

# YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 24 - 80

## **Resolution to Set Hearing on the Proposed Abandonment of a Portion of 56<sup>th</sup> Street West in Sunny Cove Fruit Farms Subdivision**

WHEREAS, pursuant to Sections 7-14-2101, 7-14-2102 and 7-14-2103 of the Montana Code Annotated, a board of county commissioners has the authority to manage county roads within the county. Pursuant to Section 7-14-2615 of the Montana Code Annotated, a board of county commissioners has the authority to abandon a county road after a public hearing.

WHEREAS, in 1910, the Rimrock Investment Company filed the Plat of Sunny Cove Fruit Farms Subdivision, Doc. No. 21540. The plat indicated the right-of-way for a north-south road with a 50-foot right-of-way between Lots 67 and 66, 94 and 95, 99 and 98 and 126 and 127. A road was never built in the right-of-way. The right-of-way for the road is between Colton Avenue and Grand Avenue. The road is now known as a portion of 56<sup>th</sup> Street West. **Exhibit 1 - Plat.**

WHEREAS, in 1998, the Estate of Raymond Kramer filed an Amended Plat of Sunny Cove Fruit Farms Subdivision, Doc. No. 3033371. The Plat indicated the right-of-way for a north-south road with a 50-foot right-of-way between Lots 67A and 66A. It is the same right-of-way indicated on the original Plat of Sunny Cove Fruit Farms Subdivision. **Exhibit 2 – Plat.**

WHEREAS, on March 9, 2023, Larry and Gerondale Kramer submitted a petition to the Yellowstone County Board of County Commissioners to abandon a portion of 56<sup>th</sup> Street West in Sunny Cove Fruit Farms Subdivision. **Exhibit 3 – Petition.** The Kramers own all the land that abuts the road they requested the Board abandon. On March 14, 2023, the Board appointed a Board of Viewers to make a recommendation on the abandonment. On March 30, 2023, the Board of Viewers provided the Board with a recommendation. **Exhibit 4 – Report.** The Board of Viewers recommended the Board abandon the road with conditions. On April 18, 2023, the Board held a public hearing on the abandonment. The City of Billings requested the Board not abandon the road. The Board placed the abandonment on hold to allow the City and the Kramers to discuss the abandonment. **Exhibit 5 – Meeting Minutes.** The City advised the Board it no longer opposed the abandonment. The Board contacted the Kramers as to whether they still would like the Board to abandon the road. The Kramers advised the Board they still wanted the Board to abandon the road.

NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners shall on May 14, 2024, at 9:30 a.m., in Room 3108 of the Stillwater Building located at 316 North 26<sup>th</sup> Street in Billings, Montana, hold a public hearing on the petition to abandon the road right-of-way between Lots 67A and 66A of the Amended Plat of Sunny Cove Fruit Farms Subdivision, now known as a portion of 56<sup>th</sup> Street West.

The Board orders the Yellowstone County Clerk and Recorder to provide notice of the hearing, to receive written comments on behalf of the Board and to forward the comments on to the Board before the hearing.

At the hearing, the Board shall receive comments on the proposed abandonment and consider the Board of Viewers' Report and any comments on the proposed abandonment. After the hearing, the Board may or may not abandon the road. If the Board believes that it is in the best interest of the public to abandon the road, it shall pass a resolution of intent to abandon the road with conditions. Once the Kramers have satisfied the conditions, the Board shall pass a resolution that abandons the road. If the Board believes it is not in the best interest of the public to abandon the road, it shall pass a resolution not to abandon the road.

Passed and Adopted on the 30<sup>th</sup> day of April 2024.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

\_\_\_\_\_  
John Ostlund, Chair

\_\_\_\_\_  
Mark Morse, Member

ATTEST:

\_\_\_\_\_  
Donald W. Jones, Member

\_\_\_\_\_  
Jeff Martin, Clerk and Recorder

**Attachments**

Exhibit 1 – Plat  
Exhibit 2 – Plat  
Exhibit 3 - Petition  
Exhibit 4 – Report  
Exhibit 5 – Meeting Minutes

**Chronology**

Agenda	April 23, 2024
Resolution Setting Hearing	April 30, 2024
Publication of Notice of Hearing	May 3, 20024
Publication of Notice of Hearing	May 10, 2024
Public Hearing / Resolution	May 14, 2024

**Documents**

Petition  
Report  
Resolution Setting Hearing  
    Minutes of Meeting  
Notice of Public Hearing  
Affidavit of Notice of Public Hearing  
Resolution  
    Minutes of Meeting  
    Recording of Meeting  
    Comments

9

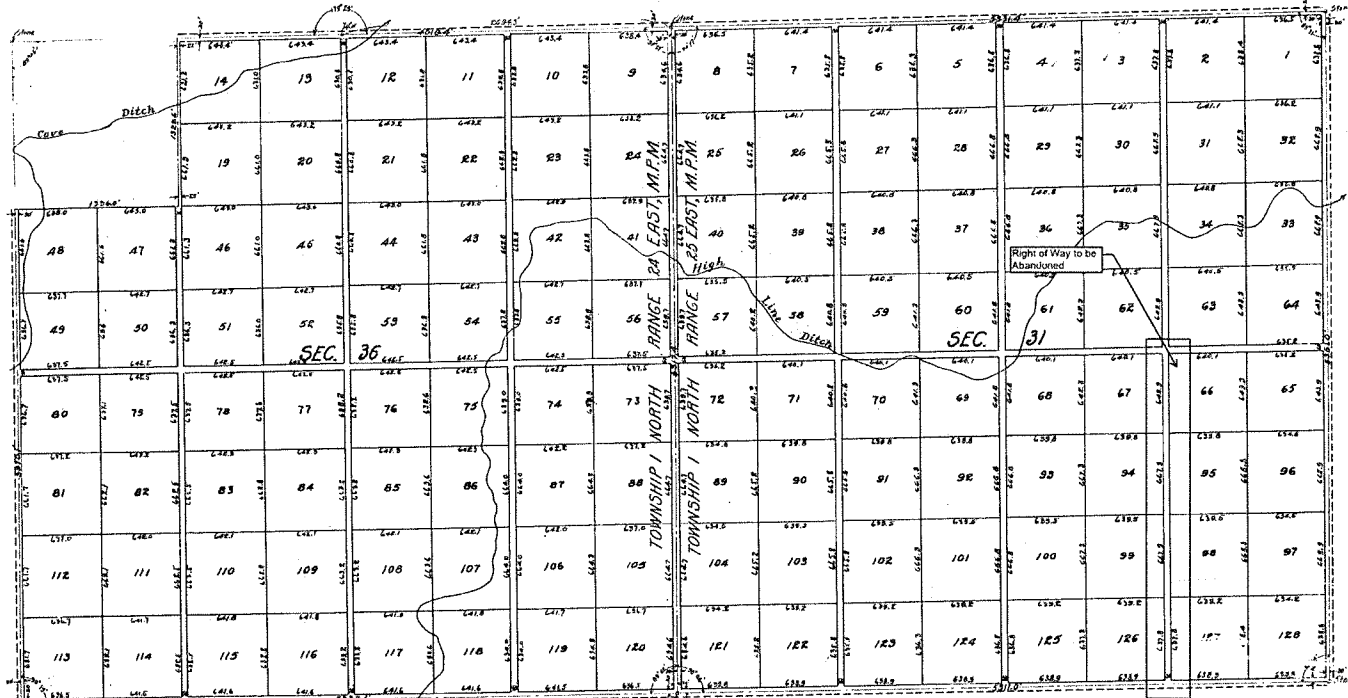
Blg. Co. Comm. Co.  
Blk 924 p 100  
Lot 30, 70 @ 832m.  
Vacate portion

# PLAT OF THE SUNNY COVE FRUIT FARMS

IN SEC. 36 T.1N.R.24 E. & SEC. 31 T.1N.R.25 E.M.P.M.

Scale - 1 in. = 500 ft.

Henry Geharz Engineering Co. - Billings, Montana  
1910



### CERTIFICATE OF DEDICATION

State of Montana } ss  
County of Yellowstone }

This is to certify that the Rimrock Investment Company, of Billings, Montana, (a corporation duly created, organized, existing, and doing business under and by virtue of the laws of the State of Montana) has caused to be surveyed, laid out and platted into lots and roads, a tract of land known and described as follows:

All of Section 31, Township 1 North, Range 25 East of the Montana Principal Meridian and all of Section 36, Township 1 North, Range 24 East, M. P. M. excepting the north-west quarter of the north-west quarter of said Section 36; said tract being more particularly described as follows:-

Beginning at the north-east corner of said Section 31 and running thence south along the east line of said Section 31, 3551.0 feet to the south-east corner thereof; thence west along the south line of said Section 31 and of said Section 36, 10643.4 feet to the south-west corner of said Section 36; thence north along the west line of said Section 36, 39701 feet to the south-west corner of the north-west quarter of the north-west quarter of said Section 36; thence east along the south line of said north-west quarter of the north-west quarter of said Section 36, 1336.0 feet to the south-east corner thereof; thence north along the east line thereof 1336.6 feet to the north line of said Section 36; thence east along said north line and the north line of Section 31, mentioned above, 5041.8 feet to the point of beginning.

This tract of land is to be known as the "SUNNY COVE FRUIT FARMS", and all lands included in the roads as shown on the plat hereon delineated, are hereby donated, granted and given to the public use forever.

IN WITNESS WHEREOF, the said Rimrock Investment Company has caused these presents to be signed by its President, attested by its Secretary, and its corporate seal to be affixed hereunto, this 27th day of April, A.D. 1910.

Attest: *W.A. Nichols*  
Secretary

State of Montana } ss  
County of Yellowstone }

On the 27th day of April, in the year A.D. 1910, before me, Notary Public for said State, personally appeared W. B. George, known to me to be the President of the corporation which executed the above instrument, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year as in this certificate first above written.

*W.B. George*  
Notary Public for the State of Montana  
residing at Billings, My Commission  
expires Jan 16, 1911

### SURVEYOR'S CERTIFICATE

State of Montana } ss  
County of Yellowstone }

I, E. W. Colton, a Civil Engineer and Surveyor, do hereby certify, that between the dates and inclusive thereof, February 2, 1910 and March 16, 1910, I executed a true and careful survey of the "SUNNY COVE FRUIT FARMS" at the request of the owners thereof. Said tract of land lying and being situated in the County of Yellowstone, State of Montana, and being more particularly described as in the foregoing certificate of dedication and shown on the accompanying plat. I further certify that all dimensions of lots, roads and boundary lines are as shown on said plat; that monuments were placed at all lot corners, one foot below the surface of the ground, said monuments being one and one half inch iron pipe eighteen inches long; and that said plat is strictly in conformity with the work on the ground.

E. W. Colton  
Civil Engineer

Subscribed and sworn to before me this 28th day of April, A.D. 1910.

W. J. Blaine  
Notary Public for the State of Montana, residing at Billings, My Commission expires October 7, 1911

State of Montana } ss  
County of Yellowstone }

*[Faded text, likely a duplicate or continuation of the surveyor's certificate]*

21540

State of Montana } ss  
County of Yellowstone }

I hereby certify that this plat was filed in my office for record this 27th day of April, A.D. 1910, at 2:30 o'clock, P.M.

By *[Signature]*  
Deputy  
Register, Yellowstone County, Montana

# 1127575  
Revised 5/20/10  
Abandon Lot 30, 70



# EXHIBIT 3 PETITION

## PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

TO: YELLOWSTONE COUNTY BOARD OF COMMISSIONERS

This petition is respectfully submitted this 9 day of March, 2023.

Petitioner/Initiator (and/or) Contact Person:

NAME: Kramer, Larry; Kramer, Gerondale  
Kramer, Carolyn  
Kramer, Kenneth; Kramer, Jack

ADDRESS: 4812 Grand Avenue  
Billings, MT 59106

PHONE NO: 406-656-1491 (Jack)

*Tom 406 690-4448*  
*Miles 855-0008*

I swear that all of the above information is true and correct, and all the landowner's signatures are the original true and consenting landowners.

*Kenneth Kramer Jack Kramer*  
*Larry Kramer Gerondale Kramer*

*Carolyn Gerondale*

Petitioner's Signature

3/8/23  
Date

List all attachments:

- Sections A, B, C, and D of the Petition
- Map of petitioned roadway and affected property
- Affected property Ownership Report
- Check for \$25.00 made payable to Yellowstone County Public Works Department
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_





**PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD**

**SECTION C**

Signatures and addresses of landowners in Yellowstone County  
 who wish to establish, alter, or abandon a county road  
 (minimum TEN (10) landowners)


PRINTED NAME	SIGNATURE	ADDRESS
Thomas W. Hanel	<i>Thomas W. Hanel</i>	1723 Iris Ln, Bigs 59102
BETH A. Smith	<i>Beth A. Smith</i>	1900 Pheasant Brook Laurel 59044
MYLES M EGAN	<i>Myles M. Egan</i>	2690 SOUTH RIDGE 59102
LANCE M EGAN	<i>Lance M. Egan</i>	1824 LENHARDT LN - 59102
JEFFREY P. WATSON	<i>Jeff P. Watson</i>	1539 Avenue F 59102
Suzanne K. Courtway	<i>Suzanne K. Courtway</i>	2502 Mountain Range Ct 59106
KENNETH KRAMER	<i>Kenneth Kramer</i>	4812 GRAND AVE. 59106
Jack Kramer	<i>Jack Kramer</i>	4812 Grand Ave. 59106
Larry Kramer	<i>Larry Kramer</i>	1721 T. Bureau Ln. 59102
Gerald Kramer	<i>Gerald Kramer</i>	3006 Canyon Drive 59102
Steve Wells	<i>Steve Wells</i>	4772 Audubon Way
BRANDON TRASSIE	<i>Brandon Trassie</i>	2170 WHITEWATER CIR. 59102
Charles D. Smith	<i>Charles D. Smith</i>	1900 Pheasant Brook Laurel MT 59044



**PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD**

**SECTION D**

Consent or non-consent of land owners in Yellowstone County  
abutting and / or affected by the petitioned roadway

PRINTED NAME	SIGNATURE	ADDRESS	CONSENT	
			YES	NO
Daniel N Wells		5847 Whisperingwillows	X	

**BOARD OF VIEWERS REPORT**

**TO:** Yellowstone County Board of County Commissioners  
**FROM:** Board of Viewers  
**DATE:** April 4, 2023  
**SUBJECT:** *PETITION TO ABANDON A PORTION OF 56<sup>TH</sup> STREET WEST LOCATED IN SUNNY COVE FRUIT FARMS SUBDIVISION, IN YELLOWSTONE COUNTY, MONTANA*

**BACKGROUND**

A field inspection to view this petition was conducted on different dates in March 2023 (March 27, 2023, Mike Black, Scott Walker, and Donald W. Jones – Jeff Martin on separate date) by the Board of Viewers listed below.

The following people comprised the Board of Viewers:

Mike Black, PE,	Senior Yellowstone County Civil Engineer
Scott Walker,	Billings City / Yellowstone County Planning Department
Jeff Martin,	Yellowstone County Clerk and Recorder
Donald W. Jones,	Yellowstone County Commissioner

**FINDINGS**

Yellowstone County has received a petition to abandon a portion of 56<sup>th</sup> Street West in Sunny Cove Fruit Farms Subdivision in Yellowstone County. This is between Grand Avenue and Colton Blvd. This portion of road right-of-way was created by dedication in the subdivision process.

The petition to abandon this roadway portion was received from Larry Kramer and other family members, as owners of the adjacent parcels.

The original road was never built .

The petitioner desires to eliminate the right-of-way for this road and will be filing an amended plat that will eliminate said dedicated road right-of-way.

Yellowstone County agrees to this proposal, and has no need or interest in the use of the portion of 56<sup>th</sup> Street West in the original platted location, for current or future roadway purposes.

From the review of this petition, it appears that legal access will be provided to all abutting private lands (based on current understanding of future planned amended plat). Based on the information above this abandonment appears logical.

**RECOMMENDATIONS**

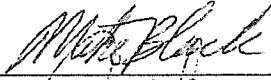
The Board of Viewers recommends conditional approval of the abandonment of the original alignment of 56<sup>th</sup> Street West, subject to the following conditions:

1. Petitioner shall submit and record an amended plat aggregating the desired abandonment into the adjacent lots (parcels) of Sunny Cove Fruit Farms Subdivision.
2. Petitioner has one year to complete all conditions for abandonment to be finalized.

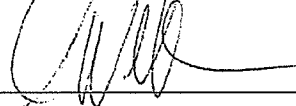
Respectfully Submitted,

Board of Viewers

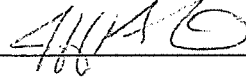
Mike Black, PE  
Senior Yellowstone County Civil Engineer

  
Date 3-30-2023

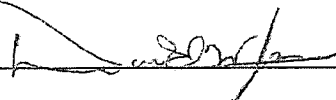
Scott Walker  
City / County Planning Department

  
Date 3-30-2023

Jeff Martin  
Yellowstone County Clerk and Reorder

  
Date 3/30/23

Donald W. Jones  
Yellowstone County Commissioner

  
Date 3-30-23

## EXHIBIT 5

### REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS Tuesday April 18, 2023

ALL PRESENT: Commissioner Morse, Chair Pro-Tem; Commissioner Jones; Board Clerk Teri Reitz; Clerk and Recorder Jeff Martin.

PLEDGE: MOMENT OF SILENCE, Held.

**MINUTES** – April 4, 2023, and April 11, 2023. Commissioner Jones made a MOTION to approve the Minutes, Commissioner Morse seconded. Passed Unanimous.

**9:30 a.m. PUBLIC HEARING** – A.) Resolution 23-46 to Grant Tax Benefits to Rimrock IV, LLC, doing Business as Kia of Billings. Ms. Dianne Lehm, Director of Community Development stated that Rimrock IV, LLC dba Kia of Billings is going to invest \$5,000,000 for the building expansion. Ms. Lehm stated that the applicant has 36 fulltime employees and will increase that number to 60 after the completion of the project. Commissioner Morse opened the Public Hearing. Mr. Soares, Executive Manager of Rimrock IV, LLC dba Kia of Billings stated this expansion will double the size of the service department. Hearing no other comments Commissioner Morse closed the Public Hearing. Commissioner Jones made a MOTION to approve Resolution 23-46, Commissioner Morse seconded. Passed Unanimous. B.) Resolution 23-56 of Intent to Abandon a Portion of 56<sup>th</sup> Street West in Sunny Cove Fruit Farms Subdivision. Mr. Mike Black, Yellowstone County Civil Engineer gave some background. Mr. Black noted that one letter opposed to the abandonment was received from the City of Billings. Commissioner Morse opened the Public Hearing. Mr. Miles Egan real estate broker with Berkshire Hathaway, representing the Kramer's who own the property stated that the owners are requesting a delay in the abandonment hearing for two weeks. Ms. Debbie Mehling, City Public Works Director stated that the city has some plans for the area and would be willing to work with the Kramer's to see what the options would be. Ms. Mehling stated she is in support of delaying this for a couple of weeks. Mr. Jeff Martin, Clerk and Recorder stated the owners are looking for a delay and he suggested not putting a timetable on it. Hearing no other comments Commissioner Morse closed the Public Hearing. Commissioner Jones made a MOTION to table Resolution 23-56 and refer it to staff for recommendation back to the Commissioners, Commissioner Morse seconded. Passed Unanimous.

#### **PUBLIC COMMENTS ON REGULAR, CONSENT AND FILED AGENDA ITEMS** –

Hearing no comments Commissioner Morse continued the Board Meeting.

**PLANNING DEPARTMENT** – Sanctuary Canyon Estates Subdivision, 2<sup>nd</sup> Filing – Preliminary Major Plat. Mr. Dave Green, Planner stated the subject property is generally located

on the south of Trail Master Drive and east of Sanctuary Canyon Road. This parcel of land is outside of zoning. It is surrounded by residential uses and wildland grass acreage. Mr. Green went through the proposed conditions. Commissioner Jones made a MOTION to conditionally approve Sanctuary Canyon Estates Subdivision, 2<sup>nd</sup> Filing with the SIA and the Findings of Fact, Commissioner Morse seconded. Passed Unanimous.

**PUBLIC WORKS** – Resolution 23-45 of Intent to Amend the Load Restricted County Roads in Yellowstone County, Amended County Ordinance 07-107, and Setting a Public Hearing for Tuesday May 2<sup>nd</sup>, 2023, at 9:30 a.m. in Room 3108. Commissioner Jones made a MOTION to approve Resolution 23-45, Commissioner Morse seconded. Passed Unanimous.

**CLAIMS** – Batches 23-151, 23-152, 23-153 & 23-154. Commissioner Jones made a MOTION to approve the Claims, Commissioner Morse seconded. Passed Unanimous.

**CONSENT AGENDA** – **1. COMMISSIONERS** – A.) Board Reappointments – Glenn Paulson & Tom Whittle to Shepherd Fire Service Area Board/Kalyn Briggs to Adult Resource Alliance Board/Melissa Gentry to Zoning Commission/Mark Caron to Laurel Urban Fire Service Area Board. B.) Board Openings – Updated List. **2. FINANCE** – A.) Alcohol Earmark Funds. B.) Memorandum of Understanding Between Yellowstone County and the City of Billings for the MetraPark ARPA Infrastructure Waterline Project Phase One. C.) MetraPark Request to Expend Security Camera Replacement. D.) Contract with Con’eer Engineering for Miller Building Electrical and HVAC Service Revisions. **3. PUBLIC WORKS** – A.) Striping Contract with Streamline Markings, Inc. B.) Contract for RSID 773 Patching with Hardrives Construction. **4. SHERIFF** – Addendum to Existing Telehealth Services Agreement between Yellowstone County Detention Facility & Insight Medical Group (aka Array Behavioral Care). **5. HUMAN RESOURCES – PERSONNEL ACTION REPORTS – County Attorney** – 1 Appointment; **Sheriff’s Office** – 2 Appointments; **Justice court** – 2 Appointments; **MetraPark** – 1 Salary & Other, 1 Termination.

**FILE ITEMS** – **1. AUDITOR** – Payroll Audit – March 16 to March 31, 2023. **2. CLERK OF DISTRICT COURT** – Disbursements and Checks for March 2023. **3. COMMISSIONERS** – A.) HRDC7 General Relief Quarterly Report. B.) Youth Services Center – Inspection Letter. C.) Board Minutes – Park Board. **4. FINANCE** – A.) ARPA SLFRF Compliance Report for the Period of Jan-Mar 2023. B.) Detailed Cash Investment Report – March 2023. **5. HUMAN RESOURCES** – March 16 – March 31 Payroll Audit. **6. PUBLIC WORKS** – Amended Resolution 23-24 to Create RSID 890 and 890M. **7. TREASURER** – Treasurer’s Disbursements and Checks for

February & March 2023. Commissioner Jones made a MOTION to approve the Consent Agenda and place the File Items to file, Commissioner Morse seconded. Passed Unanimous.

**PUBLIC COMMENTS ON COUNTY BUSINESS** – Hearing no comments Commissioner Morse adjourned the meeting at 9:48 a.m.

APPROVE \_\_\_\_\_ ATTEST \_\_\_\_\_

DATE \_\_\_\_\_