



**TOWN OF PALMER LAKE
BOARD OF TRUSTEES - AGENDA MEMO**

DATE: January 25, 2024	ITEM NO.	SUBJECT: Ord/Res to Vacate Petite Ave Right of Way (Akers)
Presented by: Town Administrator		

Background

Mr/s Akers request that the undeveloped right of way (ROW), Petite Ave, be vacated. The applicant currently uses the ROW as a driveway (with a former agreement in place) and Akers' have maintained the drive area.

A hearing was held at the January Planning Commission meeting. There were some landowners who were opposed to the request. The abutting property owners were supportive of the requested vacation. The minutes are enclosed, and the motion was to deny the request, as follows:

Consider Application to Vacate Undeveloped Right of Way (Petite Ave). Discussion ensued among members about possible development and limited access. MOTION (Bruce, Caves) to recommend that the Board not approve the request to vacate Petite ROW. Motion passed 5-1 (Zapalac), 1 abstain (Fisher). This recommendation will go to the Board of Trustees.

Per legal review by Krob Law - one item to note, is that a vacated ROW cannot go to an adjacent street and where there are property owners on both sides of the ROW, it is split between. In looking at the ROW Vacation Exhibit, my initial impression is that part of the ROW would be split between adjacent property owners, but the part that is adjacent to Verano Avenue would all go to the property owner to the North. Under these factual circumstances, they would probably need to have a surveyor put together a graphic that illustrates where the ROW goes, if the BOT approves the vacation, based on Section 43-2-302, C.R.S. If the BOT is inclined to approve vacating the ROW, the applicant would need to provide a survey showing how the vacated ROW would attach to adjacent property before the ordinance and exhibits are recorded. Also, I don't know whether there are any utilities in the ROW, but the statute specifically authorizes the Town to reserve an easement across the vacated ROW to allow those utilities to remain. I have added language to do that, but if there are no utilities then that language should be stricken.

Recommended Action

After a staff review, staff is not in support of this vacation primarily because it limits access to already difficult to access areas beyond this undeveloped right of way. Staff cannot identify a substantial benefit for the town to vacate Petite Ave.

Depending on the decision of the Board, enclosed is an Ordinance if the vacation request is approved and a Resolution if the request is denied by the Board.