

RESOLUTION 2013 - 116

RESOLUTION DISCONTINUING A PORTION OF A PUBLIC ROAD

WHEREAS, the Lewis and Clark County Board of Commissioners may discontinue any part of a street in an unincorporated town or townsite upon the petition in writing of an owner(s) of a lot(s) on the street if it can be done without detriment to the public interest, pursuant to Section 7-14-2616, Mont. Code Ann.; and

WHEREAS, a public road right-of-way for Cyr Road was established on July 3, 1957 as a part of the Zimelman Subdivision No. 1 (C.O.S. No. 84519), as shown on Exhibit "A"; and

WHEREAS, landowners petitioned the Board of County Commissioners to discontinue a portion of this right-of-way; and

WHEREAS, said right-of-way is located one mile west of Lincoln, Montana between a point 60 feet west of the southeast corner of the northern portion of Tract 11-A and the southwest corner of Tract 12 of the Zimelman Subdivision No. 1 in the NE ¼ of Section 22, T14N, R9W, P.M.M., Lewis and Clark County, Montana, as shown on Exhibit "B"; and

WHEREAS, said right-of-way is approximately 290 feet long and 60 feet wide; and

WHEREAS, said right-of-way has never been constructed; and

WHEREAS, according to the Department of Revenue's CAMA records, the majority of a log cabin was constructed in 1958 within said right-of-way; and

WHEREAS, existing Cyr Road was constructed south of said right-of-way; and

WHEREAS, on Tuesday, August 6, 2013, the Board of County Commissioners held a public hearing regarding the petition to discontinue said right-of-way; and

WHEREAS, after said public hearing was held, the Board of County Commissioners voted to grant preliminary approval to the discontinuance of said right-of-way subject to five conditions:

1. A resolution must be adopted by the Board of County Commissioners to officially document the road abandonment, and this resolution must be recorded with the Clerk and Recorder's Office.
2. The Applicants shall provide a Certificate of Survey (COS) for a boundary line relocation of the landowners' properties that includes the abandoned portions of right-of-way. The COS shall include a reference to the resolution that officially documents the road abandonment and must be filed with the Clerk and Recorder's Office.
3. The Applicants shall prepare quit claim deeds for the transfer of the property from Lewis and Clark County to both themselves and to the owners of Lot 11 in the Zimelman Subdivision No. 1; said deeds shall conform to the above-referenced COS and shall be recorded at the time the COS is filed.
4. Prior to filing of the COS, the Applicants shall:



- a. Provide proof that all real property taxes and special assessments assessed and levied on the properties are paid for the current tax year; including any past delinquencies.
  - b. Provide current documentation (Certificate of Title) showing that the Applicants and the owners of Lot 11 in the Zimbelman Subdivision No. 1 are the lawful owners of the properties with the apparent authority to complete a boundary line relocation in conjunction with the road right-of-way abandonment, and showing the names of lien holders or claimants of record.
5. This preliminary approval shall be effective for not more than three calendar years. At the end of this preliminary approval period the governing body may, at the request of the Applicants, extend this preliminary approval; and

WHEREAS, the Board of County Commissioners determined that all conditions of the preliminary approval have been met; and

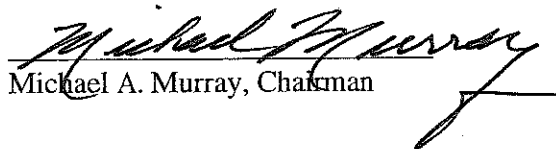
WHEREAS, the Board of County Commissioners determined that all private properties abutting said right-of-way possess either public or private legal and physical access.

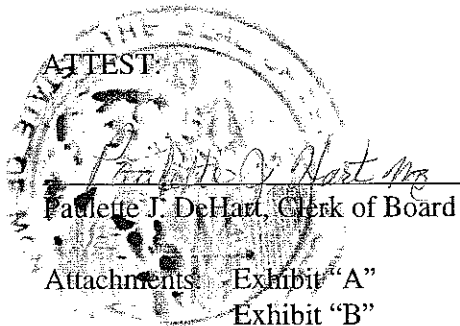
NOW, THEREFORE, BE IT RESOLVED that the public road right-of-way for Cyr Road, located in the NE ¼ of Section 22, T14N, R9W, P.M.M., Lewis and Clark County, Montana, is hereby declared closed and discontinued as a "public road", as shown on attached Exhibit "B".

BE IT FURTHER RESOLVED that the above-described right-of-way will be discontinued as a public road and is not a maintenance obligation to the County.

DATED this 12 day of, December 2013.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

  
Michael A. Murray, Chairman






# APPLICANT'S PROPOSED ROAD DISCONTINUANCE AND BOUNDARY LINE RELOCATION

## EXHIBIT "B"

HWY 200 120' RIGHT-OF-WAY  
N 89°30'34" E  
445.74'

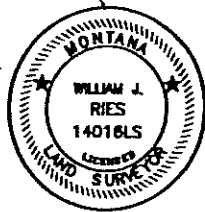
- LEGEND**
- CALCULATED POSITION
  - FND 5/8 REBAR YPC 3366ES
  - ⊙ SET 5/8" REBAR W/R.P.C. (14016LS)
  - ⊕ FND 5/8 REBAR W/YPC MILBURN
  - RELOCATED BOUNDARY
  - - - FORMER BOUNDARY
  -  AREA OF PUBLIC EASEMENT TO BE ABANDONED

BASIS OF BEARINGS:  
GEODETTIC NORTH BASED FROM  
A GPS CONTROL SURVEY.

### ISOLATED TRACT A 15.67 ACRES

LINE	PRIVATE ACCESS AND UTILITY EASEMENT	BEARING	LENGTH
L1	N 89°48'18" E	84.86'	
L2	S 03°01'19" W	71.44'	
L3	S 21°05'16" E	16.59'	
L4	N 80°35'59" E	36.40'	
L5	N 84°21'23" E	58.21'	
L6	N 74°23'29" E	51.73'	
L7	N 64°20'54" W	19.49'	
L8	S 00°59'12" E	33.01'	
L9	S 84°20'54" W	8.35'	
L10	S 74°23'29" E	56.98'	
L11	S 84°21'23" W	59.84'	
L12	S 80°38'59" E	41.86'	
L13	S 61°38'00" W	11.30'	
L14	N 21°05'16" W	48.16'	
L15	N 36°50'12" W	96.97'	

#### CERTIFICATE OF SURVEYOR



WILLIAM J. RIES (14016LS)  
PROFESSIONAL LAND SURVEYOR  
DATE: \_\_\_\_\_

S 89°39'32" W  
661.87'

BK 281, PAGE 509

COUNTY ROAD 60' R/W AS SHOWN ON ZIMBELMAN NO. 2

N 90°00'00" E  
147.60'

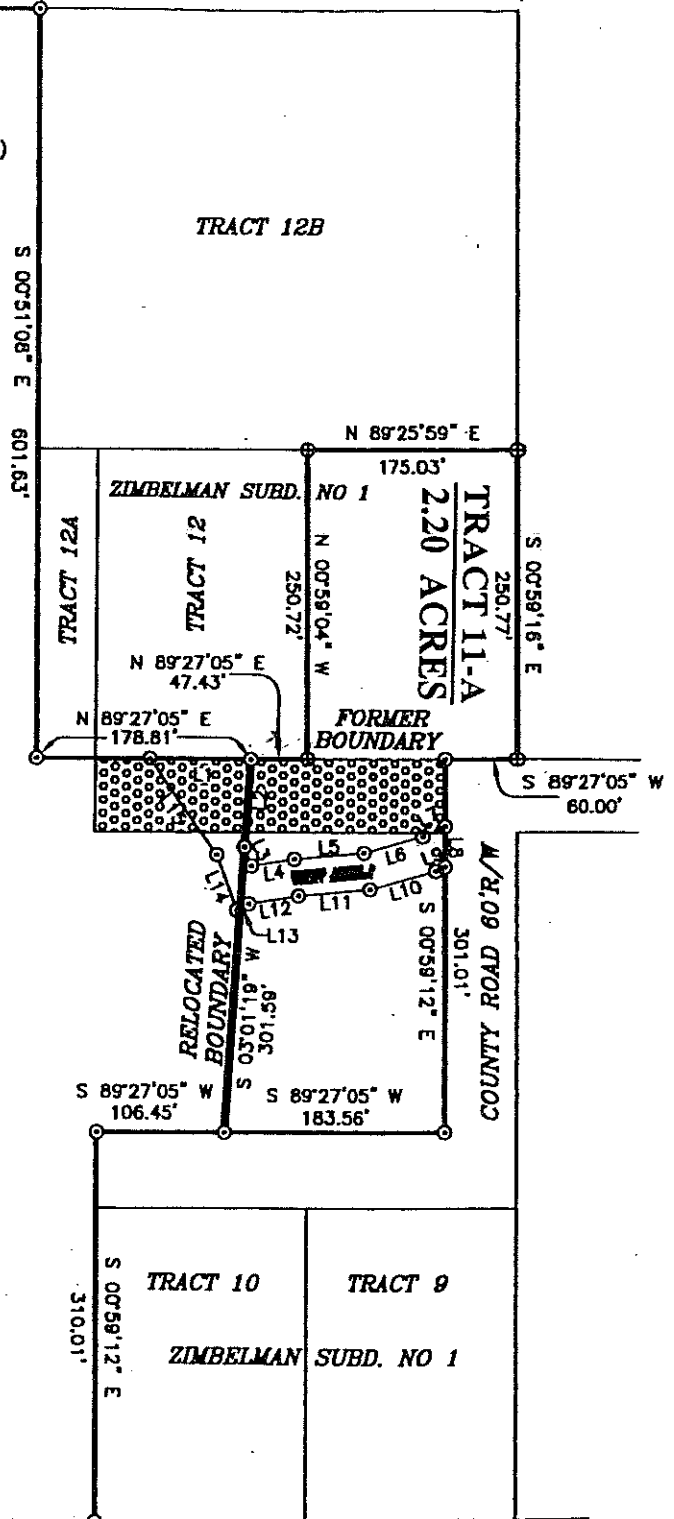
N 00°00'00" W  
450.00'

NO 2

ZIMBELMAN SUBD.

NO 2

BK 145, PAGE 8842



S 00°51'08" E  
601.63'

TRACT 12A

TRACT 12B

ZIMBELMAN SUBD. NO 1

TRACT 12

TRACT 11-A  
2.20 ACRES

FORMER BOUNDARY

RELOCATED BOUNDARY

COUNTY ROAD 60' R/W

TRACT 10

TRACT 9

ZIMBELMAN SUBD. NO 1

S 00°58'12" E  
310.01'

S 89°27'05" W  
106.45'

S 89°27'05" W  
183.56'

S 00°59'16" E

S 89°27'05" W  
80.00'

N 89°25'59" E

175.03'

N 00°58'04" W  
250.72'

N 89°27'05" E  
47.43'

N 89°27'05" E  
178.81'

S 00°58'12" E  
301.01'