

**BONNER COUNTY PLANNING DEPARTMENT
BOARD OF COUNTY COMMISSIONERS
STAFF REPORT FOR OCTOBER 9, 2024**



Project Name: Title 50 Vacation – Vacation of Lot 1, less Tax 1, from the Plat of SWSE Section 16-56N-2W

File Number, Type: VS0003-24, Title 50 – Vacation of a portion of a Plat

Request: The petitioner is seeking to vacate an approximately 3.8-acre lot from the Plat of SWSE Section 16-56N-2W

Legal Description: The property is described as 16-56N-2W PLAT OF SWSE LOT 1 LESS TAX 1.

Location: The property site is located on Hwy 95 in Sagle located in Section 16, Township 56 North, Range 2 West, Boise Meridian.

Parcel Number(s) RP00687000001CA

Area: ±3.874-acres

Applicant: Dennis G. McIntire
468356 Hwy 95
Sagle, ID 83830

Applicant Representative: Matt Linscott
105 Pine St, Ste 103
Sandpoint, ID 83864

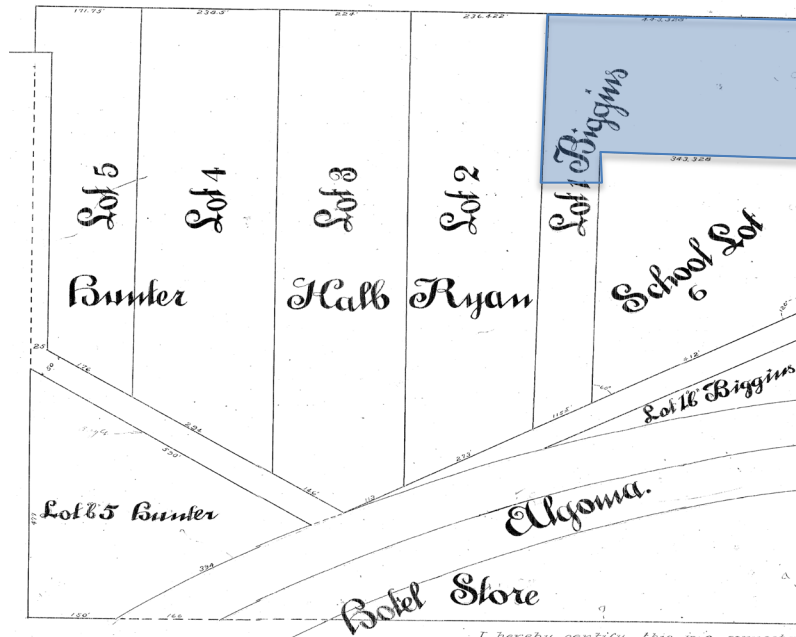
Property owner: Same as applicant

Petition filed: July 8, 2024

Notice provided: Mailed: September 24, 2024
Published in newspaper: September 24 & October 1, 2024
Site Posting: September 24, 2024

PLAT OF SWSE 16-56N-2W

Subdivision.
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16 T.56N.R.2W.



PLAT OF SWSE 16-56N-2W LOT 1 LESS TAX 1



Project summary:

The petitioner is requesting to vacate Lot 1, less Tax 1, an approximate 3.8-acres lot from the Plat of SWSE Section 16-56N-2W. The request is based on the desire of the landowner to bring the lot "into compliance". The current lot, parcel RP00687000001CA, does not comply with BCRC 12-616.E.1. and is described by a metes and bounds description that includes the unplatted 7.6 acre parcel, RP56N02W167580A, to the north, as determined by Certificate of Compliance, file #CC0001-24. Similar to a split zoned property, this property consists of both platted and unplatted portions of property and the applicant wishes to make it all unplatted through this request.

Applicable laws:

The following sections of Idaho Code apply to this petition:

- §50-1306A – Vacations of Plats – Procedures

Overview:

A. Site data:

Plat acreage: ±3.874 acres

Hydrologic Features: None.

Flood Hazard Zone: Entire property is within SFHA Zone X, per FIRM Panel 16017C0950E, Effective Date 11/18/2009.

Wetlands: None.

Slope: Few slopes at 15%-29% and 30%+ per USGS.

Soils: Kaniksu sandy loam, 0 to 4 percent slopes; all areas are prime farmland

Area to be vacated: ±3.874 acres

B. Access: Access to the property is provided via Hwy 95, an Idaho Department of Transportation owned and maintained right of way.

C. Standards review:

The project has been reviewed for conformance with Idaho Code §50-1306A, Vacation of Plats - Procedure, and Idaho Code §50-1317. The following facts relate to the standards of review:

- The petition to vacate a platted area complies with all State procedures set forth in IC §50-1306A and IC §50-1317.
- In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and existing travelway - these easements are to be left intact and are not vacated through the provisions of this petition.
- Abandonment would not impede or deprive any property of legal access.

D. Agency Review

The petition was routed to the agencies listed in Annex A on September 24, 2024.

Comments Received:

Panhandle Health District-see letter for full details.

No Comments:

Idaho Department of Fish & Game
Kootenai-Ponderay Sewer District
Idaho Department of Environmental Quality

All other agencies did not respond

E. Public Notice & Comments

There have been no public comments at the time this staff report was produced.

Planner's Initials: AF **Date:** October 2, 2024

Note: The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Motion by the governing body:

BOARD OF COMMISSIONERS

MOTION TO APPROVE: I move to approve this petition, FILE VS0003-24, to vacate Lot 1, less Tax 1, an approximate 3.8-acres lot from the Plat of SWSE Section 16-56N-2W, finding that it is in accord with Idaho Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the following findings of fact, conclusions of law [REFER TO FOREGOING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS] and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the vacation is to complete the Conditions of Approval as adopted. This action does not result in the taking of private property.

MOTION TO DENY: I move to deny this petition, FILE VS0003-24, based upon the following conclusions: [REFER TO FOREGOING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS AND FAILS TO MEET]. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the following findings of fact and conclusions of law as amended and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the vacation is to:

- 1) File a new petition with the Planning Department and meet the standards required by Idaho Code; or
- 2) Pursue such remedies as may be applicable at Idaho Code, Title 50, Chapter 13.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

This proposal **is/ is not** compliant with the vacation criteria and standards set forth at Idaho Code §50-1306A.

Finding

This petition was submitted to the Planning Department on July 8, 2024. This petition was noticed to neighbors within 300 feet on September 24, 2024, and was noticed in the newspaper on September 24, 2024 and October 1, 2024.

There is a utility easement located within the areas that are proposed to be vacated, according to the petition. The applicant has not proposed the vacation of the utility easement. Local utility providers were routed as part of agency review, and none responded.

Conclusion 2

By granting of this petition for vacation, no easements **will not** be vacated according to the legal description.

Finding

The power utility easement will continue to exist, recorded at Instrument No. 455855. The vacation does not include ingress/egress easements.

Conclusion 3

Abandonment **will not/ will** impede or deprive any property of legal access.

Finding

This petition is to abandon a portion of the subject plat. This property and the remaining properties within the plat will not be left without legal access.

Conclusion 4

Granting of this petition for vacation **is / is not** in the public's interest.

Findings of Fact:

- The applicant is requesting to vacate Lot 1, less Tax 1, an approximate 3.8-acres lot from the Plat of SWSE Section 16-56N-2W.
- Based on materials submitted in this application, no real property adjoining the area to be vacated would be left without access to an established highway or public right-of-way.

- This petition was submitted to the Planning Department on July 8, 2024. This petition was noticed to neighbors within 300 feet on September 24, 2024, and was noticed in the newspaper on September 24, 2024 and October 1, 2024.
- There is a utility easement located within the areas that are proposed to be vacated, according to the petition. The applicant has not proposed the vacation of the utility easement. Local utility providers were routed as part of agency review, and none responded.
- The power utility easement will continue to exist, recorded at Instrument No. 455855. The vacation does not include ingress/egress easements.
- Staff has received no public or agency comment or feedback opposing the proposed vacation.
- Vacation of this right-of-way will not extinguish any rights-of-way or easements for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities.

Conditions of approval:

1. The vacation of the above described platted area shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. The vacation of the platted area shall only be for the lot as described above. All easements existing on the subject area shall remain in place.
3. No lots or parcels shall be left without legal access.
4. The costs for legal advertisements and recording fees shall be borne by the petitioner and shall be paid prior to the recording of the resolution for this vacation.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online one week before the hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.