



BOARD OF CANYON COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:
[Siron] – [Case VAC2023-0002]

The Board of Canyon County Commissioners consider the following:

1) Vacate Access Easement
[VAC2023-0002, The applicant, Emil Michael Siron, represented by Justin Smith of Sundown Woodwork, is requesting a plat vacation to remove a fifteen (15') access easement located on the east boundary of Parcel R37629103 (approx. 2.15 acres). The subject property is located at 24731 Blessinger Road, Star within Sage Canyon Estates Subdivision (Lot 4, Block 1), also referenced as a portion of the NW¼ of Section 36, T5N, R2W, BM, Canyon County, Idaho.]

Summary of the Record

1. The record is comprised of the following:
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File VAC2023-0002.
 - B. The Planning and Zoning Commission heard this case on October 19, 2023 and forwarded it to the Board of County Commissioners with a recommendation of approval.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §07-17-35 Subdivision/Easement Vacation, Idaho Code §50-1306A, Idaho Code §50-1324, and Canyon County Code §07-02-03 (Definitions).
 - a. Notice of the public hearing was provided per CCZO §07-05-01.
 - b. Any property owner desiring to have an existing subdivision vacated, in whole or part, including easements, shall complete and file an application along with any fees with DSD and also file such other applications as are otherwise required by law.
2. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.
3. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
4. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
5. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application (VAC2023-0002) was presented at a public hearing before the Board of Canyon County Commissioners on December 13, 2023. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board decides as follows:

VARIANCE CRITERIA – CCZO §07-08-03(2)

A. When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

Conclusion: The request does not require city council review.

- Findings:**
- (1) The subject subdivision is not located within an incorporated city and it does not lie within one-mile of the city limits of Star.
 - (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2023-0002.
 - (3) Evidence includes associated findings and evidence supported within this document.

B. If a petition to vacate is brought before county commissioners, and the plat or part thereof which is the subject of the petition is located within one (1) mile of the boundaries of any city, the county commissioners shall cause written notice of the public hearing on the petition to be given to the mayor or chief administrative officer of the city by regular mail at least thirty (30) days prior to the date of public hearing.

Conclusion: The request is located in City of Star's impact area. The City of Star was notified on September 5, 2023.

- Findings:**
- (1) The City of Star did not respond to the proposed access easement vacation.
 - (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2023-0002.
 - (3) Evidence includes associated findings and evidence supported within this document.
 - (4) The subject property is not located within one mile of Star City limits but the limits of the subdivision development, Sage Canyon Estates, is located within one (1) mile of the city limits of Star.

C. In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

Conclusion: All utility agency contacts the County has were notified on September 7, 2023 and October 31, 2023. Neighbors were notified on September 7, 2023, October 31, 2023 and November 13, 2023.

- Findings:**
- (1) Canyon County received responses from Lumen, Idaho Power, DSD Engineering, and Canyon Highway District #4 that they do not oppose this access easement vacation.
 - (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2023-0002.
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on September 5, 2023 and October 31, 2023. Newspaper notice was

published on September 8, October 8, 2023, November 3, 2023 and December 3, 2023. Property owners within 600' were notified by certified return receipt mail on September 7, 2023 and November 13, 2023. The property was posted on September 14, 2023 and November 8, 2023.

(4) Evidence includes associated findings and evidence supported within this document.

D. When public streets or public rights-of-way are located within the boundary of a highway district, the highway district commissioners shall assume the authority to vacate said public streets and public rights-of-way as provided in §40-203, Idaho Code.

Conclusion: The request does not include vacation of any public streets or public rights-of-way; therefore, this is not applicable to this application.

Findings: (1) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2023-0002.

E. All publication costs shall be at the expense of the petitioner

Conclusion: Publication costs are covered by the County through application fees. Publication was completed on September 8, 2023, October 8, 2023, November 3, 2023 and December 3, 2023.

F. Public highway agencies acquiring real property within a platted subdivision for highway right-of-way purposes shall be exempt from the provisions of this section

Conclusion: Not applicable to this application.

G. Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be re-platted.

Conclusion: Not applicable to this application. The application is to vacate an unused access easement on Lot 4, Block 1 of Sage Canyon Estates Subdivision. The 5' utility, irrigation and drainage easement shall remain in place along the common interior boundary between Lot 4 and Lot 5, Block 1.

Order




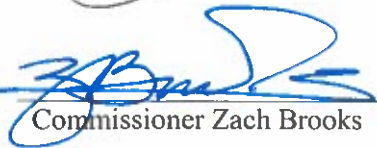
Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of Canyon County Commissioners **approve** Case# VAC2023-0002, a request to vacate the fifteen (15) foot x approximate 177 foot access easement along the southeast boundary on Lot 4, Block 1 of Sage Canyon Estates Subdivision Final Plat subject to the conditions enumerated herein.

Conditions of Approval

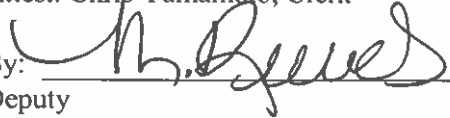
1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. This vacation does not include the required five (5) foot utility, irrigation and drainage easement that shall remain on the plat for Sage Canyon Estates Subdivision and shall not be encroached upon by any structures or over hangs.
3. Standard County setbacks must be met for all proposed structures.
4. The vacation of the easement shall be recorded in accordance with Title 50-1324.

APPROVED this 13 day of December, 2023.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO**

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek		_____	_____
 _____ Commissioner Brad Holton	<u>X</u>	_____	_____
 _____ Commissioner Zach Brooks	<u>X</u>	_____	_____

Attest: Chris Yamamoto, Clerk

By: 

Deputy

Date: 12-13-23

ACCESS EASEMENT DESCRIPTION

LOT 4, BLOCK 1 SAGE CANYON ESTATES



Project No: 230604
Date: October 5, 2023
Page 1 of 1

ACCESS EASEMENT VACATION
DESCRIPTION

Located in Lot 4 Block 1 of Sage Canyon Estates, Recorded in Book 41 of Plats at Page 44, Records of Canyon County, Idaho, located in the W1/2 of the NW1/4 of Section 36, Township 5 North, Range 2 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at the southeast corner of Lot 4 Block 1 of Sage Canyon Estates, thence, along the southwest boundary of said Lot 4,

1. Southwesterly along a curve to the right having a radius of 425.00 feet, an arc length of 15.86 feet, through a central angle of $2^{\circ}08'18''$, of which the long chord bears $S.31^{\circ}29'13''W.$, 15.86 feet; thence, leaving said boundary and parallel with the northeast boundary of said Lot 4,
2. $N.39^{\circ}33'11''W.$, 177.58 feet to the northwest boundary of said access easement as shown on said plat; thence, along said northwest boundary,
3. $N.50^{\circ}26'49''E.$, 15.00 feet to the east boundary of said Lot 4; thence, along said east boundary,
4. $S.39^{\circ}33'11''E.$, 172.43 feet to the **POINT OF BEGINNING**.

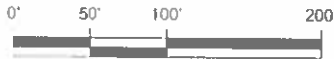
CONTAINING: 2,626 Sq. Ft.



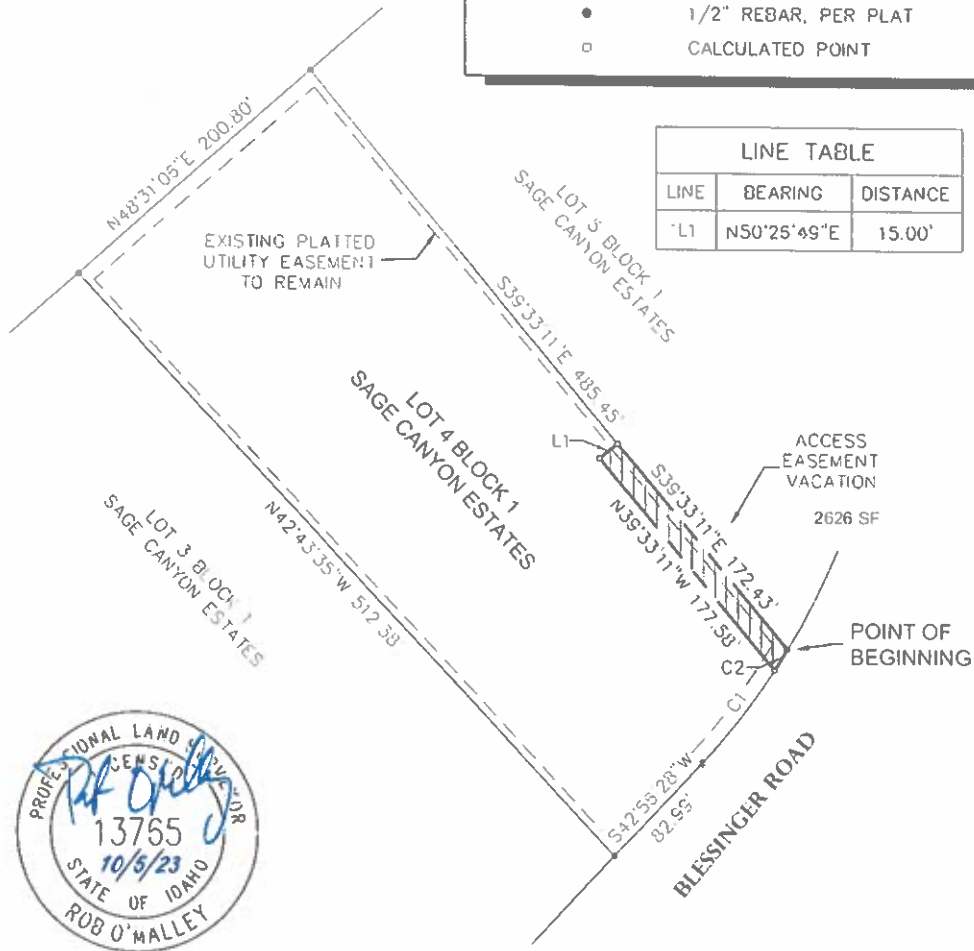
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EXHIBIT SKETCH-ACCESS EASEMENT VACATION

A PORTION OF LOT 4 BLOCK 1 OF SAGE CANYON ESTATES
 LOCATED IN THE W1/2 OF THE NW1/4 OF SECTION 36
 TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO
 2023



LEGEND	
	EXISTING LOT LINE
	EXISTING UTILITY EASEMENT
	5/8" REBAR, PER PLAT
	1/2" REBAR, PER PLAT
	CALCULATED POINT



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N50°25'49"E	15.00'



CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	425.00'	77.03'	10°23'07"	S37°44'55"W	75.93'
C2	425.00'	15.85'	2°08'18"	S31°29'13"W	15.85'

2023-0002-EXP-EASEMENT_VACATION.dwg 10/5/23 28604

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