

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
AUGUST 21, 2019**

CALL TO ORDER: Chair Connolly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Jeff Connolly; Vice Chair Dan McDonald; and Steve Bradshaw

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner II Sam Ross; and Administrative Manager Jeannie Welter

PUBLIC HEARING:

ROAD VACATION

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File VS0002-19 – Vacation of North Thama Road – Right-of-Way – J. D. Lumber, Inc. is petitioning to vacate a portion of North Thama Road right-of-way. The project is located off North Thama Road in Section 4, Township 55N North, Range 04W West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Chair Connolly disclosed he personally knows some of the members of the public in the room, but this does not create a conflict for him. The Chair noted that there were no additional disclosures or conflicts.

STAFF PRESENTATION: Planner II Sam Ross presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Jeff Weimer with JD Lumber have a brief summary and history of the right-of-way.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in opposition of the vacation petition regarding the width of the travel and access:

Jeff Needs Jr.
Rick Harder
Toby McLaughlin

Carleen Needs

APPLICANT REBUTTAL: Mr. Weimer responded to public comments stating he has no plans to put up a fence.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

The commissioners requested a recorded survey be completed on the portion of right-of-way to be vacated.

MOTION: Commissioner McDonald move to continue File VS0002-19, a petition to vacate a portion of the North Thama Road public easement, to a date and time certain of November 13, 2019 at 1:30 p.m. Commissioner Bradshaw seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Overview:

A. Site data:

- Parcel acreage: 1.12 (assessed)
- Structures: vacant
- Hydrologic Features: None
- Flood Hazard Zone: X/AE
- Wetlands: Portions of the area feature "Freshwater Emergent Wetland"
- Slope: <15% per USGS
- Soils:
 - Selle Fine Sandy Loam, 0 To 8 Percent Slopes
 - Mission Silt Loam, 0 To 2 Percent Slopes

B. Access:

- Access to the easement is provided by North Thama Road a local access road.

C. Standards review:

- Required:
 - Compliance with:
 - §40-203, Abandonment and Vacation of County and Highway District System Highways or Public Rights-Of-Way
 - 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.
- Provided:
 - Petitioner's reason for the request:
 - "Burlington Northern Railroad (BNSF) sold the property in question to JD Lumber. BN presumed they gave an easement to [Bonner County] for the road and only the road. They actually gave the county an easement for the road and south of the road

and south of the road to the Southern BNSF property line. Then JD Lumber bought the property south of the county road to the Southern BNSF property line, and no one realize that area of property was encumbered by the easement given to the county."

D. Agency Review

The petition was routed to the following agencies on July 19, 2019.

Panhandle Health District Bonner County Road Dept. West Pend Oreille Fire District Avista Utility Company Northern Lights INC.	Bonner County Schools – Transportation BNSF Railway Frontier Communications Idaho Transpiration Dept. Dept. of Env. Quality
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Agency Review Ended on August 7, 2019.

- o No agency comments were submitted.

E. Public Notice & Comments

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

Conclusions of Law:

The Background section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

This proposal is compliant with the vacation criteria and standards set forth at Idaho Code §40-203.

Finding

The procedures set forth in section 40-203, Idaho Code, have been followed.

No public agency has objected to the proposed petition to vacate.

Local utility providers were routed as part of agency review, and none opposed the validation.

Conclusion 2

That portion of the North Thama Road Public Easement is hereby vacated and declared abandoned.

Finding

The petitioner demonstrated adequate evidence that the vacation of the subject easement would not be in conflict with public interest.

Finding

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The petitioner provided adequate evidence that the vacation of the subject easement would not result in any real property, adjoining said easement, without access to an established highway or public right-of-way

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 costs for legal advertisements and recording fees shall be borne by the petitioner and shall be paid prior to the recording of this vacation.
3. The petitioner shall allow for continued use of 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 and appurtenances, and for electric, telephone and similar lines and appurtenances – pursuant to Idaho Code §40-203(3).

The Chair declared the hearing adjourned at 3:04 p.m.

Respectfully submitted, this 16th day of September 2019.

Milton Ollerton, Planning Director