

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 24 - 89

Resolution of Intent to Abandon a Portion of 56th 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 56th 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 56th 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. 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.

WHEREAS, on April 30, 2024, the Yellowstone County Board of County Commissioners set a public hearing on the proposed abandonment of a portion of 56th Street West in Sunny Cove Fruit Farms Subdivision for May 14, 2024. On May 3, 2024 and May 10, 2024, the Yellowstone County Clerk and Recorder published notice of the public hearing in the *Yellowstone County News*. The Board also sent notice of the hearing to the landowners that abut the proposed abandonment.

WHEREAS, on May 14, 2024, the Board held a public hearing on the proposed abandonment. The Board heard comments on the proposed abandonment and considered the Board of Viewer's recommendation. The Board determined that it would be in the best interest of the public to abandon the road. A road has not been constructed. The road is not required for access to the parcels that abut the road. Both parcels that abut the road also abut Colton Avenue and Grand Avenue. The road is not needed.

NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners intends to abandon the road right-of-way between Lots 67A and 66A of the Amended Plat of Sunny Cove Fruit Farms Subdivision as indicated in the petition on the conditions the Kramers submit and record an amended plat aggregating the desired abandonment into the adjacent lots (parcels) of Sunny Cover Fruit Farms Subdivision. Once the Kramers have complied with the conditions, the Board will pass a resolution that abandons the road.

Passed and Adopted on the 14th day of May 2024.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chair

Mark Morse, Member

Donald W. Jones, Member

ATTEST:

Jeff Martin, Clerk and Recorder

Attachments

- Exhibit 1 – Plat
- Exhibit 2 – Plat
- Exhibit 3 - Petition
- Exhibit 4 – Report

9

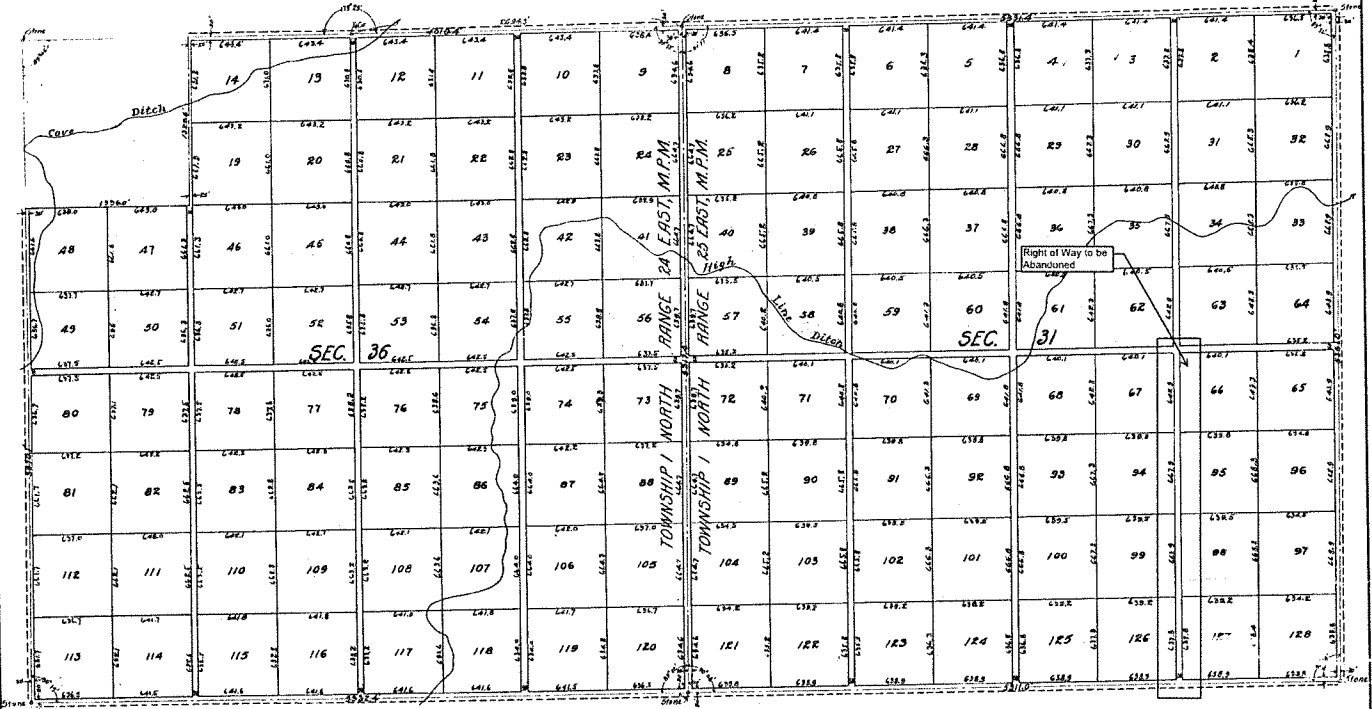
Bldg Co. Owners
Blk 924 p 100
Act 30, 10 @ 32.5m
Vacate portion

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 Gerhart Engineering Co., Engineers - 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, 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, 330.0 feet to the south-east corner thereof; thence west along the south line of said Section 31 and of said Section 36, 1064.34 feet to the south-west corner of said Section 36; thence north along the west line of said Section 36, 397.01 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, 304.0 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. Nierber*
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
President
Notary Public for the State of Montana,
residing at Billings, My Commission
expires June 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 9, 1910 and March 16, 1910, I executed a true and careful survey of the "SUNNY COVE FRUIT FARMS" of 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 plan. 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 upon the surface of the ground, said monuments being one and one half inch iron pipe eighteen inches long; and that the said plat is strictly in conformity with the work on the ground.

E. W. Colton
Civil Engineer

Subscribed and sworn to before me this 25th day of April, A.D. 1910

State of Montana } ss.
County of Yellowstone

[Faded text, likely a notary or witness signature]

State of Montana } ss.
County of Yellowstone

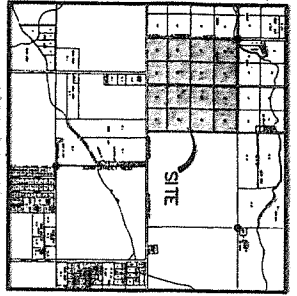
I hereby certify that this plat was filed in my office for record this 27th day of April, A.D. 1910, at 2:30 o'clock, P.M.

By *[Signature]*
Deputy

21540

[Signature]
Clerk and Recorder
Yellowstone County, Montana.

4 11-7575-10474
Billings, 5/20/10
Benton, La. 7/1/10



PREPARED FOR: DISTRICT COURT, YELLOWSTONE COUNTY.
 PREPARED BY: ENGINEERING, INC.
 SCALE: 1" = 200'

PLAT OF AMENDED LOTS 65-68, 93-100 AND 125-128
SUNNY COVE FRUIT FARMS
 SITUATED IN THE SE 1/4 OF SECTION 31, T. 1 N., R. 25 E., P.M.M.
 YELLOWSTONE COUNTY, MONTANA

State Right of Way
 to be Abandoned

JULY, 1998
 BILLINGS, MONTANA

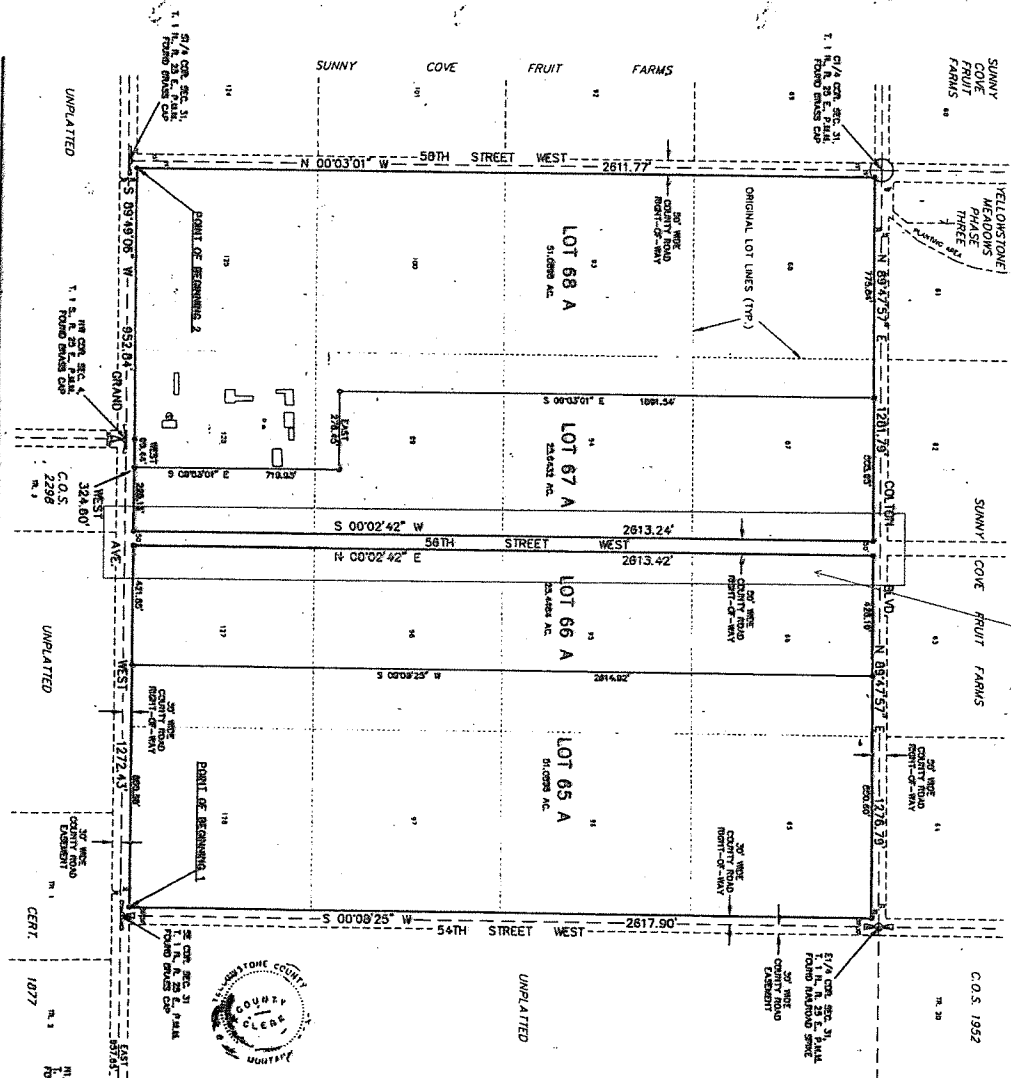


EXHIBIT 2 AMENDED PLAT
 DAYS OF BEARINGS = SOUTH LINE OF THE SW 1/4 OF SECTION 32
 T. 1 N., R. 25 E., P.M.M. BEING DUE EAST
 * SET 3/4" x 1/4" NEARBY WITH CAP MARKED "DNG INC 65.5 91"

PURPOSE OF SALES - TRACTS CREATED BY COURT ORDER
 The purpose of this division of land is to show the SE 1/4 of Section 31, T. 1 N., R. 25 E., P.M.M. in compliance with Section 172A of the Montana Code Annotated. The purpose of this division is to show the SE 1/4 of Section 31, T. 1 N., R. 25 E., P.M.M. in compliance with Section 172A of the Montana Code Annotated. The purpose of this division is to show the SE 1/4 of Section 31, T. 1 N., R. 25 E., P.M.M. in compliance with Section 172A of the Montana Code Annotated.

STATE OF MONTANA
 County of Yellowstone
 I, *[Signature]*, Attorney for the State of Montana, do hereby certify that the foregoing plat was duly recorded in the office of the County Clerk of Yellowstone County, Montana, on this 10th day of December, 1998, before me a Notary Public in and for the State of Montana, personally appearing before me the person who executed the foregoing instrument, and that he acknowledged to me that he executed the same for the purposes and consideration therein expressed.

STATE OF MONTANA
 County of Yellowstone
 I, *[Signature]*, Attorney for the State of Montana, do hereby certify that the foregoing plat was duly recorded in the office of the County Clerk of Yellowstone County, Montana, on this 10th day of December, 1998, before me a Notary Public in and for the State of Montana, personally appearing before me the person who executed the foregoing instrument, and that he acknowledged to me that he executed the same for the purposes and consideration therein expressed.

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STATE OF MONTANA
 County of Yellowstone
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3033371
 DISTRICT COURT
 YELLOWSTONE COUNTY
 MONTANA

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
Wiles 855-0002

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* *Carolyn Gerondale*
Larry Kramer *Gerondale Kramer*

 Petitioner's Signature

 Date 3/8/23

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 A

Legal description of the petitioned roadway (attach additional sheets if needed)

50' wide farm to market roadway traversing South to North, beginning at Grand Avenue (South boundary) extending to Colton Boulevard (North boundary). No legal description identified, per
First Montana Title Company, Broc Criswell, Escrow Officer. See Attachment, Plat of Amended
Lots 65-68, 93-100, and 125-128. Recorded 12-24-1998, #3033371. Said roadway is within the
below (2) legal descriptions.
Tax code: D04669, SUNNYCOVE FRUIT FARMS, S31, T01 N, R25 E, Lot 66A, AMND.
25.446 AC (99).
Tax code: D04670, SUNNYCOVE FRUIT FARMS, S31, T01 N, R25 E, Lot 67A, AMND.
25.643 AC (99).

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 SOUTHRIDGE 59102
LANCE M EGAN	<i>Lance M. Egan</i>	1824 LENHARDT LN - 59102
JEFFREY P. WATSON	<i>Jeffrey 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>	1727 T. buron Ln. 59102
Gerald Kramer	<i>Gerald Kramer</i>	3006 Canyon Drive 59102
Steve Wells	<i>Steve Wells</i>	4772 Ardison Way
BRANDON TROESE	<i>Brandon Troese</i>	2170 W. H. TELLEWISER 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 56TH 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 56th 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 56th 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

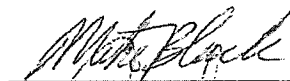
The Board of Viewers recommends conditional approval of the abandonment of the original alignment of 56th Street West, subject to the following conditions:

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.

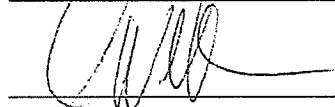
Respectfully Submitted,

Board of Viewers

Mike Black, PE
Senior Yellowstone County Civil Engineer


3-30-2023
Date

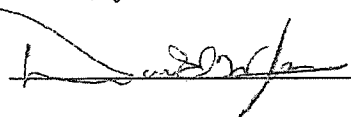
Scott Walker
City / County Planning Department


3-30-2023
Date

Jeff Martin
Yellowstone County Clerk and Reorder


3/30/23
Date

Donald W. Jones
Yellowstone County Commissioner


3-30-23
Date