



Memo

To: Mayor Davis and Members of the City Council

From: Donna Phillips, Community Development Director

Date: October 22, 2025

Agenda Item: PZE-25-0090 Vacation of Right-of-Way Request

Agenda Item Location

Public Hearing

Recommended Action or Motion

The City Council should review the Idaho State Statute within the Staff Analysis and determine at the conclusion of the public hearing and upon review of the application and the record if the applicant has met the requirements for a portion of public right-of-way to be vacated. The City of Hayden does not have any additional requirements or standards for this request but relies entirely on Idaho State Statute for the process and the direction.

Summary

Staff Analysis summarized:

Pages 1-7: During your review of the staff analysis, the background, the location of the request, and the statute language with staff analysis provided in “blue” may be found.

Page 7: Provides a summary of agency comments received from the agency notice both e-mailed and mailed to various agencies who may have underground utility infrastructure in this location as identified on page 4 in more detail.

Page 8: Staff recommended conditions should the City Council approve the request are provided because of the agency’s comments.

Pages 9-14: The Appendix provides the legal statute references identified in the Staff Analysis.

Pages 15-19: The Applicant’s narrative of the reasons for the request.

Pages 20-26: The public agency comments in detail as identified on page 7 above.

Fiscal Impact

Not Applicable

Budget Funding Source / Transfer Request

Not Applicable

Attachment

Staff Analysis



Memo

To: Mayor Davis and Members of the City Council

From: Donna Phillips, Community Development Director

Date: October 22, 2025

Agenda Item: PZE-25-0090 Vacation of Right-of-Way Request – Public Comments Received

Agenda Item Location

Public Hearing

Recommended Action or Motion

The City Council should take the information provided as public comments into consideration during their analysis and deliberation of the proposed request.

Summary

During the review of the proposal, agency notices are requested concurrent with the staff review analysis. If received in a timely manner, they are included in the staff review. If, however, they are received after the staff review is posted and prior to the public hearing, those comments are included within this memo to the City Council. Public comments received as a result of noticing and prior to the public hearing are summarized below in date order as they were received and all of the comments received identified in this memo are attached.

Agency notice to those agencies who may have underground facilities as defined in section 55-2202, Idaho Code, that lies within the public right-of-way were provided notices on September 18, 2025 by e-mail and by US postal service on September 23, 2025. Beginning on September 26, 2025, notices were provided in accordance with state statutes to the adjacent property owners, the notice was posted on the City's website and posted on the site. The legal notice was published in the Coeur d'Alene Press on September 26th, October 10th, and October 22nd, 2025. As of the date of this memo the City has received no additional comments with respect to this request.

Fiscal Impact

Not Applicable

Budget Funding Source / Transfer Request

Not Applicable

Attachment

PUBLIC SERVICE ANNOUNCEMENT
NOTICE OF PUBLIC HEARING
VACATION OF RIGHT-OF-WAY REQUEST

NOTICE IS HEREBY GIVEN that the City of Hayden City Council will conduct a public hearing on **Tuesday, October 28, 2025 at 5:00 p.m.** at Hayden City Hall Council Chambers, 8930 N. Government Way, Idaho, to consider Case No. **PZE-25-0090 Mark's Ranch Vacation of Right-of-Way, Eric Olson, Olson Engineering, on behalf of the owner Mark's Ranch, Inc., is requesting** approval of Vacation of Right-of-Way of approximately 0.10 acres on the southern side of East Lancaster Road, and north of the northwest corner of Parcel #H-0000-012-07-00, which is zoned Single-Family Residential (R1). Adequate Right-of-Way width is proposed to remain to match the surrounding area.

Pursuant to Idaho State Legislature Section 40-203(f): "At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way,... shall publish notice of the hearing... three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing."

The vacation of right-of-way request was submitted due in part to road alignment(s) and development of the Mark's Ranch Subdivision located south of East Lancaster Road.

The Staff Analysis is available on the City's website at www.haydenid.gov under "Upcoming Public Hearings".

Written testimony may be sent to the City of Hayden, Community Development Department, 8930 N Government Way, Hayden, Idaho, 83835; or emailed to planning@haydenid.gov. Written testimony must be submitted no later than **5:00 p.m. on Tuesday, October 21, 2025**. Written testimony should include the signature, email address and mailing address of the submitter; should address the issue at hand; and should not be personally derogatory. If the written testimony and exhibits are part of a group presentation, the group representative should provide copies for distribution to the applicant, Planning Staff and members of the City Council. If written testimony or an exhibit fails to meet these requirements, the Mayor may declare such testimony inadmissible.

All persons desiring to provide oral testimony should appear at the hearing. Individual testimony is limited to 5 minutes per person. Anyone who intends to appear as a representative of a group (spokesperson) should contact the Planning Department at 208-209-2021 a minimum of five days prior to the hearing.

The agenda will be posted at City Hall and on the City's website at www.haydenid.gov 48-hours before the meeting date.

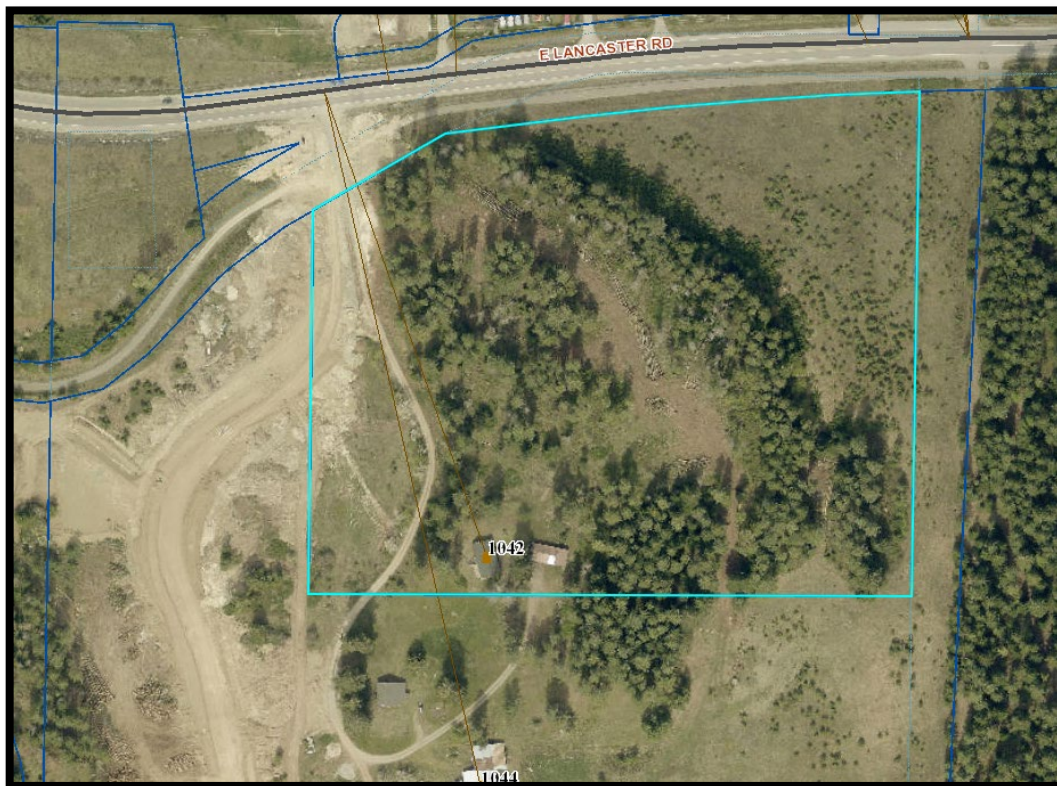
If you require special accommodation, please contact the Community Development Department at 208-209-2022 at least 24 hours prior to the date of the hearing.

**Marks Ranch Vacation of Right-of-Way Request
Adjacent to Tax Parcel No. H-0000-012-0700
Owner: City of Hayden
PZE-25-0090**

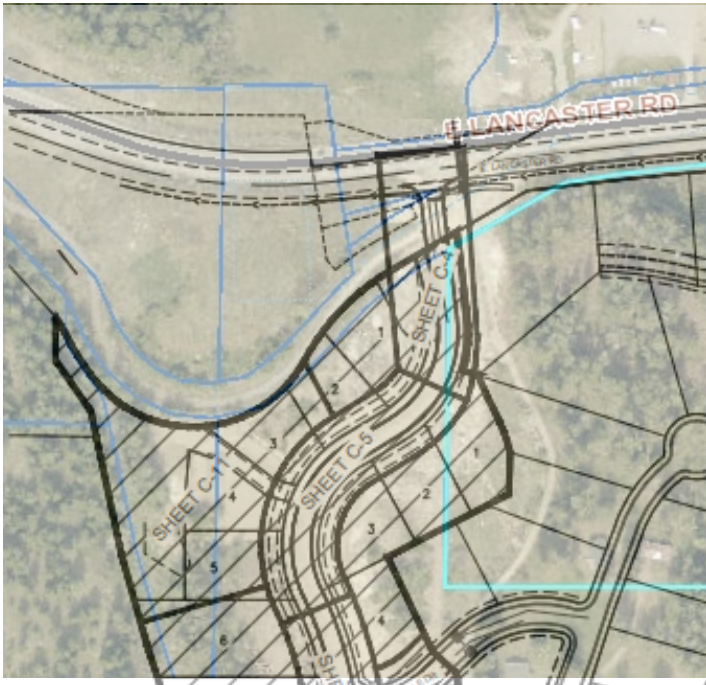
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BACKGROUND

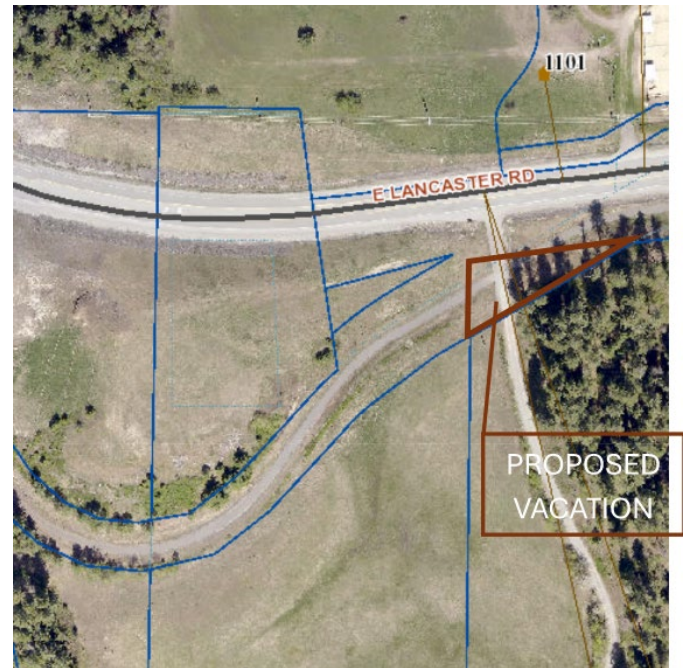
The property to the south of the right-of-way (Tax Parcel #H-0000-012-0700 shown below) is a part of the Marks Ranch Subdivision and currently under construction. North Rocking R Road runs north and south and intersecting with East Lancaster Road leaves a widened section of road right-of-way to the east of the new North Rocking R Road and south of East Lancaster Road as shown on the next page.



Final Plat overlayed on existing Aerial (last page)



Drawing from applicant's narrative



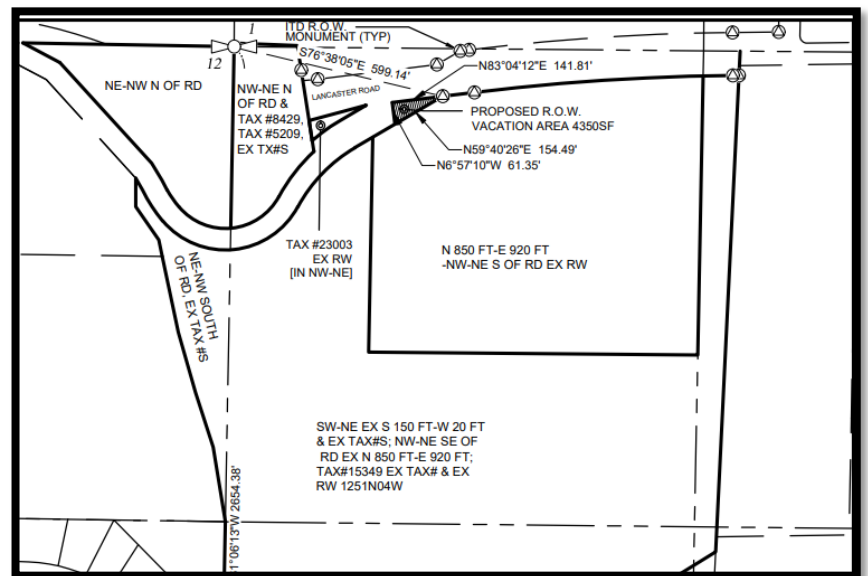
As can be seen above in the overlay of the proposed final plat, the intersection with East Lancaster Road from North Rocking R Road leaves a triangular piece of right-of-way, which is also shown in the applicant's narrative attached.

SUMMARY OF REQUEST

The applicant, Olson Engineering on behalf of the owner of the adjacent property, Marks Ranch LLC, is requesting the approval of a Vacation of Right-of-Way of this triangular piece of property as shown to the right. The right-of-way is approximately 0.10 acres in size.

LOCATION

The right-of-way is located south of East Lancaster Road and east of North Rocking R Road.



LEGAL DESCRIPTION

A parcel of land lying within the northwest quarter of the northeast quarter of Section 12, Township 51 North, Range 4 West, Boise Meridian, City of Hayden, Kootenai County, Idaho, and being more particularly described as follows:

Commencing at the North Quarter Corner of said Section 12, from which the center of Section 12 bears South 1°06'13" West a distance of 2654.38 feet, Thence, South 76°38'05" East a distance of 599.14 feet to an I.T.D. right-of-way monument, said point being TRUE POINT OF BEGINNING.

Thence, South 59°40'26" West a distance of 154.49 feet;

Thence, North 6°57'10" West a distance of 61.35 feet;

Thence, North 83°04'12" East a distance of 141.81 feet to the TRUE POINT OF BEGINNING.

Said parcel containing 4,350 square feet, more or less.

ANALYSIS

The analysis is organized following the nature of the Vacation requested in accordance with Idaho Statute(s) 40-203, 55-2202, and 50-1321, which can be found in their entirety in the Appendix. Those items of the analysis, which are required of all Vacations, can be found in the appendix and are made a part of this staff review. Those items, which are more site specific, shall be identified in the analysis provided here. The Comprehensive Plan does not provide any guidance towards Vacation requests.

- 1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

- (a) 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.

At the conclusion of the public hearing the City Council, should the City Council approve the request to vacate the right-of-way then a resolution shall be prepared for approval of the Council.

- (b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

The applicant has made the request and paid the appropriate fees for the request in accordance with the adopted fee schedule.

- (c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

The public hearing date has been set for October 28, 2025, at 5:00 pm at Hayden City Council.

- (d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way, which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

Public notice has been provided on the City's website, posted on the property site, sent to a variety of news outlets on September 26, 2025.

- (e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as defined in section 55-2202, Idaho Code, that lies within the highway or public right-of-way.

Agencies were noticed by e-mail and by US postal service on September 23, 2025. Those agencies noticed include the following:

*Avista Utilities	*Lakes Highway District
*Avondale Irrigation District	*North Kootenai Water and Sewer District
Coeur d'Alene Airport	Northern Lakes Fire Protection District
*Fatbeam	Panhandle Health District
*Idaho Department of Transportation	*Spectrum (Charter) Communications
*Hayden Area Regional Sewer Board	*TDS Communications
*Kootenai Electric Cooperative	*Ziplay Fiber

Idaho Code 55-2202 (26) defines an "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for irrigation), stormwater, sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. And in (28) "Underground facility owner" means any person who owns or operates an underground facility or who provides any utility service or commodity to an end user via an underground facility.

Therefore, the agencies identified above who could also have underground facilities include those with an asterisk (*).

- (f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the

hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

The property owner making the request owns the properties to the south of East Lancaster, and the one property owner to the north of East Lancaster Road was noticed on September 26, 2025.

The Coeur d'Alene Press shall publish the legal notice on September 26, October 10, and October 22, 2025.

- (g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.

This process step shall occur at the time of the public hearing.

- (h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.

This process step shall occur at the conclusion of the public hearing and as a part of the deliberations of the City Council. The Written Decision will be available at the next City Council meeting.

- (i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of two thousand five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.

No appraisal of the value of this property has been completed; however, based on known right-of-way appraisals the value of the property likely does not exceed \$2,500 under the existing use.

- (j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.

Should the request for vacation of right-of-way be approved, then a Resolution shall be drafted for approval by the City Council and recorded at the county.

- (k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section 40-208, Idaho Code.

(2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. The burden of proof shall be on the impacted property owner to establish this fact.

Per the graphics on page 2 of this review, this vacation is not believed to remove access to properties south of East Lancaster Road.

(3) In the event of abandonment and vacation, rights-of-way or easements shall be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

Responses received from agencies as part of the notice indicate the following should the vacation of right-of-way be granted:

- A 2" service line would need to be relocated for North Kootenai Water District, and an easement may be required for a 16" water main in the proximity of the vacation.
 - An easement for Avondale Irrigation District for a very short section of water main that cuts through this triangle would need to be provided.
- (4) (a) When a county or highway district is to consider the abandonment or vacation of any highway, public street or public right-of-way that was accepted as part of a recorded platted subdivision, such abandonment shall be accomplished pursuant to the provisions of this section.
- (b) When a county or highway district is to consider the abandonment or vacation of any highway, public street, or public right-of-way that was accepted as part of a platted subdivision that has never been improved or developed, such vacation or abandonment may be approved through the dedication of a new highway, public street, or public right-of-way without compensation as set forth in subsection (1)(i) of this section.
- (c) When a county is to consider the abandonment or vacation of any private right-of-way that was accepted as part of a recorded platted subdivision, said abandonment or vacation shall be accomplished pursuant to the provisions of chapter 13, title 50, Idaho Code.

The right-of-way was not a part of a platted subdivision.

(5) In any proceeding under this section or section 40-203A, Idaho Code, or in any judicial proceeding determining the public status or width of a highway or public right-of-way, a highway or public right-of-way shall be deemed abandoned if the evidence shows:

- (a) That said highway or public right-of-way was created solely by a particular type of common law dedication, such as a dedication based upon a plat or other document that was not recorded in the official records of an Idaho county;
- (b) That said highway or public right-of-way is not located on land owned by the United States or the state of Idaho nor on land entirely surrounded by land owned by the United States or the state of Idaho nor does it provide the only means of access to such public lands; and
- (c)(i) That said highway or public right-of-way has not been used by the public and has not been maintained at the expense of the public in at least three (3) years during the previous fifteen (15) years; or
- (ii) Said highway or right-of-way was never constructed and at least twenty (20) years have elapsed since the common law dedication.

The right-of-way has not been abandoned.

(6) All other highways or public rights-of-way may be abandoned and vacated only upon a formal determination by the commissioners pursuant to this section that retaining the highway or public right-of-way for use by the public is not in the public interest, and such other highways or public rights-of-way may be validated or judicially determined at any time notwithstanding any other provision of law. Provided that any abandonment under this section shall be subject to and limited by the provisions of subsections (2) and (3) of this section.

Review of the Analysis provided the Applicant's narrative to determine if this condition is met.

ADDITIONAL INFORMATION

Notice and Comments

Upon completion of properly noticed agencies, adjacent properties, and the public the following comments have been received at the time of this staff review.

In response to the request for comment,

From Agencies:

- 1) On September 22, 2025, North Kootenai Water & Sewer District responded about requirements related to existing infrastructure in the proximity of the vacation request.
- 2) On September 23, 2025, Avondale Irrigation District responded with "no comments".
- 3) On September 24, 2025, Hayden Area Regional Sewer Board responded with "no comment".
- 4) On September 25, 2025, the Northern Lakes Fire Protection District responded with requirements at the time of future development.

From the public:

The Adjacent Property Notices (APO) and required public notices to include the posting of the staff review on the City's website shall occur after the Staff Review is completed. Public comments

received during the notice period will be included within the record of the City Council public hearing.

STAFF RECOMMENDED CONDITIONS OF APPROVAL

Should the request for the vacation of right-of-way be approved, then prior to the approval of the resolution the developer shall:

- 1) Move the required infrastructure as identified by Avondale Irrigation District and/or North Kootenai Water and Sewer District in accordance with Hayden City Codes, standards, and policies. A right-of-way encroachment permit shall be required for this work.
- 2) Prepare to record concurrently with the recordation of the resolution any easements required by the underground utility providers per their request to include at a minimum Avondale Irrigation District and North Kootenai Water and Sewer District.
- 3) Pay any fees as may be applicable in accordance with Idaho State Statute 40-203(1)(i).

Appendix

APPENDIX

Vacation of Right-of-Way/Easement

IDAHO STATE LAW	1
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IDAHO STATE LAW

Statute 40-203

40-203. Abandonment and vacation of county and highway district system highways or public rights-of-way. (1) A board of county or highway district commissioners, whichever shall have jurisdiction of the highway system, shall use the following procedure to abandon and vacate any highway or public right-of-way in the county or highway district system including those which furnish public access to state and federal public lands and waters:

(a) 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.

(b) Any resident, or property holder, within a county or highway district system including the state of Idaho, any of its subdivisions, or any agency of the federal government may petition the respective commissioners for abandonment and vacation of any highway or public right-of-way within their highway system. The petitioner shall pay a reasonable fee as determined by the commissioners to cover the cost of the proceedings.

(c) The commissioners shall establish a hearing date or dates on the proposed abandonment and vacation.

(d) The commissioners shall prepare a public notice stating their intention to hold a public hearing to consider the proposed abandonment and vacation of a highway or public right-of-way, which shall be made available to the public not later than thirty (30) days prior to any hearing and mailed to any person requesting a copy not more than three (3) working days after any such request.

(e) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice by United States mail to known owners and operators of an underground facility, as defined in section [55-2202](#), Idaho Code, that lies within the highway or public right-of-way.

(f) At least thirty (30) days prior to any hearing scheduled by the commissioners to consider abandonment and vacation of any highway or public right-of-way, the commissioners shall mail notice to owners of record of land abutting the portion of the highway or public right-of-way proposed to be abandoned and vacated at their addresses as shown on the county assessor's tax rolls and shall publish notice of the hearing at least two (2) times if in a weekly newspaper or three (3) times if in a daily newspaper, the last notice to be published at least five (5) days and not more than twenty-one (21) days before the hearing.

- (g) At the hearing, the commissioners shall accept all information relating to the proceedings. Any person, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appear and give testimony for or against abandonment.
- (h) After completion of the proceedings and consideration of all related information, the commissioners shall decide whether the abandonment and vacation of the highway or public right-of-way is in the public interest of the highway jurisdiction affected by the abandonment or vacation. The decision whether or not to abandon and vacate the highway or public right-of-way shall be written and shall be supported by findings of fact and conclusions of law.
- (i) If the commissioners determine that a highway or public right-of-way parcel to be abandoned and vacated in accordance with the provisions of this section has a fair market value of two thousand five hundred dollars (\$2,500) or more, a charge may be imposed upon the acquiring entity, not in excess of the fair market value of the parcel, as a condition of the abandonment and vacation; provided, however, no such charge shall be imposed on the landowner who originally dedicated such parcel to the public for use as a highway or public right-of-way; and provided further, that if the highway or public right-of-way was originally a federal land right-of-way, said highway or public right-of-way shall revert to a federal land right-of-way.
- (j) The commissioners shall cause any order or resolution to be recorded in the county records and the official map of the highway system to be amended as affected by the abandonment and vacation.
- (k) From any such decision, a resident or property holder within the county or highway district system, including the state of Idaho or any of its subdivisions, or any agency of the federal government, may appeal to the district court of the county in which the highway or public right-of-way is located pursuant to section [40-208](#), Idaho Code.
- (2) No highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way. The burden of proof shall be on the impacted property owner to establish this fact.
- (3) In the event of abandonment and vacation, rights-of-way or easements shall be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section [55-2202](#), Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.
- (4) (a) When a county or highway district is to consider the abandonment or vacation of any highway, public street or public right-of-way that was accepted as part of a recorded platted subdivision, such abandonment shall be accomplished pursuant to the provisions of this section.
- (b) When a county or highway district is to consider the abandonment or vacation of any highway, public street, or public right-of-way that was accepted as part of a platted subdivision that has never been improved or developed, such vacation or abandonment may be approved through the dedication of a new highway, public street, or public right-of-way without compensation as set forth in subsection (1)(i) of this section.
- (c) When a county is to consider the abandonment or vacation of any private right-of-way that was accepted as part of a recorded platted subdivision, said abandonment or vacation shall be accomplished pursuant to the provisions of [chapter 13, title 50](#), Idaho Code.
- (5) In any proceeding under this section or section [40-203A](#), Idaho Code, or in any judicial proceeding determining the public status or width of a highway or public right-of-way, a highway or public right-of-way shall be deemed abandoned if the evidence shows:

- (a) That said highway or public right-of-way was created solely by a particular type of common law dedication, such as a dedication based upon a plat or other document that was not recorded in the official records of an Idaho county;
 - (b) That said highway or public right-of-way is not located on land owned by the United States or the state of Idaho nor on land entirely surrounded by land owned by the United States or the state of Idaho nor does it provide the only means of access to such public lands; and
 - (c)(i) That said highway or public right-of-way has not been used by the public and has not been maintained at the expense of the public in at least three (3) years during the previous fifteen (15) years; or
 - (ii) Said highway or right-of-way was never constructed and at least twenty (20) years have elapsed since the common law dedication.
- (6) All other highways or public rights-of-way may be abandoned and vacated only upon a formal determination by the commissioners pursuant to this section that retaining the highway or public right-of-way for use by the public is not in the public interest, and such other highways or public rights-of-way may be validated or judicially determined at any time notwithstanding any other provision of law. Provided that any abandonment under this section shall be subject to and limited by the provisions of subsections (2) and (3) of this section.

Statute 50-1321

50-1321. Necessity for consent of adjoining owners — Acknowledgment and filing of consent — Limitation on rule — Prerequisites to order of vacation. No vacation of a public street, public right-of-way or any part thereof having been duly accepted and recorded as part of a plat or subdivided tract shall take place unless the consent of the adjoining owners be obtained in writing and delivered to the public highway agency having jurisdiction over said public street or public right-of-way. Such public street or public right-of-way may, nevertheless, be vacated without such consent of the owners of the property abutting upon such public street or public right of way when such public street or public right-of-way has not been opened or used by the public for a period of five (5) years and when such nonconsenting owner or owners have access to the property from some other public street, public right-of-way or private road. However, before such order of vacation can be entered, it must appear to the satisfaction of the public highway agency that the owner or owners of the property abutting said public street or public right-of-way have been served with notice of the proposed abandonment in the same manner and for the same time as is now or may hereafter be provided for the service of the summons in an action at law. Any vacation of lands within one (1) mile of a city shall require written notification to the city by regular mail at least thirty (30) days prior to the vacation.

Statute 55-2202

55-2202. Definitions. As used in this chapter:

- (1) "Administrator" means the administrator of the division of occupational and professional licenses.
- (2) "Board" means the damage prevention board.
- (3) "Business day" means any day other than Saturday, Sunday, or a legal, local, state, or federal holiday.

- (4) "Damage" means any impact or exposure that results in the substantial weakening of structural or lateral support of an underground facility, or the penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the partial or complete destruction of the facility, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected underground facility owner determines that repairs are required.
- (5) "Emergency" means any sudden or unforeseen condition that compels immediate action to prevent or resolve:
- (a) A clear and present danger to life, health, or property;
 - (b) An unplanned customer service outage; or
 - (c) The blockage of roads or transportation facilities.
- (6) "Emergency excavation" means an excavation performed in response to an emergency.
- (7) "End user" means any customer or consumer of any utility service or commodity provided by an underground facility owner.
- (8) "Excavation" means any operation in which earth, rock, or other material in the ground is moved or otherwise displaced by any means including, but not limited to, explosives.
- (9) "Excavator" means any person who engages directly in excavation.
- (10) "Excavator downtime" means lost time for an excavation project due to failure of one (1) or more stakeholders to comply with applicable damage prevention regulations.
- (11) "Hand digging" means any excavation involving nonmechanized tools or equipment that when used properly will not damage underground facilities. Hand digging includes, but is not limited to, hand shovel digging, manual posthole digging, vacuum excavation, and soft digging.
- (12) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.
- (13) "Identified facility" means any underground facility that is indicated in the project plans as being located within the area of proposed excavation.
- (14) "Locatable underground facility" means an underground facility that can be field-marked with reasonable accuracy.
- (15) "Locator" means a person who identifies and marks the location of an underground facility owned or operated by an underground facility owner.
- (16) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.
- (17) "Notice of emergency excavation" means an excavator call to a one-number notification service not less than two (2) hours prior to commencing the emergency excavation to provide a description of the emergency, the location of the emergency excavation area, contact information for an individual with the excavator who may be reached throughout the emergency, and expected time and date of the emergency excavation.
- (18) "One-number notification service" means a service through which a person can notify owners of underground facilities and request field-marking of their underground facilities.
- (19) "Person" means an individual, partnership, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.
- (20) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, lane, path, sidewalk, alley, or other right-of-way dedicated for compatible uses.

- (21) "Reasonable accuracy" or "reasonably accurate" means location within twenty-four (24) inches horizontally of the outside dimensions of each side of an underground facility.
- (22) "Rural underground facility owner" means an underground facility owner that is a public utility or a member-owned cooperative that serves fewer than five thousand (5,000) total customers in a county or counties with populations that do not exceed fifty thousand (50,000) people.
- (23) "Service lateral" means any underground facility located in a public right-of-way or underground facility easement that is used to convey water (unless being delivered primarily for irrigation), stormwater, or sewage and connects an end user's building or property to an underground facility owner's main utility line.
- (24) "Soft digging" means any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.
- (25) "Stakeholder" means any party with an interest in protecting underground facilities including, but not limited to, persons, property owners, underground facility owners, excavators, contractors, cities, counties, highway districts, railroads, public entities that deliver irrigation water and those engaged in agriculture.
- (26) "Underground facility" means any item buried or placed belowground for use in connection with the storage or conveyance of water (unless being delivered primarily for irrigation), stormwater, sewage, electronic, telephonic or telegraphic communications, cable television, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors belowground.
- (27) "Underground facility easement" means a nonpossessory right to operate, control, bury, install, maintain, or access an underground facility.
- (28) "Underground facility owner" means any person who owns or operates an underground facility or who provides any utility service or commodity to an end user via an underground facility.

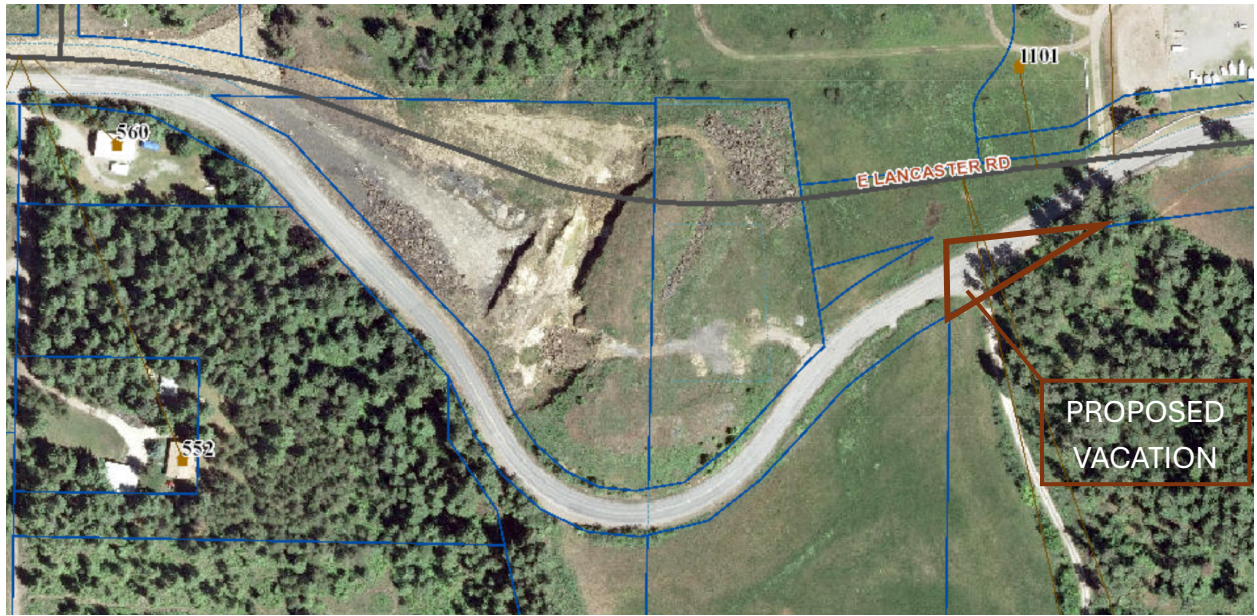
Applicant's Materials

Narrative for Marks Ranch Inc Right of Way Vacation Application

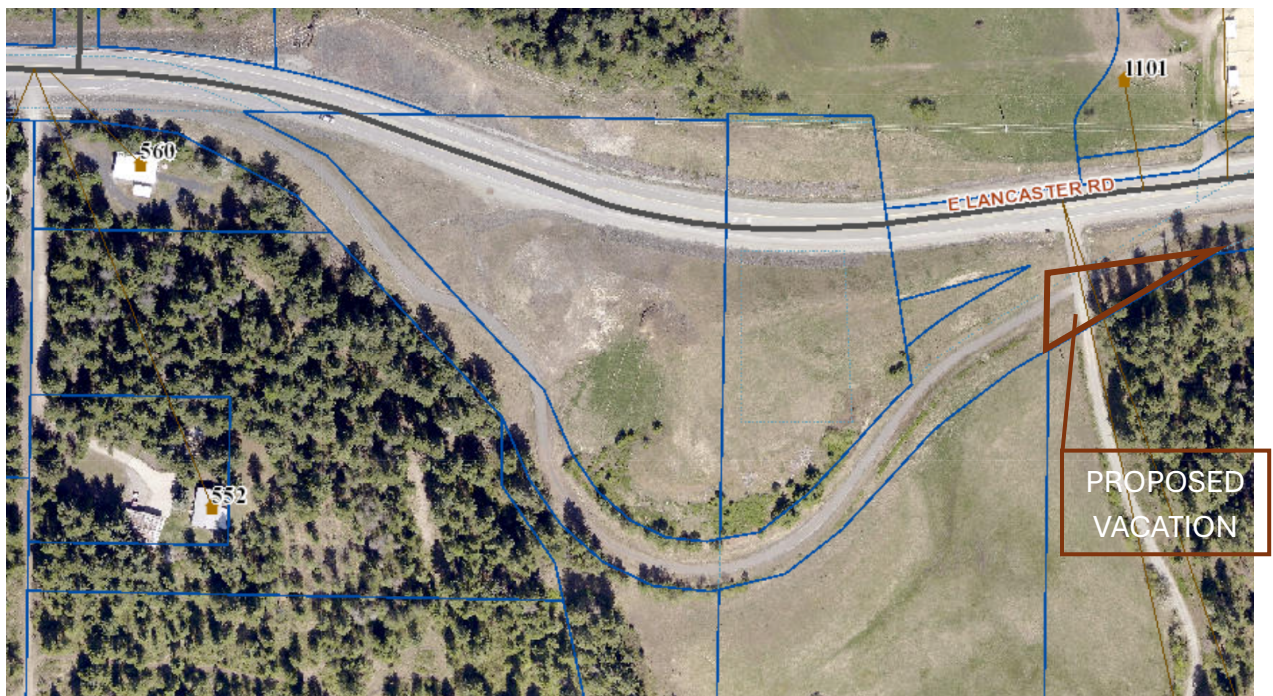
Lancaster Road was realigned in 2012 on the north side of the Marks Ranch subdivision. The Right of Way proposed to be vacated is based on the prior alignment and is no longer needed by the City. Adequate Right of Way width will remain (after vacation) to match the surrounding area and to encompass Lancaster Road and its multi-use pathway. Refer to the aerial imagery on the next page for an illustration of the realignment of the roadway. Refer to the attached construction plan sheet showing the realignment of the multi-use pathway as part of the Marks Ranch project.

The City does not benefit from the excess Right of Way. However, the City would benefit from vacating the Right of Way because Marks Ranch Inc intends to beautify the area and landscape an entry feature for the subdivision. The entry feature will include a rustic steel water tower as depicted below. The horses shown in the artist's rendering are statues that are being considered as part of the entry feature. The subdivision HOA would maintain the landscaping in the vacated Right of Way in perpetuity.





2010



2018

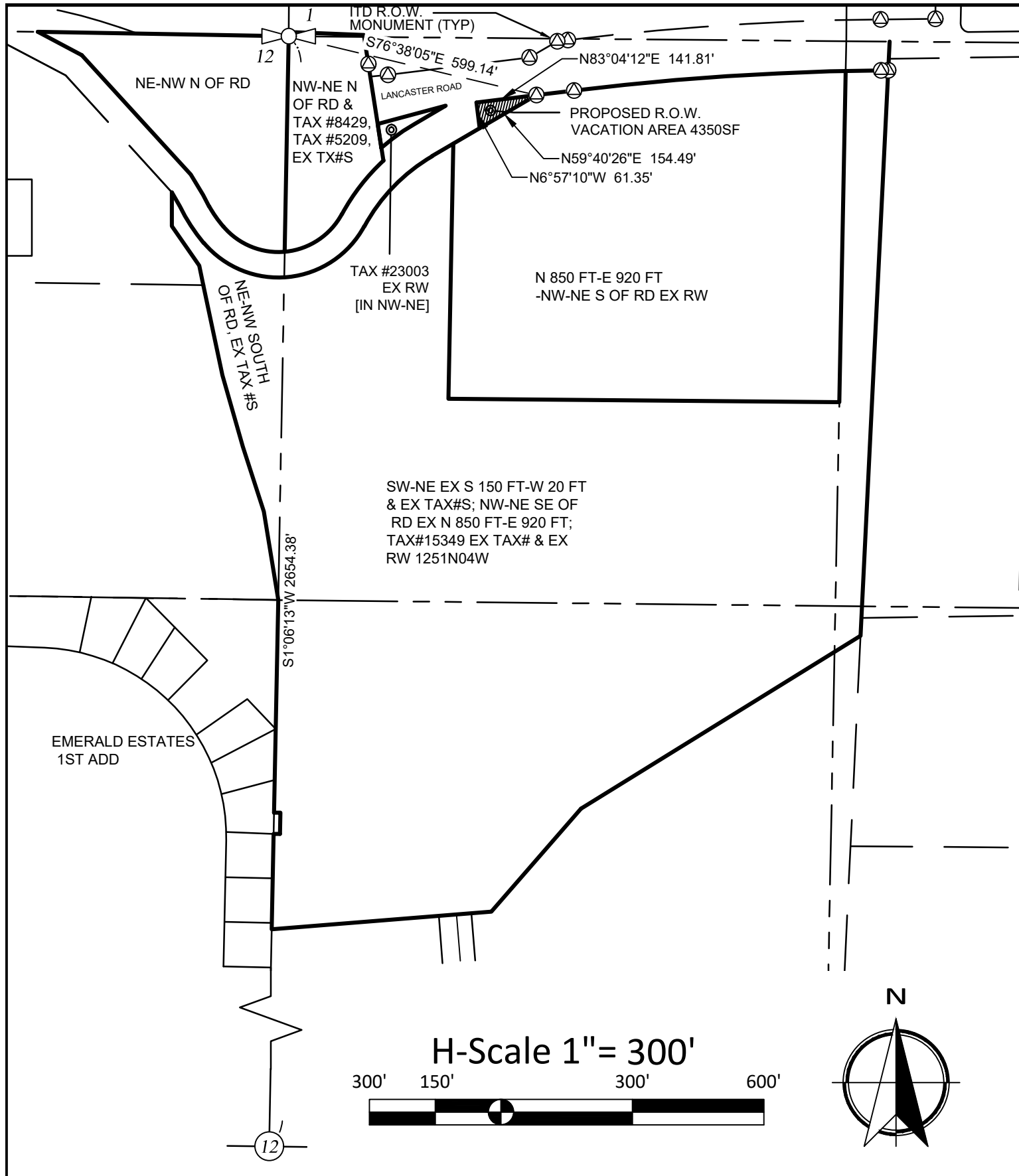


EXHIBIT "B"

SECTION 12, TOWNSHIP 51 NORTH, RANGE 4 WEST,
BOISE MERIDIAN, CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO

DATE SURVEYED: 2020

DRAFTED BY: ERH

PLOT DATE: 8/18/2025

SHEET

FILE NAME: 20-147

CHECKED BY: CJJ

PROJECT No.: 20-147

1/1

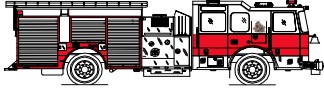
Johnson
Surveying

P.O. Box 2544 Post Falls, ID 83877
208-660-2351
johnsonsurveyingnw.com

Public Agency Comments

Northern Lakes Fire Protection District

Proudly serving the areas of and surrounding Hayden and Rathdrum



Hayden Area (208) 772-5711 • Fax: (208) 772-3044
Rathdrum Area (208) 687-1815 • Fax (208) 687-2088
www.northernlakesfire.com

September 25, 2025

City of Hayden Community Development
8930 N. Government Way
Hayden, ID 83835

Attn: Donna Phillips, GISP

The Northern Lakes Fire Protection District has reviewed the vacation of right of way request for Mark's Ranch. The request is to vacate the right of way of approximately .10 acres on the southern side of E. Lancaster. Project Number PZE-25-0090.

The Fire District approves of the vacation of right of way and has the following requirements. If/when future development occurs on the property the below listed items may be required.

- Improvements made by the developers of Mark's Ranch shall not impede emergency services responses.
- Any future development within the right of way will be reviewed and shall meet the current edition of the Idaho Fire Code.
- Current Idaho Fire Code requirements shall apply when building permits are applied for. Additional requirements may apply depending on size and type of occupancy constructed.

If you have any questions, please do not hesitate to call 208-772-5711.

Thank you,

Tyler Drechsel

Tyler Drechsel
Fire Marshal

Deborah Shaver

From: Bob Chandler <bobchandlercda@gmail.com>
Sent: Tuesday, September 23, 2025 9:44 AM
To: Planning
Subject: PZE-25-0090 - Vacation of Right-of-Way Agency Notice

Categories: Deborah

No comments.

Thanks,
B.

Bob Chandler | District Manager
Avondale Irrigation District

PO Box 81, Hayden, ID 83835
P (208) 772-5657 | M (208) 691-3428

Deborah Shaver

From: Ken <kwind@Harsb.org>
Sent: Wednesday, September 24, 2025 11:44 AM
To: Planning
Cc: Steph Oliver
Subject: PZE-25-0090 - Vacation of Right-of-Way Agency Notice Comment

Categories: Deborah

Hello City of Hayden Planning Department.

The Hayden Area Regional Sewer Board has no comment on PZE-25-0090 - Vacation of Right-of-Way Agency Notice.

Thanks
Ken Windram
Hayden Area Regional Sewer Board
208-772-0672

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Deborah Shaver

From: Robert Beachler <Robert.Beachler@itd.idaho.gov>
Sent: Thursday, September 25, 2025 4:35 PM
To: Planning
Subject: PZE-25-0090 Marks Ranch Subdivision Vacation of Right-of-Way

Categories: Deborah

The Idaho Transportation Department (ITD) is neutral on the proposed vacation of right-of-way for the landscaping improvements for Mark's Ranch Subdivision. ITD requests that any future improvements retains and protects all right-of-way survey monuments as depicted on Exhibit B map prepared by Johnson Surveying and plotted on 8/18/2025 as part of the right-of-way vacation application.

Robert Beachler
District 1 Planning Program Manager
Idaho Transportation Department
600 W. Prairie Ave
Coeur d'Alene, ID 83815
robert.beachler@itd.idaho.gov
(208) 772-1216
Office Hours M-TH 6-4:30

Deborah Shaver

From: Paul Tucker <PaulT@nkwsd.com>
Sent: Monday, September 22, 2025 6:51 AM
To: Planning
Subject: RE: Request for vacation of right-of-way (Olson Engineering/Marks Ranch)
Attachments: Agency Notice - PZE-25-0090.pdf; Lancaster exhibit.pdf

Categories: Deborah

Some people who received this message don't often get email from pault@nkwsd.com. [Learn why this is important](#)

Good morning,

To whom it may concern-

North Kootenai Water and Sewer District does have concerns with the request for vacation of right-of-way. The District owns a 16" water main and 2" water service with a 20' easement in the proximity of the vacation (please see attached).

Please advise next steps, thank you.



Paul Tucker, ICWP

District Manager

NORTH KOOTENAI WATER & SEWER DISTRICT

13649 N. Meyer Road

Rathdrum, ID 83858

License #

DWD3-25890

DWT1-26014

WWC4-25891

Office: (208) 687-6593

pault@nkwsd.com

www.nkwsd.com

