



**City  
of  
Sidney**  
**Montana's Sunrise City**  
115 2nd Street S.E., Sidney, Montana - 406-433-2809

Date: January 27, 2023  
To: Sidney City Council  
From: Forrest Sanderson, AICP, CFM  
Re: Gem City Motors Alley Abandonment Petition:

**Discussion:**

The City Public Works Department has received a petition from T and T Properties Inc. to abandon a 20-foot alley in Block-2 South Park Addition to Sidney, located in the SW¼, Section 33, Township 23 North, Range 59 East, P.M.M., City of Sidney, Richland County, Montana.

The petition is complete, with appropriate exhibits, and must be considered by the City Council in accordance with the provisions of §7-14-4114 MCA.

**Standard of Review/Process:**

**7-14-4114. Procedure to discontinue streets.** (1) The council may discontinue a street or alley or any part of a street or alley in a city or town, if it can be done without detriment to the public interest, upon:

- (a) a petition in writing of all owners of lots on the street or alley; or
- (b) (i) a petition in writing of more than 50% of the owners of lots on the street or alley; and  
(ii) approval by a majority vote of the council.

(2) Where the street or alley is to be closed for school purposes, the council may discontinue the street or alley upon a petition signed by 75% of the lot owners on the whole street or alley to be closed.

(3) Before acting upon the petition, a notice must be published, stating when the petition will be acted on and what street or alley or part of a street or alley is asked to be vacated. The notice must be published as provided in **7-1-4127**.

**76-3-305. Vacation of plats -- utility easements.** (1) Any plat prepared and recorded as provided in this part may be vacated either in whole or in part as provided by **7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2), and 7-14-4115**. Upon vacation, the governing body or the district court, as provided in 7-5-2502, shall determine to which properties the title to the streets and alleys of the vacated portions must revert. The governing body or the district court, as provided in **7-5-2502**, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

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(2) However, when any poleline, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility has an easement over the vacated land to continue the operation and maintenance of the public utility facility.

**Analysis of the Request:**

1. The petition to abandon is incorporated into and made a part of this report.
2. The petition is signed by 100% of the owners of the lots adjacent to the alley. (Lots 1 – 12, Block 2 South Park Addition.) T and T Properties.
3. The proposal includes the retention of a 30-foot-wide utility easement that will serve to provide for the continued existence and maintenance of all existing public utilities.
4. The City of Sidney has a sewer main in the alley petitioned for abandonment.
5. Sidney Public Works requested that the easement for utilities be expanded to 30-feet.
6. The petition requests that the City of Sidney pay for the filing and recording of the abandonment should it be approved. While this is something that the City Council could approve, typically it is the duty of the petitioner to pay the costs associated with the filing and recordation of the final documents and surveys.
7. The abandonment would allow for the owner to file an Amended Plat aggregating the properties. This aggregation would allow the landowner certain options and flexibility that are currently denied given the standards of the International Building Code. Said aggregation would most likely require Expedited Subdivision Review where more than 5-lots are involved.
8. Each lot in Block 2 would have legal access to a public street as required by Montana Subdivision Law.
9. The alley does not provide access to public lands or water.
10. Notice of the petition to abandon was published in the Sidney Herald and a hearing on the question is scheduled for the City Council meeting on February 6, 2023.

**Recommendation:**

Staff recommends:

1. that the City Council approve the abandonment of the alley right-of-way located in Block 2, South Park Addition to the City of Sidney as described in the petition submitted by T and T Properties; and
2. Accept the 30-foot easement for the maintenance, repair, and replacement of the public utilities including the city sewer main located on the property; and
3. Prepare a Resolution for filing that provides notice of:
  - a. The abandonment of the 20-foot alley right-of-way in Block-2 South Park Addition to the City of Sidney.
  - b. The acceptance of the grant and declaration of the 30-foot utility easement.
4. The decision as to paying for the recordation is at the sole discretion of the City Council.

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