

DESOTO COUNTY

PLANNING AND ZONING DEPARTMENT STAFF REPORT

CASE # VAC-0018-2024

REQUEST: Vacation of a Portion of NE Oltmanns Street Right-of-Way

PROPERTY OWNER: Laurence Todd Coward & Michele L. Coward

ROW to be vacated: A portion of NE Oltmanns Street, east 566 feet of the north 25 feet of the north 50 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, Section 16, Township 37S, Range 25E, DeSoto County, Florida.

PROPOSED REQUEST:

Laurence Todd Coward and Michele L. Coward (property owners) have requested to vacate a portion of the NE Oltmanns Street right-of-way adjacent to their property. The Board of County Commissioners held a public hearing on November 19, 2024 to establish this hearing date of December 17, 2024, per Section 20-1772.

The portion of right-of-way to be vacated abuts Parcel number 16-37-25-0000-0050-0000 and is shown on a sketch and legal description by Lawrence E. Douglas, P.L.S. and is in Section 16, Township 37S and Range 25E in DeSoto County. The segment of NE Oltmanns Street being requested to be vacated is currently unimproved.

LEGAL DESCRIPTION:

A portion of NE Oltmanns Street, east 566 feet of the north 25 feet of the north 50 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, Section 16, Township 37S, Range 25E, DeSoto County, Florida (more particularly described in accompanying complete legal from survey completed by Lawrence E. Douglas P.L.S. dated May 14, 2024).

REQUIRED NOTIFICATIONS:

The Land Development Regulations Division 4, Section 20-1772 requires a Notice of Public Hearing to Close and Abandon Road be published in a newspaper of general circulation a minimum of one time at least two weeks prior to the scheduled hearing date.

In addition, Land Development Regulations Division 4, Section 20-1772(10) provides that if the Board adopt the resolution, then an additional proof of publication must be published within 30-days of the adoption of the resolution.

BOCC Hearing Set:

At its regular meeting November 19, 2024, the Board of County Commissioners voted to set a hearing date for the requested vacation of Right-of-Way for December 17, 2024.

CORRESPONDENCE:

There has been no known community correspondence either in support or opposition to the request.

REVIEW:

The vacation of the Right-of-Way is requested due to the fact that the portion of right-of-way subject to this request is not serving as the sole access to any property. The properties to the north and south can continue to gain access at the remaining improved portion of NE Oltmanns Street. The parcel to the east does not currently use NE Oltmanns Street for access, instead taking access from Purvis Street located to the south of the property.

Based on these alternative access routes and the location of the requested portion of right-of-way to be vacated, it is not anticipated that vacation of this portion of NE Oltmanns Street would affect traffic circulation or delivery of essential services to adjacent property owners.

The right-of-way is not paved nor appears to be used by the public. A boundary survey of the applicant's property was provided as well as a survey and legal description of the request to vacate the portion of NE Oltmanns Street right-of-way. The vacation request is consistent with the traffic circulation element of the Comprehensive Plan. The portion of NE Oltmanns Street right-of-way to be vacated does not provide the sole access to any adjacent property.

Letters from utility companies and cable companies, gas and power companies with statements that there is/are no easement(s) were not provided stating that they have no objection to the vacation of said right-of-way. There doesn't appear to be any water and sewer in this area. Power lines exist but terminate at the improved right-of-way to the west of the proposed vacated portion. If any utility facilities are found and/or damaged within the vacated area as described, the applicant will bear the cost of relocation and repair of said facilities. A right-of-way easement allows Peace River Electric to access a strip of land 30 feet wide, 15 feet on either side of the power line as constructed at 3398 NE Oltmanns Street (parcel to the north). While the proposed vacation does not appear to be detrimental to the public interest, it is unclear what positive benefit is proposed to the County in the approval of the requested vacation.

Staff recognizes the wetland within ROW and Mare Branch may limit its future potential

viability. However, looking at more developed communities, eliminating the future potential for a connecting roadway can be challenging to consider. New types of larger communities typically develop with limited connectivity. This increases trip distances, ability for first responders to quickly gain access to communities, make trips to schools, groceries and work longer. However, this is an area designated as Rural / Agriculture on the Future Land Use Map and is not designated for development.

Staff is recommending that the right-of-way be vacated as requested, with the vacated lands being brought under ownership of the appropriate adjacent property owner (Cindy D Neads & Debra K. Neads JT/ROS).

Comprehensive Plan Traffic Circulation Element:

Objective 1.7: Right-of-Way. The County shall provide for the protection of existing and future Rights-of-Way consistent with the 2040 Transportation Corridor Identification and Reservation Map (Map TEM-16).

Policy 1.7.7: *Vacation of Rights-of-Way.* Applications for vacating public right-of-way shall be consider the impacts on overall traffic circulation and delivering essential services, including but not limited to Fire/EMS, police, waste management, school bus routes, and emergency evacuation routes.

Land Development Regulations:

Section 20-1772: Vacation of Right-of-Way.

The process for vacation of rights-of-way is as follows:

1. Prepare a petition and resolution to declare public hearing
2. Provide Development Director with copy of petition, resolution, and a description of the subject road prepared by a registered surveyor.
3. Schedule appearance before the Board of County Commissioners to present petition and request adoption of resolution to declare public hearing.
4. Contact Development Director and arrange visit to the site. The petitioner will determine width and length of road or roads to be closed and an accurate survey will be provided by the petitioner. The County will erect signs at appropriate locations advising of the public hearing.
5. Prepare notice of public hearing to close and abandon road.
6. Publish notice of public hearing to close and abandon road in local newspaper of general circulation one time at least two weeks prior to hearing date. Request proof of publication.

7. Prepare resolution to close and abandon road.
8. Prepare notice of adoption of resolution.
9. Attend hearing with resolution to close and abandon road and proof of publication. In order for the Board to approve the right-of-way vacation at the public hearing, the Board must make the find that all of the following requirements are met:
 - a. The requested vacation is consistent with the traffic circulation element of the Comprehensive Plan.
 - b. The right-of-way does not provide the sole access to any property. The remaining access shall not be by easement.
 - c. The proposed vacation would not jeopardize the current or future location of any utility.
 - d. The proposed vacation is not detrimental to the public interest, and provides a positive benefit to the County.
10. If the resolution is adopted by Board, public notice of adoption of resolution one time in local newspaper of general circulation within 30 days of adoption of resolution. Request proof of publication.
11. Record proof and publication of notice of public hearing to close and abandon road, the resolution to close and abandon road, as adopted, and the proof of publication of the notice of adoption of resolution.

STAFF DETERMINATION:

Staff has determined that granting of this Resolution to vacate (close and abandon) the portion of NE Oltmanns Street described and exhibited in this staff report is consistent with the Land Development Regulations and Comprehensive Plan. The northern 25-foot half width of the unimproved right of way of NE Oltmanns Street to be vacated to be brought under the ownership of the adjacent property owner (Cindy D Neads & Debra K Neads), with the southern 25-foot half width of unimproved right-of-way be vacated to be brought under the ownership of Laurence Todd Coward and Michele L. Coward.

ATTACHMENTS

Exhibit A: Location Map

Exhibit B: Future Land Use Map

Exhibit C: Official Zoning District Atlas

Exhibit D: Property Survey/Legal Description of Vacations

PUBLIC HEARING SCHEDULE

Board of County Commissioners

Tuesday, November 19, 2024 (to establish hearing)

Final Disposition

Tuesday, December 17, 2024

RECOMENDED CONDITIONS:

1. If any utility facilities are found and/or damaged within the vacated area as described, the applicant will bear the cost of relocation and repair of said facilities.