



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Fox Land Surveys Inc.

Project No. 201601575 PBA-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. Exhibits to the Staff Report.
2. All other information contained in Ada County Development Services File for Project No. 201601575 PBA-VAC.

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

1. On September 9, 2016, Development Services accepted Project #201601575 PBA-VAC and scheduled it for public hearing before the Board of Ada County Commissioners on November 9, 2015.
2. On September 22, 2016, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.

C. On September 22, 2016, property by 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 October 18, 2016 and October 25, 2016. Notices of the public hearing were posted on the property on October 27, 2016 and a certification sign posting was submitted to the director on October 28, 2016.

D. As to the project description, the Board finds based on the application materials found in the file for Project No. 201601575 PBA-VAC the following:

1. PROPOSED USES: Single-family residence.
2. PROPOSED STRUCTURES: Accessory structure.
3. PROPOSED SITE IMPROVEMENTS: None.

E. Based on the materials found in the file for Project No. 201601575 PBA-VAC, the Board finds the following concerning the project description:

1. **PARCEL NUMBER AND LOCATION AND OWNERSHIP:** Parcel #R8079960300 and #R8079960400 are owned by Jason & Whitney Dickman and are located at 701 & 899 S. Crystal Springs Lane.

2. **SITE CHARACTERISTICS**

Property size: Parcel #R8079960300 contains 8.07 acres.

Parcel #R8079960400 contains 7 acre.

Existing structures:

Parcel #R8079960300 is vacant land.

Parcel #R8079960400: There is an existing 5,696 sq. ft. single-family residence with a 1,086 attached garage and a 3821 sq. ft. accessory structure, a 2,039 sq. ft., a 447 sq. ft. and a 393 sq. ft. agricultural structure.

Existing vegetation: The vegetation consists of residential landscaping, pasture and several ponds.

Slope: The property is relatively flat.

Irrigation: The property is within the jurisdiction of the Pioneer Ditch Co. LTD.

Drainage: All drainage will be retained on site.

Views: The site is generally visible from all directions.

Other Opportunities and/or Constraints: The property is within the AE floodplain and a portion of both properties are within the floodway.

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

Parcel #R8079960300 is vacant ground located in the Rural Urban Transition (RUT) District.

Parcel #R8079960400 has a single-family dwelling and is located in the Rural Urban Transition (RUT) District.

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

North: The property to the north has single-family residences and is located within the Rural Urban Transition (RUT) District.

South: The property to the south is vacant land and is located within the Rural Urban Transition (RUT) District.

East: The property to the east has single-family residences and is located within the Rural Urban Transition (RUT) District.

West: The property to the west is vacant land and a portion is located within the Rural Urban Transition (RUT) District and a portion is located within the City of Star.

G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201601575 PBA-VAC, the Director finds the following concerning services:

Access Street and Designation: Access is from S. Crystal Springs Lane, designated as a private road.

Fire Protection: Star Fire District.

Sewage Disposal: Individual Septic System.

Water Service: Individual Well.

Irrigation District: The property is within the jurisdiction of the Pioneer Ditch Co. LTD.

Drainage District: The property is within the jurisdiction of a Drainage District #2.

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 Director finds **Section 8-4C-5 of the Ada County Code** is applicable because the applicant has applied for a property boundary adjustment. The Director finds the application complies with **Section 8-4C-5 of the Ada County Code**. Regarding Section 8-4C-5 of the Ada County Code the Director finds the following:

A. A property boundary adjustment shall not reduce the property size below the minimum dimensional standards prescribed by this title including regulations for individual wastewater treatment systems and wells as set forth in section 8-4A-22 of this chapter.

The Director finds that Parcels Parcel #R8079960300 and Parcel #R8079960400 are located in the Rural Urban Transition (RUT) District.

The Director finds that the property boundary adjustment does not reduce the property size below the minimum dimensional standards prescribed for the Rural Urban Transition (RUT) District.

B. If one or more of the properties is nonconforming as to the minimum dimensional standards prescribed by this title; the property boundary adjustment shall not increase the nonconformity.

The Director finds as evidenced in the record, the parcels are conforming for the RUT dimensional standards.

C. A property boundary adjustment shall not increase the original number of properties.

The Director finds as evidenced in the record, that the property boundary adjustment will not increase the original number of properties.

D. A property boundary adjustment shall not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner.

The Director finds as evidenced in the record, that the property boundary adjustment does not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner. However there is a 12 foot wide permanent public utility, irrigation easement along all interior lot lines per plat note #5. To remove the easement on the interior lot line the applicant has submitted a vacation application.

E. The property boundary adjustment shall not constitute a relocation of a property.

The Director finds as evidenced in the record, that the property boundary adjustment does not constitute the relocation of property.

F. For platted lots, the property boundary adjustment shall be in substantial conformance to the

recorded plat.

The Director finds as evidenced in the record, that the properties are platted lots and are in substantial conformance to the recorded plat.

2. The Board finds **Section 8-6-6 of the Ada County Code** is applicable because the applicant is petitioning for the Board to vacate the public utilities, drainage and pressure irrigation easement on the interior lot lines of Lot 3 and Lot 4 Block 1 of Springwood Subdivision. The Board finds the petition complies with **Section 8-6-6 of the Ada County Code**. Regarding Section 8-6-6 the Board finds the following:

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. As evidenced in the record, written notice of the Board's public hearing was given by certified mail with return receipt on September 22, 2016, 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 November 9, 2015. Legal notice of the Board's hearing was published in The Idaho Statesman on two (2) consecutive weeks, with the last notice being published before October 25, 2016, which is more than seven (7) days prior to the public hearing. Also, the property is located within one (1) mile of the Star City Limits; a notification of the vacation request was mailed to the Mayor of Star on September 22, 2016.

The Board finds that the Springwood Subdivision was approved through Files #95-20-PDR. The final plat for the subdivision was signed by the Board on February 12, 1997. Plat note #5 of the final plat for Springwood Subdivision designates all interior lot lines have a twelve foot wide permanent public utilities and irrigation, easement centered on all interior lot lines.

The Board finds that the request to vacate the easement on Lot 3 and Lot 4 Block 1 for Springwood Subdivision can be granted because the application was transmitted to the Pioneer Ditch Company and no comment was received. 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 easement on Lot 3 and Lot 4 Block 1 for Springwood Subdivision 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 due 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. 201601575 PBA-VAC complies with Section 8-4C-5 of the Ada County Code.
2. The Board concludes that Project No. 201601575 PBA-VAC complies with Section 8-6-6 of the Ada County Code, with regard to the vacation of an easement on Lot 3 and Lot 4 Block 1 of the recorded subdivision plat for Springwood.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Board approves Project #201601575 PBA-VAC. The Board hereby orders the vacation of the interior easement on Lot 3 and Lot 4 Block 1 for Springwood Subdivision.

DATED this _____ day of _____, 20__.

Board of Ada County Commissioners

By: Jim Tibbs, Commissioner

By: Rick Yzaguirre, Commissioner

By: David L. Case, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT #201601575 PBA-VAC WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL NOVEMBER 9, 2017 TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A FINAL APPROVAL LETTER. THIS TENTATIVE APPROVAL SHALL BECOME VOID IF A FINAL APPROVAL LETTER HAS NOT BEEN ISSUED BY THAT DATE.

- 1 The applicant and/or owner shall have a Record of Survey completed by a professionally licensed surveyor, and record the Record of Survey with the County Recorder's office.
- 2 The applicant and/or owner shall obtain new tax parcel numbers for the Ada County Assessor.
- 3 The applicant and/or owner shall execute and record the necessary deeds for all properties.
- 4 The applicant and/or owner shall provide the following documentation to the Director:
 - a) One 8 ½ " x 11" copy and/or one full size blueprint of the recorded Record of Survey.
 - b) Proof of assignment of tax parcel numbers.
 - c) One copy of the recorded deed(s).
- 5 Upon completing the above tasks, the applicant shall request a letter from the Director stating the Property Boundary Adjustment is final.
- 6 Provide documentation of the relinquishment of the "irrigation" easement by the Pioneer Ditch Co. LTD.