

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
APRIL 7, 2021**

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

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

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Administrative Manager Jeannie Welter; and Administrative Assistant III Kelcey Utt-Boss

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 VS0002-21 – Vacation of a portion of Camp Bay Road – Green Enterprises, Inc. is requesting the vacation of approximately 2,550 ft (2.93 acres) of the Camp Bay Road right-of-way from the north boundary of the Petitioners Parcel No. R56N01E184800A, to the terminus of the road at the high-water mark of Lake Pend Oreille, in Parcel No. R56N01E187801A. The vacated right-of-way will be replaced with private roadway access and utility easements to serve the Petitioner's property as well as the properties located on south Camp Bay Road beyond the Petitioner's property (collectively the "South Camp Bay Properties"). The property is zoned Rural-10. The project is located off Camp Bay Road in Section 18, Township 56 North, Range 1 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: Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Idaho Code.

APPLICANT PRESENTATION: Applicant representative Brad Marshall presented a PowerPoint presentation on where the current road is, future possible easements, and assuring property owners will have access. Marshall presented pictures over time

showing no lake access and argued road currently offers no public benefit. Marshall responded to public comments submitted previous to the meeting.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in favor of the proposal: Russ Edwards, property owner; Craig Gill, property owner; David Wilson, property owner; Bonnie Latvala, property owner.

The following presented in opposition: Gary Green, 10% shareholder of Green Enterprises; Randy Green, 10% shareholder of Green Enterprises; Fred Arn, Exhibit A (definition of "easement"); Jennifer Arn, Exhibit B (petition signatures); Lisa Molene, attorney representing Latlava family.

Attorney Paul Dahoerty presented information about easement and no agencies objected. He stated the objections don't correlate to the legality of the application. Bonner County legal counsel Bill Wilson responded to comments pertaining to navigable waters objections.

APPLICANT REBUTTAL: Brad Marshall responded the application meets the criteria for approval.

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

MOTION: Commissioner Connolly moved to approve this petition, FILE VS0002-21, a petition to vacate a 2,550 ft. portion of Camp Bay Road as shown on the submitted site plan finding that it is in accord with Idaho Code §40-203 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 Connolly 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. Commissioner Bradshaw seconded the motion.

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

Resolution Adoption:

Commissioner Bradshaw moved to approve resolution 21-37 vacating a 2,550 ft. portion of Camp Bay Road as shown on the submitted site plan. Commissioner Connolly seconded the motion.

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

Background:

A. Site data:

Proposed Vacation: A 2,550 ft. (2.93 acres) of Camp Bay Road

Hydrologic features: The road currently ends at the high water mark of Lake Pend Oreille.
Flood Zone: None
Wet Lands: None
Soil: Pend Oreille-Hoodoo silt loams, 0 to 30 percent slopes
Slope: Minor sloping to 30%

B. Access: Access is Camp Bay 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.

D. Agency Review: The application was routed to agencies for comment on February 12, 2021.

Bonner County Road & Bridge Dept.
Bonner County Schools Transportation
Selkirk Fire District

IDL – Sandpoint
US Forest Service

Northern Lights
US Naval Base

To date, no comments have been received from any agencies.

E. Public Notice & Comments: There have been comments received for this file. As of the date of this staff report, the comments include:

- Road has been County maintained for 40 plus years
- Road establishes public access to Lake Pend Oreille
- Proposed road improvements will be a benefit to the residents and County
- Moving the road provide for greater protection of Lake Pend Oreille
- Enthusiastic supporters of the project
- A gated road is not in the best interest of residents who live on or around the development

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 was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, Title 40, Chapter 2, Highways and Bridges, General Provisions.

Finding

Vacating the approximately 2,550 ft. of Camp Bay Road will not block access to surrounding parcels, provided the associated proposed easements and proposed boundary line adjustments are completed.

Conclusion 2

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

Finding

The proposed vacation will provide for continued access to properties beyond the subject property and proposals to move the private easement away from the Lake will provide additional protection to the Lake. Further, the vacation will remove this portion of road from the County maintenance system. There were no comments received from any public agency with concerns regarding this proposal.

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.

Finding

All parcels beyond the subject parcel will continue to have access, provided the associated proposed easements and boundary line adjustment are completed.

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. Approval of this proposed vacation shall be conditional upon the recording of the proposed boundary line adjustments and easements showing access to the properties beyond the subject parcel.

The Chair declared the hearing adjourned at 2:43 p.m.

Respectfully submitted, this 9th day of April 2021,



Milton Ollerton, Planning Director