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

FROM: David Serdar
Right of Way Supervisor

DATE: May 23, 2017

SUBJECT: Vacation of Public Right of Way - Public Hearing and adoption of Resolution Number 2184 for an application to vacate a portion of Right-of-Way known as North Steelwood Avenue located in Section 10, Township 3 North, Range 1 East, Boise Meridian, City of Boise, Ada County, Idaho.

Regular Agenda / Public Hearing for Board of Commissioners meeting June 7, 2017.

EXECUTIVE SUMMARY

This action is to vacate 0.008 acres (356 SF) West Side, more or less, and 0.008 acres (356 SF) East Side, more or less of Right-of-Way known as North Steelwood Avenue, located in Section 10 of Township 3 North, Range 1 East, Boise, Idaho.

FACTS & FINDINGS

1. ACHD has received a petition and application for the vacation and exchange of the above referenced right-of-way from the adjacent landowner Wild Shamrock Center LLC.

2. The area being proposed for vacation contains approximately 0.008 acres, more or less, on the West Side and 0.008 acres, more or less on the East Side. The value of the right-of-way to be vacated is less than the $2,500.00 appraisal threshold. The current property owners dedicated the right of way to ACHD originally.

3. The applicant is requesting this vacation to acquire ground for the narrowing of N. Steelwood Ave.

4. Idaho Code, section 50-1306A(6) requires that, before vacation 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 vacation should not occur.

5. Notice of the public hearing was published in the Idaho Statesman on May 23, 24 and 31, 2017 with the last date of publication at least five (5) days before the hearing.
6. In accordance with Idaho Law and ACHD policy, comments were requested from the following public and private agencies and public utilities, regarding their plans for the area of the proposed vacation. In addition, ACHD staff has been notified and comments were requested concerning the requested vacation.

A. ACHD Staff comments:
   Provide easements for any existing utilities

B. The following agencies had no response:
   Intermountain Gas Company
   Integra Telecom
   AT&T Communications
   American Fiber Systems
   Qwest
   Cable One Television
   Ada County Development Services
   Time Warner Telecom
   Bench Sewer District
   Boise City Development Services
   Boise City Clerk
   Boise Project Board of Control
   Boise Warm Springs Water District
   Settlers Irrigation District
   United Water (Suez)

C. The following agencies responded and had no objection:
   Tesoro Logistics
   Boise City Fire Dept.

D. The following agencies responded and made comments:

   Idaho Power- May require a new easement upon development of the subject property. Applicant has been notified of this comment.

7. There is no access to Federal or State lands or waters that will be denied if the requested vacation is approved.
8. On May 11, 2017 a letter was sent out notifying all the property owners within 300 feet of the requested vacation of the public hearing date.

A. Property Owner Comments:

None

9. The public hearing for the vacation and abandonment of the above referenced public Right of Way will be conducted on June 7, 2017.

10. Attachment 3 for Commission review and consideration is Resolution Number 2184.

11. Approval of the vacation and abandonment is subject to retention of the 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 the relocation or replacement of existing facilities.

12. Costs associated with relocation or replacement of existing easements and facilities, publications shall be borne by the applicant with approval of the applicable utility or agency.

FISCAL IMPACT

The required application fee of $500.00 was paid by the applicant. If the Vacation Resolution is adopted, the applicant will be paying any extra costs related to the vacation. There will be no fee for the land because it is being vacated to the original dedicator.

POLICY IMPLICATIONS

The public hearing and the vacation procedures were accomplished according to current ACHD policies.

RECOMMENDATIONS

Staff recommends that the Board of Commissioners adopt and sign Resolution Number 2184 and the president of the board sign the quitclaim deed (Attachment 4) to vacate the public Right-of-Way known as North Steelwood Avenue, located in Section 10 of Township 3 North, Range 1 East, Boise, Idaho.

ATTACHMENTS:

1. Depiction of proposed vacation area

2. Resolution Number 2184

3. Quitclaim Deed to Wild Shamrock Center LLC.

cc: Right of Way File

Wild Shamrock Center LLC and Riley Planning Services LLC.

Jim Chamber, Representative and Penelope Riley, Representative
RESOLUTION NUMBER 2184

AUTHORIZING AN ABANDONMENT/VACATION OF PUBLIC RIGHT OF WAY BY AND BETWEEN THE ADA COUNTY HIGHWAY DISTRICT AND Wild Shamrock Center LLC, WITH OTHER CONSIDERATIONS BETWEEN THE PARTIES.

WHEREAS, by its Resolution Number 2184 adopted and approved at its regular meeting held on June 7th, 2017, the Ada County Highway District Commission, in accordance with the requirements of Idaho Code, section 40-1309 and 40-203, found that the public Right-of-Way known as North Steelwood Avenue located in Section 10, Township 3 North, Range 1 East, Boise Meridian, City of Boise, Ada County, Idaho, and more particularly described in Exhibit “A” hereinafter “subject public right of way”) was no longer useful to ACHD, and set a public hearing before the Commission for 12:00 pm, on June 7th, 2017 at which time any person could appear to show cause why the subject public right of way should not be vacated, and

WHEREAS, in accordance with Idaho Code, sections 40-208 and 40-1308, the Commission does hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Date of Application: March 10, 2017. The application fee was paid on March 13, 2017.

2. Upon the filing of a petition by the Petitioner for the abandonment of the subject public right of way, the following organizations and agencies were notified on March 30, 2017:
   A. Ada County Highway District Staff members;
   B. All appropriate local agencies and utilities were contacted and comments requested.

3. On May 10, 2017 a public hearing date was set by the Board of Commissioners for June 7, 2017.

4. Following the filing of the petition for the abandonment/vacation, property owners within 300 feet of the subject right of way were notified by certified mail on May 11, 2017, of the time, date and place of the public hearing.

5. In accordance with Idaho law, a Notice of Public Hearing was published in the Idaho Statesman a daily newspaper published in Ada County, Idaho, on the 23, 24 and 31 of May, 2017, and a confirmation email of publication was received by the Ada County Highway District and is on file in the office of the Right of Way Department.

6. Any and all comments received from the March 30, 2017 notification of Ada County Highway District Staff members and all applicable local agencies are on file in the office of the Right of Way Department and are included within the Public Hearing staff memo dated May 23, 2017.

7. Any and all comments, received from those property owners of real property within 300 feet of the subject right of way are on file in the office of the Right of Way Department and are included within the Public Hearing staff memo dated May 23, 2017.

8. An appraisal/determination of value of the subject public right-of-way was not prepared; as the original dedicators are the current property owners.

9. At the public hearing on Wednesday, June 7th, 2017, oral and or written testimony was presented and at the conclusion of which, President Paul Woods, closed the public hearing for testimony. After discussion, the Commission found the abandonment/vacation was in the public’s best interest and voted to approve the abandonment/vacation of the two permanent easements.

CONCLUSIONS OF LAW:

It is the opinion of the Board of Commissioners of the Ada County Highway District, per President Paul Woods, and Commissioners, Rebecca W. Arnold, Sara M. Baker Jim D. Hansen, and Kent Goldthorpe that the subject right of way is no longer needed by the Ada County Highway District and that it is the best interest of the traveling public, the adjacent property owners, and the Ada County Highway District that the abandonment/vacation of the public Right-of-Way known as North Steelwood Avenue, located in Section 10, Township 3 North, Range 1 East, Boise Meridian, City of Boise, Ada County, Idaho, and more particularly described in Exhibit “A” be approved and the subject public right of way abandoned/vacated. Subject to the following:

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 the relocation or replacement of existing facilities.

No consideration is being paid to the Ada County Highway District for the vacated public right-of-way, the value of the right-of-way to be vacated is less than the $2,500.00 appraisal threshold.

NOW, THEREFORE, BE IT RESOLVED, pursuant to Idaho Code section 40-203, and based upon the preceding findings of fact and conclusions of law, that the proposed abandonment/vacation of the public right of way is hereby authorized, and ACHD staff is hereby directed to negotiate a contract of sale with Petitioner and that the President of the Commission and the Director be, and are hereby, authorized and directed to execute such contract of sale on behalf of the Ada County Highway District and an appropriate Quitclaim Deed for the abandoned/vacated subject public right of way and such closing instructions and other instruments and documents as are required by such contract of sale, including the following, and deliver the same, together with the deed to the closing agent:

1. Receipt of payment in the amount of $500.00 for the Application fee.
2. 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 the relocation or replacement of existing facilities.

Costs associated with relocation, Publication fees or replacement of existing easements and facilities shall be borne by the Petitioner with approval of the applicable utility or agency.

BE IT FURTHER RESOLVED, that only upon the District’s receipt of full payment of all applicable charges, costs and fees and any other amounts owing from the Petitioner within ninety (90) days of the date of approval, shall this Resolution be recorded in the county records.

BE IT FURTHER RESOLVED, that if District has not received full payment of all applicable charges, costs and fees and any other amounts owing from the Petitioner within one hundred twenty (120) days of the date of approval, the Board of Commissioners may, at a public hearing and upon thirty (30) days notice of said public hearing to the Petitioner by certified mail and adjacent property owners by regular mail, declare the abandonment/vacation void and issue a resolution declaring the same.

ADOPTED AND APPROVED by the Board of Commissioners of the Ada County Highway District at its regular meeting held on this ___, day of ___________________ 2017.

ADA COUNTY HIGHWAY DISTRICT
BOARD OF COMMISSIONERS

By: ____________________________
    Paul Woods, President

By: ____________________________
    Rebecca W. Arnold, Vice President

By: ____________________________
    Sara M. Baker, Commissioner

By: ____________________________
    Jim D. Hansen, Commissioner

By: ____________________________
    Kent Goldthorpe, Commissioner
ATTEST:

____________________________

Bruce S. Wong, Director

STATE OF IDAHO  )
            ) ss.
County of Ada  )

On this _____ day of ________________, 2017, before me, a notary public in and for said State, personally appeared President, Paul Woods, Commissioners, Rebecca W. Arnold, Sara M. Baker, Jim D. Hansen, and Kent Goldthorpe, and 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 Boise, Idaho
My Commission Expires: ________________

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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.
Resolution No.: 2184
Township/Range/Section: T3N, R1E, Section 10

QUITCLAIM DEED CONVEYING PUBLIC RIGHT-OF-WAY

THIS INDENTURE, made this ______ day of ____________, 2017, ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the State of Idaho, the "GRANTOR", and WILD SHAMROCK CENTER LLC, the "GRANTEE";

WITNESSETH:

FOR VALUE RECEIVED, GRANTOR does by these presents convey, release and forever quitclaim unto GRANTEE all right, title and interest of GRANTOR in the real property situated in the COUNTY OF ADA, STATE OF IDAHO, as more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter the "Right-of-Way").

SUBJECT TO easements of record, statutory rights of utilities and districts to be in the public right-of-way which rights are being exercised in the Right-of-Way as of the date of this Indenture (for sewer, gas, water or similar pipelines and their appurtenances, for electrical and telephone lines and for irrigation and drainage ditches), and subject to licenses for telecommunications lines which are in place in the Right-of-Way as of the date of this Indenture. GRANTEE is responsible for costs of any relocation or replacement of such pipelines, lines and ditches.

TO HAVE AND TO HOLD the same unto the GRANTEE and to its successors and assigns forever.

The current address of GRANTEE is:

Wild Shamrock Center LLC
911 W. Wilding Creek Dr. Ste 150
Eagle, ID 83616
IN WITNESS WHEREOF, this Quitclaim Deed has been duly executed by and on behalf of GRANTOR this _______ day of __________________, 2017.

ADA COUNTY HIGHWAY DISTRICT

By __________________________
President

Attest:

______________________________
Bruce S. Wong, Director

State of Idaho )
Count of Ada) ss.

On this _____ day of __________, in the year 2016, before me, a Notary Public in and for the State of Idaho, personally appeared Paul Woods, known or identified to me to be the President of the Board of Commissioners of the Ada County Highway District, and Bruce S. Wong, known or identified to me to be the Director of the Ada County Highway District, the persons who 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 ________________________, Idaho
My Commission expires__________________

Page 2 of 2
Land Description for Right-of-Way Vacation

A parcel of land located in the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East of the Boise Meridian, Boise City, Ada County, Idaho being more particularly described as follows:

Commencing at the found brass cap monument at the corner common to Sections 2, 3, 10 and 11 from which the found 5/8\(^{\text{th}}\) inch diameter iron pin at the Quarter Corner common to said sections 3 and 10 bears N 89\(^{\circ}\) 41\(^{\prime}\) 29\(^{\prime\prime}\) W a distance of 62670.06 feet; thence N 89\(^{\circ}\) 41\(^{\prime}\) 29\(^{\prime\prime}\) W along the northerly line of said section 10 for a distance of 2166.45 feet; thence S 00\(^{\circ}\) 24\(^{\prime}\) 32\(^{\prime\prime}\) W for a distance of 77.14 feet to a set 5/8\(^{\text{th}}\) inch diameter iron pin,
thence S 00\(^{\circ}\) 24\(^{\prime}\) 32\(^{\prime\prime}\) W along the easterly right-of-way of N. Steelwood Avenue, Instrument No. 106112060, Records of Ada County for a distance of 112.29 feet to a set 5/8\(^{\text{th}}\) inch diameter iron pin and the REAL POINT OF BEGINNING;

Thence continuing S 00\(^{\circ}\) 24\(^{\prime}\) 32\(^{\prime\prime}\) W along said right-of-way for a distance of 221.07 feet to the southerly right-of-way of N. Steelwood Avenue;

Thence N 89\(^{\circ}\) 35\(^{\prime}\) 28\(^{\prime\prime}\) W along said right-of-way for a distance of 2.00 feet to a set 5/8\(^{\text{th}}\) inch diameter iron pin;

Thence N 00\(^{\circ}\) 24\(^{\prime}\) 32\(^{\prime\prime}\) E along a line parallel with and 2.00 westerly of said right-of-way for a distance of 134.96 feet to a set 5/8\(^{\text{th}}\) inch diameter iron pin;

Thence N 01\(^{\circ}\) 07\(^{\prime}\) 22\(^{\prime\prime}\) E for a distance of 86.13 feet to the REAL POINT OF BEGINNING.

Parcel contains 0.08 acres, or 356 square feet, more or less.
Land Description for Right-of-Way Vacation

A parcel of land located in the Northwest Quarter of the Northeast Quarter of Section 10, Township 3 North, Range 1 East of the Boise Meridian, Boise City, Ada County, Idaho being more particularly described as follows:

Commencing at the found brass cap monument at the corner common to Sections 2, 3, 10 and 11 from which the found 5/8th inch diameter iron pin at the Quarter Corner common to said sections 3 and 10 bears N 89° 41' 29" W a distance of 2670.61 feet; thence N 89° 41' 29" W along the northerly line of said section 10 for a distance of 2220.45 feet; thence S 00° 24' 32" W for a distance of 77.15 feet to a 5/8th inch diameter iron pin; thence S 00° 24' 32" W along the westerly right-of-way E. Steelwood Avenue, Instrument No. 106112060, Records of Ada County for a distance of 111.30 feet to a set 5/8th inch diameter iron pin and the REAL POINT OF BEGINNING;

Thence leaving said right-of-way S 00° 53' 09" E for a distance of 88.13 feet to a set 5/8th inch diameter iron pin;

Thence S 00° 24' 32" W along a line parallel with and 2.00 feet easterly of said right-of-way for a distance of 133.96 feet to a set 5/8th inch diameter iron pin on the southerly right-of-way of N. Steelwood Avenue;

Thence N 89° 35' 28" W along said right-of-way for a distance of 2.00 feet to a set 5/8th inch diameter iron pin;

Thence N 00° 24' 32" E along the westerly right-of-way of N. Steelwood Avenue for a distance of 222.07 feet to the REAL POINT OF BEGINNING.

Parcel contains 0.008 acres, or 356 square feet, more or less.
EXHIBIT MAP

PROPOSED RIGHT-OF-WAY VACATION
OF A PORTION OF N. STEELWOOD AVENUE

N 1/4 CORNER
CP&F No.
2016-091212

W. FAIRVIEW AVE.
BASIS OF BEARING
N 89°41'29" W 2670.01'

REFERENCES
R1 = RECORD OF SURVEY No.8245
R2 = RECORD OF SURVEY No.6258
R3 = KEEN AND PARK SUBDIVISION,
BOOK 95 OF PLATS, PAGE
31. ADA COUNTY RECORDS

LEGEND

BOUNDARY LINE
SECTION LINE
PARCEL LINE

● FOUND BRASS
CAP MONUMENT

● FOUND 5/8" IRON
PIN, AS NOTED

● SET 5/8" IRON
PIN, PLS 11463

△ CALCULATED
POINT

SCALE: 1" = 60'

LINE TABLE

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BASIS OF BEARING
N 89°41'29" W BETWEEN FOUND
MONUMENTS LOCATED AT THE
NORTHWEST CORNER AND THE
NORTH 1/4 CORNER OF SECTION 10.

Accurate
Surveying &
Mapping
1802 W. Hayes Street #306
Boise, Idaho 83702
(208) 488-4227
www.accuratesurveyors.com
DATE: SEPT., 2016  JOB 16-213