



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Brodie Lewis

Project No. 201503858 VAC

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Board finds that the record is comprised of:

1. Exhibit List to the Staff Report
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 201503858 VAC.

B. As to procedural items, the Board finds the following:

1. The application for Project No. 201503858 VAC was submitted to Development Services on October 30, 2015, and scheduled for public hearing before the Board of Ada County Commissioners on January 13, 2016.
2. On November 5, 2015, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached in the Exhibits List.
3. On November 25, 2015, property owners within 300 feet of the site were notified of the hearing by certified mail. Legal notice of the Board's hearing was published in The Idaho Statesman on two (2) consecutive weeks, December 29, 2015 and January 5, 2016. Notices of the public hearing are required to be posted on the property ten days prior to the public hearing and a sign posting certification is required to be submitted to the Director seven days prior to the public hearing.

C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201503858 VAC the following:

1. PROPOSED USES: Vacate a utility, drainage, and irrigation easement that remains after a property boundary adjustment was done between lots 4 & 5, Block 8 of Canonero West No. 2 Subdivision.
2. PROPOSED STRUCTURES: None
3. PROPOSED SITE IMPROVEMENTS: None

D. Based on the materials found in the file for Project No. 201503858 VAC, the Board finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: The parcel numbers is R1277160222. The property is located at 3374 S. Canonero Way, in Canonero West Subdivision No. 2 which is in Section 27 of T.3N., R.1E.
2. OWNERSHIP: Lewis Living Trust
3. SITE CHARACTERISTICS

Property size: The property is .528 acres.

Existing structures: Single Family Dwelling.

Existing vegetation: Residential landscaping.

Slope: The site is relatively flat with slopes less than 15%.

Irrigation: The property is located within the Boise Board of Control, New York Irrigation District and the Boise-Kuna Irrigation Districts.

Drainage: Drainage will be retained onsite.

Views: In general the site is visible from all directions.

E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:

The property is a residential lot in the Canonero West Subdivision No. 2 located in the Low Density Residential (R2) District.

F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:

North: The property to the north is a residential lot in the Canonero West Subdivision No. 2 located in the Low Density Residential (R2) District.

South: The property to the south is a residential lot in the Canonero West Subdivision No. 2 located in the Low Density Residential (R2) District.

East: The property to the east is a residential lot in the Canonero West Subdivision No. 2 located in the Low Density Residential (R2) District.

West: The property to the west is a residential lot in the Canonero West Subdivision No. 2 located in the Low Density Residential (R2) District.

G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201503858 VAC, the Board finds the following concerning services:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Access Street and Designation: S. Canonero Way which is classified as a collector roadway.

Fire Protection: Whitney Fire District

Sewage Disposal: Boise Sewer District

Water Service: United Water

Irrigation District: Boise Board of Control, New York Irrigation District & Boise-Kuna Irrigation District

Drainage District: None

H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds **Section 8-6-6 of the Ada County Code** is applicable because the applicant has applied for a vacation of a utility, drainage, and irrigation easement that remains after a property boundary adjustment was done between Lots 4 & 5, Block 8 of Canonero West Subdivision No. 2 final plat. The Board finds the application complies with **Section 8-6-6 of the Ada County Code**. Regarding Section 8-6-6 of the Ada County Code the Board finds the following:

- A. *An applicant or owner may petition the board for a total or partial vacation of a recorded subdivision plat, including easements. Vacation shall be processed in accord with the regulations set forth in Idaho Code section 50-1306A and recorded in accord with the regulations set forth in Idaho Code section 50-1324;*

The Board finds this petition has been processed in accord with the regulations as set forth in Idaho Code Section 50-1306A. The subject property resides within one (1) mile of Boise City limits; therefore in accordance with Idaho Code Section 50-1306A, the application was transmitted to the City of Boise on November 5, 2015 for review and comment which exceeds the minimum of fourteen (14) days review period.

As evidenced in the record, written notice of the Board's public hearing was given by certified mail with return receipt on November 25, 2015, to all property owners within 300 feet of the boundaries of the subject property, which is at least ten (10) days prior to the Board's public hearing on January 13, 2016. Notice of the public hearing was published in The Idaho Statesman on December 29, 2015, and January 5, 2016, which is once a week for two (2) successive weeks and is more than seven (7) days prior to the public hearing.

The Boards finds that the final plat for Canonero West Subdivision No. 2 was approved by the Board of County Commissioners on October 10, 1978. The final plat for the subdivision was recorded on October 11, 1978.

As evidenced in the record, the applicant set forth particular circumstances of the request to vacate. The purpose of the vacation request is to vacate a utility, drainage, and irrigation easement that remains after a property boundary

adjustment was done between Lots 4 & 5, Block 8 of Canonero West Subdivision No. 2 final plat.

The Board finds that the request to vacate the utility, drainage, and irrigation easement that remains after a property boundary adjustment between Lots 4 & 5, Block 8, can be granted because Idaho Power, United Water, Cable One, Intermountain Gas, and the New York Irrigation District have been notified of the request. All property owners within 300' of the subject property were notified by certified mail of the vacation request and as of this time, no one has commented on the application or expressed any opposition to the request.

The Board finds that the request to vacate the utility, drainage, and irrigation easement that remains after a property boundary adjustment between Lots 4 & 5, Block 8 will not remove the enforceability of other plat notes or easements on the properties.

The Board finds that in accord with Idaho Code Section 50-1324, before a vacation of a portion of a plat can be recorded, the Ada County Treasurer must certify that all taxes are paid and such certification is recorded as part of the records of the vacation. The treasurer shall withhold the certification only when property taxes are due, but not paid. Upon payment of the appropriate fee therefore, the Ada County Recorder shall index and record, in the same manner as other instruments affecting the title to real property, a certified copy of the order by which the plat notes have been vacated. Such certification shall be by the officer having custody of the original document and shall certify that the copy is a full, true and correct copy of the original.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 201503858 VAC complies with Section 8-6-6 of the Ada County Code, with regard to the vacation of a utility, drainage, and irrigation easement that remains after a property boundary adjustment between Lots 4 & 5, Block 8 of the recorded subdivision plat.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Board hereby approves Project No. 201503858 VAC, subject to the Conditions of Approval attached as Exhibit A, and hereby orders the vacation of a utility, drainage, and irrigation easement that remains after a property boundary adjustment between Lots 4 & 5, Block 8 of Canonero West Subdivision No. 2 as shown on the plat submitted on October 30, 2015.

DATED this ____ day of _____, 2016.

Board of Ada County Commissioners

By: Jim Tibbs, Chairman

By: Rick Yzaguirre, Commissioner

By: David L. Case, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

CONDITIONS OF APPROVAL FOR EASEMENT VACATION

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF FILE NO. 201503858-VAC WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL JANUARY 13, 2017 TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A FINAL APPROVAL LETTER. THIS APPROVAL SHALL BECOME VOID IF THE APPLICANT AND/OR OWNER HAVE NOT OBTAINED A FINAL APPROVAL LETTER BY THAT DATE.

1. The applicant and/or owner shall provide documentation that shows that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing (Idaho Code 50-1306A(5)).
 2. The applicant and/or owner shall provide a copy of the recorded document granting the relocation of the easement adjacent to the adjusted property line if required by the affected easement holders.
 3. A Final Approval Letter will be issued when all of the above conditions have been satisfied. In the event conditions cannot be met prior to the expiration date, the owner and/or applicant may request a time extension as described in section 8-7-6 of the Ada County Code.
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