

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
MARCH 24, 2021**

CALL TO ORDER: Chair McDonald 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, 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:

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 VS0001-21 – Title 40 Road vacation – Vacate a portion of the "access roadways" –Yomanone, LLC is requesting the vacation of a portion of the "access roadways" shown on the aforementioned plat, under Idaho Code Title 40, for the purpose of replatting Lots 3-4, Block 1 and Lots 1-4, Block 2. The property is zoned Recreation (Rec). The project is located off Sherwood Beach Rd in Section 10, Township 59 North, Range 4 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: Staff Planner Jason Johnson presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Idaho Code.

APPLICANT PRESENTATION: Applicant Cory Yost gave a summary and history 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 petition, FILE VS0001-21, a petition to vacate a portion of a platted right of way, labeled as "Access Roadway," as shown on the submitted site plan labeled "EXHIBIT OF PROPOSED R/W VACATION," 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 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. Commissioner Connolly seconded the motion.

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

Commissioner Connolly moved to approve resolution #2021-34 vacating the portion of the right-of-way outlined in VS0001-21 and subject to the conditions of the staff report. Commissioner Bradshaw seconded the motion.

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

Background:

A. Site Data:

Hydrologic features: The portion to be vacated currently fronts on, and provides access to, Priest Lake.
Flood Zone: SFHA Zones X and AE
Wet Lands: Priest Lake frontage
Soil: Bonner silt loam, cool, 0 to 4 percent slopes
Slope: 0 to 2 Percent Slopes

B. Access: Access is provided by Paul Jones Beach Road via Sherwood Beach 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.

Panhandle Health District	Idaho Dept. of Water Resources
Bonner County Road & Bridge Dept.	U.S. Army Corps of Engineers (Coeur d'Alene)

Coolin Cavanaugh Bay Fire	Northern Lights Utility Company
Avista Utility Company	U.S. Fish and Wildlife Service
Bonner School #83	State Historical Society
Idaho Dept. of Fish and Game	Idaho Dept. of Lands (Coolin)
Idaho Dept. of Environmental Quality	Coolin Sewer District
Idaho Dept. of Lands, Nav. Waters	U.S. Forest Service
Bonner County Legal/PA Office	

Bonner County Road & Bridge had the following comments: *It appears that the proposed ROW vacation is not public ROW at all, according to the First Addition to Duncan's Subdivision, these access roadways are dedicated to the lot owners (See owner's certificate, last lines). As such, these roadways are not within the jurisdiction of the Bonner County Road & Bridge Department and we have no further comments.*

Idaho Department of Lands: *After review, the Idaho Department of Lands has no jurisdictional comments to submit in regard to application VS0001-21. I did not find the referenced settlement agreement noted in the application. If the intent of the Duncan Public ROW and common area was for public access our office asks that the County consider impacts to the general public now and in the future regarding lake access.*

Responded No Comment:

Panhandle Health
Idaho Department of Environmental Quality
Idaho Department of Fish and Game

All other agencies did not respond.
Coolin Sewer District responded with a comment but rescinded the comment on 3.24.21 before the hearing.

E. Public Notice & Comments: No public comments were received regarding this application.

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 8,364 square feet of the public right of way will not block access to surrounding parcels, provided the associated proposed re-plat in the submitted site plans is also completed.

Conclusion 2

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

Finding

Terms for the vacation of the approximately 8,364 square feet of the right of way have been agreed to by the interested parties in the submitted settlement agreement.

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 surrounding parcels will continue to have access, provided the associated proposed re-plat in the submitted site plans is also 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 final approval and recording of the proposed replat associated with this proposal, as shown in the submitted site plan labeled "EXHIBIT OF PROPOSED REPLAT OF LOTS 1-4" dated October 2020.

The Chair declared the hearing adjourned at 1:49 p.m.

Respectfully submitted, this 24th day of March 2021,



Milton Ollerton, Planning Director