



# Pinellas County

## Staff Report

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**File #:** 20-1174A, **Version:** 1

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### **Subject:**

Petition of Christopher D. Muller, Laura T. Muller, Raymond B. Bennett, and Debra J. Schaefer to vacate the 80-foot-wide right-of-way of Illinois Avenue lying between Lots 6, 7 and 8, Block 135 and Lots 9, 10, 11 and 12, Block 130, Map of Sutherland, Plat Book H1, Page 1; also the 20-foot-wide alley right-of-way lying between Lots 7, 8, 9 and 10, Block 135, Map of Sutherland, Plat Book H1, Page 1, lying in Section 2-28-15, Pinellas County, Florida. (Legislative Hearing)

### **Recommended Action:**

Denial of the petition to vacate an 80-foot-wide right of way known as Illinois Avenue based on County staff objections. If granted, adopt the attached resolution pursuant to §336, Florida State Statutes.

- There is an 80-foot-wide right-of-way, known as Illinois Avenue, lying between the petitioners' property and adjacent properties to the north, and a twenty-foot wide alley lying between two parcels owned by Christopher D. Muller and Laura T. Muller.
- The vacation of the 80-foot wide right-of-way will allow the petitioners to increase their property size with the expectation of retaining their improvements that were constructed in the right of way. However, if vacated the County would be requesting a drainage easement over this portion of the right of way which would necessitate removal of the improvements.
- County staff recommend denial of vacating the 80-foot wide Illinois Avenue right of way, based upon several objections:
  - a.) The right-of-way provides public access to the Pinellas Trail.
  - b.) Utilities has significant infrastructure within the right of way, including water, sewer and reclaimed water. Staff has identified the Illinois Avenue area as a drainage "hot spot". Stormwater is known to overtop the Pinellas Trail as it flows east to west along the right of way. The Muller petitioners have been a past complainant to the County regarding that flooding.
  - c.) If the 80-foot-wide right-of-way is vacated, the properties owned by Debra Schaefer and Raymond Bennett will front a private road created via easement, not a public road. However, the properties are already non-conforming in their current state and would require a waiver for any future development or redevelopment. The property owners have submitted a letter to request a waiver of the road frontage requirement as allowed by Section 138-237 Waivers and Variances, of the Pinellas County Land Development Code.
  - d.) The Schaefer property is currently non-conforming with respect to lot width. Vacation of the right of way does not serve to resolve this current condition and as previously referenced will add a second non-conforming aspect to the property.
- If vacated, County staff has requested retainage of a utility and drainage easement over the entire vacated 80-foot-wide right-of-way because of Pinellas Trail access, existing utility infrastructure and planned stormwater improvements.
- The Muller petitioners are constructing a new home at the property and the extensive encroachments they have placed in the Illinois Avenue and 9<sup>th</sup> Street right of way must be removed as a condition to grant a certificate of occupancy for the new home.
- County staff has previously notified the petitioners to remove the right of way encroachments.

Approval of the vacation of a 20-foot-wide alley lying between two parcels owned by Christopher D. Muller and Laura T. Muller.

- County staff do not object to the vacation of the twenty-foot wide alley.
- The vacation of the 20-foot-wide alley will allow the petitioners to increase their property size and provide for building additions.

Authorize the Clerk of the Circuit Court to record the resolution in the public records of Pinellas County.

### **Strategic Plan:**

Deliver First Class Services to the Public and Our Customers

5.2 Be responsible stewards of the public's resources

5.3 Ensure effective and efficient delivery of county services and support

**Summary:**

The purpose of the request is to vacate an 80-foot-wide right-of-way lying between the petitioners' property and adjacent properties to the north, and a 20-foot-wide alley lying between two parcels owned by Christopher D. Muller and Laura T. Muller. The petitioners desire to increase their property size and for building additions. County staff objects to the vacation of the eighty-foot wide right-of-way. County staff do not object to the vacation of the twenty-foot wide alley.

**Background Information:**

County departments were queried and have objections to the vacation request.

The County objects to the request because the 80 foot wide right-of-way provides public access to and from the Pinellas Trail, has existing County facilities within the area and can be used to resolve ongoing stormwater issues.

If vacated, the County has requested retainage of a drainage and utility easement over the vacated eighty-foot wide right-of-way. Pinellas County Utilities has water, sewer, and reclaimed water facilities within the proposed vacation area.

The eighty-foot wide right-of-way is needed to support future drainage improvements for the area. The County has identified the surrounding area as a drainage hot spot. Stormwater is known to overtop the Pinellas Trail as it flows east to west. The petitioners have been a past complainant to the County regarding flooding. The Public Works Storm Water Technical Committee has reviewed the area, prioritized it and is seeking to identify future funding options to construct drainage improvements to benefit the area. The south side of the eighty-foot wide right-of-way represents the best location for the future improvements due to presence of existing utilities on the north side.

The petitioners have significantly encroached into the south side of the 80 foot wide right-of-way with improvements to their property including a Koi pond, large trees, decorative boulders, stone walkways and landscaping. These improvements will have to be removed to accommodate the future drainage improvements, whether the right-of-way is vacated or not, because the County will retain a full width easement over the vacated right-of-way; alternatively, if the vacation is denied, the County will still use this portion of the right-of-way for the drainage improvements.

If the 80-foot-wide right-of-way is vacated, the properties owned by Debra Schaefer and Raymond Bennett will front a private road created via easement, not a public road. However, the properties are already substandard in their current state and would require a waiver for any future development or redevelopment. The property owners have submitted a letter to request a waiver of the road frontage requirement as allowed by Section 138-237 Waivers and Variances, of the Pinellas County Land Development Code.

The petitioners are constructing a new home at this location. The granting of a certificate of occupancy for the new home is conditioned on the removal of existing right-of-way encroachments on 9th Street and Illinois Avenue. Even if the petition is granted the Illinois Avenue encroachments would not have to be removed to obtain the certificate of occupancy; however, the 9th Street encroachments will have to be removed regardless. County staff have previously noticed the

petitioners to remove the right-of-way encroachments.

Letters of no objection were received from Duke Energy, Pinellas County Utilities, Frontier, TECO Electric, TECO Gas and WOW! Bright House requested that the applicant be aware that if the possibility of relocation occurs, the relocation will be at the expense of the Petitioner.

The petition was properly advertised in accordance with §336, Florida State Statutes. Pursuant to the Real Property Division Procedures, notice was mailed by the Clerk of the Court to property owners within two hundred feet of the subject property and two yard signs were placed on the property. The Deputy Clerk will report to the Board any citizen support or opposition.

**Fiscal Impact:**

\$750.00 has been received for this request.

**Staff Member Responsible:**

Andrew W. Pupke, Division Director, Administrative Services  
Blake Lyon, Director, Building Development and Review Services  
Kelli Levy, Director, Public Works

**Partners:**

N/A

**Attachments:**

Resolution  
Exhibit A-B  
Waiver of Road Frontage Requirement  
Location Map  
Advertising Packet  
Petitioner Application