

Instrument # 1001018
Bonner County, Sandpoint, Idaho
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Michael W. Rosedale Ex-Officio Recorder Deputy
Index to: MISC

BC



Resolution #2022-14

Right-Of-Way Vacation

Planning Department File #VS0009-21

RESOLUTION NO. 22- 14

**RIGHT-OF- WAY VACATION
FOR PORTIONS OF NORTH THAMA ROAD
PLANNING DEPARTMENT FILE VS0009-21**

WHEREAS, JD Lumber, Inc. has filed a petition with Bonner County, Idaho for the vacation (abandonment) of a portion of right of way, North Thama Road, located in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho; and

WHEREAS, the Bonner County Board of Commissioners held a duly noticed public hearing for the vacation (abandonment) of a portion of right of way, North Thama Road, located in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho (Planning Department File VS0009-21) on October 27, 2021 and December 8, 2021, pursuant to the procedures of Idaho Code §40-203; and

WHEREAS, following the duly noticed public hearing, the Bonner County Board of Commissioners did approve the petition and adopt findings of fact and conclusions of law in support of the abandonment of a portion of right of way, North Thama Road, located in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho; and

WHEREAS, the Board of Commissioners acknowledge that the vacated area is already vested in the petitioner, shown of record to be J.D. Lumber, Inc.; and

WHEREAS, pursuant to the Board's condition of approval, the petitioners have paid all legal advertisement and recording costs for the vacation proceedings;

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Bonner County, Idaho that a portion of right of way, North Thama Road, located in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho, described below is hereby vacated.

BE IT FURTHER RESOLVED that all easements, franchise rights, appurtenances, or any other interests of any property owner or public utility in or across the property in question shall not be impaired by the granting of the vacation.

BE IT FURTHER RESOLVED that Bonner County does hereby grant, deed and convey the vacated right-of-way as described:

That portion of that certain Roadway Easement dated April 11, 1972 recorded as Instrument No. 139922, records of Bonner County, Idaho situated in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho described as follows:

COMMENCING at Northwest Corner of said Section 4 (from which the North Quarter Corner of said

Section 4 bears South 88°03'20" East 2,659.02 feet), thence South 59° 53'10" East a distance of 1,501.94 feet;

thence North 52°58'09" East a distance of 88.74 feet, more or less, to a point on the southwesterly boundary of said Roadway Easement;

thence South 37°20'23" East, along said southwesterly boundary a distance of 32.00 feet to the POINT OF BEGINNING;

thence North 52°39'37" East a distance of 18.19 feet;

thence South 67°08'45" East, a distance of 181.64 feet;

thence South 52°42'13" West, a distance of 13.73 feet, more or less, to a point on the southwesterly boundary of said Roadway Easement;

thence North 74°59' 11" West along said southwesterly boundary a distance of 155.12 feet;

thence North 37°20'23" West, continuing along said southwesterly boundary a distance of 34.78 feet, more or less, to the POINT OF BEGINNING.

Containing 4,163 square feet, more or less.

ADOPTED as a Resolution of the Board of County Commissioners of Bonner County, Idaho, upon a majority vote on December 8, 2021.

BONNER COUNTY BOARD OF COMMISSIONERS



Dan McDonald, Chairman



Jeff Connolly, Commissioner



Steve Bradshaw, Commissioner

ATTEST: Michael W. Rosedale, Clerk



By Deputy Clerk

2/22/2022
Date

Legal: 



Bonner County

Board of Commissioners

Jeff Connolly

Daniel McDonald

Steve Bradshaw

In re:
Planning Project File VS0009-21 – Title 40 Road Vacation
Board of County Commissioners Hearing of December 8, 2021

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. The Board finds that the record is comprised of:
 - a. The applicant is requesting to vacate a portion of North Thama Road located on Parcel RP55N04W043050A.
 - b. The applicant is requesting to vacate about 4,163 square feet of an existing Right-of-Way.
 - c. The portion of the existing Right-of-Way in question does not contain the road travel surface.
 - d. The substantive issues raised during this review, such as the question of snow storage, have been adequately addressed in the amended conditions of approval as adopted at the Board of County Commissioners Hearing on December 8, 2021. This includes the condition that the petitioner shall provide for easements for continued use of any existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals or snow storage and appurtenances, and for electric, telephone and similar lines and appurtenances pursuant to Idaho Code §40-203(3).
 - e. The easement area in question is a driveway, and is not a roadway
 - f. The argument presented against the vacation is not reasonable.
 - g. The proposed easement, including the corner in the easement, is adequate for access.
 - h. The argument that the proposed easement is inadequate is not reasonable.
 - i. The county easement in question is over privately-owned land. The county does not own the underlying land in question. The county is not giving away land through approving this vacation request. The county cannot anticipate any future use for the easement area in question.
 - j. No convincing evidence has been presented of an adverse impact from the proposed vacation.
 - k. No convincing evidence has been presented of any harm to the public good from the proposed vacation.

- l. The county sees no need for one area at the end of the easement to be so excessively wide, when most of the easement is far narrower. The existing easement is unnecessarily wide in the area in question.
- m. The county has no practical use for the easement at its current width at the location in question.
- n. All evidence in the record indicates that the public right-of-way has been opened or used by the public for a period of at least five years. No evidence to the contrary exists in the record. No party has suggested that the public right-of-way has not been opened or used by the public for at least five years.

CONCLUSIONS OF LAW

2. The Board hereby adopts the following conclusions of law:

Conclusion 1

This proposal was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, 40-203.

Finding: The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way or to reclassify a public highway as a public right-of-way, where doing so is in the public interest.

Conclusion 2

Bonner County has received objections to the petition or application to vacate the described platted area.

Finding: The substantive issues raised during this review, such as the question of snow storage, have been adequately addressed in the amended conditions of approval as adopted at the Board of County Commissioners Hearing on December 8, 2021. This includes the condition that the petitioner shall provide for easements for continued use of any existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals or snow storage and appurtenances, and for electric, telephone and similar lines and appurtenances pursuant to Idaho Code §40-203(3).

Finding: The easement area in question is a driveway, and is not a roadway

Finding: The argument presented against the vacation is not reasonable.

Finding: The county easement in question is over privately-owned land. The county does not own the underlying land in question. The county is not giving away land through approving this vacation request. The county cannot anticipate any future use for the easement area in question.

Conclusion 3

The abandonment of the public right-of-way is in the public interest.

Finding: No convincing evidence has been presented of an adverse impact from the proposed vacation.

Finding: No convincing evidence has been presented of any harm to the public good from the proposed vacation.

Finding: The county sees no need for one area at the end of the easement to be so excessively wide, when most of the easement is far narrower. The existing easement is unnecessarily wide in the area in question.

Finding: The county has no practical use for the easement at its current width at the location in question.

Finding: The county easement in question is over privately-owned land. The county does not own the land in question. The county is not giving away land through approving this vacation request. The county cannot anticipate any future use for the easement area in question.

Conclusion 4

The landowner or landowners abutting said right-of-way **do** have access to his, her or their property from some other public street, public right-of-way or private road.

Finding: The proposed easement, including the corner in the easement, is adequate for access.

Finding: The argument that the proposed easement is inadequate is not reasonable.

Conclusion 5

The public right-of-way **has** been opened or used by the public for a period of five years.

Finding: All evidence in the record indicates that the public right-of-way has been opened or used by the public for a period of at least five years. No evidence to the contrary exists in the record. No party has suggested that the public right-of-way has not been opened or used by the public for at least five years.



Dan McDonald, Chair
Board of County Commission

2/22/22
Date



J-U-B COMPANIES



THE LANGDON GROUP



GATEWAY MAPPING INC.

EXHIBIT__
LEGAL DESCRIPTION
of the
PROPOSED AREA OF VACATION
of a
PORTION OF THAMA SHORES ROAD
BONNER COUNTY, IDAHO

August 11, 2021

That portion of that certain Roadway Easement dated April 11, 1972 recorded as Instrument No. 139922, records of Bonner County, Idaho situated in the NW 1/4 of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho described as follows:

COMMENCING at Northwest Corner of said Section 4 (from which the North Quarter Corner of said Section 4 bears South 88°03'20" East 2,659.02 feet), thence South 59°53'10" East a distance of 1,501.94 feet;

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thence South 37°20'23" East, along said southwesterly boundary a distance of 32.00 feet to the **POINT OF BEGINNING**;

thence North 52°39'37" East a distance of 18.19 feet;

thence South 67°08'45" East, a distance of 181.64 feet;

thence South 52°42'13" West, a distance of 13.73 feet, more or less, to a point on the southwesterly boundary of said Roadway Easement;

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thence North 37°20'23" West, continuing along said southwesterly boundary a distance of 34.78 feet, more or less, to the **POINT OF BEGINNING**.

Containing 4,163 square feet, more or less.



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Bonner County Planning Department

"Protecting property rights and enhancing property value"

1500 Highway 2, Suite 208, Sandpoint, Idaho 83864

Phone (208) 265-1458 - Fax (208) 265-1463

Email: planning@bonnercountyid.gov - Web site: www.bonnercountyid.gov

February 16, 2022

Memorandum

To: Board of County Commissioners

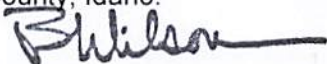
From: Jason Johnson, CFM, Planner II

Re: Vacation, VS0009-21

This is the resolution finalizing the vacation of a portion of North Thama Road located on Parcel RP55N04W043050A located off Highway 2, between East Settlement Road and Mile Marker 10. On December 8, 2021 the Board held a public hearing and determined the granting of the vacation as in the public interest.

Recording the resolution completes this file.

The plat is located off Highway 2 in a portion of Section 4, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho.

Legal Review: 

Distribution: Milton Ollerton
Jenna Crone
Jason Johnson

(Recommendation)

Staff made no recommendation on the proposal for a vacation of a portion of North Thama Road located on Parcel RP55N04W043050A as described in File VS0009-20.

I move to approve Resolution # 22-14 vacating a portion of North Thama Road located on Parcel RP55N04W043050A located off Highway 2, between East Settlement Road and Mile Marker 10 and conveying the vacated area already vested in the owner of RP55N04W043050A, to show record of owner, J.D. Lumber Inc.

Recommendation Acceptance: Yes No

 Date: 2/22/22
Commissioner Dan McDonald, Chairman