

EXHIBIT LIST

HEARING DATE: November 8, 2017 at 9:00 a.m.

FILE NUMBER & NAME: (124.1382) Puyallup Tribe of Indians, Petitioner

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	SUBMITTED BY	A	E	W	COMMENT
Ex. 1	Preliminary Report	COT/RPS	X			
Ex. 2	Map Exhibit	COT/RPS	X			
Ex. 3	Aerial Map Exhibit	COT/RPS	X			
Ex. 4	Plat	COT/RPS	X			
Ex. 5	Plat Enlargement of area to be vacated	COT/RPS	X			
Ex. 6	Tacoma Power Comments	COT/RPS	X			
Ex. 7	Comcast Comments	COT/RPS	X			
Ex. 8	Prepared Statement submitted for the record by Robert L. Hunter, Jr. on behalf of the Puyallup Tribe of Indians	Petitioner Puyallup Tribe of Indians (PTI)	X			Exhibit presented at hearing on 11.08.17
Ex. 9	Prepared Statement submitted for the record by Julie Hamilton. on behalf of the Puyallup Tribe of Indians	Petitioner PTI	X			Exhibit presented at hearing on 11.08.17
Ex. 10	Prepared Statement submitted for the record by Matt Wadhvani on behalf of the Puyallup Tribe of Indians	Petitioner PTI	X			Exhibit presented at hearing on 11.08.17
Ex. 11	Prepared Statement submitted for the record by Frank Wright on behalf of the Puyallup Tribe of Indians	Petitioner PTI	X			Exhibit presented at hearing on 11.08.17

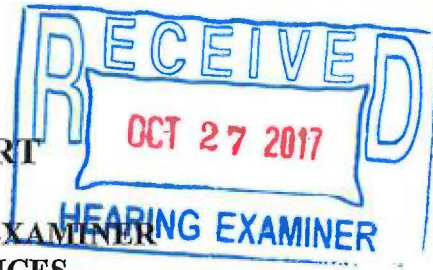
KEY

A = Admitted

E = Excluded

W = Withdrawn

COPY



PRELIMINARY REPORT

**PREPARED FOR THE HEARING EXAMINER
BY REAL PROPERTY SERVICES**

**For the Hearing to be Held
Wednesday, November 8, 2017 at 9:00 AM**

PETITIONER: PUYALLUP TRIBE OF INDIANS

FILE NO. 124.1382

A. SUMMARY OF REQUEST:

Real Property Services has received a petition from the Puyallup Tribe of Indians to vacate that portion of the East 29th Street air rights, beginning at a minimum vertical distance of 24.6 feet from the finished street grade, between the easterly margin of Portland Avenue and terminating at a point 100 feet west of the westerly margin of East R Street, as depicted on the attached Exhibits 2 and 3, abutting and adjacent Tribal property, in connection with the Emerald Queen Casino Relocation project.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

That portion of the Southwest Quarter of the Northeast Quarter of Section 10, Township 20 North, Range 03 East of the Willamette Meridian, more particularly described as follows:

That portion of East 29th Street air rights lying easterly of the east margin of Portland Avenue extended between a point marking the Northeast corner of a parcel conveyed to the City of Tacoma as recorded under Auditor File Number 8508260151, records of Pierce County, Washington, said point being 18 feet east of the Northwest corner of Block 7946 of the Indian Addition to the City of Tacoma, according to the Plat thereof filed on May 1, 1896 in Book 7 of Plats at pages 30 and 31, records of Pierce County, Washington and the Southwest corner of Lot 2, Block 7945 of said plat and lying westerly of a line extended from the Southeast corner of Lot 24 of said Block 7945 to the Northeast corner of Lot 24 of Block 7946, beginning at a minimum vertical distance of 24.6 feet above as measured perpendicular to the finished street grade.

All situate in the City of Tacoma, County of Pierce, State of Washington.

2. Notification:

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three

of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition.

In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

C. PUBLIC NOTICE:

Real Property Services in conjunction with the City of Tacoma Clerk's office issued the following public notice:

The Public Hearing Notice was posted October 5, 2017 at approximately 3:30 p.m. at locations described in item 1 below:

1. Placed yellow public notice sign at the Southeasterly corner of East 29th Street and Portland Avenue; and at the Northwesterly corner of East 29th Street at East "R" Street.
2. Public notice memo placed into the glass display case located on the first floor of the Municipal building abutting the Finance Department.
3. Public notice memo advertised on the City of Tacoma web site at address: <http://www.cityoftacoma.org/notices>
4. Public Notice advertised in the Daily Index newspaper.
5. Public Notice mailed to all parties of record within the 1,000 feet of vacation request.
6. Public Notice advertised on Municipal Television Channel 12.

D. PURPOSE OF REQUEST:

The Petitioner is currently assembling all property rights necessary for current and future development and construction of a multi-leveled garage structure, casino, hotel and restaurant development in connection with the Emerald Queen Casino Relocation project in furtherance of Puyallup Tribal community. This segment of air space will allow for the abridgement of development and construction between Tribal real properties lying north and south of East 29th Street.

E. HISTORY:

The City of Tacoma acquired this right of way, and the air rights proposed to be vacated, by Plat filing of the Indian Addition to the City of Tacoma as filed of record in Volume 7, at Page 30, records of Pierce County, Washington. Copy of filed Plat attached as Exhibit 4 and enlargement of the platted vacation area attached as Exhibit 5.

F. PHYSICAL LAND CHARACTERISTICS:

This right of way is fully improved with concrete curb, gutter and sidewalk. While the site is currently under significant construction this segment of roadway will be redesigned, replaced and/or restored to current City standards for full buildout.

G. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:

9.22.010 PETITION TO VACATE AUTHORIZED: The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

9.22.040 PUBLIC'S RIGHT TO TRAVEL – UTILITIES: Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

CRITERIA: Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

Regarding the above Criteria, Real Property Services finds the following:

1. The vacation is a public benefit because:
 - a. It will produce commercial uses of the adjoining lands;
 - b. Will provide economic, and employment viability to the community;
and
 - c. Facilitate economic development.
2. City of Tacoma Traffic Engineering has been consulted regarding this petition and does not object to the vacation.
3. No general public is served by this air space above the right of way.
4. The vacation area is not contemplated or needed for continued public use as a right of way.
5. No abutting owner becomes landlocked nor will their accesses to existing and retained road structure be negatively impaired.
6. The vacation area is not close to a body of water as contemplated under RCW 35.79.035.

H. ADDITIONAL INFORMATION:

The area to be vacated has not been assessed for sanitary sewers and is not subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350.

I. PROJECT RECOMMENDATIONS:

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Real Property Services Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

Preliminary Report – Exhibit 1
Map Exhibit – Exhibit 2
Aerial Map Exhibit – Exhibit 3
Plat – Exhibit 4
Plat Enlargement – Exhibit 5
Tacoma Power – Exhibit 6
Comcast Communications – Exhibit 7

Environmental Services – No Objection
Public Works/LID – No Objection
Tacoma Water – No Objection / Advisory Comment
Tacoma Fire – No Objection
Solid Waste – No Response
Puget Sound Energy – No Objection / Advisory Comment
Click! Network – No Response
PW Traffic – No Response
PW Engineering – No Response
Police – No Response
Planning & Development Services – No Response
CenturyLink – No Response
Pierce Transit – No Response

J. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, the Real Property Services Department of Public Works recommends that the following conditions be made conditions of approval:

1. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way. *TMC 9.22.010*

2. TACOMA POWER

- a. Please contact Jeffrey Rusler at (253) 502-8309 regarding Tacoma Power's comments.
- b. Tacoma Power has no objection; however, an Easement will be retained as necessary for an existing power pole and anchor at the Southeast corner of Portland Avenue and East 29th Street for which formal survey shall be provided by the Petitioner to the Utility, the determine the extent of the easement necessary for retention. Second Reading of the Ordinance shall be held for such surveyed determination and subsequent direction.

Utility Advisory Comments and not a condition to this vacation.

3. TACOMA WATER

- a. Please contact Jesse Angel at (253) 502-8280 regarding Tacoma Water's comments.
- b. Water has no objection; however has advised that subsurface infrastructure exists below the vacation area for which accesses thereto shall remain unencumbered.

Third Party Comments for the record:

4. COMCAST

- a. Please contact Aaron Cantrel at Aaron.Cantrel@comcast.net regarding Comcast's comments.
- b. Comcast has no objection; however, they do have infrastructure attached to Tacoma Power poles within the area of vacation anticipated to be within the same retained areas of that of Tacoma Power's above. Comcast will require execution of their third party easement prior to Second Reading of the Ordinance.

Third Party Advisory Comment and not a condition to this vacation.

5. PUGET SOUND ENERGY

- a. Please contact Marilyn Danby at (253) 476-6451 regarding Puget Sound Energy's comments.
- b. PSE has no objection; however has advised that subsurface infrastructure exists below the vacation area for which accesses thereto shall remain unencumbered.

6. PUBLIC COMMENT

Real Property Services has received the following public comment:

None

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.



Puyallup Tribe of Indians

AIR RIGHTS / STREET VACATION NO. 124.1382

East 29th Street between Portland Avenue and 50 west of East R Street with
a minimum vertical clearance of 24.6 feet from finished grade.

NE 1/4 SEC. 10, T20N, R3E

NOT TO SCALE



Puyallup Tribe of Indians

AIR RIGHTS / STREET VACATION NO. 124.1382

East 29th Street between Portland Avenue and 50 west of East R Street with
a minimum vertical clearance of 24.6 feet from finished grade.

NE 1/4 SEC. 10, T20N, R3E

NOT TO SCALE

Division of Survey
of the
Department of
Public Works
City of New York

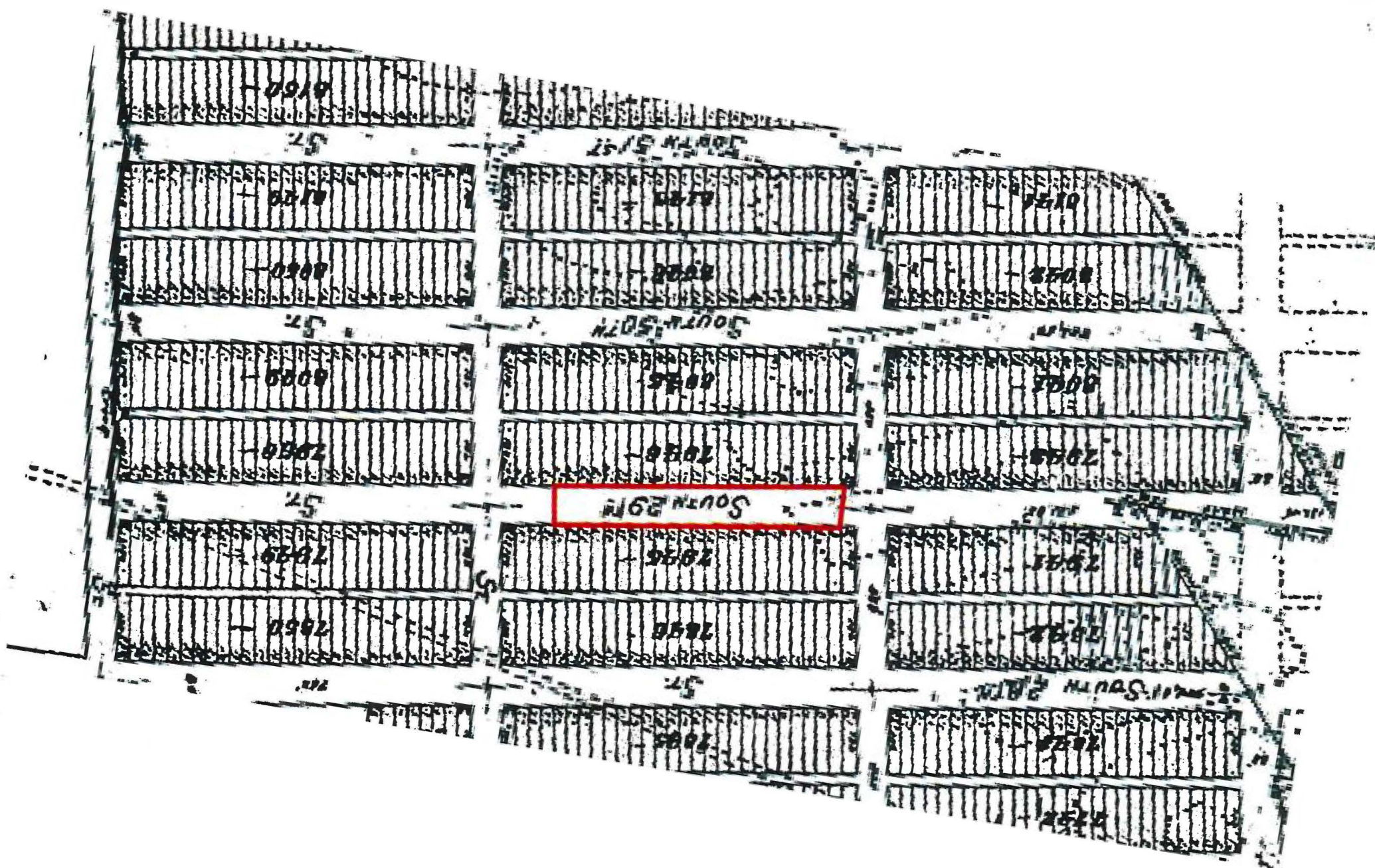


Republic Government
921100 273

For reference only, not for re-sale:



This is a copy of the map of
the 25th Ward, City of New York,
as shown on a map of the City
of New York, of the 1st of
January, 1898. Because of
changes in the boundaries of
the City of New York, this
map is not a true and correct
copy of the map of the City
of New York, of the 1st of
January, 1898.



Cornforth, Ronda

From: Rusler, Jeffrey
Sent: Thursday, October 26, 2017 11:51 AM
To: Cornforth, Ronda; Muller, Gregory
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians

Ronda,

Per our phone conversation, Tacoma Power is in agreement with your latest statement below. The anchor at the SE corner of Portland Ave has already been installed.

Thanks,

Jeff Rusler, P.E. | Tacoma Power
T&D Electrical Services - New Services Engineering
P: (253) 502-8309 | F: (253) 502-8659
<http://www.mytpu.org/tacomapower/permitting/>

From: Cornforth, Ronda
Sent: Thursday, October 26, 2017 11:47 AM
To: Muller, Gregory; Rusler, Jeffrey
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians

- a. Tacoma Power has no objection; however, an Easement will be retained as necessary for an existing power pole and anchor at the Southeast corner of Portland Avenue and East 29th Street for which formal survey shall be provided by the Petitioner to the Utility, the determine the extent of the easement necessary for retention. Second Reading of the Ordinance shall be held for such surveyed determination and subsequent direction.

From: Cornforth, Ronda
Sent: Thursday, October 26, 2017 11:28 AM
To: Muller, Gregory; Rusler, Jeffrey
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Importance: High

Below is the reservation and latitude I've provided under the vacation action. Please take note of your future action items.

Tacoma Power has no objection; however, an Easement will be retained as necessary for an anticipated relocation of a power pole and anchor that has not yet been installed. Upon completion of the installation it shall be determined, by formal survey provided by the Petitioner to the Utility, the extent of the easement necessary for retention and/or Tacoma Power's acceptance and revised comments for removal of this condition. Second Reading of the Ordinance shall be held for such surveyed determination and subsequent direction.

From: Cornforth, Ronda
Sent: Thursday, October 26, 2017 10:45 AM
To: Muller, Gregory; Rusler, Jeffrey
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Importance: High

It's my understanding that this pole has been moved, so location should be available? If not, and since we can't condition a future action, please provide me with the easement area to be retained within the vertical 24.6 foot or higher air space. Easement need not be reserved for either pole or guying below the 24.6 foot demarcation.

Thanks.

From: Muller, Gregory
Sent: Tuesday, August 22, 2017 5:04 PM
To: Cornforth, Ronda
Subject: FW: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians

Ronda,

Please see Jeff Rusler's comments below. His primary concern is need for an easement for a down guy and anchor; however, won't know precise location within existing r/w until after it's installed (and doesn't know location of property corners), so can't provide a precise location for the needed easement reservation as part of the SV. Also, wants to be sure the portion above 24.6' is also covered so won't be in trespass. I guess this is mostly a timing issue: how much specifics do you need and when vis-à-vis the needed easement reservation – or will you ask the HE to condition the SV on the Tribe retroactively granting an easement based on the as-built of wherever the TP infrastructure is eventually located and providing whatever survey work needed to establish the easement limits?

I'm pulling together other respondents comments and will forward.

Thanks.

Greg
#8256

From: Rusler, Jeffrey
Sent: Tuesday, August 22, 2017 2:28 PM
To: Muller, Gregory; Glassy, Thad; Quinones, Kimberly
Cc: Martinson, John; Collier, Regina; Netcher, Greg
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians

Tacoma Power has an overhead line along the south side of E 29th in the proposed vacation that the Tribe has paid us to remove. We'll require the line to be removed prior to the vacation being granted otherwise they'd have to reserve an easement for Tacoma Power. Tacoma Power has an existing pole on the southeast corner of the intersection of Portland Ave and E 29th St. The pole will remain after the demo of the rest of the line. Tacoma Power will also be installing a down guy on this pole with an anchor approximately 35' east of the pole, in order to back up the line that runs west over Portland Ave. Tacoma Power will require an easement to be reserved for the future down guy and anchor as it will permanently remain. If any portion of the pole lies within the vacation space, it will need to be covered in the easement as well.

Jeff Rusler, P.E. | Tacoma Power
T&D Electrical Services - New Services Engineering
P: (253) 502-8309 | F: (253) 502-8659
<http://www.mytpu.org/tacomapower/permitting/>

From: Muller, Gregory
Sent: Wednesday, August 09, 2017 10:42 AM
To: Vaughan, Stuart; Glassy, Thad; Angel, Jesse; Quinones, Kimberly; Rusler, Jeffrey
Cc: Martinson, John; Volkhardt, Greg; Collier, Regina; Netcher, Greg

Subject: FW: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Importance: High

Good morning,

Please see following e-mail and attachments for the street vacation request, and send your comments/questions my direction. This is one of three current requests submitted by the Puyallup Tribe. Third of three.

Thank you.

Greg Muller,
Real Estate Officer
Tacoma Public Utilities
Phone: (253) 502-8256
Fax: (253) 502-8539

From: Cornforth, Ronda
Sent: Tuesday, August 08, 2017 12:32 PM
To: Barnett, Elliott; Boudet, Brian; Cantrel, Aaron; Comer, Victoria; Cornforth, Ronda; Danby, Marilyn; Erickson, Ryan; Johnson, David (PDS); Kammerzell, Jennifer; Kidd, Brennan; Larson, Chris; Muller, Gregory; Rossi, Rod; Seaman, Chris; Simpson, Sue; Site Development; Spencer, William; Standley, Steven; Stringer, Shawn; Tina Vaslet
Cc: Cornforth, Ronda; Victor, Steve(Legal)
Subject: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Importance: High

Agency Reviewer,

Please review the attached map exhibits for the proposed Street Vacation Petition 124.1382, *affecting the air rights beginning 24.6' above finished street grade*, as requested by the Puyallup Tribe of Indians, and provide comments for your respective utility/agency *on or before August 25, 2017*. Please note that *surface transportation and use of the street will remain*, as such be mindful to provide comments only for infrastructure affected by this air rights vacation as surface/subsurface utility easements and/or reservations may not be applicable to this vacation. Responses received later than August 25, 2017 risk NOT being incorporated into the vacation action.

Please email me with any questions you may have.

Thank you.

R. J. Cornforth
City of Tacoma, Public Works
Real Property Services
747 Market Street, Ste. 737
Tacoma, WA 98402-7941
(253) 591-5052 / Fax (253) 594-7941
rcornfor@cityoftacoma.org

We are made wise not by the recollection of our past, but by the responsibility for our future.

Cornforth, Ronda

From: Cantrel, Aaron R <Aaron_Cantrel@comcast.com>
Sent: Friday, August 11, 2017 11:29 AM
To: Cornforth, Ronda
Subject: RE: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Attachments: Comcast Comments-124.1382.pdf

Comcast comments and markup attached. Let me know if you need any additional information.

From: Cornforth, Ronda [<mailto:rcornforth@cityoftacoma.org>]
Sent: Tuesday, August 08, 2017 12:32 PM
To: Barnett, Elliott <elliott.barnett@ci.tacoma.wa.us>; Boudet, Brian <BBOUDET@ci.tacoma.wa.us>; Cantrel, Aaron R <Aaron_Cantrel@cable.comcast.com>; Comer, Victoria <Victoria.Comer@CenturyLink.com>; Cornforth, Ronda <rcornforth@cityoftacoma.org>; Danby, Marilyn <marilynn.danby@pse.com>; Erickson, Ryan <RErickso@ci.tacoma.wa.us>; Johnson, David (PDS) <DJohnson2@ci.tacoma.wa.us>; Kammerzell, Jennifer <jkammerzell@ci.tacoma.wa.us>; Kidd, Brennan <bkidd@ci.tacoma.wa.us>; Larson, Chris <CLARSON@ci.tacoma.wa.us>; Muller, Gregory <GMuller@ci.tacoma.wa.us>; Rossi, Rod <rrossi@ci.tacoma.wa.us>; Seaman, Chris <cseaman@ci.tacoma.wa.us>; Simpson, Sue <SSIMPSON@ci.tacoma.wa.us>; Site Development <SiteDevelopment@ci.tacoma.wa.us>; Spencer, William <WSpencer@ci.tacoma.wa.us>; Standley, Steven <sstandley@ci.tacoma.wa.us>; Stringer, Shawn <SStringe@ci.tacoma.wa.us>; Tina Vaslet <tvasset@piercettransit.org>
Cc: Cornforth, Ronda <rcornforth@cityoftacoma.org>; Victor, Steve(Legal) <svictor@ci.tacoma.wa.us>
Subject: Street Vacation 124.1382 - Comments DUE August 25th - Puyallup Tribe of Indians
Importance: High

Agency Reviewer,

Please review the attached map exhibits for the proposed Street Vacation Petition 124.1382, ***affecting the air rights beginning 24.6' above finished street grade***, as requested by the Puyallup Tribe of Indians, and provide comments for your respective utility/agency ***on or before August 25, 2017***. Please note that ***surface transportation and use of the street will remain***, as such be mindful to provide comments only for infrastructure affected by this air rights vacation as surface/subsurface utility easements and/or reservations may not be applicable to this vacation. Responses received later than August 25, 2017 risk NOT being incorporated into the vacation action.

Please email me with any questions you may have.

Thank you.

R. J. Cornforth

City of Tacoma, Public Works
Real Property Services
747 Market Street, Ste. 737
Tacoma, WA 98402-7941
(253) 591-5052 / Fax (253) 594-7941
rcornfor@cityoftacoma.org

We are made wise not by the recollection of our past, but by the responsibility for our future.



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: RJ CORNFORTH
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1382

DATE: August 8, 2017

Real Property Services has received a petition from the Puyallup Tribe of Indians to vacate the air rights, beginning 24.6' above finished street grade, of East 29th Street between Portland Avenue and approximately 100 feet westerly of the East "R" Street intersection and lying between East 28th and East 29th Streets in preparation for the proposed Emerald Queen Casino development and relocation.

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, by August 25, 2017**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

- Attachment(s)
- AT&T Broadband
- Pierce Transit
- Puget Sound Energy
- Qwest Communications
- Fire Department
- Police Department
- TPU/Power/T&D
- TPU/Water/LID
- PW/Director (3)
- PW/BLUS (2)
- PW/Construction
- PW/Engineering
- PW/Engineering/LID
- PW/Engineering/Traffic
- PW/Environmental Services
- PW/Solid Waste
- PW/Street & Grounds
- Tacoma Economic Development
- Click! Network

RESPONSE

No Objections

Comments Attached

8-11-17 Date

Ryan Antell Signature

Planning & Design Department

* Comcast has existing aerial and UG system within this vacation area. Any relocation of these facilities will be at the owner/ Developer's expense.

* Markup attached

c

PREPARED STATEMENT

Submitted for the Record of the Hearing Examiner
By **Robert L. Hunter, Jr.** on Behalf of the Puyallup Tribe of Indians

For the Hearing to be Held
Wednesday, November 8, 2017 at 9:00 A.M.

PETITIONER: The Puyallup Tribe of Indians

FILE NO: 124.1382

A. Summary of Request:

The Puyallup Tribe of Indians requests the City of Tacoma to vacate that portion of the right-of-way encumbering the East 29th Street air rights located between the easterly margin of East Portland Avenue to 100 feet west of the western margin of East R Street beginning at a minimal vertical distance of 24.6 feet above finished street grade. This described East 29th Street air space abuts Tribal property on the north and south sides of East 29th Street on Blocks 7945 and 7946 of the Indian Addition to the City of Tacoma (see Attachment A).

As set forth below, the vacate meets all the Tacoma Municipal Code criteria contained at Section 9.22.070 for the granting of air space vacates. By granting this vacate, no landowner in the immediate area will become landlocked.

The Tribe agrees with the Preliminary Report submitted by the City's Real Property Services, including the conditions set forth therein. We request that the City grant the air space vacate.

B. Introduction and Background:

From time immemorial the Puyallup Tribe of Indians made their home in and around Commencement Bay and the Puyallup River. In their aboriginal language, the Tribe is known as "S'Puyalupubsh" meaning "generous and welcoming behavior to all people (friends and strangers) who enter our lands." Since the beginning, Tribal members knew how blessed they were in natural resources and saw themselves as stewards of the land responsible for existing in harmony with all living things. Tribal members live by this responsibility to this day and have contributed immeasurable efforts at preserving the natural resources remaining in the area.

Unfortunately, the Tribe has not always received reciprocal treatment. Failed federal policies, broken promises, cultural prohibition, and dwindling Tribal membership resulted in enormous land and natural resource loss for the Tribe. For example, as a result of the General Allotment Act of 1887, the federal government sold the majority of the Puyallup Indian Reservation, against tribal interests (see Attachment B for Allotment Era Land Sale Example). At its lowest point, the Tribe owned one-tenth of one percent of the original Reservation.

Only in the last decade has the Tribe started to reverse this trend. Thanks to other federal enactments such as the Congressional Act of May 18, 2006, directing the Secretary of the

Interior to accept certain lands in trust for the benefit of the Puyallup Indian Tribe (see Attachment C), the Tribe has been able to recover up to 6% of lands lost. The Congressional Act covers lands adjacent to the seat of the Tribe's government - commonly referred to as the "Congressional Mandate area." The Act requires the Secretary of the Interior to take any land into trust the Tribe reacquires within the Congressional Mandate area, which area includes Blocks 7846, 7850, 7949, 7950, 8045, or 8049 within the Indian Addition to the City of Tacoma, State of Washington, including Blocks 7945 and 7946, the Blocks abutting the vacation requested here (see Attachment A).

Yet, the Tribe can only begin to reacquire its land base through the efforts of economic development and the cooperation of local governments.¹ Positive economic growth and intergovernmental collaboration can only be possible with the resources gained through projects like the construction of the Tribe's new gaming facility. With this facility, the Tribe will continue providing for its membership through governmental authority, programs and services while maintaining the generous support the Tribe affords to the surrounding community through vendor purchases, employment, entertainment venues, charitable donations, and partnerships.

The air space requested by the Tribe is needed to accommodate the Tribe's new facility, which facility will replace the old and outdated temporary structure now being used.

C. The alley vacate meets Section 9.22.070 Tacoma Municipal Code Criteria:

1. The Vacate Will Provide A Public Benefit And/Or Will Be For A Public Purpose:

The new gaming facility (to be partially located within the targeted air space) will allow the Tribe to continue providing large economic benefits to the surrounding community.

- See the testimony and documents submitted for the Hearing Record by Frank Wright, Julie Hamilton and Matt Wadhvani.

2. The Right-Of-Way Vacation Shall Not Adversely Affect The Street Pattern Or Circulation Of The Immediate Area Or The Community As A Whole:

- Being twenty-four and one half feet above the finished street grade for East 29th Street, traffic pattern and circulation will not be impacted by the air rights vacation.

3. The Public Need Shall Not Be Adversely Affected:

- There is no general public need for the air space over 24.6 feet above East 29th Street, thus no adverse interests affected by the vacate.
- With the Tribe's environmental regulatory requirements, the structure utilizing the air space will not harm the environment.

¹Congress found in passing the May 18, 2006 Congressional Act, P.L. 109-224, that the Tribe worked closely with the City of Tacoma (among other local governments) and that the City supported the Tribe's efforts with the acquisition of land into federal trust.

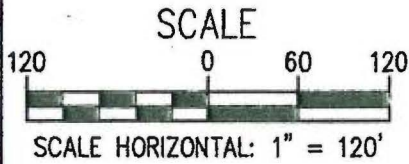
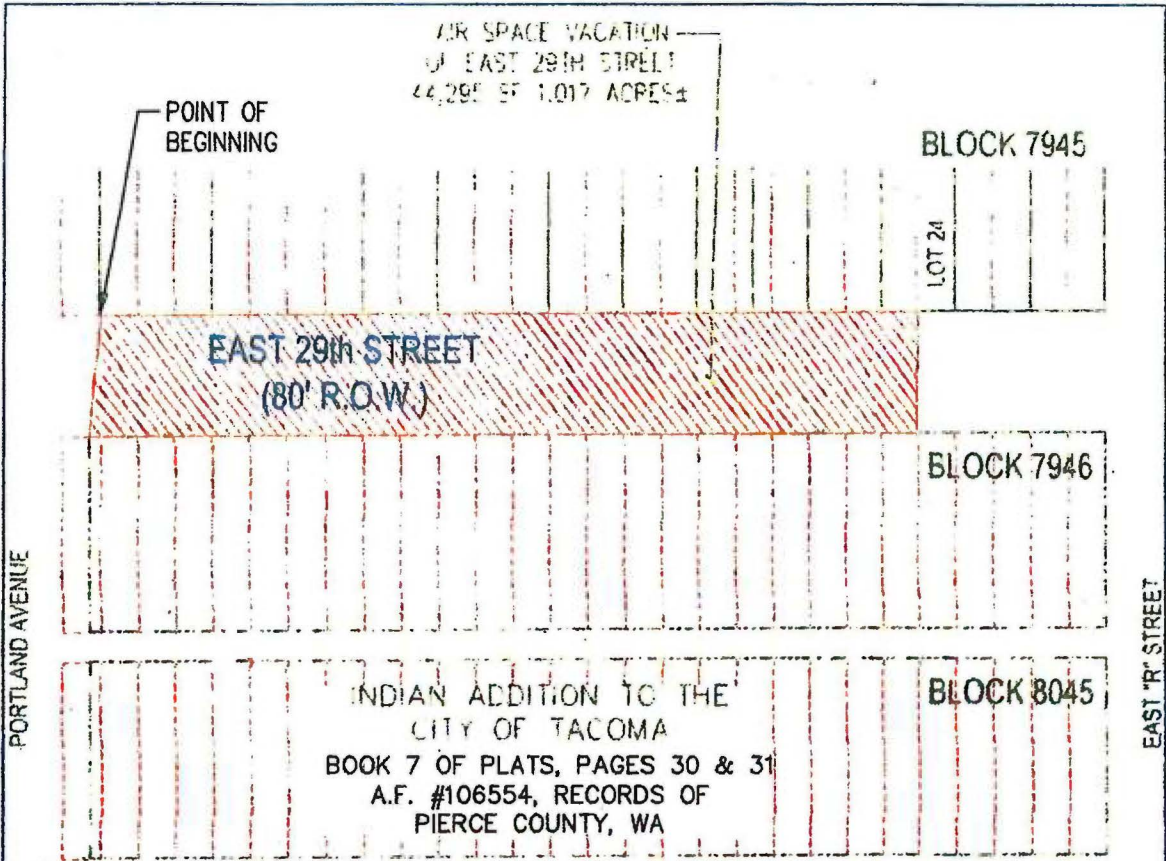
- The federal Indian Gaming Regulatory Act requires that any facility built by the Tribe for gaming meet health and safety regulations.
4. The Right-Of-Way Is Not Contemplated Or Needed For Future Public Use:
- The Tribe has no knowledge that the City's air rights above East 29th Street is needed or intended for future use by the public. Alternatively, with the Tribe's build out of its new facility, the public will have much greater use of the air space than it otherwise would if the vacation were not granted.
5. No Abutting Owner Becomes Landlocked Or His Access Will Not Be Substantially Impaired; i.e., There Must Be An Alternative Mode Of Ingress And Egress, Even If Less Convenient:
- No landowner will become landlocked with this air rights vacation. All land now accessible before the air rights vacation will be accessible after the vacation.
 - Although there is one landowner (Mr. David Smith) on Block 7945 fronting East 29th Street, the air rights requested by the Tribe are not adjacent to the property or the associated air rights of Mr. Smith, and the result of the Tribe's petition will not compromise or interfere with Mr. Smith's air rights.
 - Other than the Tribe, there are no other landowners whose air rights are connected with the vacation.
6. Vacation Of Right-Of-Way Shall Not Be In Violation Of RCW 35.79.035:
- This criteria is not applicable as there is no body of water impacted by this vacate.

D. Conclusion:

The Puyallup Tribe is committed to developing a facility that is beneficial for the Tribe and to the surrounding community. As a gateway to Tacoma, the Tribe wants this gaming venue to be safe, exciting, easily accessible, and advantageous not only to the Tribe, but to the local population as well. The Tribe truly believes it is on the verge of creating something special – a business everyone can be proud of and which truly encapsulates the claim of being “The Entertainment Capital of the Northwest.” To this end, the Tribe requests that the City grant the air rights vacation, which air rights are needed for the new facility.

ATTACHMENT A

MAPS



6-15-2017



EXHIBIT "A"

SHEET NUMBER 2 of 2	AIR SPACE VACATION OF EAST 29TH STREET BETWEEN BLOCKS 7945 and 7946	DRAWING INFO TITLE: AIR SPACE VACATION OF EAST 29TH-ST_AIR-SPACE	SHEET INFO DRAWN: JWS CHECKED: JWS LAST EDIT: — PLOT DATE: 6-15-2017	 <small>12100 NE 195th St, Ste 200 Bellevue, WA 98001 425-951-4300 Fax 425-951-4308 www.whpacific.com</small>
		SCALE 1"=120'		

**Puyallup Tribal
Realty and Trust Services
Street Vacations**

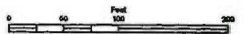


Note:
The boundary of the Puyallup Indian Reservation is shown in blue, but not included in the 1873 Survey Area.

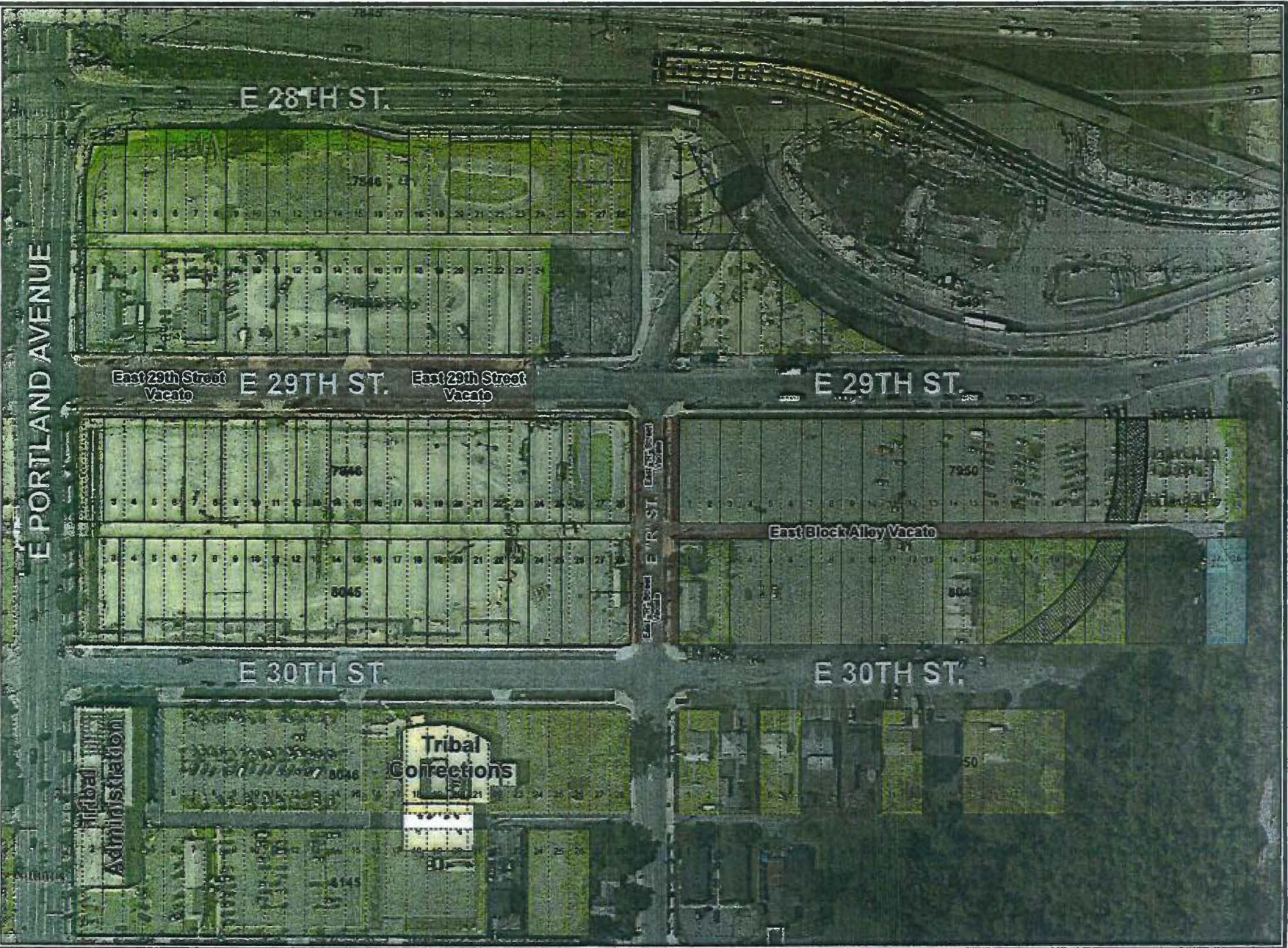
- 1873 Survey Area
- Lot Lines
COT Plat_Data.dwg Polyline
- Member Trust
- Puyallup Tribal Lands



Disclaimer:
This report, and any data included here has been prepared by the Puyallup Tribal Realty and Trust Services, and is intended for informational purposes only. It does not constitute an offer of any financial product or service, and is not to be relied upon for investment decisions. The Puyallup Tribal Realty and Trust Services, and its employees, do not warrant the accuracy, completeness, or timeliness of the information, but assume no responsibility for the users of this information who rely on it for any purpose.



Prepared by: Paul Arnold
Last Update: 20 April 2017
KD 1943 HARN State/Place Washington South FPG 4902 Feet



ATTACHMENT B

**EXAMPLE INDIAN LAND SALE
ADVERTISEMENT**

INDIAN LAND FOR SALE

GET A HOME
OF
YOUR OWN
*
EASY PAYMENTS



PERFECT TITLE
*
POSSESSION
WITHIN
THIRTY DAYS

FINE LANDS IN THE WEST

IRRIGATED GRAZING AGRICULTURAL
IRRIGABLE DRY FARMING

IN 1910 THE DEPARTMENT OF THE INTERIOR SOLD UNDER SEALED BIDS ALLOTTED INDIAN LAND AS FOLLOWS:

Location.	Acres.	Average Price per Acre.	Location.	Acres.	Average Price per Acre.
Colorado	5,211.21	\$7.27	Oklahoma	34,664.00	\$19.14
Idaho	17,013.00	24.85	Oregon	1,020.00	15.43
Kansas	1,684.50	33.45	South Dakota	120,445.00	16.53
Montana	11,034.00	9.86	Washington	4,879.00	41.37
Nebraska	5,641.00	36.65	Wisconsin	1,069.00	17.00
North Dakota	22,610.70	9.93	Wyoming	865.00	20.64

FOR THE YEAR 1911 IT IS ESTIMATED THAT 350,000 ACRES WILL BE OFFERED FOR SALE

For information as to the character of the land write for booklet, "INDIAN LANDS FOR SALE," to the Superintendent U. S. Indian School at any one of the following places:

- | | | | | | |
|--------------------------------------|--|---|---|--|---|
| CALIFORNIA:
Hoopa. | MINNESOTA:
Oaigum. | NORTH DAKOTA:
Fort Totten.
Fort Yates. | OKLAHOMA—Con.
Sac and Fox Agency.
Shawnee.
Wyandotte. | SOUTH DAKOTA:
Cheyenne Agency.
Crow Creek.
Greenwood.
Lower Brule.
Pine Ridge. | WASHINGTON:
Fort Simcoe.
Fort Spokane.
Tekoa.
Tulalip. |
| COLORADO:
Ignacio. | MONTANA:
Crow Agency. | OKLAHOMA:
Anadarko.
Cantonment.
Colony.
Darlington.
Muskogee, <small>and</small>
Pawnee. | OREGON:
Klamath Agency.
Pendleton.
Roseburg.
Siletz. | WISCONSIN:
Rosebud.
Sisseton. | ONEIDA. |
| IDAHO:
Lapwai. | NEBRASKA:
Macy.
Santee.
Winnebago. | | | | |
| KANSAS:
Horton.
Hadeau. | | | | | |

WALTER L. FISHER,
Secretary of the Interior.

ROBERT G. VALENTINE,
Commissioner of Indian Affairs.

ATTACHMENT C

PUBLIC LAW 109-224

Public Law 109-224
109th Congress

An Act

May 18, 2006
[S. 1382]

To require the Secretary of the Interior to accept the conveyance of certain land,
to be held in trust for the benefit of the Puyallup Indian tribe.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Washington.

SECTION 1. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) accept the conveyance of the parcels of land within
the Puyallup Reservation described in subsection (b); and

(2) hold the land in trust for the benefit of the Puyallup
Indian tribe.

(b) LAND DESCRIPTION.—The parcels of land referred to in
subsection (a) are as follows:

(1) PARCEL A.—Lot B, boundary line adjustment
9508150496, as depicted on the map dated August 15, 1995,
held in the records of the Pierce County Auditor, situated
in the city of Fife, county of Pierce, State of Washington.

(2) PARCEL B.—

(A) IN GENERAL.—Parcel B shall be comprised of land
situated in the city of Fife, county of Pierce, State of Wash-
ington, more particularly described as follows:

(i) Lots 3 and 4, Pierce County Short Plat No.
8908020412, as depicted on the map dated August
2, 1989, held in the records of the Pierce County
Auditor, together with portion of SR 5 abutting lot
4, conveyed by the deed recorded under Recording No.
9309070433, described as follows:

(I) That portion of Government lot 1, sec. 07,
T. 20 N., R. 4 E., of the Willamette Meridian,
described as commencing at Highway Engineer's
Station AL 26 6+38.0 P.O.T. on the AL26 line
survey of SR 5, Tacoma to King County line.

(II) Thence S88°54'30" E., along the north line
of said lot 1 a distance of 95 feet to the true
point of beginning.

(III) Thence S01°05'30" W87.4' feet.

(IV) Thence westerly to a point opposite High-
way Engineer's Station AL26 5+50.6 P.O.T. on said
AL26 line survey and 75 feet easterly therefrom.

(V) Thence northwesterly to a point opposite
AL26 5+80.6 on said AL26 line survey and 55
feet easterly therefrom.

(VI) Thence northerly parallel with said line
survey to the north line of said lot 1.

(VII) Thence $N88^{\circ}54'30''$ E., to the true point of beginning.

(ii) Chicago Title Insurance Company Order No. 4293514 lot A boundary line adjustment recorded under Recording No. 9508150496, as depicted on the map dated August 15, 1995, held in the records of the Pierce County Auditor.

(B) EXCLUSION.—Excluded from Parcel B shall be that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

(i) Commencing at the northeast corner of said lot 4.

(ii) Thence $N89^{\circ}53'30''$ W., along the north line of said lot 4 a distance of 147.44 feet to the true point of beginning and a point of curvature.

(iii) Thence southwesterly along a curve to the left, the center of which bears $S0^{\circ}06'30''$ W., 55.00 feet distance, through a central angle of $89^{\circ}01'00''$, an arc distance of 85.45 feet.

(iv) Thence $S01^{\circ}05'30''$ W., 59.43 feet.

(v) Thence $N88^{\circ}54'30''$ W., 20.00 feet to a point on the westerly line of said lot 4.

(vi) Thence $N0^{\circ}57'10''$ E., along said westerly line 113.15 feet to the northwest corner of said lot 4.

(vii) Thence $S89^{\circ}53'30''$ east along said north line, a distance of 74.34 feet to the true point of beginning.

(3) ADDITIONAL LOTS.—Any lots acquired by the Puyallup Indian tribe located in block 7846, 7850, 7945, 7946, 7949, 7950, 8045, or 8049 in the Indian Addition to the city of Tacoma, State of Washington.

Approved May 18, 2006.

LEGISLATIVE HISTORY—S. 1382 (H.R. 374):

HOUSE REPORTS: No. 109-422 accompanying H.R. 374 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 151 (2005): Oct. 24, considered and passed Senate.

Vol. 152 (2006): May 9, considered and passed House.

C

PREPARED STATEMENT

Submitted for the Record of the Hearing Examiner
By **Julie Hamilton** on Behalf of the Puyallup Tribe of Indians

For the Hearing to be Held
Wednesday, November 8, 2017 at 9:00 A.M.

PETITIONER: The Puyallup Tribe of Indians

FILE NO: 124.1382

A. Overview:

The Puyallup Tribe of Indians is an important economic partner in the greater Tacoma region. With both its business enterprises and government programs combined, the Puyallup Tribe is Pierce County's sixth largest employer, according to the Tacoma Economic Development Board's List of 2016 Major Employers. More than two-thirds of the 3,000 plus employees are non-Native, and most work full time and are provided competitive compensation and generous benefits.

The Tribe's economic success is evident not only in the jobs it creates, but also measured by its investment in activities that improve the quality of life for Tribal members and other residents of the larger community and the region. In particular, the Tribe has invested its business enterprise proceeds and tax receipts in education, healthcare, housing, income support and other social services, and sustainable natural resource management. It consciously seeks to be a good neighbor, to pursue collaborative relationships with other governments, and to generate both immediate and long-lasting benefits for the entire region. As a result, the Tribe has very positive working relationships with the City of Tacoma, Pierce County, and the other local governments on and around the Puyallup Indian Reservation.

B. Charity Contributions:

The Tribe donates millions of dollars each year, both through its Charity Fund and General Fund, to various non-profit organizations supporting food banks, children's literacy programs, medical research, education, job training, assistance to the homeless and many others, all aimed at assisting the most vulnerable populations. As reflected in the missions of the many organizations it supports, the Tribe's giving benefits the broad regional population, not simply Puyallup Tribal members.

C. Community Impact Contributions (also known as the 2% Fund):

The Tribe distributes approximately a million dollars each year to sister governments whose costs are increased by the Tribe's casino operations. These funds help pay for local police and fire and emergency services, as well as road and traffic flow enhancements.

EX. 9

D. Problem Gambling and Smoking Cessation Funding:

The Tribe distributes nearly a million dollars each year earmarked for problem gambling and smoking cessation programs.

E. Conclusion:

The Puyallup Tribe of Indians is a key player in regional affairs, from business development to environmental management, infrastructure improvement, and social services provisions. The new I-5 Casino project, of which these vacate petitions are an essential part, will provide economic benefits, both directly and indirectly, to the larger community and the region. Matt Wadhvani, also from the Tribe's Finance Department, will be presenting more specifics about the economic benefits of the new casino project.

C

PREPARED STATEMENT

Submitted for the Record of the Hearing Examiner
By **Matt Wadhvani** on Behalf of the Puyallup Tribe of Indians

For the Hearing to be Held
Wednesday, November 8, 2017 at 9:00 A.M.

PETITIONER: The Puyallup Tribe of Indians

FILE NO: 124.1382

Project Overview and Rationale

- 1. The existing facility has exceeded its useful life**
 - a. The current tent structure is only insured until the Project is complete
 - b. Building a new facility ensures current operations will continue without interruption

- 2. Opportunity to capture significant new revenue**
 - a. Prior to designing the casino, the Tribe hired a third party to conduct a feasibility study. The study concluded that the Project, including an on-site 200 room hotel, is viable and economically attractive due to:
 - i. Market density and population growth – potential to expand the day/trip vacation base with a new hotel
 - ii. Emerald Queen properties are the top two properties in terms of their access and convenience to residents in the greater Seattle/Tacoma area (4MM population)
 - iii. The current I-5 casino is strongly locals oriented and a new facility is needed to remain competitive
 - iv. Both net revenues and operating income forecasted to increase over 40%
 1. Profits used to fund Tribal programs

Market Study Recommendations ¹	
Investment	Over \$200 Million
Hotel	200 Rooms
Parking	2,400 Stalls
Casino Floor	117,00 - 146,000 SF
Event Space	10,000 - 25,000 SF
Retail	Up to 2,000 SF
Food and Beverage	Up to 38,000 SF

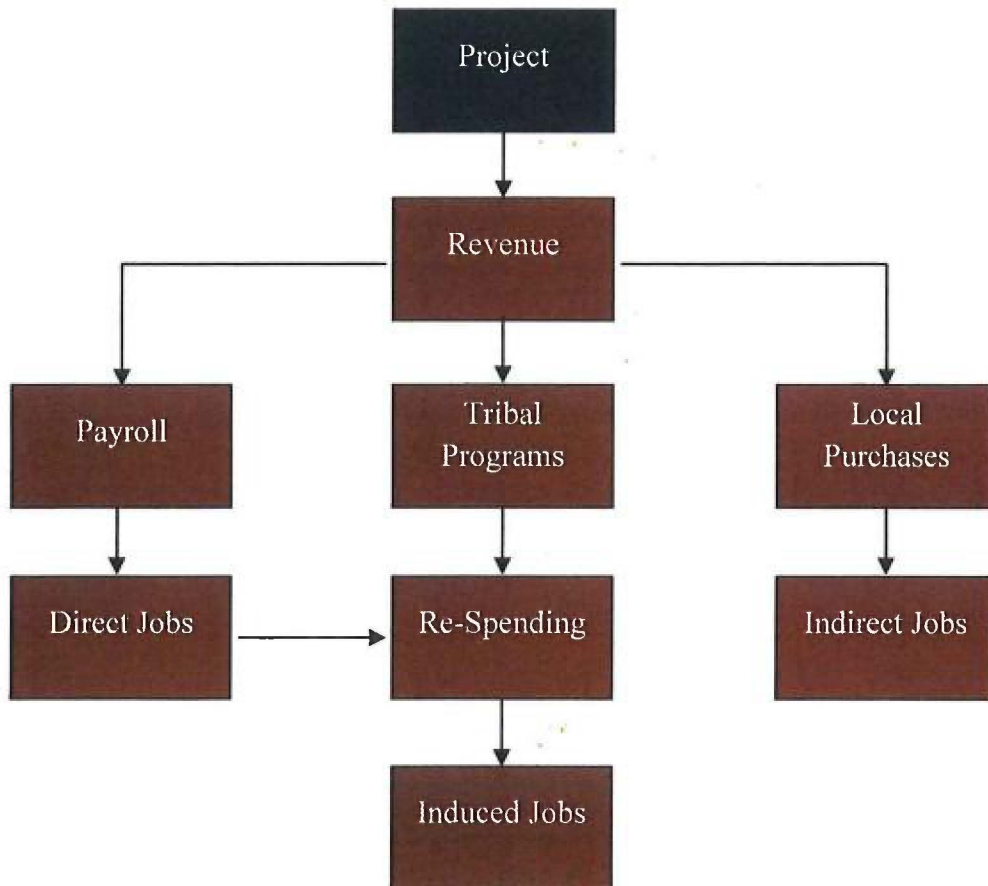
EX. 10

Local Market Impact

The Seattle area is one of the fastest growing in the U.S.² and the Project will provide employment opportunities that will support the demand of the growing population.

Local Population Overview ¹			
County	2015	2020	Growth
Pierce	844	884	1.0%
King	2,112	2,297	1.7%
Snohomish	773	825	1.3%
Thurston	269	265	1.1%
Total	3,988	4,292	1.4%

The current I-5 location employs over 1,000 people and the new facility is expected to create an additional 200 jobs. Per U.S. Department of Commerce (2014)³, for every one dollar earned by Tacoma area residents, \$2.19 of income is created as result of re-spending the direct income for purchases of goods and services in the state of Washington. With \$70 million in forecasted direct wages, it is expected that the Project will have economic impact of \$150 million per year, which is equal to ~\$1.5 billion over 10 years. Furthermore, there will be an increase in the number of indirect and induced jobs created due to purchases from local vendors and the re-spending of profits distributed to Tribal programs.



1. Pro Forma Advisors – Market Study for Emerald Queen Casino, July 2016
 2. Seattle Times (corroborated by US Census Bureau), 2017
 3. U.S. Department of Commerce, Bureau of Economic Analysis, RIMS II, 2014

C

PREPARED STATEMENT

Submitted for Record on the Hearing Examiner
By **Frank Wright** on Behalf of the Puyallup Tribe of Indians

For the Hearing to be Held
Wednesday, November 8, 2017 at 9:00 A.M. and 1:30 P.M.

PETITIONER: The Puyallup Tribe of Indians

FILE: 124.1382 and 124.1383

Since early 1996, The Puyallup Tribe and employees of the Emerald Queen Casino have enjoyed working with the City of Tacoma and its staff in making this dream come true. As our first venture was the Riverboat on the Blair Waterway. The Riverboat came from the great Mississippi River to the Great Northwest and City of Tacoma, which brought our area into the spotlight while this vessel was making its journey.

With help from the City of Tacoma we were able to have the shore side facility, parking and birthing ready for the vessel when it arrived in Tacoma. This lead our venture into the casino business with great success as it is today. We are in the top 5 casinos in the United States every year over the past 10 years.

This hasn't come without growing pains. As we continued to grow the Port of Tacoma also experienced large growth. Our growth lead us to opening a temporary facility at our Tribal grounds which was our old Bingo Hall, now known as our I-5 facility. To accommodate Port of Tacoma growth, we agreed to the closure of Alexander Avenue, which was our main entry to our Riverboat site. In exchange, the City of Tacoma and Port of Tacoma assisted the Puyallup Tribe in opening a facility within the City of Fife.

Keep in mind our I-5 tent structures, were always intended to be a temporary. At this point our I-5 facility has outlived the time we have intended. So, the need to develop a permanent facility comes as no surprise as we started improvements over 10 years ago. We have made improvements to the electrical substation, new sewer lines, new water lines, roads and sidewalks. We have completed all this work with the assistance of the City of Tacoma staff.

Keep in mind that 1,000-1,200 employees will be able to work in a modern and improved environment. With the continuation of \$70 million in wages that are earned and spent in the City of Tacoma and surrounding areas.

Now before you, we are demonstrating some of the facility we would like to construct on the property adjoining Portland Avenue and 29th Street. These designs are going to require the action taken today to vacate several alleyways and use air rights.

Approval of these requests will give us the ability to build a facility that we all can be proud of. This will be a great benefit to the City of Tacoma and great Northwest.

EX-11