



Staff Report

To: City Commission

From: Ron A. Paradise, Director, Planning and Development Services

Date: March 11, 2021

Re: Project No. AROW 21, proposed vacation of rights-of-way associated with a portion of the Davis Park 3rd Addition plat. Resolution No. 2021-19.

Summary of Application:

Request to vacate the N1/2 of a 15' wide "driveway" right of way and a 7.5' wide segment of the Mangoe St. right of way Davis Park 3rd Addition, MB 18, Page 117, of the Public Records of Volusia County. See attached map.

Applicant: Peter Pensa, P.E. (Avid Engineering)

Tax Parcel No.: 8106-06-10-0120, 8106-06-09-0170, 8106-06-09-0130

Property Location: Located on the north side of Howland Blvd., between the WaWa convenience store and Forest Edge Dr.

Acreage to be vacated: ± 2,471 Square feet – Right of Way

Legal Description: N ½ of a 15' "driveway" running south of lots 18 and 29, Block 9 Davis Park 3rd Addition, MB 18, Page 117 of the Public Records of Volusia County Florida and 7.5' of the Mangoe St. Right of Way located south of the southerly extent of the Mangoe St. Right of Way vacated by Book 7819, Page 98 more particularly described in Exhibit A.

Existing Zoning:

Agricultural (A) District situated within the Activity Center. The intent is to rezone the property to a Business Planned Unit Development (BPUD) to support commercial use.

Background:

An application has been made consistent with Section 106-32 to vacate several portions of rights of way (RoW) as part of the Davis Park 3rd Addition plat. These RoWs include 7.5' of a platted 15' wide "driveway" and a 7.5' wide portion of a 60' RoW known on the plat as Mangoe St. Neither the Mangoe St. nor the "driveway" RoW areas are open and passible by an ordinary passenger car.

Resolution No. 2021-19 is not the first request the City has processed to vacate Davis Park 3rd Addition RoWs associated with the parcels referenced in this application. In 2019 the City approved Resolution No.2019-01 vacating several portions of Davis Park 3rd Addition RoW areas. More specifically, a portion of Mangoe St. and an unnamed alley (referred to as a “driveway” on the plat). In the case of Resolution No. 2019-01, the applicant owned or controlled all land located adjacent to the RoW areas approved for vacation. The goal of approving Resolution No. 2019-01 was to facilitate the unified development of the property.

In the case of the latest vacation request, the areas proposed to be vacated abut land owned by the applicant only on one side and the areas proposed for vacation are also part of a larger right of way area associated with the Howland Blvd. corridor. The Howland Blvd. RoW in the vicinity of the vacation request is occupied by the Howland Blvd. travel ways, turn lanes, pedestrian facilities and various utilities (water, sewer, electricity, fiber optic cable, etc.) None of the area requested to be vacated is developed and it appears based on interface (letters to utility companies) with various utility providers none of the area requested to be vacated is occupied by utility infrastructure. The Howland Blvd. RoW in this busy area features a curvature of the corridor and the RoW widths vary from 400’ to about 140’ to accommodate intersection approaches and turn lanes associated with the Forest Edge Dr./MSgt Tara Jacobs-Brown Av. and Howland Blvd. intersection. The area requested to be vacated is part of a swath of land ranging from 135’ to 75’ on the north side of the Howland Corridor not occupied by transportation infrastructure (roadway or sidewalks). In addition, Howland Blvd. is a County road.; there is a lack of clarity if the RoW areas requested to be vacated are City or County RoW areas. However, no matter the governmental jurisdiction, the area proposed to be vacated is part of the Howland Blvd. RoW.

A criterion with regard to the vacation of RoW is that a vacation action should not result in an owner being deprived of access. A review of the requested RoW plat vacation elucidated no other landowners within the area will be deprived of access.

Another criteria for the City to address is if there is a present or future need for the RoW to accommodate public infrastructure or serve a similar public purpose. As has been stated, the segment of Howland Blvd. where the vacation is proposed is a heavily trafficked corridor. Howland Blvd. serves as a primary Interstate 4 access point for City residents. Land in the area is developed with a range of existing uses like Amazon, Epic Theater, Halifax Hospital, Deltona High School, and various residential neighborhoods. Vacant land resources in the vicinity are planned to support more urban development including industrial, commercial, and residential. To ensure a high level of mobility within the City, extensive transportation improvements will be required, including new roadways (Rhode Island Rd. extension), intersection improvements (Howland and Forest Edge/MSgt Tara Jacobs Brown Av.) and eventually lane mile additions to Howland Blvd.

Transportation improvements are expensive capital projects. One factor that greatly increases the cost of transportation improvements is land acquisition. The fact the Howland Blvd. segment in the area near Interstate 4 is currently congested and there are extensive development entitlements allocated or will proposed to be allocated, the need for more transportation improvements in the area is easily predictable. Therefore, there is going to be a requirement for land to support future transportation improvements to include, but not limited to, lane miles, sidewalks, utility relocates, stormwater, or a combination of any of the above. City of Deltona Public Works and the County of Volusia were asked to comment on this proposal. Both entities, well versed in current and future transportation needs, recommended the City not approve the vacation request.

Matters for Consideration:

1. Whether it is consistent with all adopted elements of the Comprehensive Plan.

Though there are no set plans or design for improvements, the Howland corridor will need to be upgraded in the future. The City Comprehensive Plan states the City shall ensure public facilities and services like roadway infrastructure is provided:

Policy FLU1-1.10 The following public facilities and services shall be available for new development in all areas: roadways, solid waste collection, stormwater management, fire and police protection, emergency medical services, potable water, sanitary sewer service, and public schools as defined in the Public School Facilities Element.

In addition, not vacating the RoW will help the City to maintain its transportation level of service expectations, which would be consistent with the following policy:

Policy FLU1-2.1 The City of Deltona shall maintain and require level of service standards to be implemented as set in the Transportation, Infrastructure, Parks and Recreation, Capital Improvements, and Public School Facilities Elements.

Maintaining the RoW by not approving the vacation request is consistent with the following provisions:

OBJECTIVE FLU1-3 The City of Deltona shall provide for the existing and future needs for transportation, potable water, and wastewater facilities and other public facilities and services, consistent with the Capital Improvements Element and the policies and criteria of this Comprehensive Plan.

Policy FLU1-3.2 The City of Deltona shall acquire or require sufficient right-of-way (R.O.W.) to facilitate new roadway construction or improvements. In addition, R.O.W.

shall be of sufficient width to provide for legal and functional access, utilities, and other infrastructure.

Policy T1-1.1 The City of Deltona shall maintain and implement land use regulations designed to protect existing and future rights-of-way necessary for transportation system improvements.

The Plan also encourages the efficient and cost effective provision of services. Releasing areas of public right of way with the understanding the land may be needed in the future to accommodate transportation improvements would not be cost effective and would not be consistent with the following policy:

Policy FLU1-3.3 Public facilities and utilities shall be located and developed to: a. maximize the efficiency of services provided; b. maximize cost effectiveness; c. minimize their impacts on the natural environment; d. provide the designated level of service; and e. be LEED designed consistent with City regulations.

The City in the past, as per the below policy, has used the vacation of RoWs as a tool to encourage economic development and growth. The vacation actions have been effective in facilitating significant projects including, but not limited to, Halifax Hospital and Amazon. The vacation actions were very strategic and represented a way for owners to unify property and repurpose the land for development.

Policy FLU1-7.19 The City of Deltona shall use the appropriate regulatory mechanisms to resolve conflicts between platted lands and the Comprehensive Plan and address the problems of lands which are platted, but possess limitations to development based upon inadequate public facilities and services, substandard lot configurations, or environmental constraints. 9J-5.006(3) (c) (1, 7)

The property in question has already benefited from a past vacation event under Resolution No. 2019-01. The present vacation request does not facilitate the further unification of property but would result in a reduction of Howland Blvd. right of way. Therefore, the request would not be consistent with this policy.

2. Its impact upon the environment or natural resources.

The RoW vacation request would not have any impact on natural resources.

3. Its impact upon the economy of any affected area.

The requested vacation when combined with the adjacent privately owned parcels would facilitate a slightly larger development envelope. Vacating this area would have essentially put the right of way back on the tax role. The long term impacts on the budgets of a local government (County or City) if the area requested for vacation needs to be reacquired or results in roadway design challenges for future network improvements could outweigh any tax base improvement benefit derived from the requested vacation.

4. **Notwithstanding the provisions of Article XIV of the Land Development Code, Ordinance No. 92-25 [Chapter 86, Code of Ordinances] as it may be amended from time to time, its impact upon necessary governmental services, such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste or transportation systems.**

a. **Schools:** N/A; not associated with a residential use

b. **Sewage Disposal:** County of Volusia

c. **Potable Water:** County of Volusia

d. **Drainage:** Stormwater will be managed as per the City Land Development Code

e. **Transportation Systems:** The project will include adequate access to public transportation through access to established roads.

5. **Any changes in circumstances or conditions affecting the area.**

There have been no changes affecting this area. The traffic conditions are well documented by traffic engineers and the traveling public. The current congestion commensurate with the level of development occurring and entitled in the vicinity and West Volusia in general portends the need for future significant transportation improvements in the area.

6. **Any mistakes in the original classification.**

No known mistakes.

7. **Its effect upon public health, welfare, safety, or morals.**

There is recognition the vacation request represents a small amount of land (2,471 square feet). The impact on public welfare of the request is measured by a lost opportunity to more efficiently make transportation improvements in the future.

CONCLUSION/STAFF RECOMMENDATION:

Based on the information presented, there are two basic alternatives for the City to contemplate with regard to the vacation request: approve or deny the vacation request. The alternatives and the staff recommendation are illustrated as follows:

1) Approve the Vacation request.

Advantages: The private landowner would have more land for horizontal control which could lead to slightly more gross building square footage and perhaps greater design flexibility regarding project circulation and parking.

Disadvantages: The right of way requested for vacation is part of the Howland Blvd. right of way envelope. The loss of the right of way, even the small amount requested (2,471 square feet) could impact future transportation projects in the area. The result

could be increased improvement costs as the City will have to buy land or engage in more complex design and construction to work within a reduced right of way area. Another outcome would be a protraction of project timeframes. The jurisdiction of the right of way is unclear between the City and the County.

Rationale for Approval – Findings of Fact

a) The request to vacate the 2,471 square foot right of way is in the best interest of the City because it will result in greater development opportunity within the City.

2) Deny the Request.

Advantages: There will be more right of way available to accommodate future roadway improvements including intersection upgrades and stormwater management. The jurisdiction of the right of way area – City and/or County - will not be an issue.

Disadvantages: A private development may need to be slightly scaled down and/or redesigned to facilitate aesthetic requirements (landscaping), functional internal circulation, parking, etc.

Rationale for Denial – Findings of Fact

- a) The 2,471 square foot area is currently part of the Howland Blvd. right of way.
- b) Howland Blvd. in the vicinity of the land to be vacated is congested especially during am and pm peak hours.
- c) Various public works and engineering professionals (including P.E. licensed engineers) from both the City and the County have indicated there may be a need for the land in the future to accommodate improvements to the Howland Blvd. corridor. For more information see attached e-mails.
- d) The vacation of the subject right of way which may deleteriously impact the future efficient and cost effective provision of public infrastructure – in this case a major thoroughfare roadway – is not consistent with the Comprehensive Plan.

As has been mentioned roadway improvements are very expensive public works projects. While the design and physical construction of roadways are costly, the more expensive element of roadway development is land acquisition. Also, roadway improvements are time consuming. At one time the State of Florida released right of way reservations, known as a Murphy Reservation, to private landowners along the John Young Parkway corridor in the greater Orlando area not anticipating John Young Parkway (SR 423) would need to be upgraded. When John Young Parkway was upgraded, the State had to spend millions to

buy the land back it have in the past released to private owners. There is recognition amongst the public at large, transportation design professionals, public works managers, and professional engineers the Howland Blvd. corridor will need to be significantly improved to ensure there is safe and efficient mobility in the area. Therefore, to facilitate efficient and cost effective provision of future public infrastructure, staff recommends the City deny the request to vacate the subject Davis Park 3rd Addition right of way.