

CHECKLIST OF PROCEDURES FOR ROAD ABANDONMENT PETITIONS

Original signed petition must be submitted to the Clerk and Recorder along with a map showing the entire area of the road under consideration and property within a 1 mile radius (please refer to County GIS if a map is needed). Stamp the date received on the petition. Get name and phone number of contact person for questions.

NAME Livston Emborg EMAIL _____ PHONE 581-4520

- 1) Determine if petition has sufficient information for processing. (Copy to County Attorney.) It should address all the pertinent information listed in:
 - a) The form of the petition
 - b) Section 7-14-2602
 - c) Identify owners abutting the road to be abandoned (7-14-2604)
 - d) Owners of private land to which the road gives access (7-14-2615(4))
- 2) Determine if there are sufficient qualified signatures as per 7-14-2601.
- 3) Complete "Report of Qualified Signatures".
- 4) Schedule the first hearing on the petition on Commissioner's agenda. DATE: 10/6/2020
 - a) Prepare draft resolution appointing viewing committee and assigning Petition # 855.
 - b) Forward copy to county attorney for review
 - c) Scan petition and Report of Qualified Signers. Forward to County Attorney, County Road Superintendent and County Commission.
- 6) Commissioners receive petition and assign viewing committee at first hearing via resolution.
- 7) Viewing committee (7-14-2603) completes road report and report is received. DATE: _____
- 8) County Attorney and other county staff identify owners abutting the road to be abandoned and owners of private land to which the road gives access
- 9) Schedule public hearing on Commissioner's agenda and prepare notices. DATE _____
- 10) a) Type regular mail envelopes for:
 - _____ i) All landowners named on the petition
 - _____ ii) All signers on the petition
 - _____ iii) All landowners determined by viewing committee and county staff abutting the road to be abandoned and landowners of private land to which the road gives access.
 - _____ iv) The postmaster of the area
 - _____ v) The Public Lands Access Association, PO Box 80987, Billings, MT 59108
- b) Type and prepare certified mail envelopes for:
 - _____ i) All landowners abutting the road to be abandoned and landowners of private land to which the road gives access.
 - _____ ii) The postmaster of the area
 - _____ iii) The Public Lands Access Association, PO Box 80987, Billings, MT 59108
- 11) Mail a copy of the public hearing notice and viewers report to the people listed in 10) a) above.
- 12) Publish public hearing legal notice two times in Chronicle for a county road (7-1-2121) and if necessary in another newspaper. DATES _____
- 13) Post notice in 5 public places 30 days prior to hearing and prepare affidavit of posting. At least 2 of the postings should be on or near the portion of road to be abandoned on yellow notice signs.
- 14) Post a copy of the viewing committee report and public hearing notice to the following online and with County Commission staff.
- 15) Prepare draft resolution for Commissioners to consider at next public hearing. Email to County Attorney for review.
- 16) Commissioners hold public hearing to grant or deny petition and pass resolution if granted.
- 17) Within 10 days of passage of resolution send copies of resolution to all persons listed in #10b (BY CERTIFIED MAIL) and forward certified copy to County Road Superintendent (per 7-14-2613).
- 18) Type affidavits of mailing and posting for the notice, and the final board decision.
- 19) If the petition is granted, a certified copy of the resolution must be recorded.
- 20) Scan petition file and file away in basement drawer for road petitions.

RECEIVED

SEP 22 2020

Clerk & Recorder
Gallatin County, Mont.

PETITION TO ABANDON COUNTY ROAD

RECEIVED

SEP 17 2020

Clerk & Recorder
Gallatin County, Mont.

TO: THE BOARD OF COUNTY COMMISSIONERS, GALLATIN COUNTY, MONTANA

COME NOW the undersigned freeholders of the road district consisting of Gallatin County, Montana, in its entirety and petition this Board pursuant to Title 7, Chapter 14, Part 26 MCA, to abandon a county road or right-of-way ("road") located in Gallatin County, Montana and represent as follows:

1. The road or portion of the road to be abandoned:

Alley south of 1st Street

2. The general route of the road or portion of road to be abandoned is described as follows (please include a map(s) that shows the location of the road or portion of the road to be abandoned and shows all property within a 1 mile radius):

Southern portion of alley from 1st Street

3. The lands and owners affected by the abandonment (include names and addresses of property owners which abut the road or portion of the road to be abandoned or owners of private land to which the road gives access): (do not sign in this section)

LANDOWNER(S) (please print)

MAILING ADDRESS

1. TS Four LLC

12 Penny Ln

Steve Taylor

Gallatin Gateway 59730

Legal Description of Property Furniture Plaza Condo S14 T2S

R4E Rainbow Sub Amended Lots C2A-1 and C2B-1

2. Accreted LLC

P.O. Box 150

Marcus Keller

Gallatin Gateway 59730

Legal Description of Property Rainbow Subdivision Lots 28A and 41A

S14 T2S R4E

3. The Winslow Group

81295 Gallatin Rd

Steve Winslow

Bozeman 59718

Legal Description of Property Rainbow Subdivision Lots 31, 39, 40A

S14 T2S R4E

4. _____

Legal Description of Property _____

5. _____

Legal Description of Property _____

LANDOWNER(S) (please print)

MAILING ADDRESS

6. _____

Legal Description of Property _____

7. _____

Legal Description of Property _____

8. _____

Legal Description of Property _____

9. _____

Legal Description of Property _____

10. _____

Legal Description of Property _____

11. _____

Legal Description of Property _____

12. _____

Legal Description of Property _____

13. _____

Legal Description of Property _____

14. _____

Legal Description of Property _____

15. _____

Legal Description of Property _____

4. Do all the landowners who abut the road to be abandoned or owners of private land to which the road gives access listed in Section 3 above consent to the abandonment? NO If no, list those landowners and their reasons for not consenting:

Accreted, LLC is fearful of being landlocked.

5. If an abutting landowner listed in Section 3 cannot be found to determine the landowner's consent, identify the landowner and state the efforts made to locate the landowner:

6. The necessity for and advantage of the abandonment is as follows:

Abandonment of the 20' alley will allow for potential expansion of parking for Lot 40A and the combining of Lots 31 and 39.

7. Is the road providing access to public lands or waters? If yes, explain and provide location of public lands and waters on the attached map.

N/A

8. Does the road or portion of the road contain any utilities?

20' gravel alley, no utilities

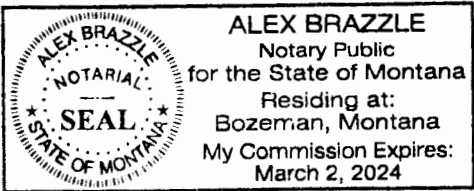
State of Montana
County of Gallatin

I swear that the information contained herein is correct and complete to the best of my knowledge.

Kirsten Emborg
(Signature of petition gatherer.)

Signed and sworn to (or affirmed) before me on August 24, 2020
by Kirsten F Emborg.

(Seal, if any)



Alex Brazzle
Signature of notarial officer

Alex Brazzle
Name - typed, stamped, or printed

Notary
Title (and Rank)

Bozeman
Residing at

My commission expires: 3-2-2024

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1. [Signature] 12 Penny Lane
Signature Address
Steve Taylor, owner Gallatin Gateway, MT, 59730
Printed Name City, State, Zip
25 August, 2020
Date

Legal Description of Property Furniture Plaza Condo, 514
T25 R4E Rainbow Sub Amended Lots C2A-1 and C2B-1

2. [Signature] 1295 Gallatin Rd
Signature Address
Steven Winslow, owner Bozeman, MT 59718
Printed Name City, State, Zip
3 September 2020
Date

Legal Description of Property Rainbow Sub., Lots 31, 39, 40 A

3. [Signature] 1003 Las Campanas
Signature Address
Andrea Hanrick Bozeman, MT 59714
Printed Name City, State, Zip
9-3-20
Date

Legal Description of Property Las Campanas Sub Ph 2, Lot 106

4. [Signature] 243 Poplar Dr
Signature Address
Corinne T Clark Bozeman, MT 59718
Printed Name City, State, Zip
8/26/2020
Date

Legal Description of Property Wylie Ck Estates, Ph 1, Lot 45

5. [Signature] 2631 MAGENTA
Signature Address
GERALD A RUTER BOZEMAN, MT 59718
Printed Name City, State, Zip
9/3/20
Date

Legal Description of Property Rainbow Sub., Lot 263

6. [Signature] 1500 Park View Place

Signature

Address

Printed Name Patrick Thorsen

City, State, Zip Bozeman

Date 9/3/20

Legal Description of Property Hyalite Heights Sub, Block 8, Lot 6

7. ~~Michael Lanzarini~~

~~675 Stewart Loop~~

~~Signature Michael Lanzarini~~

~~Address Bozeman, MT, 59718~~

~~Printed Name 9/3/2020~~

~~City, State, Zip~~

~~Date~~

~~Legal Description of Property~~

8. ~~SKIP KENT~~

~~19019 NORRIS Rd~~

~~Signature SKIP KENT-EMMETT~~

~~Address WILKINSON MT 59741~~

~~Printed Name 9-3-20~~

~~City, State, Zip~~

~~Date~~

Legal Description of Property C.O.S. 1606A, Parcel A-1

9. ~~Lukas Graf~~

~~102 E. Jefferson Ave~~

~~Signature Lukas Graf~~

~~Address Belgrade, MT 59714~~

~~Printed Name 6 Sept 2020~~

~~City, State, Zip~~

~~Date~~

Legal Description of Property Belleview Add, Blk 13, part of vacated Nebraska St

10. ~~Conner Potratz~~

~~91 A, 8th St~~

~~Signature Conner Potratz~~

~~Address Belgrade, MT, 59714~~

~~Printed Name 9/6/20~~

~~City, State, Zip~~

~~Date~~

Legal Description of Property Armstrong ADD, Blk 30, Lot 5A

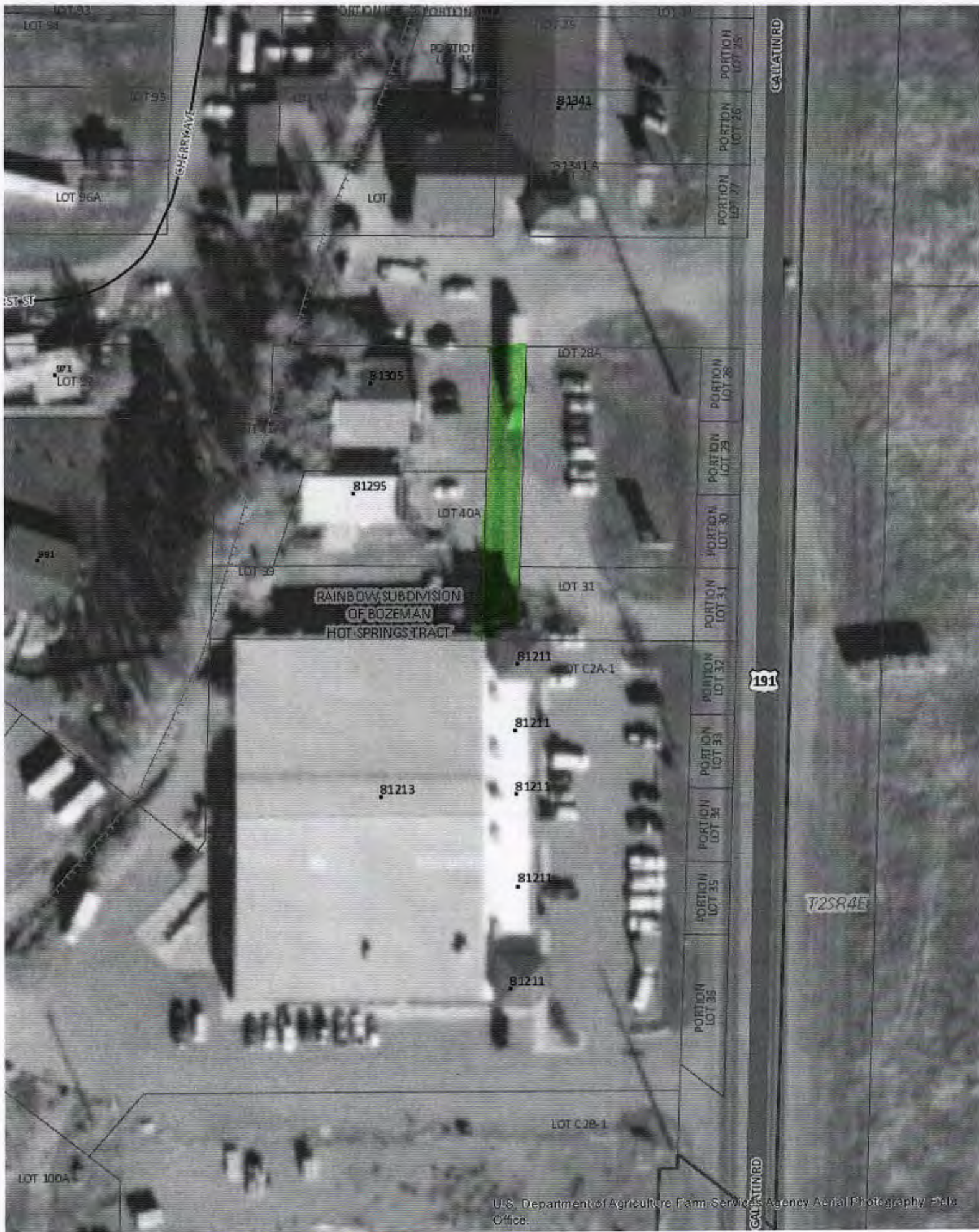
11. [Signature] 796 Quail Run C.
Signature Winston Hbell Address BOZEMAN MT 59718
Printed Name 9/17/2020 City,State,Zip
Date
Legal Description of Property Gemini Vista Condo, Unit 796 C

12. [Signature] 10 TENNIS CT
Signature MARK SEVERSON Address Bozeman MT 59718
Printed Name 9/22/2020 City,State,Zip
Date
Legal Description of Property Wylie Creek Estates, Ph 2, Lot 88

13. [Signature] # 33 Legacy Trail
Signature Robert M Chilton Address Bozeman Mt. 59715
Printed Name 9/22/2020 City,State,Zip
Date
Legal Description of Property Subdivision 443, Lot 3

14. [Signature] 549 Drifter Drive
Signature Andrea Kabila Flaherty Address Bozeman MT. 59718
Printed Name 9/22/2020 City,State,Zip
Date
Legal Description of Property Valley Grove Subdivision, Ph 4, Lot 251

15. _____
Signature _____ Address _____
Printed Name _____ City,State,Zip
Date _____
Legal Description of Property _____



RAINBOW, SUBDIVISION
OF BOZEMAN
HOT SPRINGS TRACT

191

T2SR4E

August 12, 2020

Earth Elements
12 Penny Ln
Gallatin Gateway, MT 59730

To Whom it may Concern:

The Winslow Group, of 81295 Gallatin Rd., is proposing to vacate the alley running parallel from First St south to its end. This alley abuts or is adjacent to land held in your name.

The Gallatin County Clerk and Recorder's Office requires due diligence in acquiring signatures of property owners impacted by the proposal. Signatures are preferred but efforts to acquire consent are also considered during the review process.

The 20' alley is gravel and contains no utilities. The proposal by the Winslow Group is to utilize the abandoned alley for parking at the existing building at 81295 Gallatin Rd and eventually to combine Lots 31 and 39 of Rainbow Subdivision.

Please contact me at your earliest convenience to further discuss the project. I've enclosed a basic drawing for a visual. My phone is (406) 581-4520 and my email is kirbozeman@gmail.com.

Respectfully Yours,

Kirsten Emborg

cc: TS Four

Enclosures

8:52 ↖



Steve Taylor 5:12 PM
to me ▾



Kirsten,

I am the owner.

Happy to agree, I have no issues.

Send me what you need.

Owner Entity is TS Four.

Regards

Steve Taylor

CEO

August 12, 2020

Accreted LLC
P.O. Box 150
Gallatin Gateway, MT 59730

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Please contact me at your earliest convenience to further discuss the project. I've enclosed a basic drawing for a visual. My phone is (406) 581-4520 and my email is kirbozeman@gmail.com.

Respectfully Yours,

Kirsten Emborg

cc: TS Four/Earth Elements

Enclosures

State of Montana

County of Gallatin

Bozeman



**CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS**

Statement of Purpose: Petition to abandon an alley located in Rainbow Subdivision, in Gallatin County, MT.

Legal Description: An alley south of First Street adjacent to Lots C2A-1, 28A, 31, 39, 40A and 41A of Rainbow Subdivision of Bozeman Hot Spring Tract located in Section 14, Township 2 South, Range 4 East, P.M.M. Gallatin County, Montana.

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

I, Eric Semerad, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2601 M.C.A. 2019, it contains the signatures of 10 qualified freeholders of the Gallatin County road district.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 28th day of September 2020, A.D.

Eric Semerad
Clerk and Recorder
Gallatin County, Montana



RESOLUTION NO. 2020- 117

A RESOLUTION MADE TO ASSIGN THE VIEWING COMMITTEE AND
PETITION NUMBER FOR A PETITION TO ABANDON AN ALLEY SOUTH OF
FIRST STREET IN RAINBOW SUBDIVISION IN GALLATIN COUNTY,
MONTANA

This Resolution was introduced by Eric Semerad Clerk & Recorder; moved by
Commissioner MacFarlane and seconded by Commissioner Skinner.
This Resolution was adopted unanimously.

WHEREAS, On September 22, 2020 the Gallatin County Clerk and Recorder received a Petition to abandon An alley south of First Street in Rainbow Subdivision, in Gallatin County, MT (hereinafter referred to as the "Road"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated;

WHEREAS, the Road is described as an alley south of First Street adjacent to Lots C2A-1, 28A, 31, 39, 40A and 41A of Rainbow Subdivision of Bozeman Hot Spring Tract located in Section 14, Township 2 South, Range 4 East, P.M.M. Gallatin County, Montana.

WHEREAS, on September 28, 2020, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2601, MCA;

WHEREAS, according to Section 7-14-2603, MCA, the Board of County Commissioners 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. No more than one member of the board and the county surveyor shall make the investigation;

NOW THEREFORE BE IT RESOLVED:

1. The Board hereby accepts the petition for abandonment of an alley south of First Street adjacent to Lots C2A-1, 28A, 31, 39, 40A and 41A of Rainbow Subdivision of Bozeman Hot Spring Tract located in Section 14, Township 2 South, Range 4 East, P.M.M. Gallatin County, Montana.
2. The petition is assigned Road Petition Number 855.

3. Commissioner Scott MacFarlane and County Surveyor Eric Semerad are assigned to investigate the feasibility, desirability, and cost of granting the prayer of the Petition, and to report their findings back to the Board.

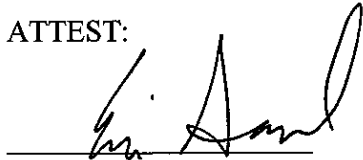
DATED this 6th day of October 2020.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Donald F. Seifert, Chairman

ATTEST:



Eric Semerad
Clerk and Recorder
Gallatin County

Recorded Document Map Viewer

Gallatin County Clerk and Recorder's Office

2017 Aerial ▾

+

-




972

🔍

Gallatin County Layers

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Feedback





October 5, 2020

To: THE BOARD OF COUNTY COMMISSIONERS, GALLATIN COUNTY, MONTANA

Re: PETITION TO ABANDON COUNTY ROAD AT ALLEY SOUTH OF FIRST STREET IN RAINBOW SUBDIVISION

Sirs,

Montana Opticom has concerns relating to the proposed abandonment of the alley South of First Street in the Rainbow Subdivision in Four Corners. Therefore, we are objecting to the proposal. Our concerns are based in the belief that once abandoned, the properties adjacent to the alley will no longer enjoy any form of easement or access for the placement and upkeep of communications or other utilities in the future. We currently intend to serve these properties via this alley. To do otherwise will greatly increase the cost to provide services and will damage Montana Opticom and the landowners. We would remove our objection to this proposal if these concerns can be addressed.

Sincerely,

Rease Burk
General Manager
Montana Opticom

144 Quail Run Road
Bozeman, MT 59718
P 406.999.5000 | F 406.999.5531

June 30, 2021

Board of County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

RE: Petition to abandon an alley in Rainbow Subdivision of Bozeman Hot Spring Tract.

Legal Description: An alley south of First Street adjacent to Lots C2A-1, 28A, 31, 39, 40A and 41A of Rainbow Subdivision of Bozeman Hot Spring Tract located in Section 14, Township 2 South, Range 4 East, P.M.M. Gallatin County, Montana.

Dear County Commission,

This letter is provided pursuant to § 7-14-2603 MCA. According to that statute, the Board of County Commissioners “shall cause an investigation to be made of the feasibility, desirability, and cost” of granting the prayer of a petition to abandon a county road. The investigation “shall be sufficient to properly determine the merits or demerits of the petition.” § 7-14-2603(1), MCA.

A petition to abandon a county road is allowed by § 7-14-2601, MCA. Section 7-14-2601(1), MCA, states: “Any 10, or a majority, of the freeholders of a road district taxable therein for road purposes may petition the board in writing to open, establish, construct, change, abandon, or discontinue any county road in the district.”

The petition to abandon the alley in Rainbow Subdivision of Bozeman Hot Spring Tract was received on September 22, 2020. The petition was certified by the Gallatin County Clerk and Recorder on September 28, 2020.

The 160’ long 20’ wide alley is shown on the plat of Rainbow Subdivision of Bozeman Hot Spring Tract. The southern portion of the alley was previously abandoned May 19, 1966 by Road Petition 637 and subsequently resurveyed as Amended Plat D-41-Y.

The petition states that the necessity for abandonment is:

“Abandonment of the 20’ alley will allow for potential expansion of parking for Lot 40A and the combining of Lots 31 and 39.”

The County Commission accepted the petition, assigned it Petition Number 855, and assigned the Viewing Committee consisting of Commissioner Scott MacFarlane and Clerk & Recorder Eric Semerad, at a public meeting held on October 6, 2020.

On November 12, 2020, the undersigned met with Road Supervisor Bill Brownell to view the road petitioned for abandonment. No petitioners were present with the Viewing Committee at the time of the viewing. The Viewing Committee observed the alley is now a graveled parking lot including portions of Lots C2A-1, 28A, 31, 39, 40A and 41A. The parking area is shared by all the landowners of these lots and is accessed off of Highway 191 via First Street and another access located on Lot 31. The alleyway dead-ends at the north wall of the Studio H Design building.

Should the abandonment of the alley be approved the landowners would own all of the land in front of their businesses on Lots 40A and 41A. It would then actually allow parking that is already happening in the parking lot that is prohibited by county ordinance. This would also remove the county's liability to maintain the alley and provide the landowners flexibility in the further development of their property. There is no other reasonable use of the alley for the public to utilize.

None of the adjoining lands are known to be public land. Consequently, the abandonment would not prevent legal access to public lands per § 7-14-2615(3), MCA.

According to the petition the landowner Accreted, LLC does not consent to the abandonment because they are "...fearful of being landlocked." 7-14-2615(4) MCA states that "The Board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment." It appears that the Accreted LLC property would not be landlocked as both of their tracts Lots 28A and 41A have access via First Street.

On October 5, 2020, Rease Burk, General Manager of Montana Opticom, submitted a letter to the Board of County Commissioners objecting to the proposed abandonment "based in the belief that once abandoned, the properties adjacent to the alley will no longer enjoy any form of easement or access for the placement and upkeep of communications or other utilities in the future." Mr. Burk stated that they would remove their objections to the proposal if these concerns can be addressed.

Because of the lack of landowner consent that is statutorily required and the objection of a local utility provider, it is our finding and recommendation that abandoning this public alley is not in the best interest of the public and should be denied.

Respectfully submitted,

Scott MacFarlane, County Commissioner

Eric Semerad, Clerk & Recorder

Semerad, Eric

From: Steve Winslow <winslowphoto@yahoo.com>
Sent: Monday, July 12, 2021 9:54 PM
To: Semerad, Eric
Subject: Alley Abandonment

Eric,

This email is a follow-up to our phone conversation earlier. As we have sold our property, we no longer want or need to proceed with our request to abandon the alleyway that currently divides our two vacant lots in the Rainbow Subdivision. I don't have the legal descriptions, but I believe you are aware of the location to which I am referring. Please spare the taxpayers any further time and expense involved in pursuing the abandonment. I hereby rescind said request. Thank you for all you've done thus far.

Cheers,

Steven Winslow, M. Photog. Cr. CPP F-MPPA
Winslow Studio and Gallery
81295 Gallatin Road
Bozeman, MT 59718
studio - 406-587-8826
cell - 406-223-3686
www.winslowstudio.com