

Instrument # 1002797
Bonner County, Sandpoint, Idaho
03/28/2022 02:10:43 PM No. of Pages: 6 *Re*
Recorded for: BOCC
Michael W. Rosedale Fee: \$0.00
Ex-Officio Recorder Deputy _____
Index to: MISC



Resolution #2022-21
Right-of-Way Vacation
File #VS0012-21

RESOLUTION NO. 2022-21

**RIGHT-OF- WAY VACATION
FOR A PORTION OF GARFIELD BAY ROAD
PLANNING DEPARTMENT FILE #VS0012-21**

WHEREAS, ABCD Homebuilders, LLC, with Glahe and Associates, Inc. have filed a petition with Bonner County, Idaho for the vacation (abandonment) of a portion of right of way, Garfield Bay Road, located in Section 22, Township 56 North, Range 1 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, Garfield Bay Road, located in Section 22, Township 56 North, Range 1 West, Boise Meridian, Bonner County, Idaho (Planning Department File VS0012-21) on March 24, 2022 pursuant to the procedures of Idaho Code §40-203; and

WHEREAS, following the duly noticed public hearing, the Bonner County Board of Commissioners did adopt findings of fact and conclusions of law in support of the abandonment of a portion of right of way, Garfield Bay Road, located in Section 22, Township 56 North, Range 1 West, Boise Meridian, Bonner County, Idaho, concluding that:

1. This proposal was reviewed for and is found to be in compliance with the vacation criteria and standards set forth at Idaho Code, Title 40, Chapter 2, Highways and Bridges, General Provisions.
 - a. Finding: The request for vacating a portion of Garfield Bay Road has been brought the County Commissioners in a public hearing in accordance with this section 40-203 of the state code.
 - b. Finding: The petitioner, ABCD Homebuilders, LLC is a property holder of parcel number RP56N01W225211A, located within Bonner County. The petitioner has paid the fee to cover the cost of the legal proceedings for this petition.
 - c. Finding: The Commissioners established a hearing date of March 23, 2022 to consider the request for this proposed vacation.
 - d. Finding: A public notice stating the intent of to hold a public hearing to consider the proposed vacation of Garfield Bay Road was made available to the public on February 04, 2022, at least 30 days prior to the hearing.
 - e. Finding: The portion of the public right-of-way proposed to be vacated seems to contain a 2 inch pipe water intake system with 2 hp submersible pump, extending 310' waterward as per Encroachment Permit 1-96-S-199D, recorded through Instrument No. 493648 in records of Bonner County. However, neither the grantee of the encroachment permit, TPM

Holdings (Harbor Marina), nor their known address of 6710 Garfield Bay Road, Sagle, ID 83860 could be located for the purpose of notification of this proposed vacation. It is to be noted that the notice for this proposed vacation was posted on the subject site on February 02, 2022.

- f. If this request for vacation were to be approved, the Encroachment Permit 1-96-S-199D, recorded through Instrument No. 493648 in records of Bonner County shall continue being effective and the pertinent underlying easements in the vacated right-of-way shall be reserved pursuant to the state code.
- g. Finding: A notice was mailed to owners of record of land abutting the portion of the Garfield Bay Road proposed to be vacated on February 04, 2022. The notice was also published in a daily newspaper on February 08, 2022, February 15, 2022, February 22, 2022 and March 15, 2022.
- h. Finding: During the testimony, any person or entity could appear and relay information relating to the proceedings of this petition.
- i. Finding: As per the conversation with the Bonner County Assessor's office, value assessment is not made for public right-of-ways. Vacating this portion of Garfield Bay Road to be included in the petitioner's parcel may not increase the existing value of the parcel as its value is mostly driven by waterside frontage. However, if this 1,505 square feet of vacated land were to exist as a parcel on its own, it is likely to be assessed at an approximate rate of \$1.00 per square feet of land area, totaling an amount of \$1,505.00. It is important to note that this is an approximate value as the assessment of a piece of a land is driven by market value.
- j. Since the assessed fair market value of the right-of-way proposed to be vacated is less than \$2,500.00 a charge may not be imposed on the acquiring entity pursuant to this section of the code.
- k. Finding: The proposed vacation does not leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. No public comments were received establishing any impacts from the proposed vacation.
- l. Finding: Garfield Bay Road was dedicated to the public through a Right-of-Way Deed, Instrument No. 34688.
- m. Finding: Garfield Bay Road is currently used by the public and has been maintained at the expense of the public in at least 3 years during the previous 15 years.
- n. Finding: Garfield Bay Road was constructed as per the County public right-of-way standards.
- o. Finding: The request for the proposed vacation is in the public interest. As indicated by the Bonner County Road and Bridge Department, the proposed area of this vacation of the Garfield Bay Road is "leftover remnant that was created when the road was realigned in 2015." This portion of the right-of-way is not in line with the current configurations of the roads. Vacation of the proposed site will not impede the flow of traffic or access to any adjoining properties. However, the Bonner County Road and Bridge would like the applicant to dedicate some equivalent area for a truck turn around at the north end of their

property for continued maintenance of Garfield Bay Road.

2. The abandonment of the public right of way is in the public interest.
 - a. Finding: The request was found to be in public interest. In exchange for the requested vacation the petitioner will dedicate an easement for plow and emergency vehicles to turn around on their property, for the continued maintenance of Garfield Bay Road. The Board noted that the County, currently, does not have a legal turn-around at the intersection of Garfield Bay Road and Hoffman Avenue. Approval of this vacation request would provide the County with a legal and safe turn-around which will be a benefit to the public.

No other public agencies or commented or public comments were received indicating any potential harm to the interest of the public.
3. By granting this petition for vacation of public right of way, real property adjoining the subject highway or public right of way will not be left without access to an established highway or public right of way.
 - a. Finding: The proposed vacation does not leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. No public comments were received establishing any impacts from the proposed vacation.

WHEREAS, the Board of Commissioners, pursuant to the petition dated November 30, 2021 acknowledge that the vacated area is already vested in the petitioner, show of record to be ABCD Homebuilders, LLC.

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, Garfield Bay Road, located in Section 22, Township 56 North, Range 1 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:

A triangular-shaped portion of the Garfield Bay Road right of way lying in Government Lot 3 of Section 22, Township 56 North, Range 1 West, Boise Meridian, Bonner County, Idaho, more particularly described as follows:

COMMENCING at the southwest corner of Lot 1A of "Opal McKee Replat Lots 1 Through 7 Block 1 And A Portion of Unplatted Land In Government Lot 3", according to the plat thereof recorded at Book 7 of Plats, Page 226, records of Bonner County, Idaho;

Thence along the southerly terminus of Garfield Bay Road right of way as described in Book 20, Page 126 of Misc., North 89°20'48" West, 18.62 feet to the northwest corner of the Hoffman Avenue right of way dedicated by Deed of Dedication, Instrument No. 886500, marked with a 5/8" rebar and cap by PLS 13548, being the TRUE POINT OF BEGINNING;

Thence continuing along said southerly terminus of Garfield Bay Road right of way, North 89°20'48" West, 32.80 feet to the southwest corner thereof, marked with a 1/2" rebar and cap by PLS 4194;


Thence along the westerly right of way of said Garfield Bay Road, North 13°46'05" East, 94.19 feet to a 5/8" rebar and cap by PLS 13548;

Thence leaving said right of way, South 06°26'51" East, 92.45 feet to the TRUE POINT OF BEGINNING.

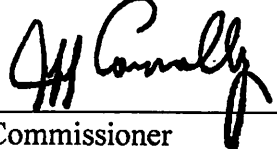
Containing: 1505 Square Feet, (0.035 Acres) more or less.

ADOPTED as a Resolution of the Board of County Commissioners of Bonner County, Idaho, upon a majority vote on March 23, 2022.

BONNER COUNTY BOARD OF COMMISSIONERS



Dan McDonald, Chairman



Jeff Connolly, Commissioner

Absent


Steve Bradshaw, Commissioner

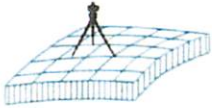
ATTEST: Michael W. Rosedale, Clerk



By Deputy Clerk

March 23, 2022
Date

Legal: 



GLAHE & ASSOCIATES, Professional Land Surveyors

P.O. Box 1863
303 Church St.
Sandpoint, ID 83864

Phone: (208) 265-4474
Fax: (208) 265-0675
Website: glaheinc.com

Legal Description

Garfield Bay Road Right of Way Vacate

Bonner County, Idaho
S22, T56N, R1W, B.M.

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