

**BONNER COUNTY PLANNING DEPARTMENT
BOARD OF COUNTY COMMISSIONERS
STAFF REPORT FOR APRIL 7, 2021**



Project Name: Green Enterprises, Inc; Public Right of Way Vacation

File Number: VS0002-21

Type: Title 40 - Vacation of a Public Right of Way.

Request: The petitioner is seeking to vacate a portion of a dedicated right of way, labeled as "End of Camp Bay Road," as shown on the submitted site plan labeled "T56N, R1E, Section 18."

Legal Description: The subject portion of the dedicated right of way is located in a portion of Section 18, Township 56 North, Range 1 East, Boise Meridian, Bonner County Idaho.

Location: The subject parcel is located off of Camp Bay Road to the end of the road.

Parcel Size: The proposed vacation area is approximately 2,550 feet (2.93 acres) of the Camp Bay Road.

Applicant: Green Enterprises, Inc; M3 ID Camp Bay LLC.

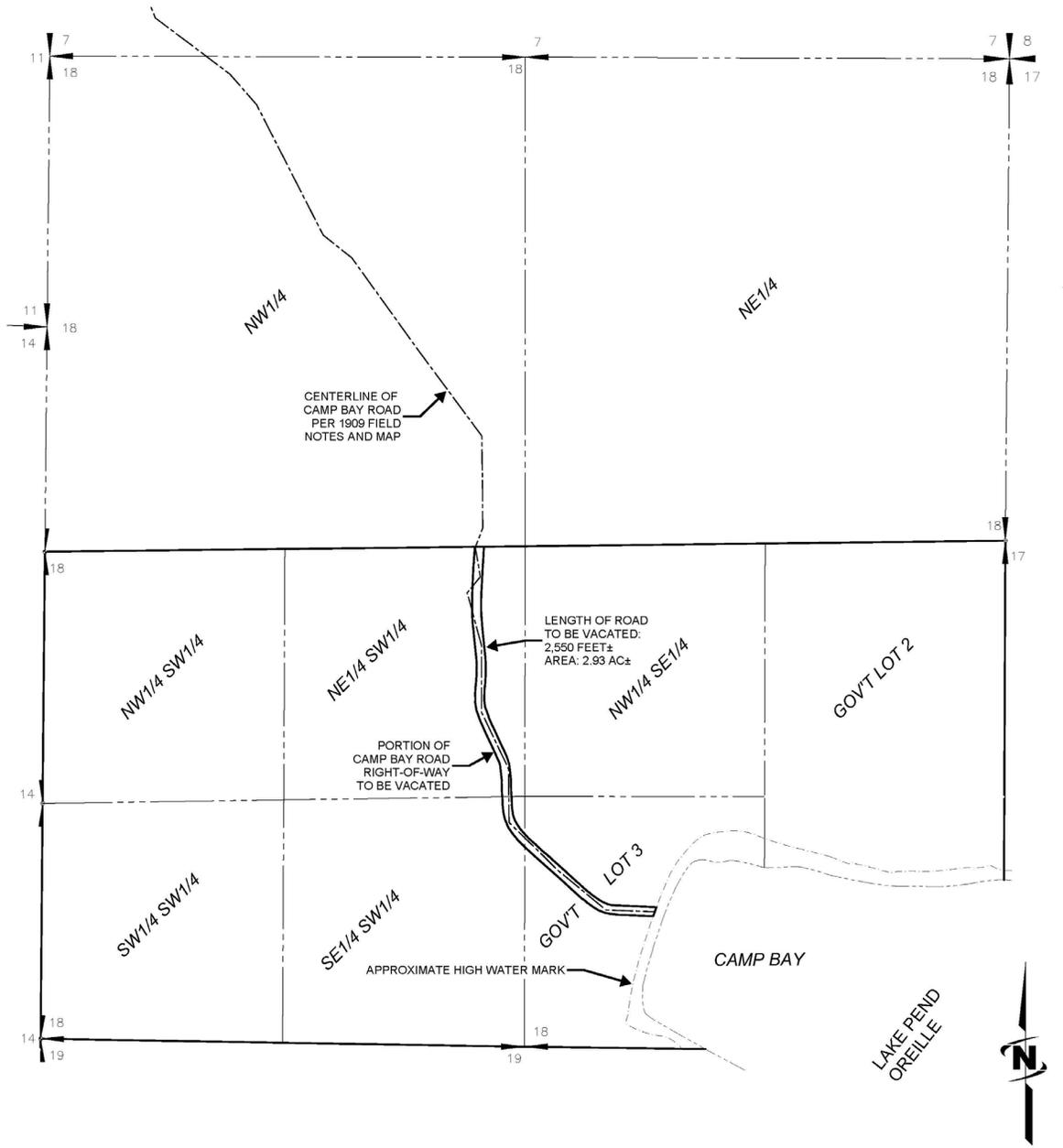
Property owner: Green Enterprises, Inc.

Petition filed: February 4, 2021

Notice provided: Mailed: March 2, 2021
Site Posting: Feb. 26, 2021
Published in newspaper: March 2, 2021; March 16, 2021;
March 30, 2021.

SECTION 18

T 56 N, R 1 E, SECTION 18



GAD FILE: 20-06-114-X_ROW-VAC

Engineers • Surveyors • Planners

CAMP BAY ROAD
RIGHT-OF-WAY VACATION
A PORTION OF THE SOUTH 1/2 OF
SECTION 18, T56N R1E, B.M.

Project summary:

The petitioner is requesting to vacate 2,550 ft. of the Camp Bay Road right of way shown on the map as the end of Camp Bay Road. The road crosses two parcels owned by the petitioner and will be replaced with private roadway access and utility easement to the petitioner's property and those properties that access off South and North Camp Bay Road, both private roads. Currently Camp Bay Road ends at the high water mark of Lake Pend Oreille and does not provide public access to the Lake.

Applicable laws:

The following sections of Idaho Code apply to this petition:

Idaho Code 40-203 - Abandonment and Vacation of County and Highway District System Highways or Public Rights-Of-Way

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.

E. 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.

F. 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

Staff analysis:

Staff concluded this project is consistent with Idaho Code, based upon the following:

1. The proposed vacation will take the roadway out of the County maintenance system and it will become privately maintained.
2. There is no public access to the Lake as the road ends at the high water mark.
3. Proposed road improvements include moving the road away from the Lake further increasing setback scenarios for structures and septic systems to the overall benefit of the public.
4. Proposed improvements include addressing turnarounds at the "gate" for a school bus or snowplow.
5. Proposed easements replacing the right of way will continue to provide access to property owners beyond the subject parcel.
6. Future maintenance of the road will continue at the petitioner's expense.

To determine a project such as this is in the public interest there must be a balance of current costs versus continued maintenance costs on a road that serves a small number of residents. The benefit to the County taxpayers is the maintenance of this road will continue privately by the petitioner and local residents.

Staff recommendation:

APPROVE See Staff Analysis below.

Planner's Initials: HMO Date: 3/27/2021 Note: The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Motion by the governing body:

BOARD OF COMMISSIONERS

MOTION TO APPROVE: I move 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. I further move 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.

Resolution Adoption:

I move to approve resolution # _____ vacating a 2,550 ft. portion of Camp Bay Road as shown on the submitted site plan

MOTION TO DENY: I move to deny 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 based upon the following conclusions: [REFER TO FOREGOING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS AND FAILS TO MEET]. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further move to adopt the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the vacation is to:

- 1) File a new petition with the Planning Department and meet the standards required by Idaho Code; or
- 2) Pursue such remedies as may be applicable at Idaho Code, Title 40, Chapter 2.

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 complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online one week before the hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.