



## Legislation Text

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**File #:** 2015-3369, **Version:** 1

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**TO:** Mayor and Commission

**AGENDA DATE:** 4/5/2021

**FROM:** John A. Peters, III, PE, Acting City Manager **AGENDA ITEM:** 8 - D

**SUBJECT:**

Public Hearing - Resolution No. 2021-19, Request to vacate 2,471 square feet of public right of way area dedicated as part of the Davis Park 3<sup>rd</sup> Addition plat, MB 18, PG 117 - Ron A. Paradise, Director of Planning and Development Services (386) 878-8610.

Strategic Goal: Infrastructure - Transportation CIP for roadways

**LOCATION:**

The right of way requested to be vacated is situated north of Howland Blvd. just west of the intersection of Howland Blvd. and Forest Edge Blvd. and east of the Wawa convenience store.

**BACKGROUND:**

The right of way proposed to be vacated consists of 2,471 square feet of public land generally described as follows: N ½ of a 15' "driveway" running south of lots 18 and 29, Block 9 Davis Park 3<sup>rd</sup> 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. A more detailed description is attached. In addition, the location of the right of way requested to be vacated is depicted on the attached graphic.

None of the right of way areas proposed for vacation are open and passable by an ordinary passenger car.

The intent of the requested vacation of the public right of way is to add 2,471 square feet to three parcels which abut the right of way areas to the north. Resolution No. 2021-19 is not the first request the City has processed to vacate Davis Park 3<sup>rd</sup> Addition right of ways associated with the parcels referenced in this application. In 2019 the City approved Resolution No.2019-01, vacating several portions of Davis Park 3<sup>rd</sup> Addition right of way 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 right of way 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 Resolution No. 2021-19 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. right of way 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.)

A criterion with regard to the vacation of right of way is that a vacation action should not result in an owner being deprived of access. A review of the requested right of way 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 right of way 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. Therefore, approving the vacation request may result in the loss of right of way area needed to support future infrastructure like sidewalks, vehicle travel lanes, stormwater, etc. The County, which has interest in this right of way, and City Public Works staff have recommended the requested right of way not be approved.

For more information, see the attached staff report.

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 had 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 3<sup>rd</sup> Addition right of way.

The Acting City Manager has the authority to make corrections of scrivener's errors and the like.

**COST:**

N/A

**SOURCE OF FUNDS:**

N/A

**ORIGINATING DEPARTMENT:**

Planning and Development Services

**STAFF RECOMMENDATION PRESENTED BY:**

Ron A. Paradise, Director of Planning and Development Services - Staff recommends the City Commission deny the request to vacate the N ½ of a 15' "driveway" running south of lots 18 and 29, Block 9 Davis Park 3<sup>rd</sup> 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 and not approve Resolution No. 2021-19 based on the following:

- 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.
- 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.

**POTENTIAL MOTION:**

"I hereby make a motion to deny the request to vacate the N ½ of a 15' "driveway" running south of lots 18 and 29, Block 9 Davis Park 3<sup>rd</sup> 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 and not approve Resolution No. 2021-19 based on the following:

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- 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.
- 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.  
The Acting City Manager has the authority to make corrections of scrivener's errors and the like."