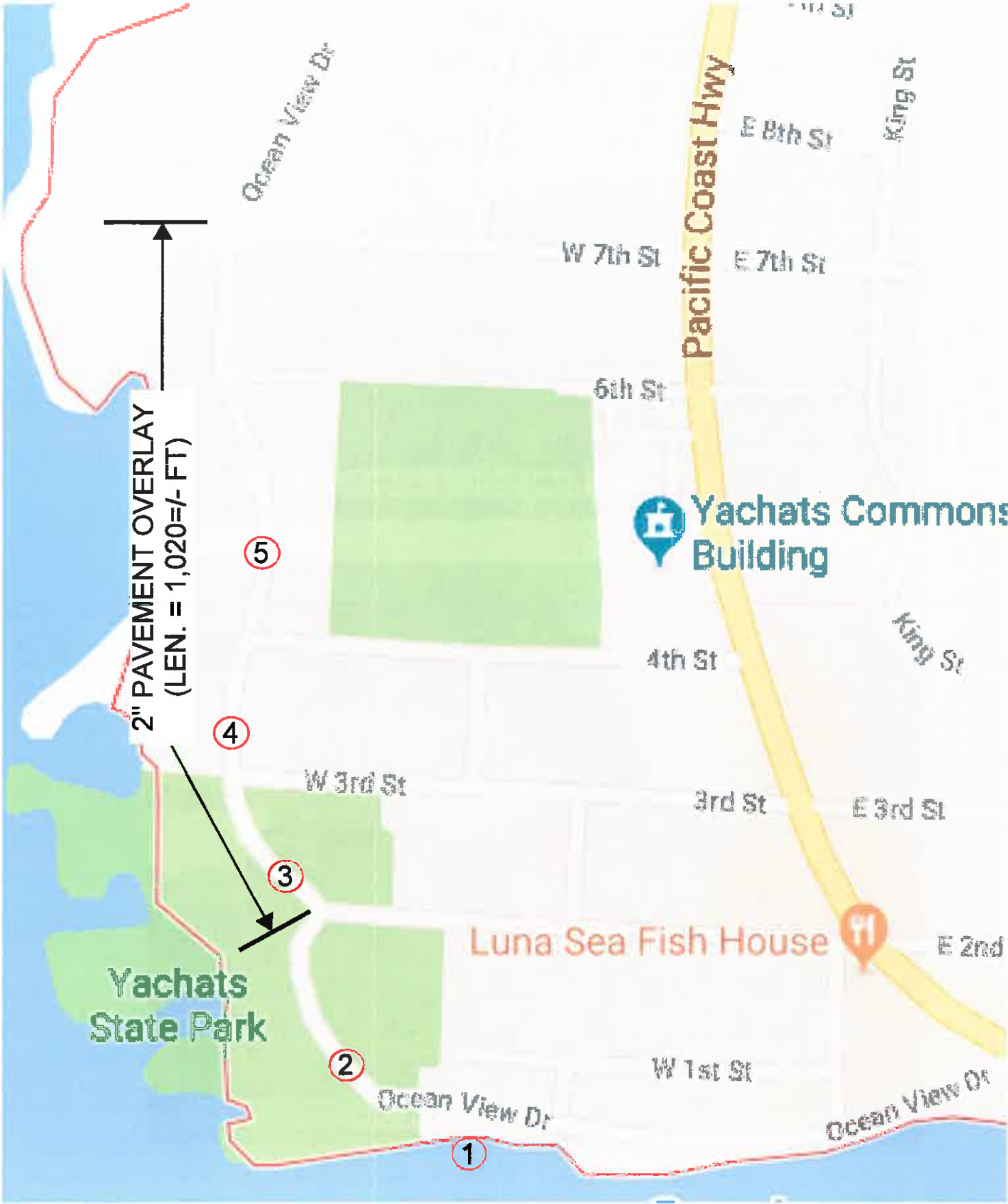
2) **Conversion to One-Way travel direction**

Convert a portion of Ocean View Drive to have a northbound one-way direction of travel. The portion from West 2nd Street to West 7th street could be converted to one-way travel. This would be performed by utilizing striping delineation and installing signs. This will allow the western side of the road to be used for a pedestrian connection of the Ocean View Trail from 7th Street to the State Park.

Exhibit B - Traffic Patterns



Exhibit A -Site Observation









4: Sub-base & pothole repair needed



October 12, 2017

Lincoln County
Board of Commissioners
225 West Olive
Newport, OR 97365

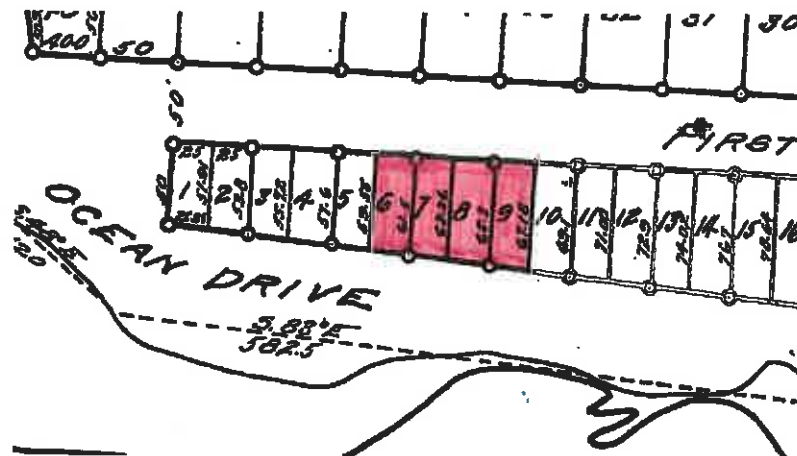
RE: Lincoln County Notice of Legalization, County Road 813/
Lots 6 – 9 of Block 3, First Addition to Yachats ("Property")

Dear Honorable Chair and Commissioners;

Lincoln County ("County"), is holding a public hearing on October 18, 2017, with respect to the proposed legalization of County Road 813 in the City of Yachats. I understand this is a first step in transferring jurisdiction to the City of Yachats, and that this legalization is needed due to defects in the original survey information for this portion of the road, between 4th Street and Pontiac Avenue, and to reflect the road as traveled. It is also my understanding that the legalization is not necessary for the transfer to occur. The primary purpose of this correspondence is to object to the proposed legalization as currently surveyed, as it substantially and negatively impacts my property, which includes Lots 6 – 9 of Block 3, First Addition to Yachats, located at 420 W. 1st Street ("Property").

History

A road from Waldport through Yachats was established and surveyed in 1890, and apparently resurveyed in 1893, at some point being named as County Road ("CR") 804. There is no evidence on record that the road was open, constructed or maintained as a county road.¹ The plat map of First Addition to Yachats, was approved by the County August 6, 1926 ("First Addition"). An extract is below:



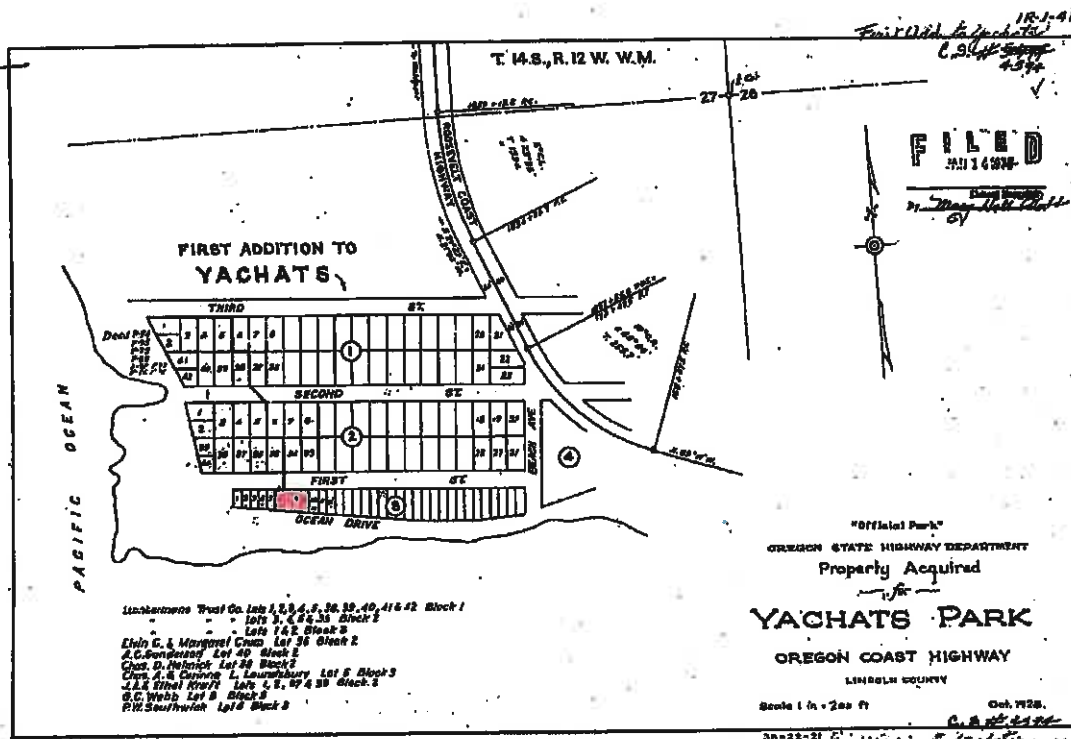
From First Addition to Yachats, Lincoln County, Oregon
Approved August 6, 1926

¹ Exhibit "A", Findings, County Road 804 (South) V-109.

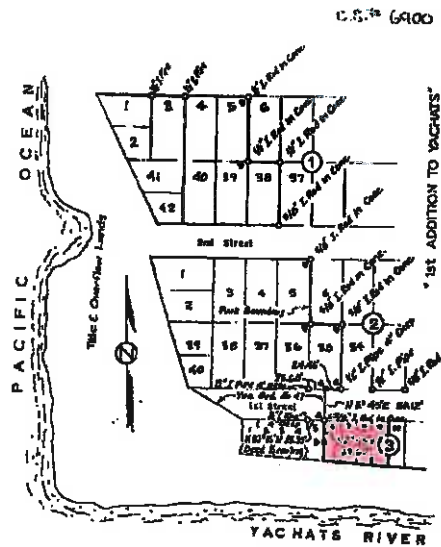
Lincoln County Notice of Legalization/County Road 813
 RE: Lots 6 – 9 of Block 3, First Addition to Yachats (Property)
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The Property at that time was 59.55 feet in depth along its westerly edge and it increased gradually to 67.18 feet along its easterly edge, with an approximate land area of 6,336.5 square feet. First Street is shown as 50 feet wide. "Ocean Drive" is also indicated, with no width identified, only directions and segment lengths, which may have been based on the original survey. Roosevelt Coast Highway (Highway 101) was established in 1932-33, and the Alsea Bay Bridge was constructed in 1936.²

The State of Oregon purchased or otherwise acquired land for the Yachats State Park between 1928-1986.³ As shown on the two maps that follow, the properties to be acquired and assembled did not include any of Lots 6 – 9 of Block 3, as it existed in the original First Addition plat. Later a transfer of part of the Property was apparently made to the State of Oregon related to the State Park.



² Oregon Parks and Recreation website.
³ Oregon Parks and Recreation website.



○ Indicates Monument Found.
 ● Indicates Set W/Plat Copied from Plat, Also Copy Platted "OREGON STATE PARKS".
 ▶ Indicates Set West Post 600ft. Where Boundary Public Platted "OREGON STATE PARK BOUNDARY DO NOT DISTURB".
 Use Bearing Obtained From Deed Record.

FILED
 SEP 20 1976
 LINCOLN COUNTY, OREGON

John F. K...
 SE1/4 Sec. 27, T14 S, R12W, W4M
 OREGON STATE PARKS
 SURVEY
 YACHTS STATE PARK
 LINCOLN COUNTY
 SCALED 1" = 100' 1892 OF 1892

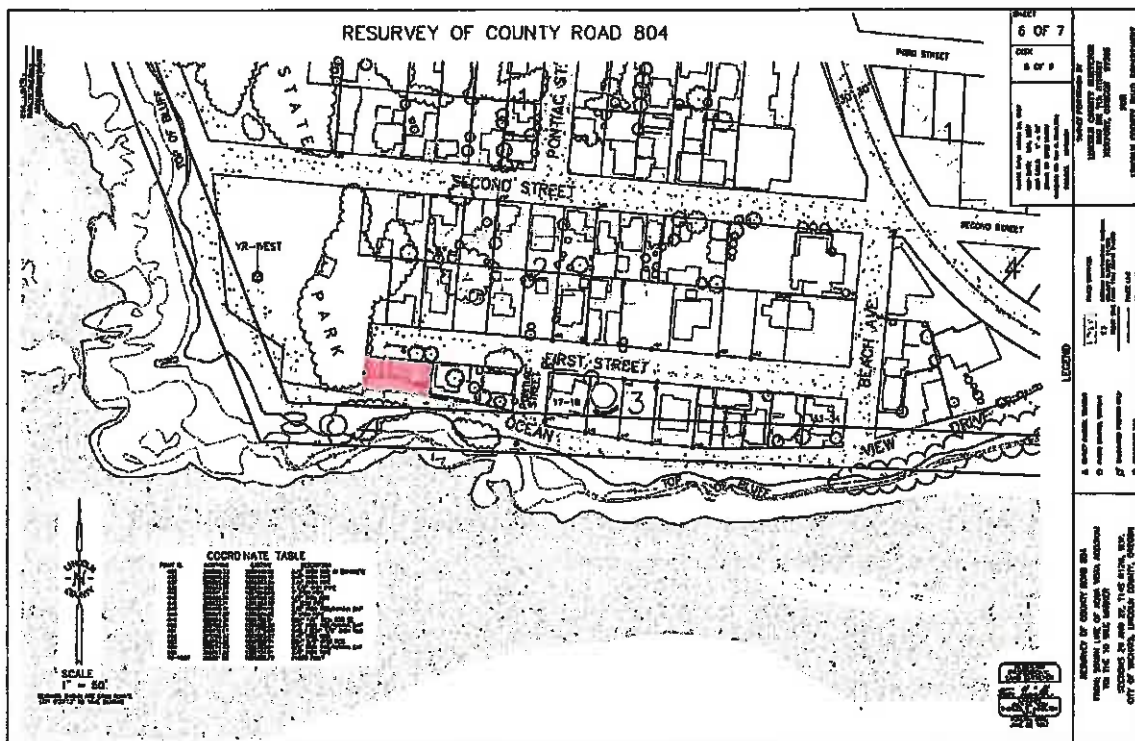
Various maps, as well as historical photographs, show in some cases CR 804, or some semblance thereof. What follows may be determined or deduced when the history is reviewed chronologically:

- Walking and perhaps carts or wagons (mostly locals) were the historic uses along "Ocean Drive".
- Vehicles (wagons and carts) traveling north/south used what was to become Highway 101.
- During the early decades of the 20th century, the turn along the bluff heading from south to east/west to north looks to be at 2nd Street, not the northern bluff adjacent to the Yachats River.
- There were hardly any cars along "Ocean Drive" until decades later, after the State Park was well established, and more residents and visitors drove cars, passing next to each other when meeting along the then narrow stretch of roadway adjacent to the bluff, widening it.
- Hence the need, presumably sometime after 1976 when the second parks map was filed, for the State to acquire some of the Property. It is unclear how this transaction took place.
- The City at some point vacated the western end of W. 1st Street, making it a dead end.
- In 1950, Christensen's Addition to Yachats was platted and recorded. According to the County, this was the "first subdivision to overplat 804 right-of-way," meaning that the First Addition, which included the Property in its original configuration, conformed to County standards.⁴

⁴ County Road 804 slideshow presentation, slide #36.

- The historical record shows that i) CR 804 was not formally opened or improved, ii) the original plat of the First Addition was approved by the County, which did not overlap onto CR 804, iii) the past use along “Ocean Drive” was limited and confined to mostly walkers, and was not envisioned to include motor vehicles, and iv) vehicular use grew over time, resulting in the “road as traveled” progressively and fairly inconspicuously encroaching on the Property, which has not changed in configuration excepting the acquisition by the State. These last two factors are at least as important as the matter of having the original road survey be flawed or inadequate.

Then came the 804 Trail wrangling and the vacation of the CR 804 right-of-way. CR 804 was resurveyed in 1997 and filed May 2003 (page 6 of 7 below), which tries to define the historical CR 804 survey in relation to the then current properties and development.



In my limited research and review of the available legal documents, there are no references to the First Addition, nor any to that portion of CR 804 that exists along the river bluff adjacent to the Property. Most characterizations of “South 804” appear to end at the foot of the Yachats River, where it meets the sea. Apparently, though, as part of the settlement of the lawsuit, and part of the motivation for the current proceedings, is to accommodate the 804 Trail on the road, in addition to vehicles.

Lincoln County Notice of Legalization/County Road 813
 RE: Lots 6 – 9 of Block 3, First Addition to Yachats (Property)
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I purchased the following Property on February 14, 2013 – “Lots 6, 7, 8 and 9, Block 3, First Addition to Yachats, in Lincoln County, Oregon, EXCEPT that portion of said lots lying South of the North 50 feet thereof.” The southerly portion adjacent to my Property is a separate tax lot owned by the State. It is not a public right-of-way. Similarly, the lots just to the east, adjacent to Lots 10 – 12, are owned by the County, and are not part of the public right-of-way. Below is the Assessor’s map and an aerial photo.



Existing Conditions

The Property is currently improved with a one-story single-family residence and garage, in an R-1 zone that runs along the bluff. The residence was built around 1950 and the garage around 1990. The 100' x 50' lot, at 5,000 square feet, is undersized, as minimum lot sizes in R-1 are 7,500 square feet.⁵

An older retaining wall runs along the southeasterly part of the Property adjacent to the roadway, presumably constructed before that part of the Property was conveyed to the State, and a new retaining wall was permitted and constructed in 2016. There is an elevation difference of approximately four feet between the Ocean Drive roadway level and the finished floor level of the residence.

The pavement width of the Ocean Drive roadway, at the westerly edge, is approximately 17 feet, and there exists about 5 feet of gravel path, for a total width of 22 feet. The current asphalt pavement already encroaches into the Property approximately 3 feet at the westerly edge of the Property. From the northerly property line (near 1st Street) to the edge of the bluff measures approximately 69 feet, 19 feet greater than the depth of the Property.

The road is signed "YIELD" at both ends, although at such a long distance (over 200 feet) many drivers ignore the suggestion, or it's too late to do anything. The width is just wide enough for two regular sized vehicles, if there are not any pedestrians. When there are pedestrians or others, whom use both the gravel shoulder and the paved area, there's room for only one car. There are many conflicts of uses.

Legalization Proceedings and Impact on the Property

The Oregon Revised Statutes ("ORS") govern the legalization of roads. The statutory basis for legalization proceedings include doubt regarding the establishment of a public road, difficulties on determining its accuracy, or a road travelled for at least 10 years that does not conform to the records for the road.

The proposed legalization of CR 813 directly and negatively impacts the Property, as described below. Please refer to the attached photographs and maps that show the proposed legalization and impacts.

1. Takes approximately 254 square feet of the Property, roughly in triangular shape, extending into the Property 6.2 feet along its westerly edge and approximately 82 feet on its southerly edge:
 - a. This represents about 5% of land area and about 14% of buildable land per existing zoning standards in the R-1 zone.
 - b. This would increase the degree of non-conformance by decreasing the required lot size from 5,000 square feet to 4,746 square feet. This is not allowed in the Municipal Code.

⁵ An interesting note: The address used to be 421 Oceanview Drive up until October 3, 2001. This meant that the front/rear yards and setbacks reversed. Many other properties along Ocean View also had addresses changed at the same time. Another observation is that the house itself sits askew on the Property, not perpendicular or parallel to the lot lines. This is probably due to Ocean View one being the front of the Property, which was angled.

- c. Due to the narrow lot depth, the taking essentially makes the entire lot unbuildable if the existing residence and garage is demolished for a new home or there is a total loss and the structures are not rebuilt within one year.
 - i. The buildable depth would be 20 feet for only 18 feet at the eastern end of the lot, and then it diminishes to a depth of only 13.8 feet at its western end.
 - ii. A garage or carport needs to be 18' x 18' (essentially 20' x 20' with walls).
 - iii. At the "deep" end is a power pole, with a support brace extending to the west. There is no room to put a garage/carport without undergrounding utilities.
 - iv. Having a garage at the larger, eastern end means the living areas to the west are highly constrained.
2. Takes State-owned land adjacent to the Property, which was originally part of Lots 6 – 9.
 - a. The taking includes a good part of an improved retaining wall that was probably constructed when this area was a part of the Property.
 - b. This wall would probably not be able to be rebuilt if it needs replacing, and a future governmental agency could presumably demand its removal. Please note that there is the same issue with the wall on the adjacent property at 380 W. 1st St.
3. The taking is to establish a centerline and to create additional public right-of-way for roadway purposes, including the paved road itself, as well as a three-foot wide strip apparently for workers to stand off to the side when working on the pavement, or for utilities and drainage.
 - a. There are no utilities, and drainage areas are already located on the Property. Water mostly percolates into the ground, or it marginally flows somewhat generally downhill.
 - b. The adjacent Property owner would be required to maintain this strip. Rather than maintaining it for their own use and enjoyment (as is the case now), owners would be maintaining it for workers to stand on once every couple of decades or so.
 - c. The legalization assumes a "road as traveled" width that includes paving and gravel, with no assessment of current or future uses. At the western end, there exists 5 feet of shoulder and 17 feet of pavement, of which 3 feet encroaches on the Property. At other points, there is at least 18 feet of pavement and shoulder outside of the Property line.

Summary and Conclusions

The proposed legalization proceedings of CR 813 are to compensate and correct for a lack of clarity and foresight, which include a combination of conflicting or inaccurate mapping and an inability to predict the impact of growth in tourism and motor vehicles on circulation and public demand and use of "Ocean Drive." These factors have combined to diminish the enjoyment and use of the neighboring private property, whittling away incrementally and unobtrusively, although not maliciously nor purposely.

As owner of the Property being directly and negatively impacted by the proposed legalization, I object to these proceedings as constituting a potential taking of property without just compensation (which is apparently allowed only for buildings/structures under the legalization statutes). Reducing the lot size is not allowed in the City's Municipal Code, and it essentially diminishes to zero the ability to build a new house without extensive variances or exceptions to the Code.

Lincoln County Notice of Legalization/County Road 813

RE: Lots 6 – 9 of Block 3, First Addition to Yachats (Property)

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The County may reason that these proceedings are allowed per the ORS. While that may be the case, I doubt the statutes anticipated or intended an outcome that would for all intents and purposes make a small residential lot unbuildable. These proceedings are more appropriate in a rural area that is largely open, with much larger lots and less regulatory constraints regarding on-site development.

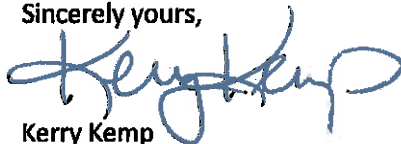
I understand that the County wants to be rid of the road one way or the other, and that the legalization does not necessarily need to be completed for the City to accept the road. A key to the entire matter is deciding what to do with the roadway. Up to now, it seems the desire has been to accommodate everyone, which creates unsafe conflicts and stresses the road due to increased use and wear and tear, and potential eroding of the bluff. I shudder every time I see a behemoth RV or delivery truck pass by, and the large potholes being generated by the number of vehicles cruising the shoulder can't be good.

There's already approximately 19 feet of land being used by the public, not including 3 feet of paving that already encroaches on the Property. The width of land already being used by the public is a minimum of roughly 18 feet outside of the Property line as it extends the width of the Property to the east. It's my understanding that a maximum of 14 feet would be needed for a one-way street. Unless the goal is to one day cram two travel lanes and a walkway, there should be no need to take any of the Property, and no need to take the adjacent State property that includes the existing old retaining wall.

Rather than legalizing, I may be amenable to an easement for that portion of Property that is already paved. However, an easement may not be needed, pending the outcome of deliberations on use and configuration of the road. In addition, since one objective is to properly demarcate lot lines, I would like to have conveyed back to me that portion of State property that includes the wall and the area adjacent to it out to the pavement. This land used to be a part of Lots 6 – 9, and has never been and will not need to be, to my knowledge, used by the public. My neighbors at 380 W. 1st Street, while I do not speak for them, may appreciate the same opportunity as their wall is also being impugned.

I look forward to working with Lincoln County and the City of Yachats on a solution that works for all involved. Thank you for your time and consideration.

Sincerely yours,



Kerry Kemp

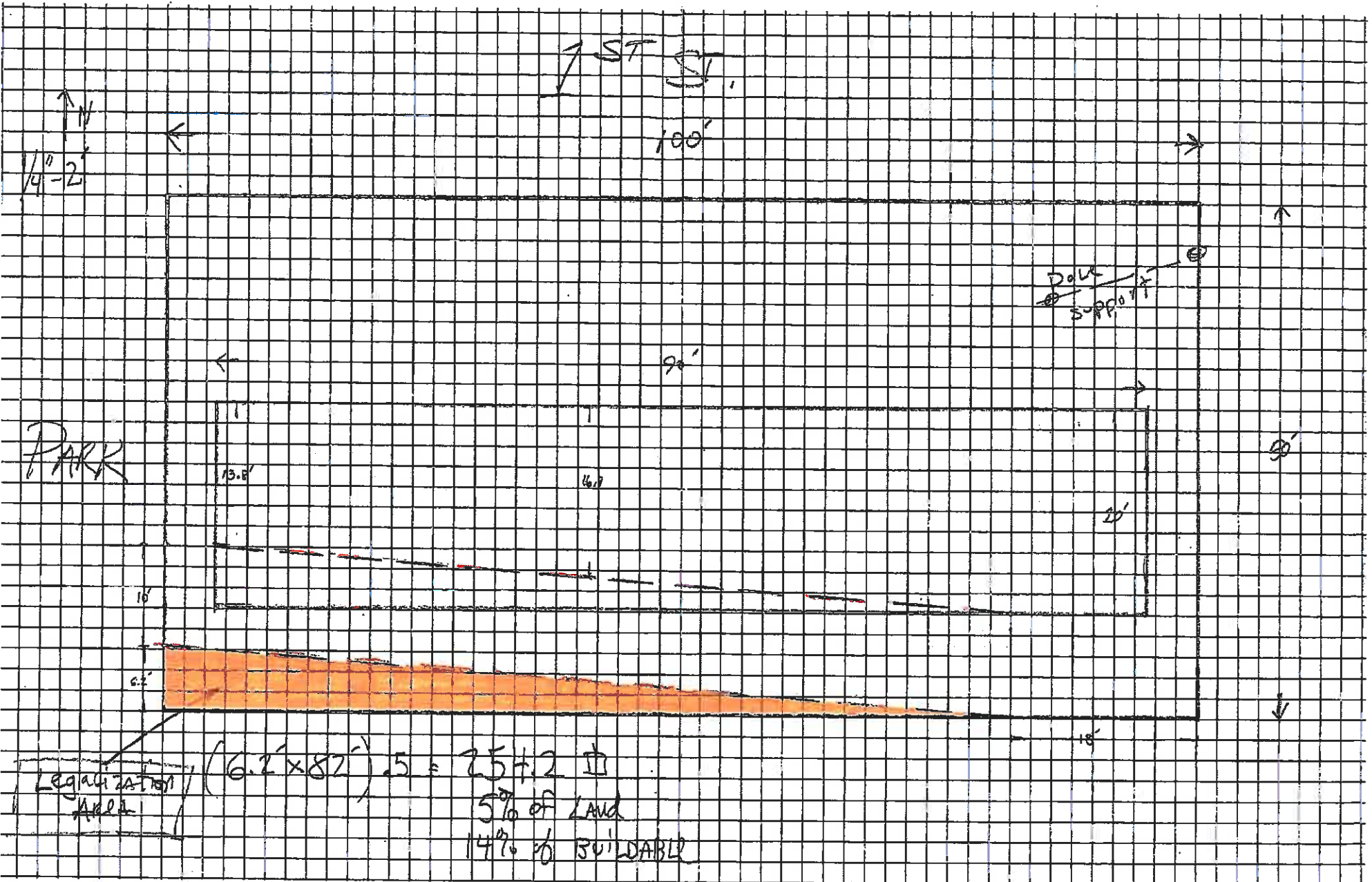
PO Box 631

420 W. 1st Street

Yachats, OR 97498

c: City of Yachats

Attachments: Proposed Legalization Survey
Drawing: Impact of Legalization on Setbacks/Buildable Land Area
Photos Depicting Proposed Legalization (6)



PARK

ST ST
100'

DOLL
SUPPORT

13.5'

90'

6.2'

20'

16'

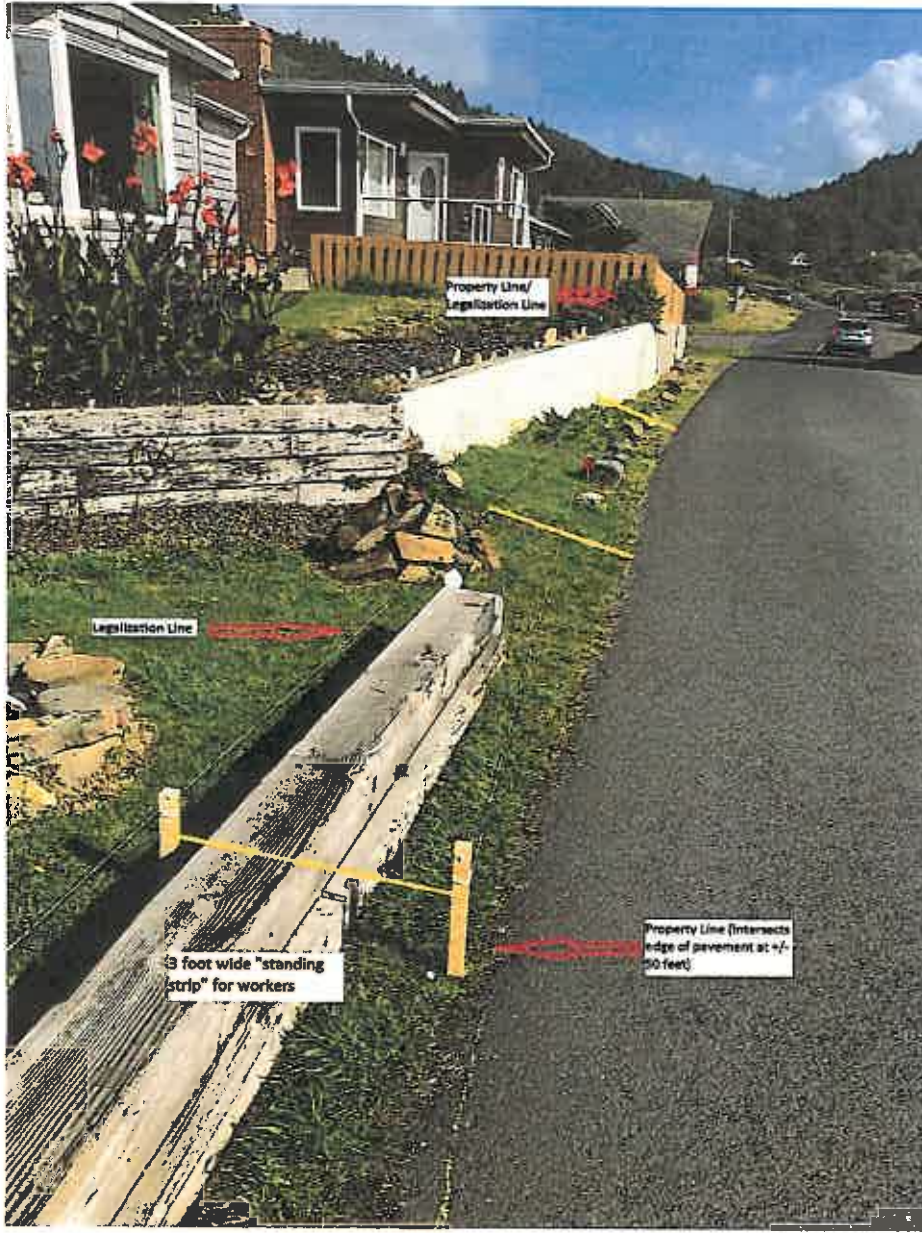
6.2'

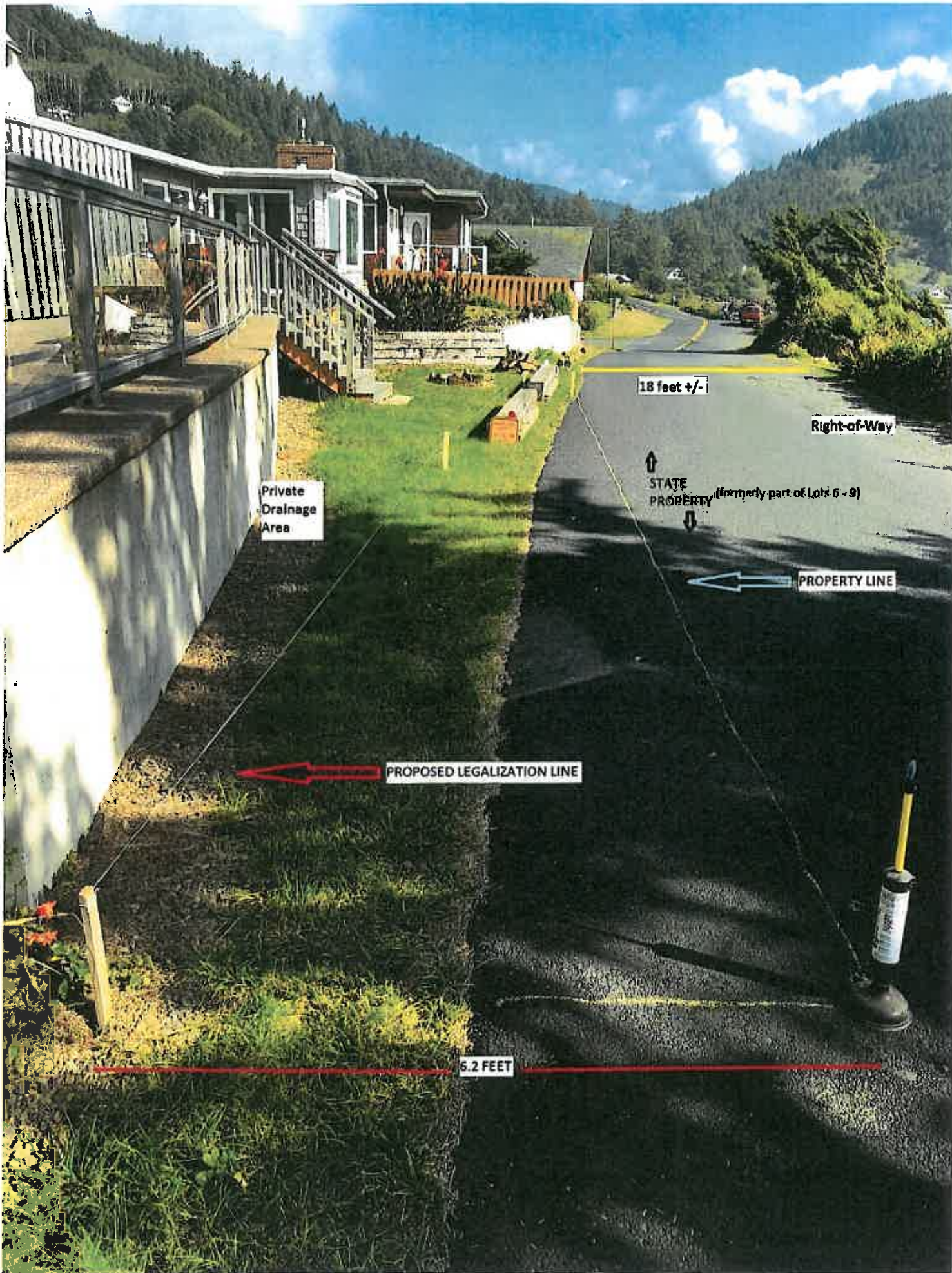
18'

Legalization
Area

$$(6.2' \times 82') \cdot .5 = 254.2 \text{ sq ft}$$

5% OF LAND
14% OF BUILDABLE





Private
Drainage
Area

18 feet +/-

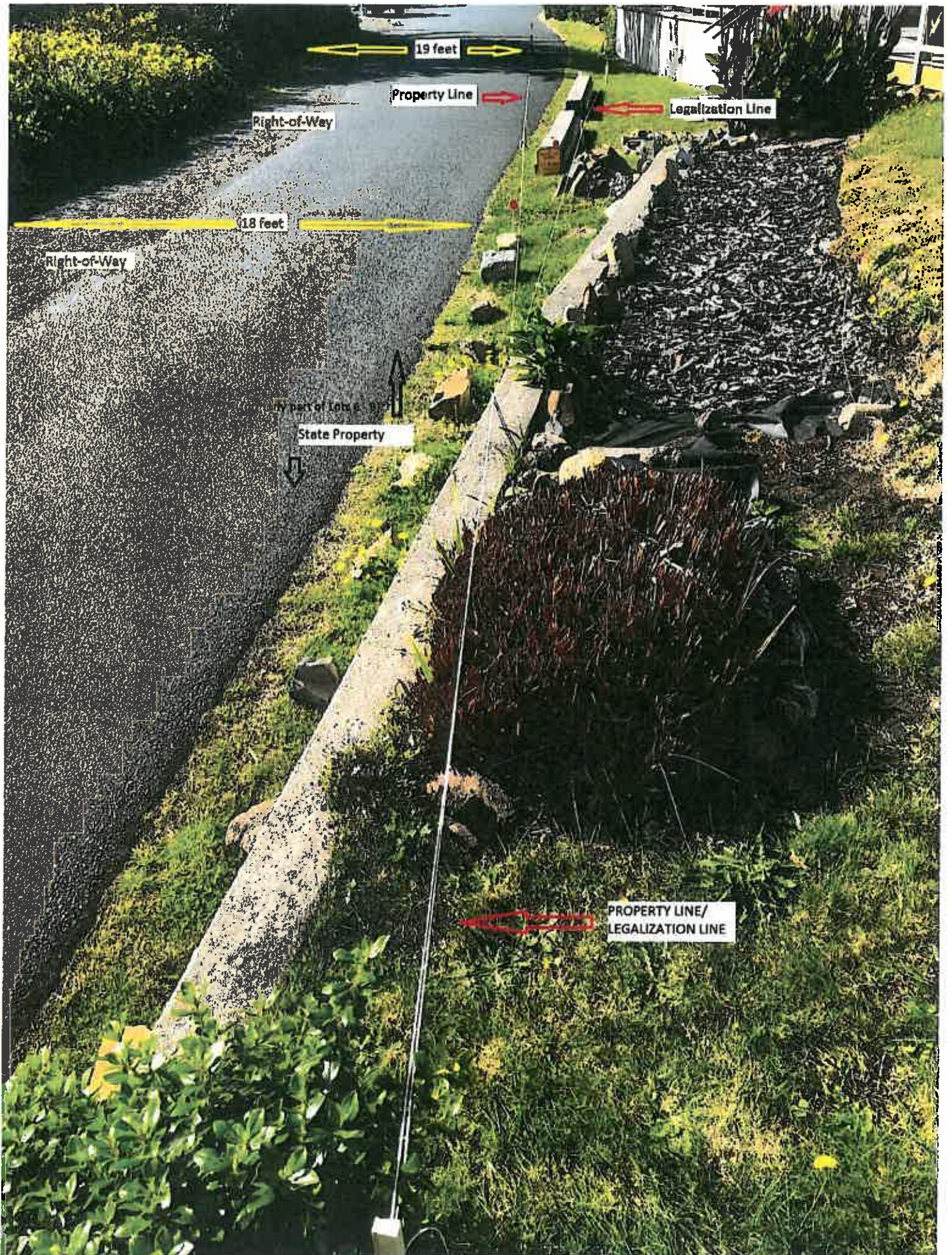
Right-of-Way

↑
STATE
PROPERTY (formerly part of Lots 6 - 9)
↓

PROPERTY LINE

PROPOSED LEGALIZATION LINE

6.2 FEET



19 feet

Property Line

Legalization Line

Right-of-Way

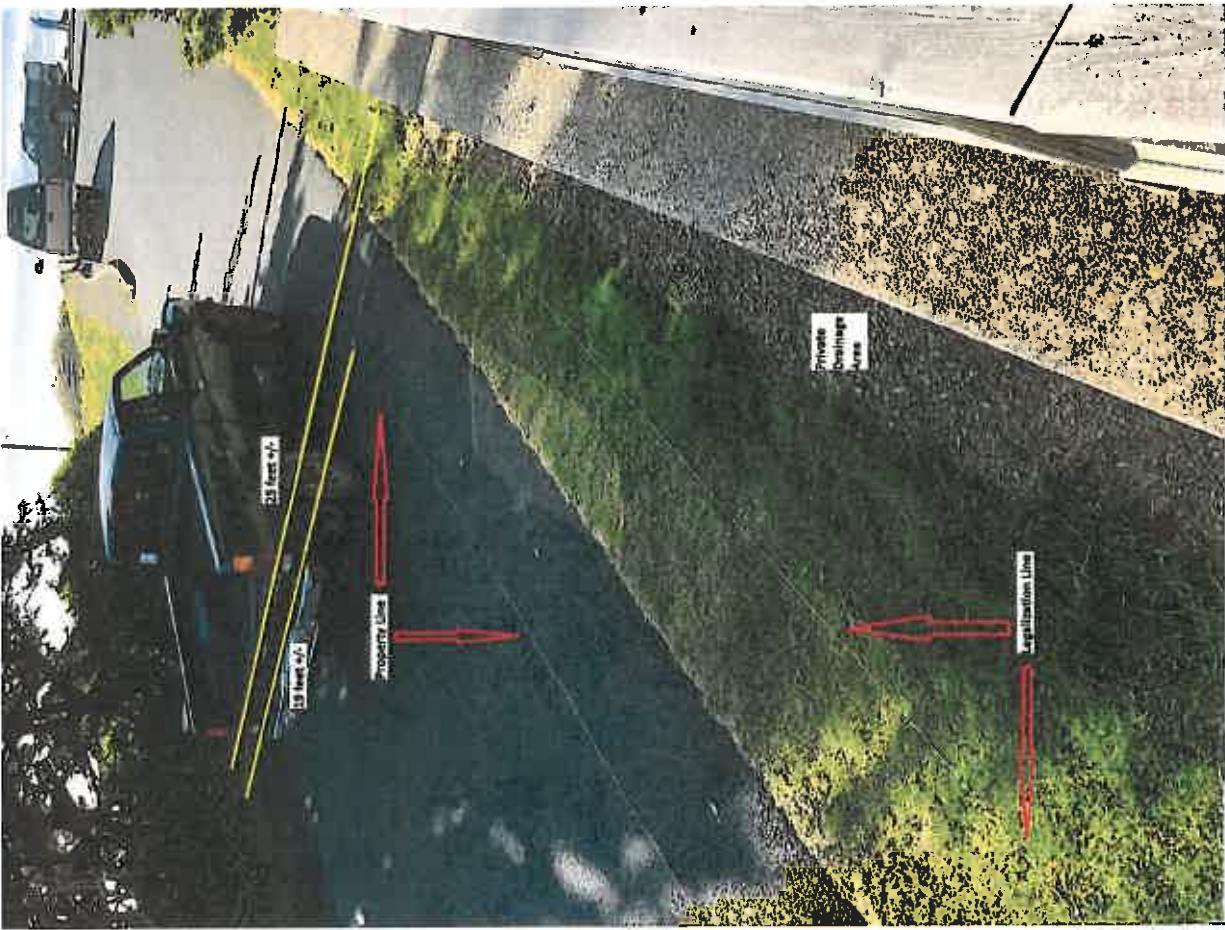
18 feet

Right-of-Way

part of Lots 6, 8, 9, 10

State Property

PROPERTY LINE/
LEGALIZATION LINE



October 10, 2017

Board of Commissioners
County of Lincoln
880 NE 7th Street
Newport, Oregon 97365

Dear Board of Commissioners,

I am writing as an impacted homeowner regarding the a public hearing for the legalization of Ocean View Drive in Yachats, Oregon based on a resurvey of the road.

I have owned a home at 370 Oceanview Drive since 1990. I discovered the northwest corner of the property had been paved over by the County at some point in the past. I have been in contact with the Public Works Director over the past 27 years requesting the road be realigned to reflect the original Lincoln County road survey and reclaim my property.

The Trail 804 dispute was cited as the reason the road could not be addressed for over a decade. The County wished to give the road to the City of Yachats after a resolution of the Trail 804 issues. The discussions between Lincoln County and The City of Yachats over the years were cited as the reason for the County's inability to address the property line.

I would ask the Board to consider changing Ocean View Drive to a one-way street between 2nd and 4th Street. This would allow room for a bicycle and pedestrian path along Trail 804 and allow for installation of "speed lumps" to slow traffic along this section of Ocean View Drive. This would also allow me to reclaim a portion of my property.

I understand that this is a complex issue and involves discussions between Lincoln County and the City of Yachats.

I do not want to loose more of my property if the road is moved closer to my home. I would appreciate recovering some of my road frontage so that in the future, should I wish to extend my home to the west, there will not be issues regarding new setbacks that may prevent me from building west on the existing structure.

I've noted that there is little room for pedestrians or bicycles to walk along the ocean on Ocean View Drive and traffic moves quite fast along the road despite 25 mph speed limit signs. It would seem prudent to slow the traffic, make the road one way, and build a formal bicycle and pedestrian path on the west side of Ocean View Drive.

Thank you for your consideration.

Sincerely,

Richard Urbanski
212 Mariposa Terrace
Medford, Oregon 97504
attikitty@gmail.com
(541) 944-1540