

Right-of-Way Dedications/Reservations

Current Process Requires Dedications by Private Property Owners to
Subdivide Their Property



Legislative Efforts to Date

Individual Surveyor – 2017

Tennessee Association of Professional Surveyors (TAPS) – 2020

TAPS - 2021



TACIR

Originally Scheduled – 2020 (COVID)

Excited to Present – 2021

It is our understanding that TACIR will aid in presenting factual information to Legislators for their Consideration of Pending Legislation.



Important for you to Know

TAPS as an Association, nor Land Surveyors Individually will Benefit in any way any more than the General Public if the Proposed Legislation Becomes Law!

This is Property Rights Legislation!



Current Practice as it Stands Today

Any Subdivision of Property, Regardless of the Size (2 Lots or 300 Lots) Requires that the Property Owner Dedicate a Portion of Their Property that Lies Adjacent to Existing Roadways to the Local Municipality per the Respective Planning Bodies' Major Road Plan.



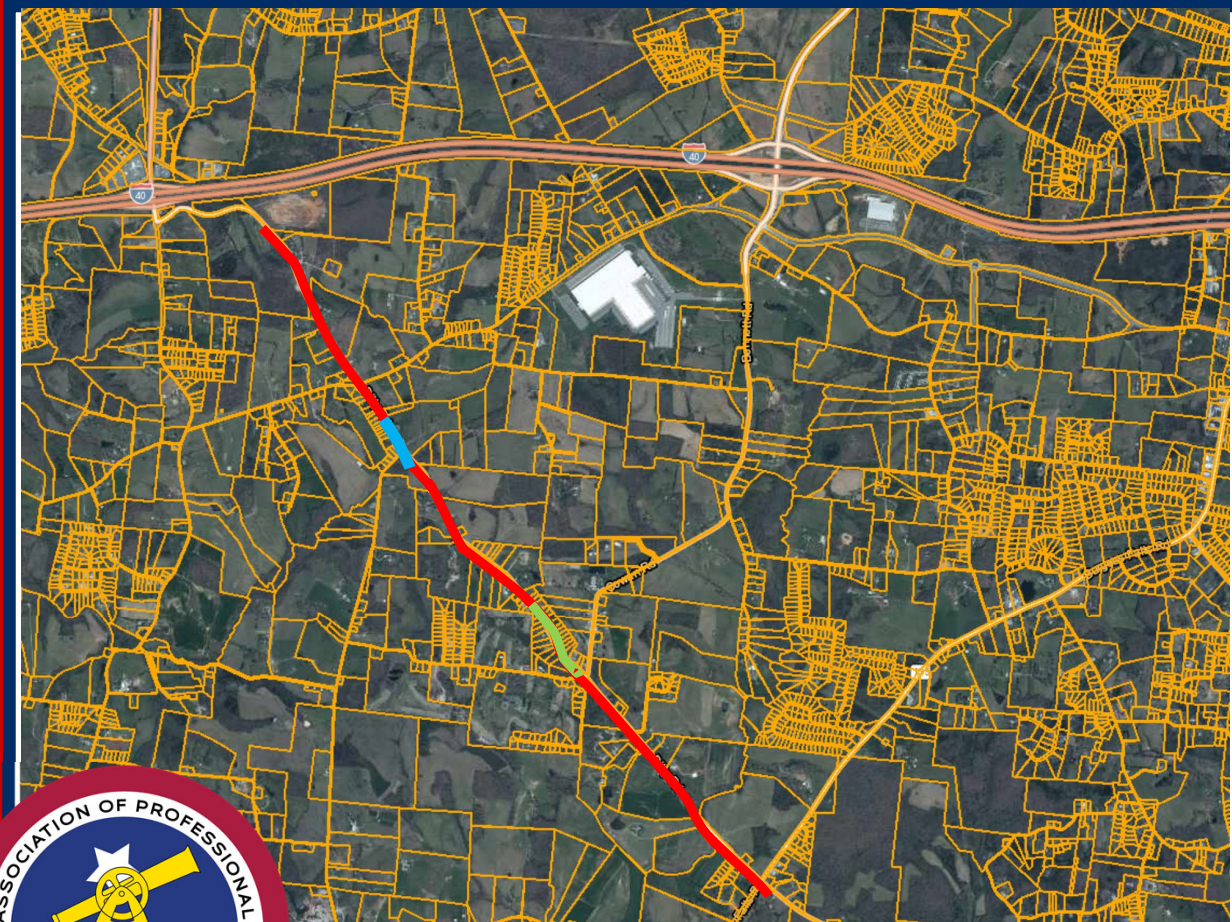


New
Property Corner

Required Dedication

"Axle"
Original Corner





3.7 Miles @ 40 R.O.W.

0.39 Miles @ 50 R.O.W.

0.31 Miles @ 60 R.O.W.

Source:

Putnam Co. Road Inventory

Register of Deeds Putnam Co.

Plat Cabinet F Slide 182B

Plat Cabinet H Slide 28B



Unconstitutional National Level and State Level

5th Amendment of the US Constitution
Article I Section 21 of the Tennessee State Constitution



We the People

of the United States, in
insure domestic Tranquility, provide for the common defence, preserve to the general We
stitution

Fifth Amendment To the U. S. Constitution

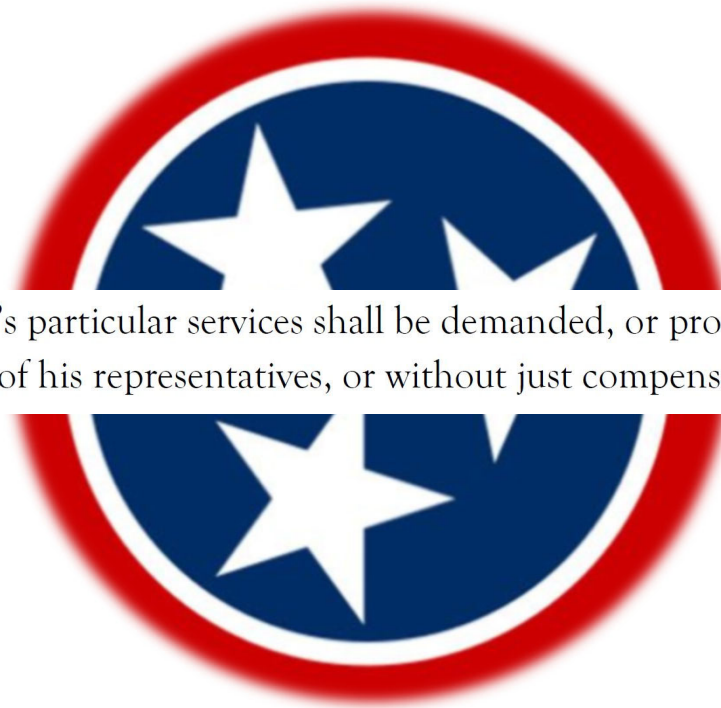
No person shall...be deprived of life, liberty, or
property, without due process of law; nor shall
private property be taken for public use,
without just compensation.



CONSTITUTION OF THE
STATE OF TENNESSEE
ADOPTED IN CONVENTION
AT NASHVILLE,
FEBRUARY 23RD A.D. 1870.

PREAMBLE AND
DECLARATION OF RIGHTS.

Section 21. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefore.



Planning Authorities Take the Position that Getting the Subdivision of Property Approved Is Compensation

Is This Really Compensation???

Presents More as Extortion



Current Practice is Fiscally Irresponsible

Gross Land Areas have Already Been and are Being Taken Off the
Property Tax Roles!

This Tax Base is Never Recovered, while the Benefit of the Dedicated
Rights-of-Way are Rarely Utilized.



Tennessee's 95 Counties

Approximately 15 can be Represented as Counties of Significant Growth
80 Counties Rural, with Minimal Growth



15 Counties of Significant Growth

Only these Counties, and not all of them, Perform Major Road Improvements that Require Property Acquisitions.

These are the only Counties that Benefit by the Current Process, and their Benefit is Minimal.



Knox County

My County of Residence – I have met Extensively with the Knox County Director of Engineering & Public Works concerning the Proposed Legislation. He Represents that the Current Process of Dedications is Minimally Helpful. (It Aids in <5% of the Property Acquisitions)

When Performing a Roadway Project that Requires Property Acquisitions – He Still is Faced with Purchasing Over 95% of the Properties Required.

He is Not Opposed to our Proposed Legislation.



Blount County A Significant County of Growth

My Discussions with the Highway Superintendent of Blount County, reveals that he has Never Purchased Right-of-Way for any Roadway Improvements. Yet, he has been led to believe that the Current Process is why he doesn't have to Purchase Property for his Road Improvement Projects.

Simply Not True – Refer to Tax Map



80 Rural Counties

These Counties, along with some of the Significant Growth Counties, do well to Maintain Their Existing Roadways and Never, or Rarely in the Case of the Significant Growth Counties, Perform Roadway Projects that Involve Right-of-Way Acquisitions. They Simply Maintain the Roadways within the Existing Rights-of-Way.

They only perform Right-of-Way Acquisitions when state or federal grant money is funding the project. WHY? Because they have to because they have to do it within the law. The current practice is Unconstitutional.

See TN Supreme Court case MACK PHILLIPS et al v. Montgomery County, Tennessee et al, February 5, 2014 Session 1.



80 Rural Counties

I have Learned that many of the Rural Counties Highway Departments Receive a Portion of their Operating Capital from Property Tax Revenue.

The Current Practice of Right-of-Way Dedications is Actually Cutting into Their Operating Budgets!



Our Proposed Legislation

Simply Allows the Private Property Owner to Choose Between
Dedicating the Property or Creating a Reservation upon the Property

Restricting Improvements Beyond Parking Areas.

(No Building Construction)



Property Owner Chooses Dedication

There is no change to the current process.



Property Owner Chooses Reservation Process

The Property in Question will be Clearly Identified as Being Reserved for Potential Future Roadway Improvements. Improvements within this Area will be Limited to Minimal Improvements, thereby Ensuring the Cost of Acquisition if Needed will be Minimal.



Concerns with Proposed Legislation

Opponents to the Proposed Legislation Contend that it will Introduce More Eminent Domain Claims Involving Litigation. We Contend that the Opposite is True. By our Clearly Identifying the Property as a Reservation for Future Right-of-Way, the Property Owners will be Placed on Notice of Same. Therefore, any Acquisitions of Properties in these Areas will be made with Full Knowledge of Potential Right-of-Way Needs.

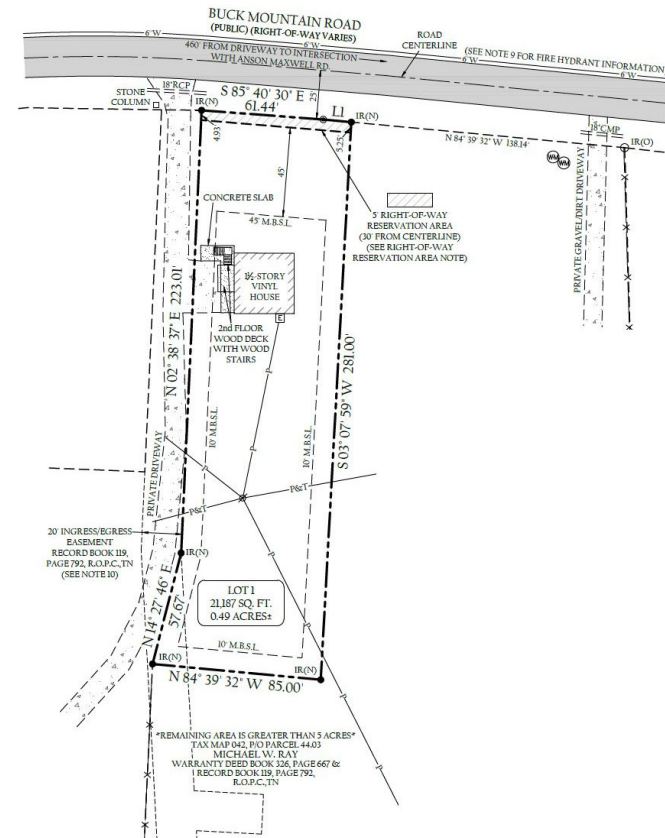


EXAMPLE

Could be simplified or expanded upon at planner's request

RIGHT-OF-WAY RESERVATION AREA NOTE

THIS IS THE AREA BETWEEN THE EXISTING OR DEDICATED RIGHT-OF-WAY AND THE EDGE OF THE RIGHT-OF-WAY REQUIRED FOR THE CLASSIFICATION OF THE STREET AS SPECIFIED IN THE ADOPTED LAND USE AND TRANSPORTATION POLICY PLAN CONTAINED IN THE SUBDIVISION REGULATIONS. THIS AREA SHALL BE RESERVED FOR FUTURE RIGHT-OF-WAY EXPANSION AND NO BUILDINGS, SEPTIC SYSTEMS, OR OTHER ACCESSORY STRUCTURES SUCH AS GAZEBOS OR CARPORTS SHALL BE PLACED IN THE RESERVATION AREA. ONLY PARKING, DRIVEWAYS AND LANDSCAPING ARE ALLOWED IN THE RESERVATION AREA. THE RESERVATION AREA WILL BE OWNED FEE SIMPLE BY THE LOT OWNER, UNTIL SUCH TIME THAT SAID RESERVATION AREA IS PURCHASED AS RIGHT-OF-WAY.



TOTAL AREA = 21,187 SQ. FT. OR 0.49 ACRES±



Subdivisions Resulting in Major Developments

Opponents to Proposed Legislation Contend that Said Legislation will Place a Burden on the Public Sector in the Case of Major Developments.

Again, this is Simply Not True in Regards to the Rights-of-Way Dedications.



Traffic Impact Study Requirements

All Proposed Large Developments Initiate a Traffic Impact Study.

Should Said Study Identify the Need for Roadway Infrastructure Improvements, the Developer is Required to Perform Said Infrastructure Improvements at Their Expense.



Typical Developer Improvements

Turn Lanes, Deceleration Lanes, Acceleration Lane, Traffic Lights, etc.

Should these Improvements Require Additional Right-of-Way, the Developer Would be Required to Dedicate Said Right-of-Way as a Condition of Approval for His Plans.



The Proposed Legislation is Great Legislation!

This legislation is long overdue. It is personal property rights legislation, and Tennessee should set this example for other states to follow, yet again.

It is, Simply Put, Legislation that will Benefit both the Public and Private Sectors while protecting the rights of all.



We are Excited to Present our Information to TACIR!

I wish to Thank You for this Opportunity to be Heard, Considered and for
the Outcome of your Response to our Legislators!

