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

FROM: Dawn Battles
Planner

DATE: December 29, 2017

SUBJECT: Vacation of Public Right-of-Way – Public Hearing and adoption of Resolution Number 2213 for the acceptance to vacate an alley right-of-way located between N. 1st Street and N. 2nd Street in the block between W. State Street and W. Jefferson Street known as that certain 16-foot wide Alley of Block 61 of the Original Townsite of Boise City located in the Northeast Quarter of Section 10, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho.

Regular Agenda / Public Hearing for Board of Commissioners meeting January 10, 2018

EXECUTIVE SUMMARY

This action is to vacate an alley right-of-way totaling 4,800 square feet (0.11 acres), more or less, located between N. 1st Street and N. 2nd Street in the block between W. State Street and W. Jefferson Street known as that certain 16-foot wide Alley of Block 61 of the Original Townsite of Boise City located in the Northeast Quarter of Section 10, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho.

FACTS & FINDINGS

1. ACHD received a petition and application for the vacation of the above-referenced right-of-way from The Land Group, Inc. on behalf of St. Luke’s Regional Medical Center.

2. The area being proposed for the vacation encompasses approximately 4,800 square feet (0.11 acres). (Attachment 1)

3. The vacation of the alley right-of-way is being requested by St. Luke’s to accommodate the construction of a parking garage/central plant. A vacation will give St. Luke’s more flexibility and control over access and site layout. This building location was depicted in the St. Luke’s Master Plan that was approved by the City of Boise in 2016.

4. Idaho Code, section 40-203 requires that, before the vacation can be authorized, a public hearing must be held, with notice published in accordance with Idaho Code, section 40-203(f), 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 December 26 and 27, 2017 and January 3, 2018, 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:
      The applicant should provide easements for any existing utilities.

   B. The following agencies had no response:
      Century Link
      Intermountain Gas Company
      Integra Telecom
      AT&T Communications
      Cable One Television
      Ada County Development Services
      Boise City Development Services
      Boise City Clerk
      Boise Project Board of Control
      Boise City Parks Department
      Boise City Fire Department
      Boise Warm Springs Water District
      West Boise Sewer District
      Boise City Canal Company
      Level 3 Communications
      Syringa Networks
      Westel Fiber
      Zayo Fiber Systems

   C. The following agencies responded and had no objection:
      Suez
      Andeavor
      Boise City Public Works-Drainage
      Nampa Meridian Irrigation District

   D. The following agencies responded and made comments:
      Idaho Power does maintain electrical facilities within the alley right-of-way, and must retain all existing rights related thereto.
      Boise City Public Works-Sewer/Irrigation to retain a sewer easement over the existing sewer main.

7. There is no access to Federal or State lands or waters that will be denied if the requested vacation is approved.

8. On December 7, 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 January 10, 2018.

10. For Commission review and consideration is Resolution Number 2213, (Attachment 2)

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 shall be borne by the applicant with approval of the applicable utility or agency.

FISCAL IMPACT

The required application fee of $1000.00 was paid by the applicant.

If the Vacation Resolution is adopted, the applicant will be purchasing the property from ACHD at the appraised value of $216,000.

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 2213 and the President of the Board sign the quitclaim deed (Attachment 3) to vacate the public Right-of-Way of the alley located between N. 1st Street and N. 2nd Street in the block between W. State Street and W. Jefferson Street known as that certain 16-foot wide Alley of Block 61 of the Original Townsite of Boise City located in the Northeast Quarter of Section 10, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho.

ATTACHMENTS:

1. Depiction of proposed vacation area
2. Resolution Number 2213
3. Quitclaim Deed to St. Luke’s Regional Medical Center, LTD

cc: The Land Group, via email
ST. LUKE'S ALLEY VACATION

- Vacation Area: 4800 Sq. Ft. (0.11 Acres)
- Parcels Lines

1 inch = 100 feet

This map is a general depiction intended for visual reference only

2016 Aerials
RESOLUTION NUMBER 2213

AUTHORIZING AN ABANDONMENT/VACATION OF PUBLIC RIGHT-OF-WAY BY AND BETWEEN THE ADA COUNTY HIGHWAY DISTRICT AND ST. LUKE’S REGIONAL MEDICAL CENTER, LTD WITH OTHER CONSIDERATIONS BETWEEN THE PARTIES.

WHEREAS, by its Resolution Number 2203 adopted and approved at its regular meeting held on December 6, 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 an alley located between N. 1st Street and N. 2nd Street in the block between W. State Street and W. Jefferson Street known as that certain 16-foot wide Alley of Block 61 of the Original Townsite of Boise City located in the Northeast Quarter of Section 10, Township 3 North, Range 2 East, Boise Meridian, City of Boise, Ada County, Idaho, and more particularly described in Exhibit “A” hereinafter “subject public right-of-way” to indicate its intent to declare the public right-of-way was no longer useful to ACHD, and set a public hearing before the Commission for 12:00 pm, on January 10, 2018 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 40-203 and 40-1309, the Commission does hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Date of Application Received: October 23, 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 November 2, 2017:
   a. Ada County Highway District Staff members;
   b. All appropriate local agencies and utilities were contacted and comments requested.

3. On December 6, 2017 a public hearing date was set by the Board of Commissioners for January 10, 2018.

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 December 7, 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 26 and 27 of December, 2017 and 3 of January, 2018, and a confirmation email of publication was received by the Ada County highway District and is on file in the office of the Development Services Department.

6. Any and all comments received from the November 2, 2017 notification of Ada County Highway District Staff members and all applicable local agencies are on file.
in the office of the Development Services Department and are included within the Public Hearing staff memo dated December 29, 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 Development Services Department and are included within the Public Hearing staff memo dated December 29, 2017.

8. At the public hearing on Wednesday, January 10, 2018, oral and or written testimony was presented and at the conclusion of which, Commission President, 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 subject public right-of-way.

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 an alley located between N. 1st Street and N. 2nd Street in the block between W. State Street and W. Jefferson Street known as that certain 16-foot wide Alley of Block 61 of the Original Townsite of Boise City located in the Northeast Quarter of Section 10, Township 3 North, Range 2 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.

Consideration being paid to the Ada County Highway District for the vacated public right-of-way of the fair market value of the land in the amount of TWO HUNDRED SIXTEEN THOUSAND DOLLARS AND ZERO CENTS, ($216,000.00).

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 in the amount of TWO HUNDRED SIXTEEN THOUSAND DOLLARS AND ZERO CENTS ($216,000.00), 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 $216,000.00 for the value of the abandoned/vacated subject public right-of-way as agreed on by both parties.

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 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 ______________________, 2018.
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 _____________________, 2018, 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: ________________

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.
QUITCLAIM DEED CONVEYING PUBLIC RIGHT-OF-WAY

THIS INDENTURE, made this _______ day of __________________, 2018, ADA COUNTY HIGHWAY DISTRICT, a body politic and corporate of the State of Idaho, the "GRANTOR", and St. Luke’s Regional Medical Center, LTD, the "GRANTEE";

WITNESSETH:

FOR VALUE RECEIVED, GRANTOR does by these presents convey, remise, 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:

St. Luke’s Regional Medical Center
190 E. Bannock Street
Boise, ID 83702
IN WITNESS WHEREOF, this Quitclaim Deed has been duly executed by and on behalf of GRANTOR this _____ day of ________________, 2018.

ADA COUNTY HIGHWAY DISTRICT

By ___________________________
             President

Attest: ___________________________

Bruce S. Wong, Director

State of Idaho    )
                      ) ss.
County of Ada     )

On this _____ day of __________, in the year 2018, 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______________