

# HILLIARD TOWN COUNCIL MEETING

Hilliard Town Hall / Council Chambers  
15859 West County Road 108  
Post Office Box 249  
Hilliard, FL 32046

## TOWN COUNCIL MEMBERS

Floyd L. Vanzant, Mayor  
John P. Beasley, Council President  
Kenny Sims, Council Pro Tem  
Lee Pickett, Councilman  
Jared Wollitz, Councilman  
Callie Kay Bishop, Councilwoman

## ADMINISTRATIVE STAFF

Lisa Purvis, Town Clerk  
Richie Rowe, Public Works Director  
Gabe Whittenburg, Parks & Rec Director

## TOWN ATTORNEY

Christian Waugh

# HILLIARD PLANNING AND ZONING BOARD MEETING

## BOARD MEMBERS

Harold "Skip" Frey, Chair  
Wendy Prather, Vice Chair  
Charles A. Reed, Board Member  
Josetta Lawson, Board Member  
Lee Anne Wollitz, Board Member

## ADMINISTRATIVE STAFF

Janis Fleet, AICP  
Land Use Administrator

## PLANNING AND ZONING ATTORNEY

Mary Norberg

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## AGENDA

THURSDAY, OCTOBER 06, 2022, 6:00 PM

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### CALL TO ORDER

### PRAYER & PLEDGE OF ALLEGIANCE

### ROLL CALL

### WORKSHOP

#### ITEM-1

Town Council to establish a Process to Close, Abandon, or Vacate; Streets, Alleys, Easements, or Right of Ways, within the Town of Hilliard.

***Christian Waugh - Town Attorney***

***Janis K. Fleet, AICP - Land Use Administrator***

### ADDITIONAL COMMENTS

### ADJOURNMENT

### ADA NOTICE

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the Town Clerk's Office at (904) 845-3555 at least seventy-two hours in advance to request such accommodations.

### PUBLIC PARTICIPATION

Pursuant to Section 286.0114, Florida Statutes, effective October 1, 2013, the public is invited to speak on any "proposition" before a board, commission, council, or appointed committee takes official action regardless of whether the issue is on the Agenda. Certain exemptions for

emergencies, ministerial acts, etc. apply. This public participation does not affect the right of a person to be heard as otherwise provided by law.

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**WAUGH GRANT PLLC**  
ATTORNEYS AT LAW

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GERRARD GRANT\*  
CHRISTIAN W. WAUGH^  
MORGAN FAYOCAVITZ  
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\*BOARD CERTIFIED IN TAX LAW  
^BOARD CERTIFIED IN REAL ESTATE LAW

June 3, 2021

**Via Email**

Hilliard Town Council

RE: Vacating an Alley, Right-of-Way, or Street

Dear Town Council,

Recently, a controversy has arisen regarding the method by which the Town may vacate an alley, right-of-way, or street. There are several aspects to this controversy and different stakeholders have different opinions. However, I have been asked to present options to the Town Council for vacating alleys, in particular, and I wanted to discuss them with you.

**I. Introduction**

By the terms of the Town Charter, the Town Council may deal with its property as it deems fit, so long as it is in the public interest. *See* Section 3.01, Town Charter. However, there are no regulations, laws, or procedures defined in our Town Code for how to accomplish that. That does not mean it cannot be done. You clearly have the power. The question is just a matter of how.

**II. Town Council or Planning & Zoning**

And the first thing that needs to be resolved when figuring out *how* is: by which board? The Town Council or Planning & Zoning? The Planning & Zoning Board's powers and duties are described in §62-93 of the Town Code:

- (1) *Review and recommend changes in the town's comprehensive plan.*
- (2) *Coordinate planned development with adjacent municipalities and the county.*
- (3) *Review and make recommendations on petitions for changes in zoning classifications, amendments and district boundary changes.*
- (4) *Review and approve requests for special exceptions.*
- (5) *Review and approve site plans for all proposed zoning changes for multifamily, mobile home parks, mobile home subdivisions, commercial and industrial development and*

Orlando office  
201 E. Pine Street, Ste. 315  
Orlando, FL 32801  
(Primary Office)

Miami office  
2828 Coral Way, Ste. 201  
Miami, FL 33145  
(By Appointment Only)

The Villages office  
561 Fieldcrest Drive  
The Villages, FL 32162  
(By Appointment Only)

*Brief Memo to the Town Council re: Vacating Rights of Way, Alleys, Etc.  
June 3, 2021*

*redevelopment and planned unit developments and all special exceptions.*

*(6) Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the land use administrator in the enforcement of this chapter.*

*(7) Authorize upon appeal such variances from the terms of this chapter which will not be contrary to the public interest when, due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship upon the owner of the subject property or structure or the applicant for the variance.*

*(8) Recommend to the town council the removal of the land use administrator for noncompliance with or nonenforcement of the land development regulations.*

As you can see, all of these have to do with zoning, special exceptions, variances, and other matters contained within the land development code. They very specifically do not have anything to do with vacating alleys or streets.

This should not be too surprising. Most cities and counties do not delegate this duty to another board, though many will allow the Planning & Zoning Board to make a recommendation. Regardless, as it stands in the Town of Hilliard, this duty resides with the Town Council.

### **III. Ordinance or Resolution**

As you know, the Town Council primarily acts by way of ordinance or resolution. As the Town Clerk pointed out at the last Planning & Zoning Board meeting, there are certain important acts that can *only* be performed by ordinance. Those are listed in Section 4.11 of your Town Charter as well:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any Town department;*
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;*
- (3) Levy taxes;*
- (4) Grant, renew or extend a franchise;*
- (5) Regulate the rate charged for its services by a public utility;*
- (6) Authorize the borrowing of money;*
- (7) Convey or lease or authorize the conveyance or lease of any lands of the Town;*
- (8) Regulate land use and development;*

*Brief Memo to the Town Council re: Vacating Rights of Way, Alleys, Etc.  
June 3, 2021*

- (9) *Amend or repeal any ordinance previously adopted; and*
- (10) *[Adopt an] annual budget.*

Again, you do not find vacating public roads, alleys, etc. in this list. Conveying, leasing, or authorizing the same is simply a different action. Neither does this action regulate land use in any way because it does not relate to the uses of anyone's property or what can be developed on a piece of property.

The next sentence is instructive: "Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution."

Thus, if the Town Council decides, it may vacate an alley either by ordinance *or* resolution.

#### **IV. Weighing the Options**

Again, this is not surprising. Florida Statutes permit counties to do this by resolution and some cities permit this as well, though just as many seem to require ordinances. And just because a Town *may* do a thing does not mean that the Town *must* do a thing.

A resolution would be faster, but the ordinance process slows the process down and ensures that the Town is sure of what is doing before going on. But if the Town does pursue an ordinance, the following would still be required:

1. A survey in order to provide the legal description for the portion of alley, street, etc. to be vacated.
2. Notice to any surrounding or potentially affected property owner.
3. A public hearing regarding the resolution so that people who are affected could oppose it.
4. A determination by the Town that vacating the road or alley is in the public interest and beneficial to the Town of Hilliard.
5. Based on your input and comments of others before, I think we would need to have a utility easement agreement approved in the same resolution, executed, and recorded as a contingency of the vacation.

#### **V. Plan of Action**

If you believe that this is something we need to consider for any pending vacation items, then I will be prepared to discuss the necessary plan of action. We would, theoretically, be able to complete this process no later than the second meeting of July, allowing for sufficient notice and a public hearing at that time.

*Brief Memo to the Town Council re: Vacating Rights of Way, Alleys, Etc.  
June 3, 2021*

However, it is my recommendation that an ordinance be prepared to implement a process for the Town in order to consider these types of requests in the future. It may be a good idea to set a workshop for all stakeholders to have input on the best method, including the P&Z Board and the Land Use Administrator, as they may be involved in making a recommendation.

There are other reasons that we need a workshop: there needs to be substantial discussion about the fees involved because giving up rights-of-way, alleys, etc. involves a loss to the Town. But it is important to give all potential members of the public this same opportunity and to create a standardized method and policy for how this is achieved. For example, will the Town always require retaining a utility easement?

I will be prepared to discuss this with you tonight and I apologize for the late notice, but this is all a late-breaking matter.

Regards,

*Christian W. Waugh*

cc: Town Clerk  
Land Use Administrator



Item ITEM-1

**FOR OFFICE USE ONLY**

File # \_\_\_\_\_

Application Fee: \_\_\_\_\_

Filing Date: \_\_\_\_\_ Acceptance Date: \_\_\_\_\_

**Town of Hilliard**  
**Application to Close, Abandon, or Vacate**  
**Street, Alley, Easement, or Right of Way**

**A. PROPOSED CLOSING, ABANDONING, OR VACATON**

1. Street, Alley, Right of Way Name to be closed, vacated, or abandoned: \_\_\_\_\_

2. Legal Description: \_\_\_\_\_

3. Parcel ID Number(s) and/or Adjoining Parcel ID Number(s): \_\_\_\_\_

4. Acreage of closure, abandonment, or vacation: \_\_\_\_\_

**B. APPLICANT**

1. Applicant's Status  Owner (title holder)  Agent

2. Name of Applicant(s) or Contact Person(s): \_\_\_\_\_  
Title: \_\_\_\_\_

Company (if applicable): \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ FAX: (\_\_\_\_) \_\_\_\_\_ e-mail: \_\_\_\_\_

3. If the applicant is agent for the property owner\*:

Name of Owner (title holder): \_\_\_\_\_

Company (if applicable): \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ FAX: (\_\_\_\_) \_\_\_\_\_ e-mail: \_\_\_\_\_

\* Must provide executed Property Owner Affidavit authorizing the agent to act on behalf of the property owner.

**C. STATEMENT OF PROPOSED CLOSING, ABANDONING, OR VACATON SOUGHT**

Item ITEM-1

1. Reason for Request: \_\_\_\_\_  
\_\_\_\_\_

2. How was the street / alley / easement / right-of-way established? \_\_\_\_\_

Subdivision Plat Book No: \_\_\_\_\_ Page No. \_\_\_\_\_

Plat Name: \_\_\_\_\_

Official Records Book No: \_\_\_\_\_ Page No. \_\_\_\_\_

Other: \_\_\_\_\_

3. Do you propose to close, abandon, or vacate the entirety of a street, easement, alley, or right-of-way, or only a portion? If a portion, please attach a survey of the portion that you desire the Town to close, abandon, or vacate.:

\_\_\_\_\_  
\_\_\_\_\_

4. Do public facilities now occupy area to be closed, vacated, or abandoned? If yes, you must provide a current certified survey showing all existing conditions, including locations, and elevations of both open ditches and swales, and subsurface drainage facilities.

5. What is the Purpose of the Easement?

- \_\_\_\_\_ Drainage
- \_\_\_\_\_ Utility
- \_\_\_\_\_ All Utilities
- \_\_\_\_\_ Others – please specify \_\_\_\_\_

6. What are the dimensions of the Easement? \_\_\_\_\_

7. Is there an existing encroachment? \_\_\_\_\_

- \_\_\_\_\_ Building
- \_\_\_\_\_ Pool
- \_\_\_\_\_ Other

8. Is there a building or mobile home encroachment is involved? If so, the survey is to also show ties from the right-of-way and/or easement lines to the footing, building wall, and edge of eaves.

\_\_\_\_\_

9. Is a swimming pool encroachment is involved? If so, the survey is to show complete locations and pertinent elevations of the pool and its appurtenances.

\_\_\_\_\_

**D. ATTACHMENTS (One hard copy or one copy in PDF format)**

1. Legal description



2. Survey

3. List of property owners by name and address who own property abutting the street, alley, easement, or right-of-way, or portion thereof, to be abandoned, closed, or vacated.

4. List of abutting property owners (with addresses).

5. Copy of executed Adjacent Property Owner

6. Acknowledgement Letter(s) from each abutting property owner.

7. Location Map clearly identifying the location of the proposed closure.

**E. FEES**

1. Right of Way (streets or alley) - \$2,000 per right of way and Easement - \$1,000

a. The Cost of postage, signs, advertisements, and outside consultants are in addition to the application fee.

b. The applicant is responsible to pay the cost of the advertisement and signs.

c. All applications must pay the cost of any outside consultants' fees.

No application shall be accepted for processing until the required application fee is paid in full by the applicant. Any fees for advertising, signs, necessary technical review or additional reviews of the application by a consultant will be billed to the applicant at the rate of the reviewing entity. The invoice shall be paid in full prior to any action of any kind on the development application.

**All attachments are required for a complete application. A completeness review of the application will be conducted within fourteen (14) business days of receipt. If the application is determined to be incomplete, the application will be returned to the applicant.**

**The Town reserves the right to retain a utility easement where the alley or roadway is located and grant the Town all necessary rights in such utility easement as it may require.**

**I/We certify and acknowledge that the information contained herein is true and correct to the best of my/our knowledge:**

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Co-applicant

\_\_\_\_\_  
Typed or printed name and title of applicant

\_\_\_\_\_  
Typed or printed name of co-applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing application is acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,

by \_\_\_\_\_, who is/are personally known to me, or who has/have produced

\_\_\_\_\_ as identification.

NOTARY SEAL

\_\_\_\_\_  
Signature of Notary Public, State of \_\_\_\_\_

Town of Hilliard ♦ 15859 West CR 108 ♦ Hilliard, FL 32046 ♦ (904) 845-3555

Abutting Property Owner Acknowledgement Template

DATE: \_\_\_\_\_

Name: \_\_\_\_\_ (Abutting Owner)

Address: \_\_\_\_\_

RE: NOTICE TO ABUTTING OWNER OF REQUEST TO CLOSE  
(R/W being Closed)

Dear Mr/Ms \_\_\_\_\_ (Abutting Owner) \_\_\_\_\_:

The Town of Hilliard is processing a request to close a right-of-way commonly known as \_\_\_\_\_ abutting your property. I am seeking your written approval of this closure request so I may provide confirmation to the Town. I intend to use the closed property for \_\_\_\_\_.

If the closure is approved, a portion of the closed right-of-way adjacent to your property may become your private property. This may result in an increase in your property taxes as to be determined by the Property Appraiser's Office after the closure is complete. The area I'm seeking to close is delineated on a map attached for your reference. If you agree/approve the closure request, please sign the acknowledgement and approval of the closure request below and return to me at \_\_\_\_\_.

If you wish to speak with someone from the Town of Hilliard concerning this closure request, you may call the \_\_\_\_\_ at \_\_\_\_\_ and ask for \_\_\_\_\_.

Your prompt response is greatly appreciated.

Sincerely,

I ACKNOWLEDGE RECEIPT OF THE ABOVE LETTER AND AGREE TO THE REQUEST FOR CLOSURE OF THE RIGHT OF WAY DESCRIBED HEREIN:

(Sign): \_\_\_\_\_

(Print Name): \_\_\_\_\_

RESOLUTION NO. 2022-05

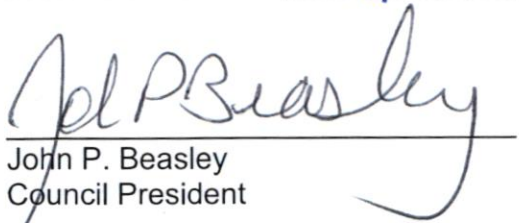
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA, A MUNICIPAL CORPORATION AMENDING RESOLUTION NO. 2020-06, ADDING A DEPOSIT TO APPLICATIONS THAT REQUIRE CONSULTANT REVIEW TO THE SCHEDULE OF FEES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Hilliard desires to amend its schedule of fees in accordance with Section 62-34 of the Hilliard Town Code; and

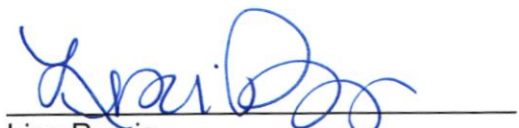
WHEREAS, the Town of Hilliard has found it necessary to add a refundable deposit to all applications associated with land development which require consultant review; and

NOW THEREFORE BE IT RESOLVED, that the Town of Hilliard has added an application deposit to those applications requiring consultant review to its zoning and land use fees as an attachment to this Resolution.

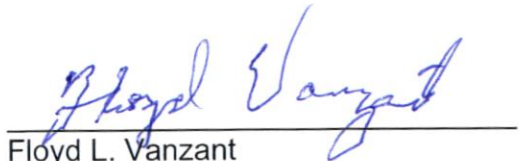
THIS RESOLUTION adopted this 7<sup>th</sup>, day of April, 2022 by the Town Council of the Town of Hilliard, Florida, and shall become effective on April 7, 2022.

  
John P. Beasley  
Council President

ATTEST:

  
Lisa Purvis  
Town Clerk

APPROVED:

  
Floyd L. Vanzant  
Mayor

ATTACHMENT  
TOWN OF HILLIARD  
RESOLUTION NO. 2022-05  
LAND DEVELOPMENT REGULATIONS FEES

APPLICATION TYPE	FEES
Rezoning - Conventional	\$1,000
Rezoning PUD - Residential	\$2,500 plus \$20 per acre
Rezoning PUD - Non-Residential	\$2,500 plus \$20 per acre
Rezoning PUD - Mixed Use (Fee Based on 1/2 Res. & 1/2 Com.)	\$2,500 plus \$20 per acre
PUD - Minor Deviation/Amendment	\$1250 plus \$20 per acre
PUD - Major Deviation	\$1,250 plus \$20 per acre
Special Exception - Residential	\$300
Special Exception - Non-Residential	\$500
Variance - Residential	\$300
Variance - Non -Residential	\$500
Appeals	\$300
Extension Request	1/2 original filing fee
Concurrency	\$300
Annexation	\$500 plus \$20 per acre
Temporary Use/ Special Event	\$50
Comprehensive Plan - Small Scale Amendment <10 acres	\$1,000
Comprehensive Plan - Large Scale Amendment >10 acres	\$1,500 plus \$20 per acre
Comprehensive Plan - Text Amendment	\$1,500
*Change of Use Zoning Review	\$25
Preliminary Plat - Minor < 5 lots	\$300
Preliminary Plat - Major > 5 lots	\$500 plus \$20 per lot
Site Plan Review	<10,00 s.f. - \$200 >10,000 s.f \$1,000 plus \$20 per acre
Final Plat - Minor < 5 lots	\$300
Final Plat - Major > 5 lots	\$500 plus \$20 per lot
Replat - Minor < 5 lots	\$300
Replat - Major > 5 lots	\$500 plus \$20 per lot
Land Use Approval of Alcohol License	\$25
Lot Split/Reconfiguration	\$100
LDR Interpretation	\$25
Letter to Verify Land Use or Zoning	\$25
Site Clearing/Site Work (Horizontal construction only)	\$100 plus \$20 per acre
Consultant Review	Cost plus 10% <b>(Plus \$1,000 Deposit to Application Fee)</b>
Lien Research	\$25
Home Occupation	\$50
Street/Right-of-Way Vacation/Abandonment	\$200
Address	\$10
Sign Review Fee \$0 - \$100	\$60
Sign Review Fee \$100 - \$500	\$70
Sign Review Fee \$500 - \$1,000	\$80
Sign Review Fee \$1,000 + (plus \$5 for each \$1,000 valuation)	\$80
<b>The cost of postage ,letters, signs, advertisements and consultants are in addition to the application fee.</b>	
<b>*Charged by and inspected by zoning, building and fire.</b>	
Land Use Permit Review Fee - Res/Multi/MH/Comm	\$63
Land Use Permit Review Fee - Accessory Structure	\$25