


COUNTY OF YORK

MEMORANDUM

DATE: November 5, 2019 (BOS Mtg. 11/19/19)

TO: York County Board of Supervisors

FROM: Neil A. Morgan, County Administrator 

SUBJECT: Vacation of Platted but Unimproved Street Rights-of-Way and Conveyance of the Property to Adjoining Landowners – Cromwell Lane and Seaford Road

ISSUE

The County has received two requests for vacation of unimproved public street rights-of-way that were platted and dedicated to the County many years ago but were never developed as public streets. These are described as follows:

- In 1953, a five-lot subdivision was established along what was then Crab Neck Road and is now Seaford Road. The subdivision plat depicts a fifty-foot (50') wide unnamed road right-of-way extending north from Crab Neck Road; a subsequent subdivision plat shortened the right-of-way to its current length of approximately 430 feet. The adjacent parcel to the north is a 580-acre parcel that was donated to The Nature Conservancy by BP Amoco in 2006 for conservation purposes. The right-of-way is unimproved, and the property owner who owns the parcels on both sides (509 and 601 Seaford Road) has requested the County to vacate the right-of-way, which has an area of 0.49 acre, and convey it to him.
- Cromwell Lane in the Queens Creek Estates subdivision was platted as a 50-foot wide right-of-way reserved for a future street extending northward from Wellington Drive. This subdivision of single-family detached homes was essentially completed in the late 1990s and the road was never built. The adjacent property to the north was subsequently developed as the Vineyard Heights subdivision in such a manner as to make a street connection between the two developments impossible. Given that this right-of-way no longer serves any purpose for the County, the property owners on each side (108 and 112 Wellington Drive) have approached the County to request that the right-of-way be vacated and the land, which has an area of 0.41, divided between them as shown on the proposed Boundary Line Adjustment plat.

CONSIDERATIONS/CONCLUSIONS

1. Pursuant to Section 15.2-2006 of the *Code of Virginia*, a public right-of-way that has not been accepted into the state secondary road system by VDOT can be vacated on motion of the governing body or on application of any person following a

duly advertised public hearing. The state code further specifies that the cost of publishing the notice shall be taxed to the applicant.

2. Section 15.2-2241 of the *Code of Virginia* mandates that local subdivision ordinances contain provisions for the “coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area” and “with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions.” In accordance with this requirement, Section 20.5-92 of the Subdivision Ordinance states that “all proposed streets shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision or within existing or future adjacent subdivisions as to location, width, grades, and drainage” and that “adequate rights-of-way [be] platted and dedicated for public use to the boundary line(s) of the subdivision which will afford desirable and safe street access to adjoining properties when such properties are of a compatible land use designation.”

Although requiring street interconnections between adjacent subdivisions has been the norm in York County and has also been a key element of VDOT’s Secondary Street Acceptance Requirements since 2009, in the case of these two stub street rights-of-way, the adjacent property has no subdivision development potential. As previously noted, the Cromwell Lane right-of-way extends to property that has already been developed as the Vineyard Heights subdivision with no possibility of street interconnection, while the Seaford Road right-of-way extends to property owned by The Nature Conservancy that is zoned Resource Conservation and by deed restriction is specifically prohibited from being used for residential purposes. That being the case, both rights-of-way can be thought of as obsolete “paper streets” that have no potential for serving the transportation purpose for which they were intended.

3. Section 15.2-2008 of the *Code of Virginia* stipulates that when a public street right-of-way is vacated, the locality may require the fractional portion of the right-of-way to be purchased by any abutting property owner at a price no greater than the property's fair market value or its contributory value to the abutting property, whichever is greater, or an amount agreed to by the parties. In this case, given that both rights-of-way are obsolete and basically of no value to the County and that the property owners will incur all of the costs associated with the conveyance of these properties, including the costs of advertising the public hearing and preparing and recording the Boundary Line Adjustment plats that will be required (which, in the case of Cromwell Lane, has already been prepared at the property owners’ expense), I believe a nominal sale price of one dollar (\$1.00) is appropriate for the Seaford Road right-of-way, which involves a single property owner, and two dollars (\$2.00) for the Cromwell Lane right-of-way (one dollar for each of the two property owners involved).

RECOMMENDATION

Given the state code and Subdivision Ordinance provisions requiring and promoting the coordination of street systems and the advantages of street connectivity, staff has always advocated coordination and interconnection of street systems in adjoining developments. In these two cases, however, there is no potential for such street interconnections, and I see no reason not to return these obsolete “paper streets” to the tax rolls by vacating the rights-of-way and conveying them to the adjoining property owners.

This can be accomplished through the adoption of proposed Ordinance No. 19-14 (to vacate the Seaford Road right-of-way) and proposed Resolution R19-137 (to authorize conveyance of the former right-of-way to the adjacent property owner on both sides, James Dygert), and the adoption of proposed Ordinance No. 19-15 (to vacate the Cromwell Lane right-of-way) and proposed Resolution R19-138 (to authorize conveyance of the former right-of-way to the adjacent property owners, Nathaniel Parker et ux and Edward Road et ux. The conveyance authorizations would be conditioned on the preparation of a Boundary Line Adjustment plats (at the expense of the requestors) and nominal compensation to the County.

Cross/3496

Attachments:

- Seaford Road Exhibit
- Plat of the Property of Frederick J. Riggins & Mary H. Riggins
- Cromwell Lane Exhibit
- Plat of Queens Creek Estates, Section 1
- Proposed Cromwell Lane Boundary Line Adjustment Plat
- Proposed Ordinance No. 19-14 (vacation of Seaford Road right-of-way)
- Proposed Ordinance No. 19-15 (vacation of Cromwell Lane right-of-way)
- Proposed Resolution R19-137 (conveyance of Seaford Road property)
- Proposed Resolution R19-140 (conveyance of Cromwell Lane property)