

PLANNING AND ZONING COMMISSION
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In the matter of the application of:

Thueson – VAC2024-0001

The Canyon County Planning and Zoning Commission considers the following:

1) Easement Vacation

The applicant, Lance Thueson, represented by Becky Yzaguirre of Ardurra, is requesting a vacation of a fire access easement in Lot 10 Block 1 of Castleton Place Subdivision. There is now another access to the subdivision from Lewis Lane through Jack's Place Subdivision. The subject property is located at 1002 Huntington Court, also referenced as Parcel R29411109, a portion of the SE quarter of Section 10, T2N, 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 VAC2024-0001.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-17-35 (Subdivision/Easement Vacations), Idaho Code §50-1306A (Vacation of Plats - Procedure), and Canyon County Code §09-11 (Nampa Area of City Impact Agreement).
 - 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. Upon receipt of the completed application and other information as may be required, DSD shall affix the date of application acceptance thereon. The application shall be considered by the commission at a public hearing noticed as provided for in article 5 of this chapter. Vacations shall be processed in accord with the regulations set forth in Idaho Code section 50-1306A and recorded in accord with the regulations set forth in Idaho Code section 50-1324. The commission shall review the request and any agency response and make a recommendation to the Board for approval, conditional approval or denial.
2. The commission has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use, including subdivision permits. *See* I.C. §67-6504, §67-6511.
3. 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, 07-06-05.
4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCZO §07-05-03.
5. 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. 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 (VAC2024-0001) was presented at a public hearing before the Canyon County Planning and Zoning Commission on March 20, 2025. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the project plans, the Planning and Zoning Commission decides as follows:

SUBDIVISION/EASEMENT VACATIONS – CCZO §07-17-35

- 1. 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.**

Conclusion: A complete application with fees was filed with DSD including the application fee. No other applications are required by law.

Findings: (1) A complete application with fees was accepted on November 6, 2024 (Staff Report Exhibit A).

(2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2024-0001.

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

- 2. Upon receipt of the completed application and other information as may be required, DSD shall affix the date of application acceptance thereon. The application shall be considered by the commission at a public hearing noticed as provided for in article 5 of this chapter. Vacations shall be processed in accord with the regulations set forth in Idaho Code section 50-1306A and recorded in accord with the regulations set forth in Idaho Code section 50-1324.**

Conclusion: The requirements of 07-17-35(2) have been met or will be met at the time of approval.

Findings: (1) The date of application acceptance (November 6, 2024) was noted on the application.

(2) The application is being considered by the Planning & Zoning Commission at a public hearing on March 20, 2025. Noticing for the hearing was provided for according to Article 5.

(3) The vacation has been processed in accord with all applicable parts of Idaho Code as follows:

- 50-1306A (1): A complete application was submitted to Development Services Department including circumstances of the request to vacate (Staff Report Exhibit A2), legal description of the easement to be vacated (Staff Report Exhibit A4), and the only affected person is the property owner, Lance Thueson.
- 50-1306A (2): Noticing per Canyon County Code of Ordinances article 07-05 exceeds noticing requirements in this state code except for the certified mail requirement. Certified mail shall be sent prior to the Board of County Commissioners hearing.
- 50-1306A (4): The property is within one (1) mile of Nampa city limits, so written notice was sent to City of Nampa in accordance with Canyon County Code §09-11 (Area of City Impact Agreement).
- 50-1306A (7): Publication costs are factored in to the application fee.
- 50-1306A (10): Certified mail will be sent prior to the Board of County Commissioners hearing. Proof of notification by certified mail will be available prior to the Board of County Commissioners hearing.
- 50-1324 (1): The applicant must provide certification from the County Treasurer that all taxes due are paid if the vacation is approved.
- 50-1324 (2): If approved, a resolution with record of survey shall be recorded as described.

(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2024-0001.

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

3. The commission shall review the request and any agency response and make a recommendation to the Board for approval, conditional approval or denial. (Ord. 10-006, 8-16-2010; amd. Ord. 11-003, 3-16-2011)

Conclusion: The commission has reviewed the request and agency responses and is making a recommendation to the Board for approval.

Findings: (1) The request went before the Planning & Zoning Commission at the public hearing on March 20, 2025 for a recommendation to the Board of County Commissioners.

(2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2024-0001.

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

Canyon County Code §09-11 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The property is located within the Nampa Area of City Impact. The case is in compliance with the area of city impact agreement.

Findings: (1) Pursuant to CCZO §09-11-19, Nampa city ordinance 3354, section 10-27-12 (Amended Plats; Vacation) as it existed on June 7, 2004 applies to this decision (as well as other codes which are not applicable based on the nature of the request).

The code states, in part, "Processing of vacation requests for easements and/or rights of way shall be executed in accordance with provisions of state code. They shall be done by ordinance of the city council and approved first by the same during a public hearing. Vacations may be reviewed but not approved by zoning staff. Vacation approval shall be required in order to either erase some or all of an easement or right of way."

As stated in the findings for Canyon County code section 07-17-35(2), the request for this easement vacation is being executed in accordance with provisions of state code. In accordance with state code, the vacation, if approved, shall be done by resolution of the Board of County Commissioners (Idaho Code Section 50-1324).

(2) A notice was sent to the City of Nampa per Canyon County Code Section 09-11-25(1) and 09-11-17(3). The City did not have any comments (Staff Report Exhibit C4). Pursuant to CCZO §09-11-17, Canyon County may proceed without the recommendation of the city of Nampa.

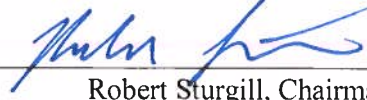
(3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. VAC2024-0001.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission recommends **approval** of Case # VAC2024-0001, a vacation of a fire access easement.

DATED this 3 day of April, 2025.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO


Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this 3rd day of April, in the year 2025, before me Jennifer D. Almeida, a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: Jennifer D. Almeida

My Commission Expires: 4/7/28

