

Instrument # 1002483
Bonner County, Sandpoint, Idaho
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Michael W. Rosedale Fee: \$0.00
Ex-Officio Recorder Deputy
Index to: MISC

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Resolution 2022-19

Planning

File VS0002-21

RESOLUTION NO. 22- 19

**RESCISSION OF RIGHT-OF- WAY VACATION
FOR PORTIONS OF CAMP BAY ROAD
PLANNING DEPARTMENT FILE VS0002-21**

WHEREAS, Green Enterprises, Inc. has filed a petition with Bonner County, Idaho for the vacation (abandonment) of a portion of right of way, a portion of Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, 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, of Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho (Planning Department File VS0002-21) on April 7, 2021 and on February 16, 2022, pursuant to the procedures of Idaho Code §40-203; and

WHEREAS, following the duly noticed public hearing of April 7, 2021, the Bonner County Board of Commissioners had previously approved the petition and adopted findings of fact and conclusions of law in support of the abandonment of a portion of right of way, Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho; and

WHEREAS, following the duly noticed public hearing of April 7, 2021, this approval of the abandonment of a portion of right of way, Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho was recorded with the Bonner County Recorder at Instrument #980644; and

WHEREAS, following the duly noticed public hearing of February 16, 2022, the Bonner County Board of Commissioners did deny the petition and adopt findings of fact and conclusions of law in denial of the abandonment of a portion of right of way, Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho; and

WHEREAS, the Board of Commissioners has found that the advice and judgement of the Bonner County Road & Bridge Department on this matter was not compromised by a conflict of interest; and

WHEREAS, the Board of Commissioners has stated confidence in the advice and judgement of the Bonner County Road & Bridge Department on this matter; and

WHEREAS, the Board of Commissioners has found uncertainty in where the high-water mark of Lake Pend Oreille was at the time Camp Bay Road was created; and

WHEREAS, the Board of Commissioners has found uncertainty in the location where Camp Bay Road legally ends; and

PI

WHEREAS, the Board of Commissioners has found that it is currently unknown if Camp Bay Road provides legal public access to Lake Pend Oreille;

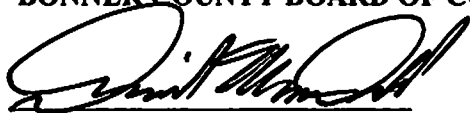
NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Bonner County, Idaho that the petition to vacate a portion of right of way, a portion of Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho, is hereby **DENIED** for the reasons outlined above.

BE IT FURTHER RESOLVED that this Resolution hereby rescinds Instrument #980644, approving the abandonment of a portion of right of way, Camp Bay Road, located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho.

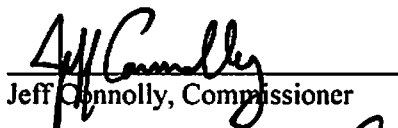
BE IT FURTHER RESOLVED that all easements, franchise rights, appurtenances, or any other interests of any property owner or public utility in or across the property in question shall not be impaired or altered by denial of the vacation.

ADOPTED as a Resolution of the Board of County Commissioners of Bonner County, Idaho, upon a unanimous vote on February 16, 2022.

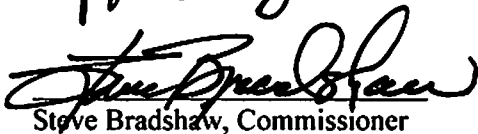
BONNER COUNTY BOARD OF COMMISSIONERS



Dan McDonald, Chairman

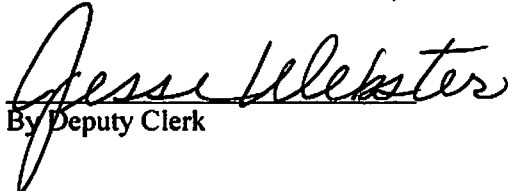


Jeff Connolly, Commissioner



Steve Bradshaw, Commissioner

ATTEST: Michael W. Rosedale, Clerk




By Deputy Clerk

3/15/22
Date

Legal: _____

Recommendation Acceptance: Yes No

 Date: 3/16/22
Commissioner Dan McDonald, Chairman



Bonner County

Board of Commissioners

Jeff Connolly

Daniel McDonald

Steve Bradshaw

In re:

Planning Project File VS0002-21 – Title 40 Road Vacation

Board of County Commissioners Hearing of April 7, 2021 and on February 16, 2022

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 a dedicated right of way, labeled as “End of Camp Bay Road,” as shown on the submitted site plan labeled “T56N, R1E, Section 18.”
 - b. The application would replace the existing road with a private roadway access and utility easement to the petitioner’s property and those properties that access off South and North Camp Bay Road, both private.
 - c. The proposed vacation would take the roadway out of the County maintenance system and it will become privately maintained.
 - d. The proposed road improvements include moving the road away from the Lake.
 - e. The proposed improvements include addressing turnarounds for a school bus or snowplow.
 - f. The proposed easements replacing the right of way would continue to provide access to property owners beyond the subject parcel.
 - g. If approved, the future maintenance of the road would continue at the petitioner’s expense.
 - h. The Board of Commissioners has found that the advice and judgement of the Bonner County Road & Bridge Department on this matter was not compromised by a conflict of interest.
 - i. The Board of Commissioners has stated their confidence in the advice and judgement of the Bonner County Road & Bridge Department on this matter.
 - j. It is currently unknown where Camp Bay Road legally ends.
 - k. It is currently unknown where the high-water mark of Lake Pend Oreille was at the time Camp Bay Road was created.
 - l. It is currently unknown if Camp Bay Road provides legal public access to Lake Pend Oreille.

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 area.

Finding: It is currently unknown where Camp Bay Road legally ends.

Finding: It is currently unknown where the high-water mark of Lake Pend Oreille was at the time Camp Bay Road was created.

Finding: It is currently unknown if Camp Bay Road provides legal public access to Lake Pend Oreille.

Conclusion 3

The abandonment of the public right-of-way is **not** in the public interest.

Finding: If Camp Bay Road does not provide public access to Lake Pend Oreille, it would be in the public interest to grant the vacation request. All of the Board's previous comments regarding paving and decreased maintenance costs remain valid, and testimony regarding use of the road only to view the lake or surrounding area would not be sufficient to alter this finding. However, based on testimony and evidence provided at the hearing, the Board cannot conclude where Camp Bay Road legally ends. Further, it is currently unknown where the high-water mark of Lake Pend Oreille was at the time Camp Bay Road was created. Therefore, it is unknown if Camp Bay Road provides legal public access to Lake Pend Oreille.

The mere possibility that Camp Bay Road could provide public access to Lake Pend Oreille is reason enough to deny the vacation request. Until that matter is resolved, the uncertainties outlined above make it impossible for the Board of Commissioners to find that the proposed vacation is in the public interest.

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: If approved, the current road would be replaced with a private roadway access and utility easement to the petitioner's property and those properties that access off South and North Camp Bay Road, both private.

Finding: The proposed improvements include addressing turnarounds for a school bus or snowplow.

Finding: The proposed easements replacing the right of way would continue to provide access to property owners beyond the subject parcel.

Finding: The future maintenance of the road would continue at the petitioner's expense.

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

3/15/22

Date



J-U-B ENGINEERS, INC.

J-U-B COMPANIES



THE LANGDON GROUP



GATEWAY MAPPING INC.

EXHIBIT ____

LEGAL DESCRIPTION
OF PROPOSED
RIGHT-OF-WAY VACATION
OF A PORTION OF
CAMP BAY ROAD

BONNER COUNTY, IDAHO

February 3, 2021

ALL that portion of the public right-of-way of Camp Bay Road located within the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho, said right-of-way being a strip of land, the centerline of which is generally described as follows:

BEGINNING at the intersection of said Camp Bay Road and the north line of said South 1/2 of Section 18, said intersection point being 250 feet, more or less, westerly of the northeast corner of the NE1/4 SW1/4 of said Section 18; thence in a southeasterly direction along the centerline of said Camp Bay Road approximately 2,550 feet to the High Water Mark of Lake Pend Oreille and the terminus of said road.

Said strip containing 2.93 acres, more or less.

Note: It is the intent of this legal description to describe all portions of the Camp Bay Road public right-of-way lying within the South 1/2 of said Section 18 established by deed, prescriptive use, viewers report or any other conveyance method.

Digitally Signed:
Feb 03, 2021



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a 7825 Meadowlark Way, Coeur d'Alene, ID 83815 p 208 762 8787 f 208 762 9797 w www.jub.com



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 24, 2022

Memorandum

To: Board of County Commissioners

From: Jason Johnson, CFM, Planner II

Re: Vacation, VS0002-21

This is the resolution finalizing the denial of the petition for vacation of a portion of a dedicated right of way, labeled as "End of Camp Bay Road," as shown on the submitted site plan labeled "T56N, R1E, Section 18."

On April 7, 2021 and on February 16, 2022 the Board held a public hearing and determined the granting of the vacation was **not** in the public interest.

Recording the resolution completes this file.

The dedicated right of way is located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho.

Legal Review: _____

Distribution: Milton Ollerton
Jenna Crone
Jason Johnson

(Recommendation)

Staff made a recommendation of approval on the proposal for a vacation of a portion of a dedicated right of way, labeled as "End of Camp Bay Road," as shown on the submitted site plan labeled "T56N, R1E, Section 18" located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho.

I move to approve Resolution # 21- 19 denying the petition for vacation of a portion of a dedicated right of way, labeled as "End of Camp Bay Road," as shown on the submitted site plan labeled "T56N, R1E, Section 18" located in the South 1/2 of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho.