

**DUCHESNE COUNTY**

**PLANNING COMMISSION MEETING**

**FEBRUARY 3, 2016**

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<b>REQUEST TYPE:</b>	Roadway Easement Vacation
<b>APPLICANTS:</b>	Nathan Coulter, President of Mesa Development, Inc., Randy and Robin Toon
<b>PROPOSAL:</b>	Vacation of the 100-foot wide roadway easement located within Lots 20, 21 and 22 of the River View Estates Subdivision ( <i>request was then amended to remove Lot 20</i> )
<b>LOCATION:</b>	South side of Highway 35, west of the Duchesne River, in the Utah area
<b>ZONING DESIGNATION:</b>	A-5

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## **FINDINGS OF FACT**

### **1. PROPOSAL DESCRIPTION**

The applicants originally sought to remove or “vacate” a 100-foot wide roadway easement across the west side of Lots 20, 21 and 22 of the River View Estates Subdivision. The easement is interfering with development plans for an RV park on Lots 21, 22 and 23. The request was then amended to include easement vacation only within Lots 21 and 22.

### **2. HISTORY OF EVENTS**

January 13, 2016	The application was submitted.
January 14, 2016	The application was deemed complete.
January 22, 2016	Notice mailed to property owners and to affected entities.
January 19 & 26, 2016	Notice of Public Hearing published in the Uintah Basin Standard.
February 3, 2016	Planning Commission hearing.
February 8, 2016	County Commission hearing.

### **3. DUCHESNE COUNTY SUBDIVISION ORDINANCE**

#### **9-5-4: VACATING OR CHANGING SUBDIVISION PLAT, PUBLIC STREET, RIGHT OF WAY OR EASEMENT:**

Proposals to vacate or change a subdivision plat, public street, right of way or easement shall be processed in accordance with Utah Code Annotated sections 17-27a-608 and 17-27a-609, and subsequent amendments thereto, with public notice of such actions to be given as provided by Utah Code Annotated section 17-27a-208, and subsequent amendments thereto.

#### **Utah Code 17-27a-609.5.** Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
- (a) the name and address of each owner of record of land that is:
    - (i) adjacent to the public street, right-of-way, or easement; or
    - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement;
- and
- (b) the signature of each owner under Subsection (1) (a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:
- (a) good cause exists for the vacation; and
  - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
- (a) good cause exists for the vacation; and
  - (b) neither the public interest nor any person will be materially injured by the vacation.

(4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

- (a) a plat reflecting the vacation; or
- (b) an ordinance described in Subsection (3).

(5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

- (b) may not be construed to impair:
  - (i) any right-of-way or easement of any lot owner; or
  - (ii) the franchise rights of any public utility.

**Findings: A petition signed by the owner of all of the lots adjacent to and served by the roadway easement has been received. Good cause exists for the granting of the roadway easement vacation request as the easement is interfering with development plans for an RV park on the abutting lots, which are owned by the applicants. If the property owners sign and record a deed restriction holding Lots 21-23 of the River View Estates Subdivision together as one parcel and agree to not sell them separately, then the easement would no longer be needed to guarantee legal access to each of those lots.**

**Utah Code 17-27a-208.** Hearing and notice for proposal to vacate a public street, right-of-way, or easement.

(1) For any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall:

- (a) hold a public hearing; and
- (b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1) (a), the notice required under Subsection (1) (b) shall be:

(a) mailed to the record owner of each parcel that is accessed by the public street, right-of-way, or easement;

(b) mailed to each affected entity;

(c) posted on or near the street, right-of-way, or easement in a manner that is calculated to alert the public; and

(d) (i) published in a newspaper of general circulation in the county in which the land subject to the petition is located; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701.

**Findings: The legislative body, the County Commission, has scheduled a public hearing for February 8, 2016. Notice of the Planning Commission and County Commission hearings was mailed on January 22, 2016 to all property owners abutting and within 300 feet of the easement. Notice was mailed to the following affected entities on January 22, 2016: Moon Lake Electric, Questar Gas, Duchesne County Road Department and Strata Networks.**

**Notice was posted in the vicinity of the easement on January 22, 2016. Notice was published in the Uintah Basin Standard on January 19 and 26, 2016. Notice also appeared in the Utah Public Notice Website and the Duchesne County website.**

### **CONCLUSIONS**

1. Good cause exists for the granting of the plat amendment and easement vacation request. The public interest and the interests of property owners in the vicinity will not be harmed if the easement is vacated, provided that the property owners sign and record a deed restriction holding Lots 21-23 of the River View Estates Subdivision together as one parcel and agree not to sell them separately.
2. The request is valid.

### **RECOMMENDATION**

Recommended Motion: I move that the Planning Commission recommend to the County Commissioners the approval of the request to vacate the 100-foot wide roadway easement located within Lots 21 and 22 of the River View Estates Subdivision, provided that the property owners sign and record a deed restriction agreeing to hold Lots 21 – 23 of the River View Estates Subdivision together as one and agree not to sell them separately.

Mike Hyde  
Community Development Administrator