



# Pinellas County

## Legislation Details (With Text)

**File #:** 20-2097A **Version:** 1  
**Type:** Petition to Vacate **Status:** Failed  
**File created:** 11/4/2020 **In control:** Board of County Commissioners  
**On agenda:** 1/26/2021 **Final action:** 1/26/2021  
**Title:** 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, lying in Section 2-28-15, Pinellas County, Florida. (Legislative Hearing)

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Resolution\_aatf.pdf, 2. Resolution, 3. Exhibit A, 4. Exhibit B, 5. Location Map, 6. Petitioner Application, 7. Advertising Packet, 8. Petition to Vacate Muller Presentation, 9. First Notification Letter to Affected Property Owners, 10. Electronic Affidavit of Publication, 11. Affidavit of Publication, 12. (Todd Pressman) Muller- Presentation, 13. Public Comment from Michael Purdy, 14. Public Comment from Martin Del Monte, 15. Public Comment from Mike Short, 16. Late Public Comment from Dan Foreit, 17. Correspondence Returned Unclaimed, 18. Correspondence Recieved #39, 19. Comment Cards Submitted #39

Date	Ver.	Action By	Action	Result
1/26/2021	1	Board of County Commissioners	denied	Pass

### 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, 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.
- The vacation of the 80-foot wide right-of-way would allow the petitioners to increase their property size with the expectation of retaining their improvements that were constructed in the right-of-way without proper approvals. However, if vacated the County would be requesting a drainage and utility easement over the entire 80-foot wide right-of-way which would necessitate eventual removal of the improvements.
- Consistent with County Code Sec. 154-272, County staff recommend denial of the vacation of the 80-foot-wide Illinois Avenue right-of-way, based upon the following objections:
  - 1.) The right-of-way provides public access to the Pinellas Trail.
  - 2.) 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. Complaints have been

filed with the County regarding the flooding.

- 3.) 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.
- 4.) 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.
  - Utilities has significant infrastructure within the right of way, including water, sewer and reclaimed water.
  - 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 existing utility infrastructure and planned stormwater improvements. Further, if vacated, County staff recommend improvements to an alternative trail access to be permitted and constructed by the petitioners.
  - County staff notified the petitioners in 2008 to remove the right-of-way encroachments on 9<sup>th</sup> Street.
  - Staff requests removal of all encroachments in the 9<sup>th</sup> Street right-of-way.
  - Staff requests to require a bond for the removal of all encroachments in the Illinois Avenue right-of-way.

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 petitioners request the vacation of an 80-foot-wide right-of-way lying between the petitioners' property and adjacent properties to the north. The petitioners desire to increase the size of their property and to retain unpermitted improvements made on the County right-of-way. County staff objects to the vacation of the eighty (80) foot wide right-of-way which contains a significant amount of public and private infrastructure and is needed for future stormwater improvements. The recommendation of denial is consistent with County Code Section 154-272.

### **Background Information:**

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

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

If vacated, the County has requested retainage of a drainage and utility easement over the vacated eighty (80) foot wide right-of-way. Pinellas County Utilities has water, sewer, and reclaimed water facilities within the proposed vacation area.

The eighty (80) 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 Public Works Storm Water Technical Committee has reviewed the area, prioritized the project and will construct drainage improvements to benefit the area in the future. Due to the extensive utility encumbrances on the north side of the right-of-way, the south side is needed to accomplish the necessary improvements.

The petitioners have significantly encroached into the south side of the eighty (80) foot wide right-of-way with improvements to their property including a significant amount of fill, 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 drainage and utility 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 eighty (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. The removal of the right-of-way encroachments on 9th Street is primarily for safety and liability concerns and must be removed regardless of the decision for the petition to vacate. The right-of-way encroachments in Illinois Avenue must be removed to accommodate the drainage needs; however, because the County does not have a Capital Improvement Project (CIP) programmed at this time, should the petition to vacate request be denied, the property owner would be given the opportunity to bond for the removal of the improvements through a Right-of-Way Utilization Permit (RUP). This vehicle would allow for the temporary retention of the improvements in the Illinois right-of-way while a CIP project is being established. The RUP and associated bond would also provide the County with the assurance that the improvements will be removed, and thereby allow the County to release the Certificate of Occupancy upon completion of the home.

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 Hammer Levy, Director, Public Works  
Joe Lauro, Director, Administrative Services

**Partners:**

N/A

**Attachments:**

Resolution  
Exhibit A  
Exhibit B  
Location Map  
Advertising Packet  
Petitioner Application