

ROAD PETITION FORMAT

The undersigned freeholders of the Road District of Park County, Montana, Petition this Board pursuant to Mont. Code Ann. Section 7-1-2601 to Alter/Abandon a County Road/Right-of-Way.

A county road located in Park County, Montana, and represented as follows: Grandview Boulevard.

The road to be abandoned or altered is particularly described as:

Legal Description: Running east continuous through; Block 11 Lots 1 through 16, Block 12 Lots 1 through 12, Block 14 Lots 1 through 7 and Block 15 Lots 1, 2, 3, 14, 15 and 16 (all owned by Petitioner) and dead ending at the seasonal high water level of Yellowstone River.

The road is commonly known as Grandview Boulevard.

The general route of the road is described as follows: Grandview Boulevard runs east continuous through Block 11 Lots 1 through 16, Block 12 Lots 1 through 12, Block 14 Lots 1 through 7 and Block 15 Lots 1, 2, 3, 14, 15 and 16 (all owned by Petitioner) and dead ending at the seasonal high water level of Yellowstone River dead ending on Petitioner's real property, and ending on the high watermark of the Yellowstone River.

The land owners immediately adjacent to the road are as follows. To the East of the road, Petitioner, Montana Homes LLC, owns the real property and is the Petitioner herein. Carter Boehm is the Managing Member of Montana Homes LLC. To the North of the Road, Petitioner owns the property. To the far east of the road, it is the Yellowstone River, and to the southeastern part of the road, is the County Park known as Sacket Park.

Sacket Park is located east of Block 15, south of Grandview Blvd, west of the seasonal high water level of the Yellowstone River, and north of the City of Livingston property on which the solid waste and refuse transfer station is located.

Petitioner owns all property in Block 15 north of the City of Livingston property and south of Grandview Blvd except the alley and Scheuber Ave Right-of-Way. Spencer L. Pynn is the property owner to the east of Grandview Boulevard i.e. Montague Sub. Block 14, Lots 8-12, S7, T2S, R10E.

There are no landowners who object to the alteration of Grandview Boulevard as Petitioned herein. If consent has not been obtained by a landowner adjacent to the right-of-way (at this time only Petitioner owns the property) there would not be any cost to Alter/Abandon the road or right-of-way as it is not a used right of way at this time.

The only potential adverse effect on traffic accessing Sacket Park through the 90 LF portion of Grandview Boulevard being narrowed to 40 Ft (refer to draft Amended Plat) will be mitigated by

the open area of public land accessing the park from the north which is encompassed within a 130 LF radius half-circle.

There is a necessity to the alteration of Grandview Boulevard as Petitioned herein. First, Grandview Boulevard, in the location pertinent to this Petition, has essentially not been used by the County or the public. Grandview Boulevard at the location pertinent to this Petition is a 80 foot right-of-way. There is no reason for the road to be extended beyond the normal right of way measurements of 60 feet.

There is no reason to access Grandview Boulevard to the north side of the right-of way for either the County or public access.

The last access into a residential lot from Grandview Boulevard is Block 11, immediately west of amended Lots 6-A, 7-A and 8-A of Block 12 ,which are relocated to accommodate a boundary around the largest house. The proposed 40 ft wide reduction in Grandview Boulevard continuing past this house to the south provides public access into the open public area described above.

Sacket Park is a small, and to date, unused park. Natural terrain divides the park into three areas between its west boundary within 15 ft of the existing house and the east boundary at seasonal high water of the Yellowstone River. The upper two areas combined are 21,420 sq.ft and the lower area 10,900 sq.ft for a total of 32,320 sq.ft or 0.74 acre. The upper areas are open and fairly usable for some limited public park activities while the lower area is over grown with riparian vegetation. The park itself is adjacent to the Yellowstone River high water mark, and is a desolate, sloped area, which has never been utilized by the County or the public.

Additionally, a home is situated within the right-of-way of Grandview Boulevard, and has been situated there for 70 or more years, the location of the home does not prevent public access to Sacket Park or the Yellowstone River.

Two other homes are accessed by Grandview Boulevard. One of these two houses is located almost due south of the largest house, directly in the 50 ft wide R/W of Schuber Ave and north of the common boundary with City of Livingston property. The east boundary of the Right-of-Way is proposed to become the east boundary of amended Lots 14-A (partial), 15-A and 16-A of Block 15 as shown on the preliminary amended plat.

The other house sets startle on the alley in Block 15 approximately 125 ft west of the first house. These two homes also have been situated on Grandview Boulevard right-of-way for many decades, and do not impede access to Sacket Park or the Yellowstone River.

This alteration results in the homes current access by Grandview Boulevard to remain, without litigation for the removal or continued placement of the homes. The benefit of the County to clarify the public access to the Yellowstone River and Sacket Park, if the County so chooses to improve Sacket Park in the future.

The County also receives a benefit, and Petitioner intends through this alteration of Grandview Boulevard, to grant the County additional land adjacent to the County's property adjacent to the Yellowstone River.

The alteration of Grandview Boulevard also allows Petitioner to move forward with developing the already subdivided lots for additional housing with covenants in Park County, Montana. This Petition allows Petitioner to protect the original status of the lots in order to be able to obtain DEQ's approval to place an on-site septic tank and drain field system. Any lot created by subdivided or existing lot amended after 1993, must provide at least 20,000 sq.ft in area in order to use on-site individual drain field systems where central potable water supply is provided.

Amended Block 13 in its entirety shifted west to occupy the Locke Blair Court public Right-of-Way and east boundary being defined to create a 90 degree intersection of Locke Blair Ave into Arbor Drive.

Two water supply wells as located on the preliminary amended plat are planned to be drilled to supply central water system to be piped to all lots.

This Alteration/Abandonment Petition is not a significant alteration to Grandview Boulevard, and does not prevent access to the Yellowstone River, County property, private property or Sacket Park. This proposed realignment of boundaries improves access in all regards.

Furthermore, Petitioner requests the Abandonment of an alley owned by Park County, Montana, located at: Block 15.

Pursuant to meetings with the Park County Attorney's Office, and Petitioner, the preliminary amended plat shall be revised to eliminate the alley by collapsing the alley's boundaries such that both amended lots (Lots 1-A, 2-A and 3-A for house 3 and Lots 14-A, 15-A and 16-A for house 2 are both >20,000 sq.ft.

The benefit to altering east end of Grandview Boulevard at the end of Scheuber Ave Right-of-Way south of Grandview Boulevard, and eliminating the alley in the north end of Block 15 provides private property around all three houses described herein.

The alley is not used by the County, and is not maintained by the County. Tall weeds grow in this location causing a potential noxious weed reservoir, perhaps a fire hazard and are not aesthetically pleasing. It would benefit Park County to abandon this alley completely.

The alley is surrounded by the real property owned by Petitioner. There would be no cost to abandon the alley.

See attached surveyed map for specific details of the requested Alteration/Abandonment of Grandview Boulevard.

AUG 13 2020

Landowner(s) name and Mailing Addresses: Petitioner is Carter Boehm as Managing Member of Montana Homes LLC and whose address is 1880 Howard Ave. Suite 305 Vienna, Virginia, 22180.

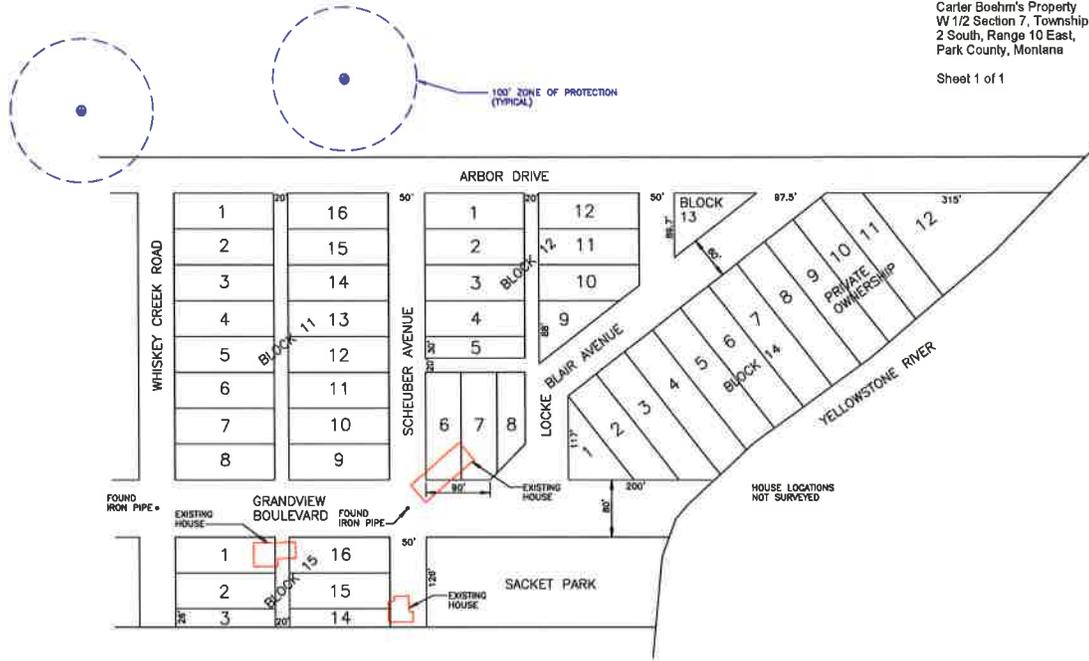


P.O. Box 78
Emigrant MT 59027
(406)-223-9040
(406)-333-9040
william@octagonengineers.com

Date: 12/6/19

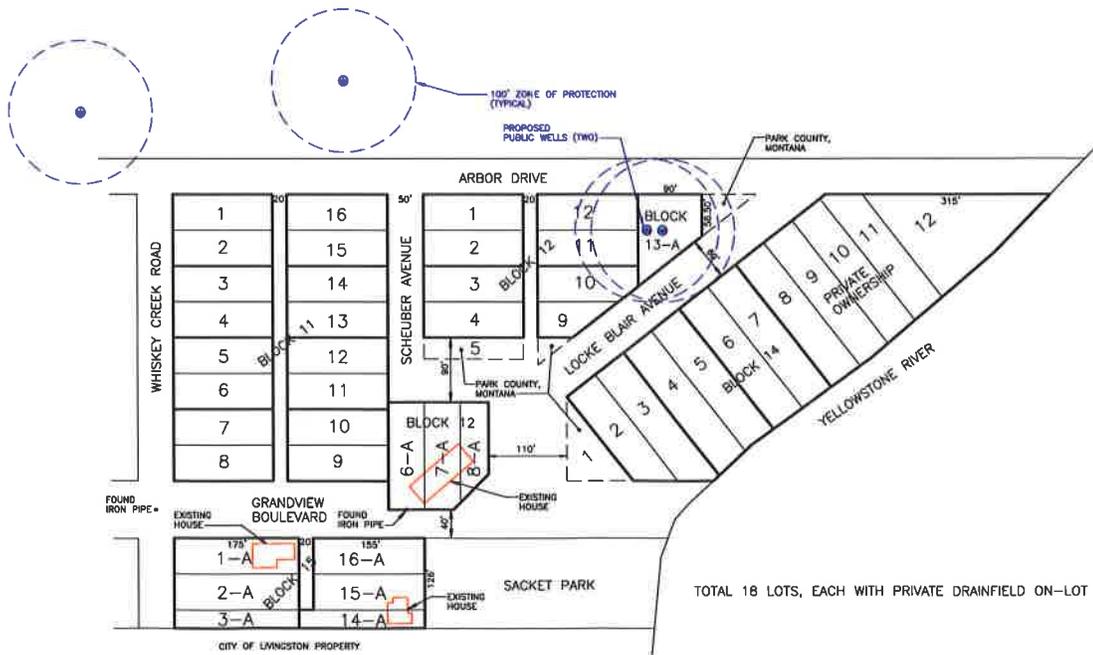
Project:
Montague Addition
Carter Boehm's Property
W 1/2 Section 7, Township
2 South, Range 10 East,
Park County, Montana

Sheet 1 of 1



PUBLIC RIGHT-OF-WAY AREA
EAST OF WHISKEY CREEK ROAD & SOUTH OF ARBOR DRIVE: 142592 SF

Plan: Montague Addition Blocks 11-15 With Existing Houses
Scale: 1" = 160'



PUBLIC RIGHT-OF-WAY AREA
EAST OF WHISKEY CREEK ROAD & SOUTH OF ARBOR DRIVE: 142974 SF

Plan: Proposed Resolution
Scale: 1" = 160'

AFFIDAVIT FOR PERSON CIRCULATION PETITION

I, Carter Boehm, Managing Member of Montana Homes LLC affirm, or being first duly sworn, depose and say that I circulated or assisted in circulating the Petition to which this affidavit is attached and I believe the signatures thereon are genuine, are the signatures of the persons whose names they purport to be, are the signatures of the landowners requesting this road Petition and the signers knew the contents of the Petition and legal description of the proposed road abandonment before signing the same.

Signature

[Handwritten Signature]

Property Tax ID#

0003442000

(From the Park County Treasurer)

- under Montana Homes LLC which is owned by CARTER Boehm

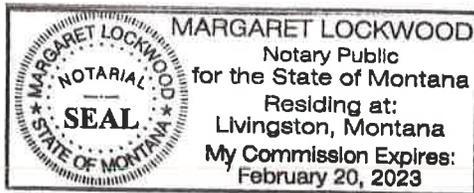
Address:

130 Moose Meadows

Livingston, MT 59047

571-229-2221

Subscribed and Sworn to me by Carter Boehm, this 11 day of August, 2020.



Margaret Lockwood
Signature of Notary

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: John V. Carmichael
Address: 1405 Wineglass Lane
Livingston, MT 59047
Property Tax Identification # (10 digit number) 0000070160
Signature: 

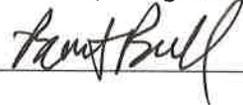
SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Chuck D. Darrow
Address: 187 Maigs Rd
Livingston, MT 59047
Property Tax Identification # (10 digit number) 0000041242
Signature: 

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Brent Bull Brent Bull
Address: 519 N. K.
Livingston, MT 59047
Property Tax Identification # (10 digit number) 0000017360
Signature: 

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Adam Goetz

Address: 124 S.M St.
Livingston, MT 59047

Property Tax Identification # (10 digit number) 00000 19070

Signature: Adam Goetz

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Jeff Nardella

Address: 50 Wheatgrass RD
Livingston mt
59047

Property Tax Identification # (10 digit number) 000 3368140

Signature: Jeff Nardella

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: David Busby

Address: 4968 US Hwy 89 S.
Livingston, MT
59047

Property Tax Identification # (10 digit number) 000 2984 000

Signature: David Busby

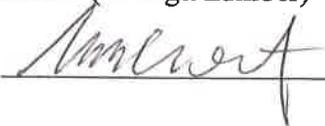
SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Manfred Goetz

Address: 302 Old Clyde Park
Livingston, MT 59047

Property Tax Identification # (10 digit number) 0000041850

Signature: 

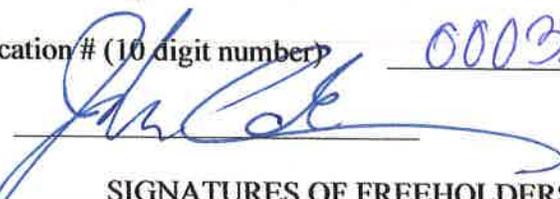
SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Josh Cole

Address: 101 Highroad
Livingston MT 59047

Property Tax Identification # (10 digit number) 0003283000

Signature: 

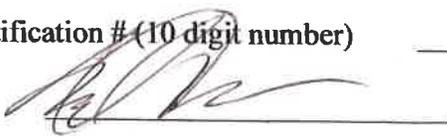
SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: MARTIN MALONE

Address: PO Box 152
PRAY, MT 59065

Property Tax Identification # (10 digit number) 0006574000

Signature: 

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Mike Benzel GARY GARY

Address: 212 TANA LANE
LIVINGSTON, MT 59047

Property Tax Identification # (10 digit number) 0000037179

Signature: Mike Benzel

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: _____

Address: _____

Property Tax Identification # (10 digit number) _____

Signature: _____

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: _____

Address: _____

Property Tax Identification # (10 digit number) _____

Signature: _____



Unsworn Declaration of Petition Signature Gatherer Under Penalty of Perjury Pursuant to §1-6-105

An affidavit as defined by 1-1-203 must be attached to each sheet or section submitted to the election administrator.
Separate sheets of a petition may be fastened to this affidavit in sections of not more than 25 sheets.

AFFIDAVIT FILED WITH ELECTION ADMINISTRATOR

I, John V. Carmichael
(printed name of person who is the signature gatherer)

swear that I gathered the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

8/18/20
Date on which the first signature **attached** was gathered

(Do NOT sign on the line below before gathering the signatures on the petition(s) that you attach to this affidavit.)

[Signature]
Signature of petition signature gatherer

1405 Wineglasses Lane
Address of petition signature gatherer

Livingston, MT 59047
City, state and zip code

1-6-105, MCA UNSWORN DECLARATION EXECUTED UNDER PENALTY OF PERJURY— DO NOT FILL OUT THIS SECTION UNTIL AFTER THE SIGNATURES GATHERED HAVE BEEN ATTACHED TO THIS AFFIDAVIT

Insert the following within the text space below:
"I [Insert Name] declare under penalty of perjury that the foregoing is true and correct"

I, John V. Carmichael, declare under penalty of perjury that the foregoing is true and correct.

Where to file Petition and Affidavit:
County Election Administrator's Office
A list of county election offices may be found at: sosmt.gov/elections

Dated on this 20 day of August, 2020 by

John V. Carmichael
Printed Name of Signature Gatherer

[Signature]
Signature

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: Russ Himmelspach

Address: 908 W. Montana St.
Livingston, MT 59047

Property Tax Identification # (10 digit number) 0000024900

Signature: [Handwritten Signature]

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: HOWARD MURRAY

Address: 601 Whiskey Creek
LIVINGSTON, MT
59047

Property Tax Identification # (10 digit number) 0000039240

Signature: Howard Murray

SIGNATURES OF FREEHOLDERS

The undersigned Petitioner respectfully requests the Board of County Commissioners of the County of Park, State of Montana, to hear this road Alteration/Abandonment Petition:

Printed Name: _____

Address: _____

Property Tax Identification # (10 digit number) _____

Signature: _____



August 21, 2020

Park County Commission
414 East Callender Street
Livingston, MT 59047

RE: Petition # 158, Petition to Alter/Abandon Grandview Boulevard

Dear Commissioners,

Please see the attached signature report based on the submittal of the petition to alter/abandon Grandview Boulevard. The petition was submitted on August 13, 2020 with a total of 12 signatures, 11 signatures were valid and can be accepted. MCA 7-14-2601 states that 10 signatures are required and the petition can be reviewed. A copy of the petition has been attached.

September 12th will be 30 days from the submittal:

7-14-2603. Investigation of request concerning road -- decision. (1) At its next regular or special meeting or in any case at a date within 30 days after filing of any petition, the board shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

(2) No more than one member of the board and the county surveyor shall make the investigation.

(3) After considering the petition and the results of the investigation, the board shall make an entry of its decision on the minutes.

Thank you,

Maritza H Reddington, Clerk & Recorder

cc: Shannan Piccolo, Civil Deputy Attorney

		Grandview Boulevard			
		Signature Report			
		<u>Submitted on August 13, 2020</u>			
	<u>Tax ID</u>	<u>Ownership</u>	<u>Signator</u>	<u>Counted</u>	<u>Notes</u>
1	0000070160	Carmichael, John V	Carmichael, John V	yes	
2	0000041242	Donovan, Charles R	Donovan, Chuck	yes	
3	0000071360	Bull, Brent & Lorri J	Bull, Brent	yes	
4	0000019070	Goetz, Adam Joseph & Manfred	Goetz, Adam	yes	
5	0003368140	Nardella, Jeffrey L & Kristin	Nardella, Jeff	yes	
6	0002984000	Busby, David E	Busby, David	yes	
7	0000041850	Goetz, Manfred & Linda Weimer	Goetz, Manfred	yes	
8	0003283000	Cole, Joshua James	Cole, Josh	yes	
9	0006574000	Malone, Martin C & Gayleen M	Malone, Martin	yes	
10	0000037179	Benzel, Gary M & Naomi	Benzel, Mike	no	Mike - not an owner
11	0000024900	Himmelpach, Russel D	Himmelpach, Russ	yes	
12	0000039240	Murray, Howard W & Suzanne D	Murray, Howard	yes	
			<u>Total Signatures</u>	12	
			<u>Sumbitted:</u>		
			<u>Total Accepted:</u>	11	
			<u>Total Not Accepted:</u>	1	



County Commission Minutes

September 8, 2020

Open Meeting

Public Hearing

None

Scheduled Public Comment

None

Public Comment

None

Action Items

Discussion/Decision on adopting Resolution Which Increases Refuse District #1 Assessment by \$20 as approved at the August 24th public hearing.

RefuseAssessmentIncrease_Aug2020.docx

Motion:

Motion made by Commissioner Bill Berg to Approve the Resolution which Increases Refuse District #1 Assessment by \$20 as approved at the August 24th public hearing; second by Commissioner Clint Tinsley; all in favor. Motion passes.

Commissioner Tinsley commented

Discussion/Decision on Road Petition for Grandview Boulevard.

Commissioner Caldwell provided comment

No public comment

Commission discussion ensued

Motion:

Motion made by Commissioner Clint Tinsley to Postpone decision until receipt and approval of an MOU; second by Commissioner Bill Berg; all in favor. Motion passes.

Discussion/decision to approve on-call agreement with Cushing Terrell

Park County On-Call Surveying Services.pdf

PCMT_ENCROACH Invoice 153770_August 2020.pdf



September 24th, 2020
Park County Commissioners
414 East Calendar
Livingston, Montana 59047

RE: Road Viewer's Report, Grandview Boulevard

To the Honorable Board of County Commissioners of Park County:

We the undersigned Road Viewers of that portion of Grandview Boulevard subject to Road Abandonment Petition # 158, submitted in the office of the Clerk and Recorder of Park County, Montana on August 13th, 2020, respectfully submit the following report:

ROAD VIEWERS REPORT

On Wednesday, Monday August 31st, 2020, Park County Commissioner Steve Caldwell and I (George Bornemann) viewed that portion of Grandview Boulevard subject to said petition. The petition also requests the abandonment/relocation of portions of Scheuber Avenue between Blocks 11 and 12, and between Block 15 and Sackett Park; abandonment of all of Locke Blair Court, and abandonment/relocation of the alley in Block 15, all part of the Montague Subdivision.

The Montague Subdivision was platted in 1918. The westerly portions of the subdivision have been developed, while Blocks 11-15, east of Whiskey Creek Road have only a few houses on them. The petition states that Montana Homes LLC is the owner of all of Blocks 11-15 with the exception of Lots 8-12 of Block 14, although the Montana Cadastral website lists the owner as Six Shooter Ranch. Three houses owned by Montana Homes LLC were constructed partially in Grandview Boulevard, Scheuber Avenue and the alley in Block 15. The abandonment/relocation takes all of the existing encroachments out of county right-of-way.

From Whiskey Creek Road, the Grandview Boulevard right-of-way continues eastward and is undeveloped to it's terminus at the bank of the Yellowstone River. The last portion of the road runs along the north boundary of Sacket Park, an undeveloped County Park, approximately 0.7 acres, which also borders the Yellowstone River. Although currently undeveloped, the location and current development trends could make this an attractive future park option for the County in the future.

Scheuber Avenue is also undeveloped and the southerly portion runs along the west side of, and provides access to Sacket Park. One of the houses appears to sit entirely in the Scheuber Avenue right-of-way. The alley in Block 15 is also undeveloped and another one of the encroaching houses appears to sit entirely across the right-of-way.

The road petition proposes to reduce the Grandview Boulevard right-of-way from 80' to 40' just before (50') it reaches Sacket Park. While the petition acknowledges that the prescribed width of a county road is 60', it does not provide this width in this area. If Sacket Park is developed in the future this could limit safe access to the park. If the southerly portion of Scheuber Avenue bordering Sacket Park is abandoned, this could also negatively affect access and development options of the park in the future. Abandonment of this portion of the Scheuber Avenue also eliminates an access point for the City of Livingston property which houses the transfer station and other solid waste operations.

Currently, the alley in Block 15 provides access from Grandview Boulevard through the block and ends at the City of Livingston property. The proposed relocation of the alley moves it to the east about 30' and terminates the alley about 26' short of accessing the City of Livingston Property.

The petition proposes to offer the County additional areas to the north of Grandview Boulevard. It does not state whether they are equal to those areas proposed to be abandoned. The areas would create a 90' right-of-way connecting Scheuber Avenue to Locke Blair Avenue, and a 110'+ right of way connecting Locke Blair to Grandview. These area's would be surrounded by private property on three sides and exceed prescribed county right-of-way widths. The area could conceivably be used for some type of plaza or parking area.

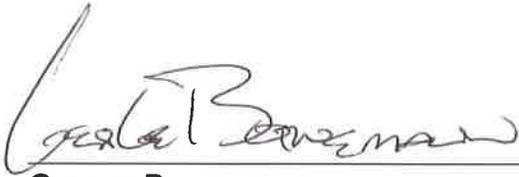
There are a number deficiencies or contradictions in the petition, a few of which are:

- 1) The City of Livingston property is, or could be accessed through, the Block 15 alley or though the southerly portion of Schueber Avenue proposed to be abandoned, yet the City of Livingston is not listed as an adjacent landowner.
- 2) Grandview Avenue's easterly terminus is alternately described as "dead ending at the seasonal high water level of the Yellowstone River", "dead ending on Petitioner's real property" and "ending on the high water mark of the Yellowstone River"
- 3) Spencer L. Pynn owns property to the east of Locke Blair Avenue rather than Grandview Boulevard.
- 4) Although the petition states that there is no need for the Grandview right-of-way "to be extended beyond the normal right-of-way measurements of 60 feet", it then creates a right-of-way of 40 feet, a right-of-way of 90 feet, and a right-of-way of 110+ feet.

We, the undersigned road viewers, would recommend that the Park County Commission resolve to deny this road petition in its current form as it does not correctly list all of the adjacent land owners, restricts access to Sacket Park from Grandview Boulevard, provides alternate properties to Park County that don't present a clear benefit to the County.

- A.) There is not a length of road specified in the petition, just a highlighted area on Certificate of Survey 2092 RB. The viewers paced the petitioned portion and found it to be approximately 300'. We recommend that the petitioners provide a specific distance for the portion illustrated in the petition to avoid future conflicts.
- B.) We recommend that the county retain an easement for utility purposes over the entire portion of petitioned roadway. This allows for petitioners to gate or fence the petitioned area while still allowing for use of the area by existing and future utility providers.

Respectfully Submitted this 24th day of September, 2020.



George Bornemann
Professional Land Surveyor
Registration No. 18019S



Steve Caldwell
County Commissioner