

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
JUNE 9, 2021**

CALL TO ORDER: Chair McDonald called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

PRESENT: Commissioners Chair Dan McDonald and Vice Chair Steve Bradshaw

ABSENT: Commissioner Jeff Connolly

ALSO PRESENT: Planning Director Milton Ollerton; Planner II Jason Johnson; Planner I Swati Rastogi; Planner I Chad Chambers; Planner I Daniel Britt; Administrative Manager Jeannie Welter; Administrative Assistant III Kelcey Utt-Boss; and Administrative Assistant III Janna Berard

PUBLIC HEARINGS:

PRELIMINARY PLAT

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 S0002-21 – Preliminary Plat Subdivision – Valiant Idaho, LLC is requesting a preliminary plat creating 17 residential lots and 2 open space lots in accordance with an already approved PUD (C832-05) The property is zoned Recreation. The project is located west of the western terminus of Oxbow Road in Section 36, Township 58 North, Range 1 West, Boise-Meridian. The Planning and Zoning Commission at the public hearing on May 6, 2021, recommended approval of this file to the Board of County Commissioners.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

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

APPLICANT PRESENTATION: Project Representative Jeremy Grimm presented a PowerPoint detailing the history and various phases of the project.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION Commissioner Bradshaw moved to approve this project, FILE S0002-21, for a subdivision of ±9.8 acres of land to create (19) lots, including 17 residential lots and two open-space lots, ranging in size from 6612 sf to 4.87 acres, finding that it is in accord with the general

and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised 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. Commissioner Bradshaw further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the plat is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

- Use: Vacant land
- 19 lots proposed; 17 residential & 2 open space
- Size: ±9.8 acres
- Zone: Recreation (Rec)
- Land Use: Resort Community (<=2.5 AC)

B. Access:

- The proposed westerly extension of the private Oxbow Drive will be developed with a 26 foot wide, paved, fire code compliant roadway located within a 30 foot wide private right of way.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake. (NHD)
- Floodplain: Parcel contains SFHA Zone X and hatched Zone X per FIRM Panel 16017C0735E, Effective Date 11/18/2009. No further flood review needed.

D. Services:

- Water: TIC, LLC Utilities. 2/21/21 "will serve" letter was submitted.
- Sewage: TIC, LLC Utilities. 2/21/21 "will serve" letter was submitted.
- Fire: North Side Fire
- Power: Avista (natural gas) and Northern Lights (electricity).
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (<=2.5 AC)	Recreation (Rec)	Vacant
North	Resort Community (<=2.5 AC)	Recreation (Rec)	Residential
East	Resort Community (<=2.5 AC)	Recreation (Rec)	Residential
South	Resort Community (<=2.5 AC)	Recreation (Rec)	Vacant
West	Resort Community (<=2.5 AC)	Recreation (Rec)	Residential

F. Standards review

BCRC	Required	Provided
Minimum Lot Size, BCRC 12-411	12,000 square feet	22467.8 square feet (average) Deviations authorized in the PUD (C832-05)
Depth to width, BCRC 12-621	3:1	≈2:1 or less, except Lots 14-16, which are all over 3:1 depth-width ratio; PUD authorized this deviation (C832-05: Condition A-7(5)).
Urban services, BCRC 12-623(A)	All "urban services", as defined in BCRC 12-821	All "urban services", as defined in BCRC 12-821
Water supply, BCRC 12-623(B)(4)	Connection to an existing public or private water system	Will-serve letter from TIC UTILITIES, LLC; preliminary Water and Sewer Plan
Sewage disposal, BCRC 12-623(C)	Sewage disposal as approved by PHD	Will-serve letter from TIC UTILITIES, LLC; preliminary Water and Sewer Plan
Fire Plan/Fire risk assessment, BCRC 12-623(D)	Assessment of fire risk Fire protection plan Defensible space plan	Assessment of fire risk Fire protection plan Defensible space plan
Road name, BCRC 12-624(A)	Shall have unique road names	Oxbow Road
Road standards, BCRC 12-624(B)	Road networks shall be designed and constructed to private road standards set forth in Appendix A of BCRC.	Engineered road plan submitted in compliance with BCRC Appendix A.
Legal access, BCRC 12-624(C)	Legal access meeting road standards per BCRC 12-624(B)	Engineered road plan submitted in compliance with BCRC Appendix A and BCRC 12-624(B).
Direct frontage, BCRC 12-624(D)	All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way.	All proposed lots will front on a private road (C832-05: Condition A-7(4)).
Natural hazards, BCRC 12-626(A)	Shall meet the requirements of chapter 7, "Environmental Standards"	Development will comply
Environmental Standards, BCRC 12-626(B)		
Grading, Stormwater, Erosion Control BCRC 12-720 et. seq.	Professional Stormwater Plan	Provided professional Stormwater Plan
Wetlands, BCRC 12-730 et. seq.	Shall meet the requirements of chapter 7, "Environmental Standards"	Development will comply
Wildlife, BCRC 12-740 et. seq.	Mitigation measures as determined by IDFG or U.S. Fish and Wildlife	See Comments provided by IDFG

BCRC	Required	Provided
Preliminary plat requirements, BCRC 12-642	Plat contents	Application deemed complete

G. Stormwater plan: An engineered road & stormwater management plan was required pursuant to BCRC 12-720.2(A). The plan is provided by James A. Sewell and Associates, LLC. The plan calls for temporary erosion controls during development. Plans for permanent erosion and stormwater controls, as well as their maintenance, are also included. Details can be found in the submitted plan.

H. Agency Review: The application was routed to agencies for comment on February 18, 2020.

Avista Utilities	Northern Lights, Inc.
Bonner County Road & Bridge Department	Northside Fire District
Idaho Department of Environmental Quality	Panhandle Health District
Idaho Department of Lands – Sandpoint	TIC, LLC Utilities
Idaho Department of Water Resources	U.S. Army Corps of Engineers
Idaho Transportation Department	School District #84
Bonner County Schools Transportation	Idaho Fish and Game

Idaho Department of Environmental Quality responded with a standard 5-page comment sheet of recommendations. The Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis.

Idaho Fish & Game provided attached comments and recommendations.

All other agencies replied "No comment" or did not reply.

I. Public Notice & Comments:

No public comment was received on this proposal.

Findings of Fact

1. The site is ±9.8 acres.
2. The site is zoned as Recreation.
3. The development will include (19) lots, including 17 residential lots and two open-space lots, ranging in size from 6612 sf to 4.87 acres.
4. The does contain wetlands.
5. The site does not contain other special or hazardous environmental areas.
6. Access will be provided by the proposed westerly extension of the private Oxbow Drive, which will be developed with a 26 foot wide, paved, fire code compliant roadway located within a 30 foot wide private right of way.
7. Water and sewer will be provided by TIC, LLC Utilities, per 2/21/21 "will serve" letter.
8. The site will be served by Northside Fire, Avista Utilities, and Bonner School District #84.
9. Some features of this proposal, including some proposed depth-to-width ratios, minimum lot sizes, and the usage of a private road, are dependent on a previously approved PUD (C832-05).

Conclusions of Law:

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

Conclusion 1

The proposed subdivision is in accord with the purposes of this Title and of the zone district in which it is located.

Conclusion 2

The site is physically suitable for the proposed development.

Conclusion 3

The design of the proposed subdivision will not adversely impact Bonner County's natural resources, as identified in the comprehensive plan. Any adverse impacts or potential for impacts shall be mitigated as a condition of approval.

Conclusion 4

The public and private services, including but not limited to water, sewer services, solid waste, fire protection, emergency services, and school facilities and transportation, which will serve the proposed subdivision are adequate for the needs of future residents or users.

Conclusion 5

The proposed subdivision will not cause circumstances to exist that will cause future residents or the public at large to be exposed to hazards to health or safety.

Conclusion 6

The design of the proposed subdivision or related improvements will provide for coordinated access with the county system of roads and with adjacent properties, and will not impede the use of public easements for access to, or through the proposed subdivision. The proposed transportation system is designed to adequately and safely serve the future residents or users without adversely impacting the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Conclusion 7

The proposed subdivision is designed to comply with the design criteria for subdivisions set forth in Subchapter 6.2 of this chapter.

Conclusion 8

The proposed subdivision is in accord with the Bonner County comprehensive plan.

- | | | |
|-----------------------|-------------------------|------------------------------------|
| •Property Rights | •Population | •School Facilities, Transportation |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conditions of approval:

Required plat notes:

The following notes shall be recorded on the face of the final plat:

- A-1** All easements and instrument numbers for ingress, egress and utility, pertaining to this subdivision shall be shown on the face of the plat.

- A-2** "The roads within this subdivision are private, and have not been constructed to county standards for maintenance. The roads shall be maintained at the sole expense of the property owners until such time as it is constructed to county standards for maintenance at no expense to the taxpayers and is dedicated to the public by the lot owners and accepted into the county's maintenance system by the Bonner County Board of Commissioners."

Standard and site-specific plat conditions:

- B-1** A final plat shall be recorded.
- B-2** A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.
- B-3** The preliminary plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary plat, the applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Board of County Commissioners may consider such request for extension at any regular business meeting. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- B-4** The applicant shall install, prior to ground disturbing activities, all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department, prior to ground disturbing activities, a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install, upon completing ground disturbing activities, and shall maintain thereafter, all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department, upon completing ground disturbing activities, a signed statement and stormwater system as-builts from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. All stormwater facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.
- B-5** Roads providing access to the proposed subdivision shall be constructed in accord with submitted road plan.

ROAD VACATIONS

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 VS0003-21 – Title 40 Vacation of a Public Right-of-Way – Candace Kirk is petitioning to vacate the right of way on Lots 3, 4 and 5 of Grouse Valley Subdivision, Block 2. The request is a Title 40 vacation request. The property is zoned Agricultural/Forestry 20 (A/F-20). The project is located off Whitetail Drive, a local road in Section 17, Township 59 North, Range 1 East, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planner I Swati Rastogi presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Idaho State Code.

APPLICANT PRESENTATION: Applicant Shawn Kirk presented a PDF presentation depicting photos and maps of the site detailing specific locations.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record in favor of the project: Gerald Plocker

APPLICANT REBUTTAL: None

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

MOTION Commissioner Bradshaw moved to approve this petition, FILE VS0003-21 requesting to vacate a portion of the 60 feet wide public right-of-way known as Whitetail Drive, as recorded in Book 2 of Plats, Page 100, records of Bonner County, Idaho through Instrument 091620 in the year 1963, over and across a portion of Lots 3, 4, and 5 of Block 2 of the Grouse Valley Addition located in Section 17, Township 59 North, Range 1 East, Boise Meridian, Bonner County, Idaho, finding that it is in accord with Idaho Code §40 as enumerated in the foregoing conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact, conclusions of law and conditions of approval. 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 a taking of private property. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Resolution Adoption:

MOTION: Commissioner Bradshaw moved to approve resolution #2021-48 vacating a portion of Whitetail Drive as shown on the submitted site plan. After stepping down from the chair Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

- Approximately 1 acre, 60 feet wide platted right of way.
- Streams and Rivers: The U.S Geological Survey shows the presence of a stream or river intermittent on the site.
- Flood Hazard Zone: Parcel is within SFHA Zone X per FIRM Panel 16017C0530E, Effective Date 11/18/2009. Area to be vacated, per submitted materials, is within SFHA Zone X. No further floodplain review is required on this proposal.
- Wetlands: Presence of mapped Riverine type wetlands (R4SBC).
- Slope: most of the property contains slopes of 30% or greater. Properties also show some slopes between 15-29%.

B. Access:

- Whitetail Drive
 - Bonner County owned and maintained public right-of-way
 - Platted
 - 60 feet wide

C. Standards Review: The project has been reviewed for conformance with Idaho Code §40-203, Abandonment and Vacation of County and Highway District System 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.

D. Agency Review: The application was routed to agencies for comment on April 30, 2021.

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d'Alene)
School District #84	Army Corps (Newport)
U.S. Forest Service	Dept. of Environmental Quality
Dept. of Fish and Game	Fish and Wildlife Service

The following agencies commented:

Bonner County Road & Bridge, May 04, 2021: Bonner County Road & Bridge Department is supportive of the vacation request.

Idaho Department of Environmental Quality, May 28, 2021: The agency does not review projects on a case by case basis but encourages the applicant to review the agency's environmental guide for project specific concerns

The following replied "No Comment."

Idaho Department of Fish and Game, May 25, 2021

All other agencies did not respond.

E. Public Notice & Comments

As of May 25, 2021, Bonner County Planning Department received no public comments for this file.

Conclusions of Law:

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

Conclusion 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.

Findings: See Staff Analysis above.

Conclusion 2

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

Findings: The proposed alternate right-of-way does not impact any other neighboring properties adversely. No public agency has objected to the proposed right-of-way

vacation. Additionally, there are no utilities located within the areas that are proposed to be vacated, according to the application. Local utility providers were routed as part of agency review, and none responded.

Conclusion 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.

Findings: The proposed vacation does not leave any real property adjoining the public right-of-way without access to an established public right-of-way as the proposed alternate public right-of-way continues to provide adequate access to all the impacted adjoining real properties.

Conditions of approval:

1. The vacation of the above-described right-of-way 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 applicant and shall be paid prior to the recording of the resolution vacating the easement.
3. Either a Lot Line Adjustment or a Minor Notational Change is required to ensure each affected lot maintains legal access.

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 VS0005-21 – Title 50 Vacation of a Platted Right-of-Way - Laura and Stephen O’Hare are petitioning to vacate part of River Drive in the Plat of 1st Addition to River Retreat. The property is zoned Rural 5-acre. The project is located off River Drive in Section 19 & 20, Township 55 North, Range 3 East, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planner I Chad Chambers presented a summary of the project and previously circulated staff report, concluding this project is consistent with Idaho State Code.

APPLICANT PRESENTATION: Project Representatives Lisa Adair and Claire Marley, Ruen-Yeager & Associates, presented a PowerPoint presentation of the project.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record in favor of the project: Kenneth Ensey

APPLICANT REBUTTAL: Project Representatives Lisa Adair and Claire Marley, Ruen-Yeager & Associates responded to public comments regarding the roadway.

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

MOTION Commissioner Bradshaw moved to approve this petition, FILE VS0005-20 to vacate a portion of West River Drive, a platted, private ingress/egress easement, finding that it is in

accord with Idaho Code §50 as enumerated in the foregoing conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact, conclusions of law and conditions of approval. 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 a taking of private property. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Upon further discussion Commissioner Bradshaw amended his motion as follows:

MOTION Commissioner Bradshaw moved to approve this petition, FILE VS0005-20 to vacate a portion of West River Drive, a platted, private ingress/egress easement, finding that it is in accord with Idaho Code §50 as enumerated in the foregoing conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact, conclusions of law and conditions of approval, removing the requirement for a replat. 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 a taking of private property. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Resolution Adoption:

MOTION: Commissioner Bradshaw move to approve resolution #2021-49 vacating a 6,600ft² (0.15 acres, more or less) portion of West River Drive as shown on the submitted site plan and as described in the legal description. After stepping down from the chair Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

- 1-acre platted lot
- Streams and Rivers: Clark Fork River runs south of the property.
- Slope: most of the property contains slopes of 15-29%, and there are some slopes 30% or greater in the middle of the property, following the West River Drive.
- There are no mapped wetlands on the property.

Soil Type	Farmland Classification	Drainage Class
Bonner silt loam	All areas are prime farmland	Well drained
Pend Oreille silt loam	Not prime farmland	Well drained

- Flood Hazard Zone: JRJ, 5.13.2021: Parcel is within SFHA Zone X, Zone AE, and Zone AE Floodway, per FIRM Panel 16017C1235E, Effective Date 11/18/2009. Area to be

vacated, per submitted materials, is within SFHA Zone X. No further floodplain review is required on this proposal.

B. Access:

- West River Drive
 - Privately owned and maintained road
 - Platted
 - ≈20' wide

C. Review Standards: The project has been reviewed for conformance with Idaho Code §50-1306A, Vacation of Plats - Procedure, Idaho Code §50-1317, and Easements - Vacation of, Idaho Code §50-1325. 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.
- Abandonment will not impede or deprive any property of legal access.

D. Agency Review: The application was routed to agencies for comment on April 30, 2021.

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Fish and Wildlife Service
Clark Fork Fire Dept.	Dept. of Lands (Sandpoint)
Northern Lights Inc.	Bonner County Contract Engineer
Bonner School District #84	Dept. of Env. Quality
Dept. of Fish and Game	State Historical Society
Dept. of Lands, Nav. Waters	

The following agencies commented:

Bonner County Road & Bridge, April 30, 2021:

"Bonner County Road & Bridge has no objections to the proposed vacation of the end of this road. Since the applicants own all affected parcels and are looking to combine them for the purposes of building, no parcels will be left without access."

Idaho Department of Environmental Quality, May 28, 2021:

Thank you for the opportunity to respond to your request for comment. While the Idaho Department of Environmental Quality (DEQ) does not review project-specific basis...DEG has not completed a thorough review of the documents provided, therefore, the following general comments should be applied as appropriate."

The following replied "No Comment."

Idaho Department of Fish and Game, May 21, 2021

City of Clark Fork, June 1, 2021

All other agencies did not respond.

E. Public Notice & Comments

As of June 2, 2021, Bonner County Planning Department received no public comments for this file.

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, Plats and Vacations, Section 50-1317, Vacation of plats - procedures; 50-1318, In absence of opposition; 50-1319, In presence of opposition; 50-1321, Necessity for consent.

Finding

Vacating the end of west river drive will not block access to the surrounding properties.

Conclusion 2

Bonner County **has not** received objections from neighbors or public agencies for the request to vacate the described platted area.

Finding

Bonner County did not receive any public comments for the proposed vacation. Public agencies who did comment did not state any objection to the road vacation.

Conclusion 3

The abandonment of the easement is in the public interest.

Finding

Since the public did not comment, and the road is private, the request to vacate the road is in the public interest.

Conditions of approval:

1. The vacation of the above-described right-of-way shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. Title to the vacated roadway shall be vested as follows:.....[Idaho Code 50-311, as per 50-1320, provides the land shall "revert to the owner of the adjacent real estate, one-half on each side thereof, or as the city council (*or commissioners*) deems in the best interest of the adjoining properties, but the right of way, easements and franchise rights of any lot owners or public utility shall not be impaired thereby."
3. The costs for legal advertisements and recording fees shall be borne by the applicant and shall be paid prior to the recording of the resolution vacating the easement.

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 VS0006-21 - Title 40 Vacation of a Platted Right-of-Way - Brock Parker is petitioning to vacate a public right-of-way on the Eastern property line of RP56N05W133000A and the Western property line of S6N05W05W132400A. The property is zoned R-5. The project is located off Terry Trail in Section 13, Township 56 North, Range 5 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planner I Daniel Britt presented a summary of the project and previously circulated staff report, concluding this project is consistent with Idaho State Code.

APPLICANT PRESENTATION: None

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in opposition of the file: Kenneth Ensey, John Meyers, Jody Meyers, and Bill Dixon.

APPLICANT REBUTTAL: Danielle Parker responded to comments pertaining to the cut brush left on the property line.

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

MOTION Commissioner Bradshaw moved to approve this petition, FILE VS0006-21, Vacate 60- foot easement of Terry Trail, finding that it is in accord with Idaho Code §40 as enumerated in the foregoing conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact, conclusions of law and conditions of approval (noting any amendments). 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 a taking of private property. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Resolution Adoption:

MOTION: Commissioner Bradshaw moved to approve resolution #2021-50, vacating a 60 ft. portion of Terry Trail as shown on the submitted site plan and legal description. After stepping down from the chair Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

Parcel acreage: 4 acres
Easement: 60 feet on eastside side
of property Structures: n/a

B. Access:

Access is off West Settlement Road a gravel county-maintained road. Terry Trail is a dirt road.

C. Environmental factors:

Hydrologic Features: n/a
Flood Hazard Zone: X Wetlands: n/a
Slope: >15% and >30% are present on site
Soils: 1. Bonner silt loam, cool, 0 to 4% slopes
2. Haplixeralfs and Xerochrepts, 30 to 55% slopes

D. Services: no services at time of application

E. Standards review:

Required:

- o 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:

Applicants reason for request:

- "All surrounding property owner have their own access via Terry Trail and/or Garn Land. There is no need for the easement to be in place."

F. Agency Review: The application was routed to agencies for comment on April 30, 2021. The following agencies commented:

Panhandle Health District	Bonner County Road Department
Idaho Department of Environmental Quality	Idaho Department of Lands (Sandpoint)
West Pend Oreille Fire District	U.S. Fish and Wildlife Service
Bonner School District # 83	Idaho Department of Fish and Game
Bonner County Schools - Transportation	

The following agencies commented

The Idaho Department of Fish and Game "does not have any comment to submit for this application."

Idaho Department of Environmental Quality- see file for complete comment.

G. Public Notice & Comments

The following public comments were received: *No comments*

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

Bonner County has not received objections to the petition or application to vacate the described platted area.

Conclusion 3

The abandonment of the public right-of-way **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.

Conclusion 5

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

Conditions of approval:

1. The vacation of the above-described right-of-way 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 applicant and shall be paid prior to the recording of the resolution vacating the right-of-way.
3. The petitioner shall provide for easements 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 2:46 p.m.

Respectfully submitted, this 9th day of June, 2021,



Milton Ollerton, Planning Director