June 8, 2016

TO: ACHD Board of Commissioners & Bruce S. Wong, Director

FROM: David Serdar
Right-of-Way Supervisor

SUBJECT: Vacation/Exchange - Establish a Public Hearing date to request the acceptance for the Vacation of the Storm Water Drainage Easement in Exchange and Dedication of a new Storm Water Drainage Bed and Easements as part of the proposed Young's Meadow Subdivision, located in the NW ¼ of the NE ¼ of Section 27, Township 3 North, Range 2 East, Boise Meridian, Boise, Ada County, Idaho.

CONSENT AGENDA ITEM – June 22, 2016 Commission Meeting

EXECUTIVE SUMMARY:

This action is to vacate .064 acres (2,793 Sq. Ft.), more or less, of the storm drainage easement which is a portion of Lot 35 in the Davis Acres Subdivision, located on the west side of Virginia Avenue, south of Victory Road, in the NW ¼ of the NE ¼ of Section 27, Township 3 North, Range 2 East, Boise Meridian, Boise, Ada County, Idaho. In exchange, the applicant offers dedication of .082 acres, (3,569 Sq. Ft.), more or less, for the replacement drainage bed and easements for continued use with the development of the proposed Young’s Meadow Subdivision.

FACTS & FINDINGS:

1. ACHD has received a petition and application for the vacation and exchange of the above referenced right-of-way from Thomas Young, the adjacent landowner.

2. The area being proposed for vacation contains approximately .064 acres (2,793 Sq. Ft.), more or less; the area being proposed for dedication contains approximately .082 acres (3,569 Sq. Ft.), more or less. The value of the easement to be vacated is approximately $3,268, estimated using the across the fence methodology (applying 2016 per square foot assessed value).

3. Idaho Code, section 50-1306A(6) requires that before an exchange can be authorized a public hearing must be held, with notice published in accordance with Idaho Code, section 40-206, where any person may appear and show cause that the exchange should not be made.
FISCAL IMPACT:

The Applicant has paid $500.00 for the application fee. The applicant is the original grantor of the easement and, according to Idaho State Code 40-203, Subsection (i), there is no charge for the Vacation of easement when the landowner who originally dedicated such parcel is the applicant of the vacation.

POLICY IMPACTS:

None

RECOMMENDATION:

Staff recommends that the Board of Commissioners adopts Resolution Number 2141, and sets a date for the public hearing as identified below.


3. Date of Public Hearing – Wednesday, July 27, 2016 at 6:00 p.m., or as soon thereafter as the matter may be heard.

Attachments:

1. Vicinity Map
2. Notice of Public Hearing
3. Resolution 2141

cc: Right-of-Way File
This map is a general depiction intended for visual reference only.
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Board of Commissioners of the Ada County Highway District will hold a public hearing in accordance with the provisions of the Idaho Code, to consider the vacation and abandonment of:

Vacation/Exchange – Vacate the Storm Water Drainage Easement located in Lot 35 of the Davis Acres Subdivision in the NW ¼ of the NE ¼ of Section 27, Township 3 North, Range 2 East, Boise Meridian, Boise, Ada County, Idaho to Thomas Young in exchange for lands also described below.

DESCRIPTIONS TO BE VACATED:
(see attached Exhibit “A”)

DESCRIPTIONS TO BE DEDICATED:
(see attached Exhibit “B”)

Subject to retention of public and private utility easements, drainage easements, irrigation easements and/or other easements of record or not of record or in use upon or under said described public right of way and or the provisions for relocation or replacement of existing facilities. Costs associated with relocation or replacement of existing easements and facilities shall be borne by the applicant with approval of the applicable utility of agency.

The public hearing will be held in the Office of the Ada County Highway District, 3775 Adams Street, Garden City, Idaho 83714, on July 27, 2016 at 6:00 p.m., or as soon thereafter as the matter may be heard.

Anyone wishing further information concerning this vacation and abandonment should refer to the petition requesting said action, on file in the office of the Ada County Highway District.

ADA COUNTY HIGHWAY DISTRICT

By: ____________________________
Bruce S. Wong, Director

Publication Dates: July 12th, 13th and 20th, 2016.
STORM DRAIN EASEMENT DESCRIPTION

A PORTION OF LOT 35 OF DAVIS ACRES SUBDIVISION, LYING IN THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 27, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, BOISE, ADA COUNTY, IDAHO

A Portion of Lot 35 of Davis Acres Subdivision, lying in the Northwest ¼ of the Northeast ¼ of Section 27, Township 3 North, Range 2 East, Boise Meridian, Boise, Ada County, Idaho, more particularly described as follows:

Commencing at a found Aluminum Cap Monument marking the North ¼ Corner of Section 27, from which a found 5/8 inch rebar no cap marking the East 1/16" corner common to Sections 27 and 22 bears South 89°28'40" East, a distance of 1,328.54 feet;

thence along the Northerly boundary of Section 27 South 89°28'40" East, a distance of 324.04 feet to its intersection with the Northerly projection of the Westerly Right-of-Way of Virginia Avenue;

thence along said projection and Right-of-Way South 00°21'26" West, a distance of 643.09 feet to the TRUE POINT OF BEGINNING;

thence continuing along the Westerly Right-of-Way of Virginia Avenue South 00°21'26" West, a distance of 39.07 feet to a point;

thence North 90°00'00" West, a distance of 69.92 feet to a point;

thence North 00°00'00" East, a distance of 40.10 feet to a point;

thence South 89°39'12" East, a distance of 70.17 feet to the TRUE POINT OF BEGINNING.

Containing 2,793 square feet, 0.064 Acres, more or less.

Subject to easements and rights-of-way of record and not of record.

Fox Land Surveys, Inc.
Timothy J. Fox, President, PLS 7612

END OF DESCRIPTION

EXHIBIT "A"
RESOLUTION NUMBER 2141
OF THE ADA COUNTY HIGHWAY DISTRICT

A RESOLUTION FINDING CERTAIN PUBLIC STORM WATER DRAINAGE EASEMENT PROPOSED TO BE ABANDONED/VACATED AND EXCHANGED FOR A STORM WATER DRAINAGE EASEMENT TO BE DEVELOPED BY Thomas Young IS NO LONGER USEFUL TO THE DISTRICT, AND SETTING THE DATE, TIME AND PLACE OF A PUBLIC HEARING, OF WHICH NOTICE SHALL BE PUBLISHED AS AUTHORIZED BY LAW, WHERE ANY PERSON INTERESTED MAY APPEAR AND SHOW CAUSE WHY THE ABANDONMENT/VACATION AND EXCHANGE SHOULD NOT BE MADE.

WHEREAS, based on the facts and information presented in the Staff Report dated June 8, 2016 which by this reference is hereby incorporated herein, as supplemented by the oral presentation by Right of Way Staff for ACHD Right of Way, pursuant to Idaho Code, section 40-203 and 40-1309, the Board of Commissioners hereby makes the following findings of fact:

(1) The perpetual storm water drainage easement owned by the District described on Exhibit “A” attached hereto (hereinafter “subject easement”) is no longer useful to the Ada County Highway District and should be abandoned/vacated as proposed by Thomas Young (“the applicant”).

(2) ACHD has negotiated with Thomas Young an exchange of the current public storm water drainage easement in Lot 35 of the Davis Acres Subdivision for a replacement storm water drainage pond and easement as described in the site plan of the proposed Young’s Meadow Subdivision owned by Thomas Young, and described on Exhibit “B” attached hereto (the “Exchange Parcel”).

(3) The Exchange Parcel is needed by the Ada County Highway District for a public use authorized by law to accommodate a drainage pond for storm water.

(4) Idaho Code, section 40-203 requires that before public right of way can be abandoned/vacated a public hearing must be held, with notice published in accordance with Idaho law, where any person may appear and show cause that the public right of way should not be abandoned/vacated.

(5) Idaho Code, section 40-1309 requires that before an exchange can be authorized a public hearing must be held, with notice published in accordance with Idaho law, where any person may appear and show cause that the exchange should not be made.

(6) Subject to consideration of testimony and new evidence that may be presented at the public hearing, it appears the proposed abandonment/vacation is in the best interests of the Highway District and its patrons.
NOW, THEREFORE, BE IT RESOLVED, in accordance with *Idaho Code*, section 40-203 and 40-1309, a public hearing before the Board of Commissioners to consider the proposed abandonment/vacation and exchange is hereby set for July 27, 2016 at 6:00 p.m., or as soon thereafter as the matter may be heard, at the offices of the Ada County Highway District, 3775 Adams Street, Garden City, Idaho, at which any person may appear to show cause why the subject public right of way should not be abandoned/vacated and why the exchange should not be made; and

BE IT FURTHER RESOLVED, notice of such hearing shall be published in accordance with Idaho law, on the 12th, 13th and 20th of July, 2016 in the Idaho Statesman, a daily newspaper published in Ada County, Idaho.

ADOPTED AND APPROVED by the Board of Commissioners of the Ada County Highway District at its regular meeting held on this ______ day of ______________________, 2016.
ADA COUNTY HIGHWAY DISTRICT
BOARD OF COMMISSIONERS:

By: ____________________________________
Kent Goldthorpe, President

By: ____________________________________
Paul Woods, Vice President

By: ____________________________________
Rebecca W. Arnold, Commissioner

By: ____________________________________
Sara M. Baker, Commissioner

By: ____________________________________
Jim D. Hansen, Commissioner

ATTEST:

____________________________
Bruce S. Wong, Director

STATE OF IDAHO )
) ss.
County of Ada )

On this ___ day of ______________________ 2016, before me, a notary public in and for said State, personally appeared President, Kent Goldthorpe, Commissioners Sara M. Baker, Rebecca W. Arnold, Jim Hansen, and Paul Woods, known to me to be the Board of Commissioners, respectively, of the Ada County Highway District and that they executed this instrument on behalf of said Highway District for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

________________________________
Notary Public for the State of Idaho
Residing at: _______________________
My Commission Expires: ____________

The Ada County Highway District (ACHD) is committed to compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives. ACHD assures that no person shall on the grounds of race, color, national origin, gender, disability or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any ACHD service, program or activity.