

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 24-158

Resolution of Intent to Abandon a Portion of Bone Avenue

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, Bone Avenue is a dedicated public road in Johnson Park Subdivision. Johnson Park Subdivision, Doc. No. 565995, filed on June 30, 1956. The road has not been constructed. The Yellowstone County Board of County Commissioners has the authority to manage the road, including the authority to abandon a portion of the road.

WHEREAS, on August 12, 2024, the Board received a petition to abandon a portion of the right-of-way for the road, approximately between Sandy Lane and Bonnie Lane, from Paul Fasching who owns land that abuts the portion of road he would like to abandon. All the landowners who own land that abut the portion of the road, requested to be abandoned have agreed to the abandonment – Jerry and Julie Makeeff, Paul Fasching, Dale and Judith Hanson and Bonnie Dune LLC. Fasching would like to abandon the road because it is not needed. On September 10, 2024, the Board reviewed the petition and appointed a Board of Viewers to investigate the proposed abandonment. On November 19, 2024, the Board of Viewers submitted a report on the proposed abandonment. The Board of Viewers' Report recommended that the Board abandon the road with conditions. On November 19, 2024, the Board set a public hearing on the proposed abandonment for December 3, 2024. On November 22, 2024, and November 29, 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 December 3, 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. The road serves no purpose. It does not provide access to anything.

NOW THEREFORE, BE IT RESOLVED,

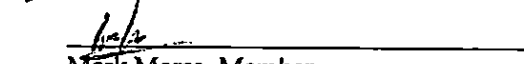


The Yellowstone County Board of County Commissioners intends to abandon the portion of Bone Avenue requested by Paul Fasching, on the conditions he (1) Submit and record an amended Certificate of Survey aggregating the desired abandonment into the adjacent lots (parcels). The Certificate of Survey shall depict all easements for any public and private utilities, etc.; (2) Petitioner has one year to complete all conditions for the abandonment to be finalized. Once Fasching complies with the conditions, the Board will pass a resolution that abandons the road.

Passed and Adopted on the 3rd day of December 2024.

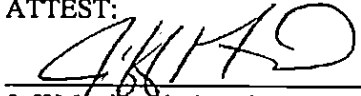
BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA


John Ostlund, Chair


Mark Morse, Member


Donald W. Jones, Member

ATTEST:

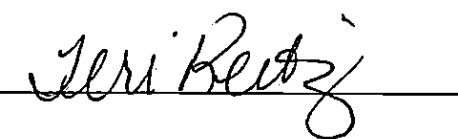

Jeff Martin, Clerk and Recorder

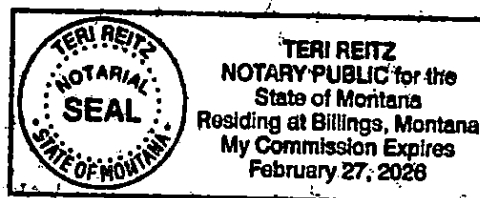
State of Montana }

ss.

County of Yellowstone }

On this 3rd day of November, 2024 before me, a Notary Public in and for the State of Montana, personally appeared John Ostlund, Mark Morse and Donald W. Jones, known to me to be the Board of County Commissioners, respectively, and the County Clerk and Recorder, Jeff Martin, of Yellowstone County Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they fully executed the same on behalf of Yellowstone County, Montana.





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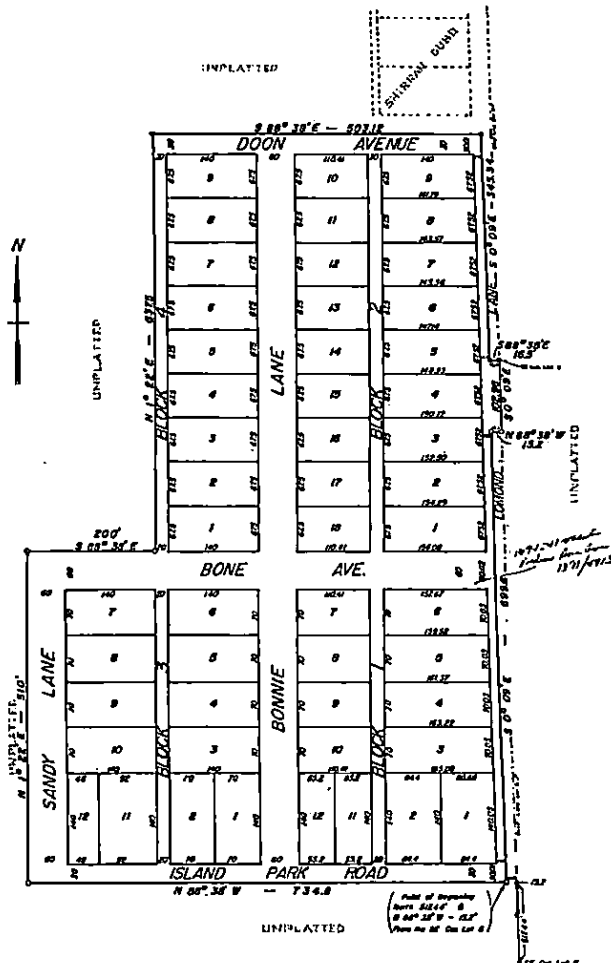
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Jeff Martin Clerk & Recorder, Yellowstone MT

PLAT OF JOHNSON PARK SUBDIVISION

SITUATED IN LOTS 5 & 6, SECTION 28, TOWNSHIP 1 NORTH, RANGE 26 EAST, M.R.M.
YELLOWSTONE CO., MONTANA

Little Engineering
Billings, Montana

March, 1956
Scale 1" = 100'



CERTIFICATE OF DEDICATION

WE, J. ALL MEN OF THESE PRESENTS, that Olaf A. Johnson and Anne A. Johnson, his wife, and Ernest A. Peterson and Anne O. Peterson, his wife, do hereby certify that they have caused to be surveyed, subdivided, and platted into lots, blocks, streets, avenues, and alleys, as shown on the PLAT AND CERTIFICATE OF SURVEY hereto annexed, the following described tract of land in lots 5 & 6, of Section 28, Township 1 North, Range 26 East, Montana Principal Meridian, Yellowstone County, Montana; said tract of land being more particularly described as follows, to-wit:

Beginning at a point which is located North a distance of 517.44 feet and S 88° 33' E a distance of 15.2 feet from the SE corner of Lot 5, Section 28, T. 1 N., R. 26 E., S. 23 E., thence S 88° 33' E a distance of 784.8 feet, thence E 1° 22' S a distance of 110 feet, thence S 88° 33' E a distance of 200 feet, thence E 1° 22' S a distance of 437.5 feet, thence S 88° 28' E a distance of 503.12 feet, thence S 00° 00' E and parallel to the East line of said Lot 5 a distance of 545.34 feet, thence S 88° 33' E a distance of 15.2 feet to the SE corner of said Lot 5, thence S 00° 00' E along the West line of Lot 5 a distance of 100.00 feet, thence S 88° 33' E a distance of 15.2 feet, thence S 00° 00' E and parallel to the East line of said Lot 5 a distance of 100.00 feet to the point of beginning, containing a net platted area of 10.89 acres. Said tract to be known as JOHNSON PARK SUBDIVISION, and the lands included in all streets, avenues, and alleys, as shown on the annexed PLAT are hereby granted and donated to the use of the public forever.

Dated this 21 day of March, 1956.

Olaf A. Johnson
Olaf A. Johnson
Ernest A. Peterson
Ernest A. Peterson

Anne A. Johnson
Anne A. Johnson
Anne O. Peterson
Anne O. Peterson

STATE OF MONTANA } ss.
County of Yellowstone }

On this 21 day of March, 1956, before me, W. C. Little, a Notary Public in and for the State of Montana, personally appeared Olaf A. Johnson and Anne A. Johnson, his wife, and Ernest A. Peterson and Anne O. Peterson, his wife, who are to be the parties and signed the foregoing CERTIFICATE OF DEDICATION, and who, being first duly sworn, acknowledged to me that they executed the same.

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

W. C. Little
Notary Public in and for the State of Montana
Residing at Billings, Montana
My Commission expires October 15, 1957

CERTIFICATE OF SURVEY

STATE OF MONTANA } ss.
County of Yellowstone }

I, W. C. Little, a Civil Engineer and Land Surveyor, registered in the State of Montana, Registration No. 12, do hereby certify that during the Month of March and April, 1956, I made a survey of the JOHNSON PARK SUBDIVISION, in accordance with the provisions of Chapter 6, Title 11 of the Revised Codes of Montana of 1947, and at the request of the Proprietors thereof, said Subdivision, description of boundaries and dimensions being in accordance with the CERTIFICATE OF DEDICATION and as shown on the annexed PLAT, that from pipe or proper dimensions was used to mark the corners of the Subdivision; that street lines conform with the adjacent platted areas; that the PLAT conforms with the work on the ground; and that the net platted area is 10.89 acres.

W. C. Little
W. C. Little Reg. L. S.

Subscribed and Sworn to before me, a Notary Public in and for the State of Montana, this 18 day of April, A. D., 1956.

W. C. Little
Notary Public in and for the State of Montana
Residing at Billings, Montana
My Commission expires October 15, 1957

CERTIFICATE OF APPROVAL

STATE OF MONTANA } ss.
County of Yellowstone }

We hereby certify that we have examined the annexed PLAT OF JOHNSON PARK SUBDIVISION, and find that the PLAT conforming with the requirements of the governing laws of the State of Montana; and that the net platted area is 10.89 acres; and that the necessary Park and Playground requirements have been met.

We therefore approve and accept said PLAT.

IN WITNESS WHEREOF, We have hereunto set our hand and the seal of Yellowstone County, Montana, this 21 day of March, 1956.

BOARD OF COUNTY COMMISSIONERS

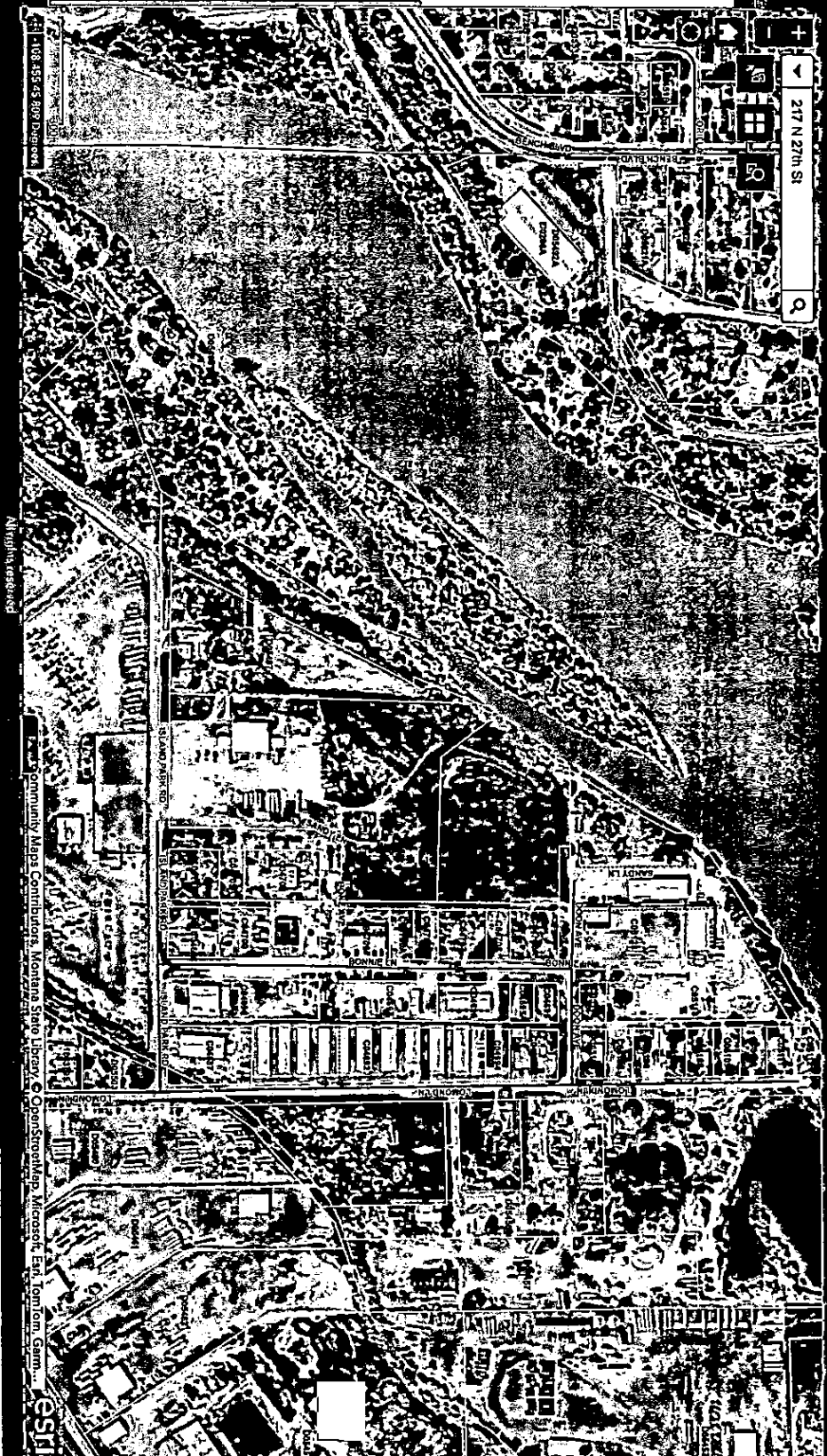
Chris Rurich Chairman
Chris Rurich Commissioner
Chris Rurich County Clerk & Recorder
Chris Rurich Treasurer

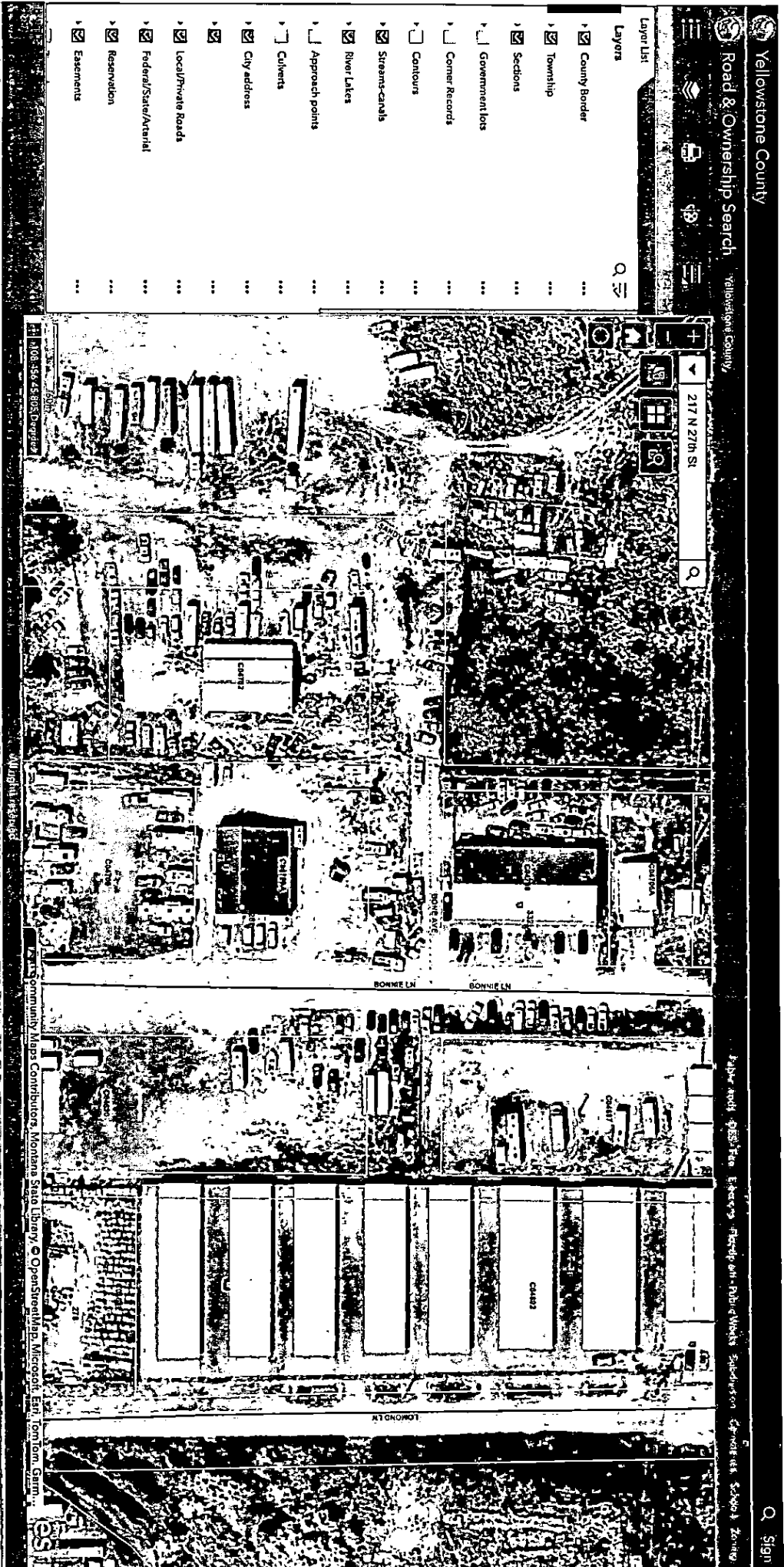
STATE OF MONTANA } ss.
County of Yellowstone }

I hereby certify that the within PLAT OF JOHNSON PARK SUBDIVISION was filed in my office on the 21 day of March, 1956, at 10:30 o'clock A.M. Chris Rurich, County Clerk & Recorder, as witness by and and the seal of my office.

This PLAT has been approved for filing by the City County Planning Committee, and confirms to the recommendation of the same.
Chris Rurich Secretary
City County Planning Committee
Chris Rurich Vice Chairman
City County Planning Committee



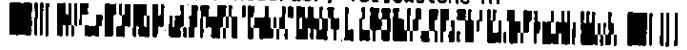




**PETITION PROCEDURE TO ESTABLISH, ALTER, OR ABANDON
A COUNTY ROAD UNDER SECTION 7-14-2601 MCA**

1. Obtain a petition from the Yellowstone County Public Works Department located in Room 312 of the County Courthouse. Read the petition procedure carefully. If you have any questions or need clarification about the petition procedures, please contact the Public Works Department at (406) 256-2735. Incomplete or inaccurate petitions will cause delays in the petition process.
2. Type the complete and correct legal description for the roadway being petitioned in Section A of the petition. Petitions with incorrect or incomplete legal descriptions will be returned to the petitioner.
3. Attach a photocopy of the affected plat, Certificate of Survey, or Assessor Map to the petition. Mark and / or color the area described in the legal description. These copies do not have to be full plats but must detail the petitioned roadway and adjoining property. Copies of plats can be obtained from the Clerk and Recorder's Office in Room 401 of the County Courthouse.
4. Provide the reason for the petition in Section B of the petition.
5. Obtain at least TEN (10) signatures including addresses of landowners who wish to establish, alter, or abandon a county road (refer to Section C). It is recommended that more than ten signatures be on the petition so that the petition will not be voided if any signatures are invalid.
6. Consult the Public Works Department to review the plat and area affected by the petitioned roadway. This will be needed to complete steps 7 and 8 of the procedure.
7. Attach an Ownership Report from a Title Company, paid for by the petitioner, to verify current ownership of property affected by the petitioned roadway.
8. Obtain signatures and consent for the petition from all property owners affected by the roadway being petitioned in Section D.
9. Submit the petition along with a non-refundable \$25.00 fee and any necessary attachments (ownership report, warranty deeds, quit claim deeds, etc.) to the Yellowstone County Public Works Department.
10. Typically, within thirty (30) days of filing a correct and complete petition to establish, alter, or abandon a county road, the Commissioners will appoint a Board of Viewers to investigate the request.



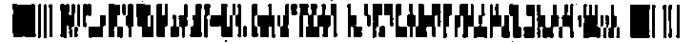


11. The Board of Viewers will issue a report of its findings and recommendations to the Board of County Commissioners who will then schedule a public hearing. This hearing will be advertised in the newspaper and will be open to the public for comments from any persons who may speak in favor of, or in opposition to the petition.
12. Within ten (10) days after the public hearing, the Board of County Commissioners will issue a notice of decision by certified mail to all owners of land affected by the petitioned roadway. Notified owners will be those parties listed on the last county assessment roll.
13. If the petition is to abandon a subdivision or certificate of survey road, the following will be required if abandonment is granted by the County Commissioners:
 - The petitioner and / or benefiting property owners will be required to file an amended plat with the Clerk and Recorder.
 - The amended plat will reflect the adjusted lot lines affected by this abandonment.
 - This amended plat will need to be completed and filed with the Clerk and Recorder within a year of the approved petition.
 - Comply with any (and all) other specific conditions that are established by the Board of County Commissioners.

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Jeff Martin Clerk & Recorder, Yellowstone MT



PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

TO: YELLOWSTONE COUNTY BOARD OF COMMISSIONERS

This petition is respectfully submitted this 12TH day of AUGUST, 20 24.

Petitioner/Initiator (and/or) Contact Person:

NAME: PAUL FASCHING

ADDRESS: 3436 BECRAFT LN

PHONE NO: 406-670-3653

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.


Petitioner's Signature

8-12-24
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 |
| ☐ | |
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PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION A

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

We are petitioning to abandon Bone Ave. Road has not been in use for several years.

Road description is IN 26 E Sec 26. Block 3 lot 6 NE corner to NW corner 140'

Block 3 lot 7 NE corner to NW corner 140' Block 4 SE corner to SW corner 140'

Certificate of survey 1269 parcel 1B.

Full legal S26, T01 N, R26E, C.O.S. 1269, Parcel 1B, (21)

PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION B
Reason for Petition

Road has not been in use for several years. All property owners request to abandon.
By doing so does not put any land owner in land lock.

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PETITION TO ESTABLISH, ALTER, OR ABANDON A COUNTY ROAD

SECTION C

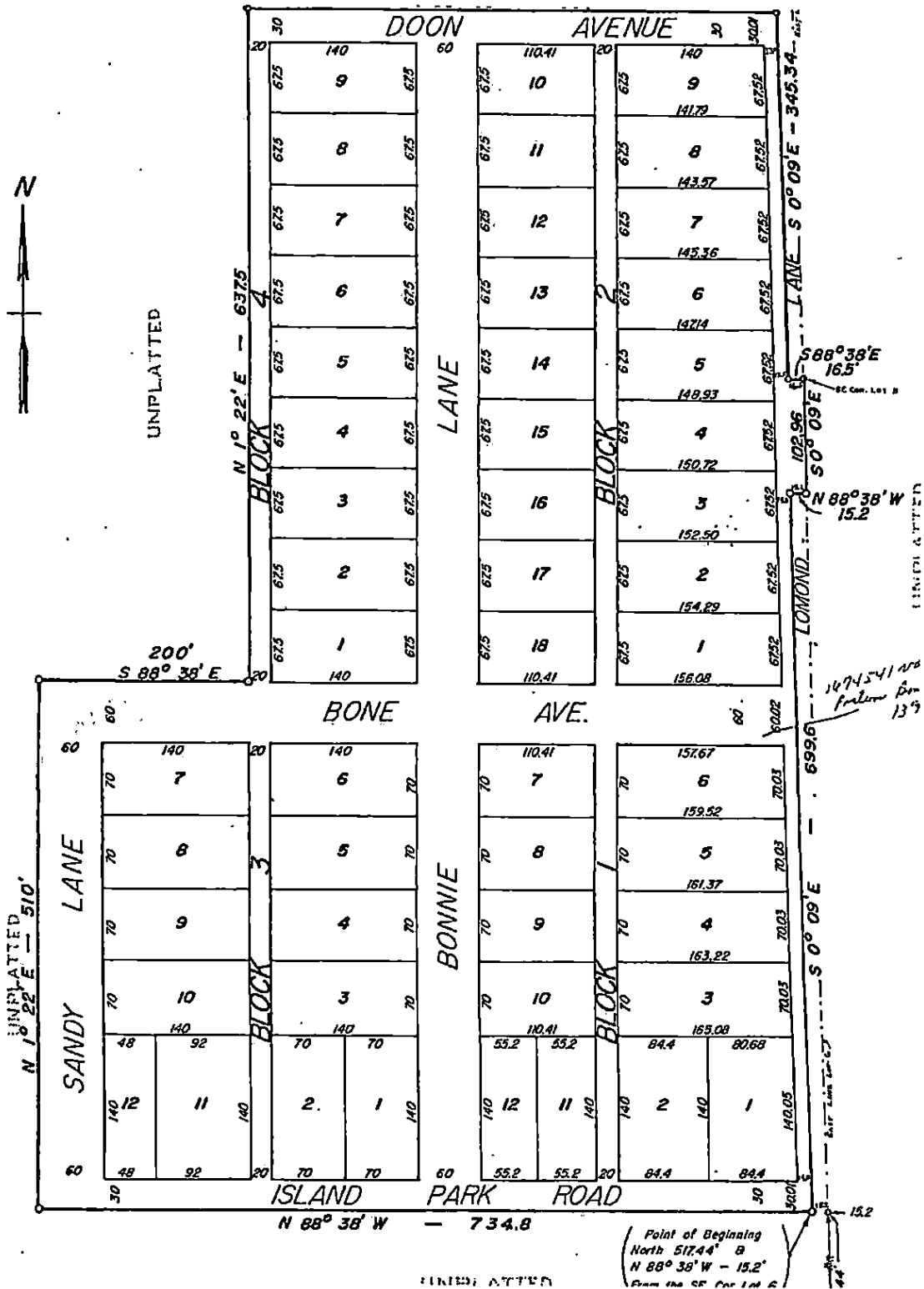
Signatures and addresses of landowners in Yellowstone County
who wish to establish, alter, or abandon a county road
(minimum TEN (10) landowners)

PRINTED NAME	SIGNATURE	ADDRESS
Paul Tezak		3522 T. Grant Ave
Ali Tezak		530 Sunlight Lane
Ryan Fischer		3815 Bailey Dr
Ralph Hill		3411 Mt. Dr.
Karla Maslowski		3412 Belmont Ln.
Chris Wessner		650 Thompson Dr
Chris Minkler		715 Twilight Dr
Steve Coste		2228 Hillmer Ln
Tasha Coste		1697 Dickie Rd
Mandy Noyes		721 Thompson Dr
Jeremy Shetter		721 Thompson Dr
Susan Williams		3820 Bailey Dr
Alexander B. B.		3820 Bailey Drive
Greg Wilson		3444 Bearcat Ln
Paul Hawkins		606 Casey
Brian Nave		665 Noblewood Dr
Jamie Schuy		575 Whitgate

[illegible]

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IN 26 E Sec. 26

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Jeff Martin Clerk & Recorder, Yellowstone MT





To: Yellowstone County Board of County Commissioners

From: Board of Viewers

Date: October 18, 2024

Subject: Board of Viewers Report - Request for Abandonment of Bone Avenue

Board of Viewers Inspection:

A field inspection to view this petition was conducted on different dates in September and early October 2024 by the Board of Viewers listed below. The following people were appointed by Resolution to the Board of Viewers for this petition:

John Ostlund	Yellowstone County Commissioners
Jeff Martin	Yellowstone County Clerk and Recorder
Lora Mattox	Transportation Planning Coordinator (City/County Planning)
Logan McIsaac	Yellowstone County Public Works Project Manager

Background:

Yellowstone County received a Road Abandonment Petition from a landowner of the Johnson Park Subdivision. The petitioner, Paul Fasching, operates a business on Lot 7, Block 3 of the subdivision. The length of public right-of-way wishing to be abandoned is approximately 300 feet from the eastern edge of the right-of-way of Sandy Lane to the western edge of right-of-way of Bonnie Lane. There was not opposition to the abandonment by any of the abutting landowners and the petitioner collected more than the minimum required signatures of Yellowstone County property owners in support of the petition.

Findings:

1. **Observations of Bone Avenue:** The original plat of Johnson Park Subdivision had Bone Avenue as a through east-west street for potential future development on either side of the subdivision. The subdivision is now bordered to the east by businesses that use the property as a storage yard laydown area and to the west by undeveloped land and a truck repair company. The portion of Bone Avenue east of Bonnie Lane has been previously abandoned. The length of roadway proposed to be abandoned with this petition is approximately 300 feet of a cross street that connects a main subdivision street to a side street that's main use now is an access roadway. The constructed subject roadway has gravel surfacing.
2. **Usage and Necessity:** When considering abandonment petitions there needs to be careful consideration for connectivity and egress access for future development. Since most of the land directly east of the Johnson Park subdivision is developed and that adjacent portion of Bone Avenue is already abandoned, the likelihood of Bone needing to be a connection point to the east is highly unlikely. The property to the west and north that could potentially develop in the future is constrained by the Yellowstone River and its floodplain. If



development were to occur in these areas egress could be accomplished with carefully planned cul-de-sacs.

Recommendations and Conditions of Approval:

After review and input from the Board of Viewers it is their recommendation to proceed with the proposed abandonment of a portion of Bone Avenue. Based on the input and consideration of this Board and no opposition from the affected stakeholders this would be the appropriate action to take. The abandonment should only be approved and finalized with the following listed conditions:

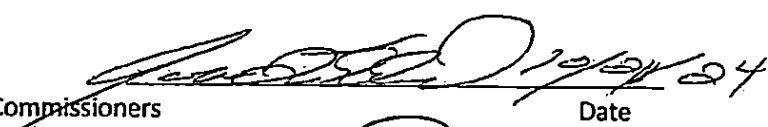
1. Submit and record an amended Certificate of Survey aggregating the desired abandonment into the adjacent lots (parcels). The Certificate of Survey shall depict all easements for any public and private utilities, etc.
2. Petitioner has one year to complete all conditions for the abandonment to be finalized.

Respectfully Submitted,

Board of Viewers

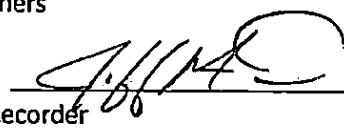
John Ostlund

Yellowstone County Commissioners


Date

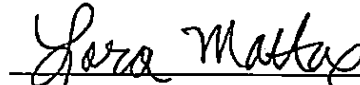
Jeff Martin

Yellowstone County Clerk and Recorder


Date

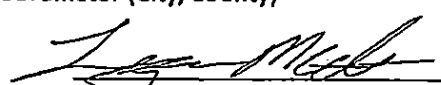
Lora Mattox

Transportation Planning Coordinator (City/County)


Date

Logan McIsaac

Yellowstone County Public Works Project Manager


Date