

Dear Mr. Hart and members of the Transportation Committee of the Oconee County Council,

The Planning Commission, in a unanimous vote of 6-0, has reviewed and agrees there should be an amendment to Chapter 26 of the Oconee County Code of Ordinances. The Commission believes that two lines of the current code are overly restrictive and violate private property rights.

Specifically, the Planning Commission is making a recommendation that 26.b.2 and 26.c.2, regarding a 50 foot Right-of-Way requirement for private drives and private roads on private property, be removed from the Code. It is the commission's belief the 50' Right-of-Way standard (while necessary and prudent on County owned and County maintained roads) is unnecessary and overly restrictive on private drives and roads on private property. The Ordinance clearly states the county SHALL NOT be responsible for maintenance, nor control of the design. Yet the county does in fact control the design requirements negatively affecting and potentially restricting the use of thousands of acres and hundreds of Oconee County property owners.

The Commission has requested to present their position and findings to the Transportation Committee at their next meeting.

Best regards,
Oconee County Planning Commission

PUBLISHER'S AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

OCONEE COUNTY COUNCIL

IN RE: Oconee County 2022 Meetings

BEFORE ME the undersigned, a Notary Public for the State and County above named, This day personally came before me, Hal Welch, who being first duly sworn according to law, says that he is the General Manager of **THE JOURNAL**, a newspaper published Tuesday through Saturday in Seneca, SC and distributed in **Oconee County, Pickens County** and the Pendleton area of **Anderson County** and the notice (of which the annexed is a true copy) was inserted in said papers on 01/08/2022 and the rate charged therefore is not in excess of the regular rates charged private individuals for similar insertions.



Hal Welch
General Manager

Subscribed and sworn to before me this
01/08/2022



Jessica Wells
Notary Public
State of South Carolina
My Commission Expires November 13, 2030



Jessica Lee Wells
NOTARY PUBLIC
State of South Carolina
My Commission Expires
November 13, 2030

ROOM FOR RENT

to Clemson Univ. student.
14 miles (20) minutes from campus, this semester. WIFI, fridge, microwave, washer, dryer, den, Dish TV, downstairs. I'm retired, I live upstairs, my greatroom and BR, and kitchen are there. I only come downstairs to wash cloths. Fully furnished. Very nice safe neighborhood. No lease required. Prefer female or grad student.
\$600 bucks.
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ANNOUNCEMENTS

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- 16. October 17, 2022
- 17. November 7, 2022
- 18. November 21, 2022
- 19. December 5, 2022
- 20. December 19, 2022
- 21. January 16, 2023

The Oconee County Council will meet in 2022 at 6 p.m. on the first and third Tuesday of each month with the following exceptions:
July & August meetings, which will be only on the third Tuesday of each of these months;
December meeting, which will be only the first Tuesday of the month.

All Council meetings, unless otherwise noted, are held in Council Chambers, Oconee County Administrative Offices, 415 South Pine Street, Walhalla, South Carolina.

Oconee County Council will also hold a Planning Retreat beginning at 9:00 a.m. on Friday, February 18, 2022 in Council Chambers to establish short and long term goals.

Oconee County Council will also meet on Tuesday, January 3, 2023 in Council Chambers at which point they will establish their 2023 Council and Committee meeting schedules.

Oconee County Council will also hold a Budget workshop on Friday, March 18, 2022 in Council Chambers.

Additional Council meetings, workshops, and/or committee meetings may be added throughout the year as needed.

Oconee County Council Committees will meet in 2022 prior to County Council meetings on the following dates/times in Council Chambers located at 415 South Pine Street, Walhalla, South Carolina unless otherwise advertised.

The Law Enforcement, Public Safety, Health, & Welfare Committee at 4:30 p.m. on the following dates: February 15, April 5, July 19, & September 20, 2022.

The Transportation Committee at 4:30 p.m. on the following dates: February 15, April 19 [4:00 p.m.], July 19, & September 20, 2022.

The Real Estate, Facilities, & Land Management Committee at 4:30 p.m. on the following dates: March 15, May 17, August 16, & October 18, 2022.

The Planning & Economic Development Committee at 4:30 p.m. on the following dates: March 15, May 17, August 16, & October 18, 2022.

The Budget, Finance, & Administration Committee at 9:00 a.m. on the following dates: February 18 [Strategic Planning Retreat] & March 18 [Budget Workshop] and 4:30 p.m. on the following dates: March 1, April 19, & May 3, 2022.

U-STOR-IT

Mini Warehouse

Inside • Outside • No Cameras
Fenced • Not Gated • Lighted
Old Clemson Hwy.

654-1000

Oconee County Council

Oconee County
Administrative Offices
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Walhalla, SC 29691

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District I

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District II

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District III

Julian Davis, III
Chairman Pro Tem
District IV

J. Glenn Hart
District V



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OCONEE CODE OF ORDINANCES

Sec. 2-61. - Access to and conduct at county meetings, facilities and property.

(a) *Purpose.* The county council has determined that it is necessary to regulate access to county facilities, grounds and property in order to ensure the safety and security of the public who visit these areas or the county employees who serve them. The conduct of persons who visit county facilities and/or who have contact with county employees must also be regulated to preserve public order, peace and safety. The regulation of access and conduct must be balanced with the right of the public to have reasonable access to public facilities and to receive friendly, professional service from county employees. These regulations apply to all county facilities and meetings, as defined below, for and over which county council exercises control and regulation, and to the extent, only, not pre-empted by state or federal law.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Facility means any building, structure, or real property owned, leased, rented, operated or occupied by the county or one of its departments, offices or agencies.

Meeting means any assemblage of persons for the purpose of conducting county governmental business, operations or functions or any assemblage of persons within a county governmental facility. The term "meeting" includes, but is not limited to, county council meetings, county board and committee and staff meetings, trials, hearings and other proceedings conducted in the courts of general sessions and common pleas, family court, master-in-equity, probate court and magistrate's court; and other meetings by entities duly authorized by the county council.

(c) *Prohibited acts.* It shall be unlawful for any person to:

- (1) Utter loud, obscene, profane, threatening, disruptive or abusive language or to engage in any disorderly or disruptive conduct that impedes, disrupts or disturbs the orderly proceedings of any meeting, or operations of any department or function of the county government, including, without limitation, speaking when not explicitly recognized and authorized to do so by the presiding official in such meeting.
- (2) Bring, carry, or otherwise introduce any firearm, knife with blade longer than two inches or other dangerous weapon, concealed or not concealed, into any facility or meeting. This prohibition does not apply to law enforcement personnel or any other person whose official, governmental duties require them to carry such firearm, knife, or other weapon.
- (3) Engage in partisan political activity, including speech, in any meeting not authorized and called for the purpose of partisan political activity and explicitly authorized for such purpose in the facility in which such activity is to be conducted, or refusing to cease such activity when the presiding official of the meeting in question has ruled that the activity in question is partisan political activity and has directed that such activity stop.
- (4) Interfere with, impede, hinder or obstruct any county governmental official or employee in the performance of his duties, whether or not on county government property.
- (5) Enter any area of a county government facility, grounds or property when such entry is prohibited by signs, or obstructed or enclosed by gates, fencing or other physical barriers. Such areas include rooms if clearly marked with signs to prohibit unauthorized entry.
- (6) Enter by vehicle any area of a county governmental facility, grounds or property when such area is prohibited by signs or markings or are obstructed by physical barriers; or park a vehicle in such restricted areas; or park in a manner to block, partially block or impede the passage of traffic in driveways; or park within 15 feet of a fire hydrant or in a fire zone; or park in any area not designated as a parking space; or park in a handicapped parking space without proper placarding or license plate; or park in a reserved parking space without authorization.

STAFF REPORT OF FINDINGS

TO: County Council
FROM: Kyle Reid, Asst. Director of Public Works
DATE: July 19, 2022

DINKY LINE RD AND THORNBURG RD ABANDONMENT AND CLOSURE

FACTS

Oconee County Roads & Bridges has been contacted by the owners of property along Dinky Line Rd (TU-34) and Thornburg Rd (TU-67) about the abandonment of a portion of the roads. This portion is to be determined by the necessity of a cul-de-sac at the termination of both roads, but generally the county would still maintain Dinky Line Rd from the intersection with Pickens Rd to past address 398 Dinky Line Rd (Tax Map #: 262-00-01-093) with the cul-de-sac on Tax Map #'s: 262-00-01-138 and 262-00-01-040 respectively. The county would still maintain Thornburg Rd from the intersection with Jenkins Bridge Rd to past 505 Thornburg Rd (Tax Map #: 275-00-03-003) with a cul-de-sac being completely constructed on Tax Map #: 275-00-03-007. The proposed abandonment would abandon approximately 1 mile of county maintained roads. The process for road closure and abandonment is to follow the requirements listed in the ordinance referenced below. Summary of Investigations:

<u>The County Needs to Determine:</u>	<u>Determination:</u>	<u>Attachment</u>
1 Whether Dinky Line Rd and Thornburg Rd is or has been a County Road	Dinky Line Rd and Thornburg Rd is a County Road	1
2 If the section of Dinky Line Rd and Thornburg Rd is still a County Road	Yes, the section of Dinky Line Rd and Thornburg Rd is still a County Road	1
3 If the section of Dinky Line Rd and Thornburg Rd to be abandoned is in use by the general public or if the road has been practically abandoned	The section of Dinky Line Rd and Thornburg Rd is in use by the general public.	1
4 If documentation is available relating to the status of the access easement	Documentation is available	1
5 If other information is available to assist County Council in evaluating the best interest for the Oconee County public.	Comments were solicited from the posting of a sign indicating that Dinky Line Rd and Thornburg Rd was proposed for abandonment and closure	2

Pertinent Ordinance or Regulation

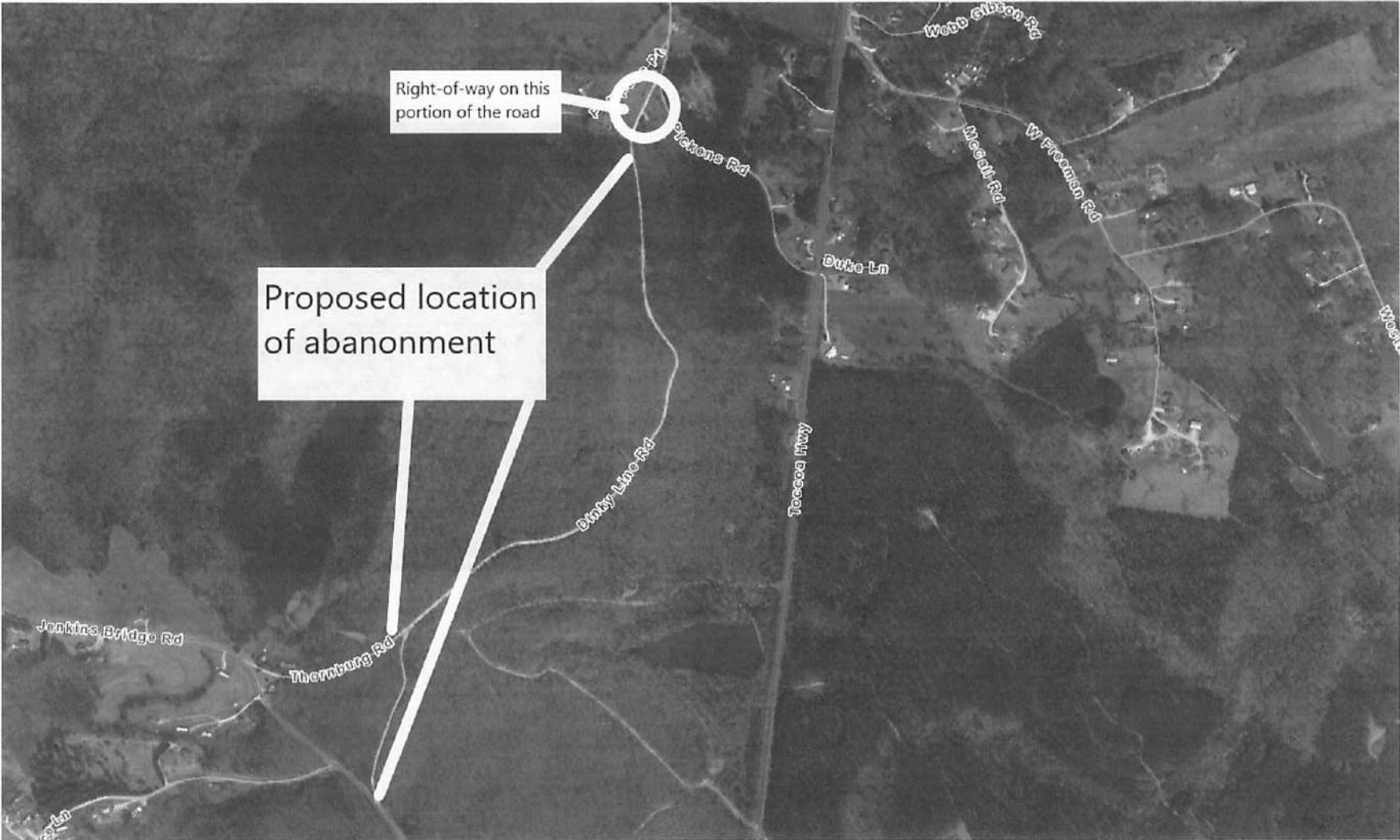
Oconee County Code of Ordinances Section 26-9 (Attachment 3)

Recommendations

Dinky Line Rd and Thornburg Rd has residents on either end at Pickens Rd and Jenkins Bridge Rd. Dinky Line Rd is a through from Pickens Rd over to Jenkins Bridge Rd with Thornburg Rd used as a cut

over that ties into Jenkins Bridge Rd further north. Adjacent property owners that own both sides of the majority of the roads have requested the abandonment stating it is due to unauthorized access and damage of their property and also trash being dumped along the roads. Oconee County Roads and Bridges solicited comments from the public by posting signs at the approximate location of abandonment. Out of twenty-four (24) respondents eleven (11) would like for the road to be closed and abandoned from county maintenance, and thirteen (13) would like for the roads to stay public and county maintained. Of the six (6) respondents that live or own property on Dinky Line and Thornburg Rd five would like the road to be abandoned and closed and one would like for it to remain open. The majority of comments that were for the road to be closed were due to crime, trash being dumped and speeding. The majority of comments for the road to stay open were concern about emergency vehicle access, the historic nature of the road, and using it as a cut through and/or alternative route. If council consents to the abandonment of the roads we request the abandonment be contingent upon receiving right-of-way necessary to construct two cul-de-sacs where the County maintenance is proposed to end. If this recommendation is supported by the County Council as to whether the request for abandonment and closure should be honored the requesting parties will proceed with the process to abandon the portion of Dinky Line Rd and Thornburg as described. If this recommendation is not supported by the County Council, no further action is needed.

ATTACHMENT 1



ATTACHMENT 2



ATTACHMENT 3

Sec. 26-9. Road closure and abandonment.

(a)

Prior to any request for abandonment and closure of an Oconee County public road being brought before county council, county staff, including, without limitation, the Oconee County Roads and Bridges Department, will conduct a thorough investigation, adequate to determine: whether the road in question is, or ever has been, a county road; whether the road still is a county road; whether the road is still in general public use or has been practically abandoned; whether the county has any documentation relating to the status of the road, such as a dedication of right-of-way or easement, or a deed, or whether such road was subject to a prescriptive easement or easement by usage; whether there is any other information which would assist county council in determining whether the best interests of the Oconee County public will be served by consenting to the abandonment and closure of the road in question or by not so consenting. As a part of the investigatory process addressed herein, the Oconee County Roads and Bridges Department will post, adjacent to the road in question, a sign, marked so as to be as conspicuous as possible, prominently providing notice that the road, or portion thereof abutting the sign, is proposed for abandonment and closure, soliciting citizen comments concerning such proposed abandonment and closure, and providing notice of address and telephone number at the Oconee County Public Works Department to which concerned citizens may forward comments concerning such proposed abandonment and closure.

(b)

Following the investigation referred to in paragraph 1, supra, county staff will make a recommendation to the Transportation Committee of Oconee County Council, which, in turn, will make a recommendation to Oconee County Council as to whether the request for abandonment and closure should be honored or not, and provide the results of the staff investigation to county council for its use and final determination whether the county will consent to such abandonment and closure. Included with the recommendation will be any public comments received and the recommendation(s) of county staff and the transportation committee.

(c)

County council shall then, in public meeting, make a determination as to whether the request for abandonment and closure should be consented to by the County, acting by and through county council, and shall signify its decision by motion, if such decision be negative, and shall signify its decision by resolution of county council, if such decision be positive.

(d)

If county council consents to the abandonment and closure of a county public road, as addressed herein, the resolution of county council consenting to such abandonment and closure shall state, with particularity, the road, or section thereof, to be closed; the basis for county council's decision to consent to the abandonment and closure of the road; and the absolute requirement that, prior to the road, or portion thereof, in question being closed, the primary private party(ies) in interest (unless the county, itself, is the party requesting the road closure, in which case the county will be the primary party in interest to comply with this section) shall fully comply with all applicable law, including, without limitation, S.C. Code 1976, § 57-9-10, as amended, and shall provide all required notice and service of process. Only upon the meeting of such conditions and the fulfillment of such procedures will the county council consent to such abandonment and closure be considered final, and that shall be stated in such resolution.

(Ord. No. 2010-28, §§ 1—5, 10-19-2010)

Transportation Committee Meeting

February 15, 2022

Agenda

- Proposed abandonment of a portion of Thornburg Rd (TU-67) and a portion of Dinky Line Rd (TU-34)
- Discussion regarding sidewalks in road right-of-way
- Discussion regarding right-of-way along private drives and private roads

Proposed abandonment of a portion of Thornburg Rd (TU-67) and a portion of Dinky Line Rd (TU-34)

– Kyle Reid, Roads and Bridges Director

- Abandonment requested by adjacent property owners.
- Purpose of abandonment is to limit damage to the adjacent properties by people trespassing or dumping.
- Thornburg Rd is approximately 0.20 of a mile and Dinky Line Rd is appr. 1 mile. The new county maintained portion of the roads would be less than 0.10 miles respectively.



- Proposed abandonment of a portion of Thornburg Rd (TU-67) and a portion of Dinky Line Rd (TU-34) –
Kyle Reid, Roads and Bridges Director
- Please see provided staff report of findings

Discussion regarding sidewalks in road right-of-way

- Discussion – James Coley – Director of Planning and Zoning

Discussion regarding sidewalks in road right-of-way

- Discussion – James Coley – Director of Planning and Zoning

Discussion regarding right-of-way along private drives and private roads

- Letter from Planning Commission
- Discussion

Right-of-way Requirements from other counties		
County	Private Drive R/W Width	Private Road R/W Width
Oconee	50	50
Pickens	50	50
Anderson	50	50
Greenville	40	50
Spartanburgh	40	50

End

Presentation for Transportation Committee and Oconee County Council

I am providing information for consideration by this commission regarding a **Change to the Private Road Ordinance 26-2 (b)(2) and 26-2 (c)(2)**.
Specifically, to have these lines removed from the ordinance.

“(b)(2) Have a minimum road right-of-way of 50 feet, or an appropriately executed private roadway easement as defined by these regulations”

“(c)(2) Have a minimum road right-of-way width of 50 feet”

The Planning Commission reviewed this presentation and has given a recommendation by unanimous vote to remove **26-2 (b)(2) and 26-2 (c)(2)** from the roads ordinance.

Presentation Objective:

- Show samples of properties potentially negatively affected by the current ordinance and how this ordinance affects hundreds of owners in the county.
- Show neighborhoods with private drives and roads in Oconee County where 100's of residents have perfectly acceptable ingress and egress build on private roads with less than the current 50' Right-of-Way.

OVERVIEW OF THE ORDINANCE

The very first paragraph of 26-2 ... Private Road Standards and Regulations states:

“Oconee County shall have no responsibility for, nor control of the design, engineering, construction, inspection or maintenance of private driveways, drives and roads in Oconee County.”

Yet this Ordinance goes on to specifically control the design standard of private drives and roads on Private Property in the County.

Definitions of driving surfaces:

Private Driveway ...

- * Serves no more than **three** residential dwellings
- * Maintained by the owner
- * Complies with fire codes

Private Drives ...

- * Serves no more than **ten** residential dwellings
- * Has a **20' driving surface** with certain construction depths, etc
- * **To be maintained by the property owner or owners**
- * To have a **50' Right-of-Way**.

Private Roads ...

Additional restrictions, road material construction methods, as well as safety and water run off requirements. This category also has the **20' road surface** and **50' Right-of-Way** requirement.

Public County Roads Ordinance 26-3

Public Roads maintained by the county use different names than Drives and Roads. **However, the 20 ft road width and the 50 ft Right-of-Way is a consistent practice.**

It is completely reasonable for Public Drives and Roads to contain a 50' Right-of-Way for county maintenance, future utilities, emergency shoulder, water control, etc.

It is easy to imagine a parade of asphalt trucks lined along the side of a county road and neighbor outside with a broom yelling, "get off my grass".

It's also easy to imagine a car stopped on a shoulder to change a tire.

A 50' ROW for the public is reasonable on public roads.

But these examples have no application to private roads on private property.

Imagine getting a flat tire in a gated community, small subdivision, or driving down your private drive. Chances are the neighbors are going to bring out a glass of tea and offer to help. You are not likely to need an emergency shoulder when you are 200' from home on your private drive.

Regarding maintenance, there's a high likelihood you are simply going to pull the tractor out of the barn to scrape the gravel. But in the event you do need an asphalt truck; you hired the contractors and it's your private road. Simply let everyone know what's going on and coordinate parking.

This isn't a public thoroughfare, it's a private road on private property.

ALL SURVEYS for owners on private roads must contain the following wording:

(In all Caps)

“The Road Right-Of-Way shown on this plat shall be private drives (or Private Roads) Not owned, maintained or supervised by Oconee County, and were not constructed pursuant to any plan for future acceptance by Oconee County. Road Right-of-ways shown upon the plat SHALL NOT be accepted for maintenance by Oconee County at any time in the future unless constructed in accordance with all adopted Oconee County Regulations.”

Every survey, for property accessed by a Private Drive or Private Road, must contain the above words, which includes SHALL NOT be accepted for maintenance by Oconee County.

In the past, the Roads and Bridges department has expressed a need for this 50' Right-of-Way, in the event a private road would be adopted by the county. But remember...

The first paragraph says “**Oconee County shall have no responsibility for, nor control of the design**”

The ordinance also says Private Roads and Drives **SHALL NOT be accepted for maintenance by Oconee County**

In effect, what Roads and Bridges has suggested is for the county to penalize private citizens on private property, because the county can't follow its own written rules and chooses to take over some of these private roads at an owner's request.

Its also been argued by the county that the Right-of-Way is needed for utilities. But this is also extremely short sighted. An owner of 20 acres might already have powerlines on the back of their property or they plan to use solar. An owner might be using a well for water. In short, it's none of the county's business.

Remember, the ordinance states **Oconee County shall have no responsibility for, nor control of the design, engineering, construction, inspection or maintenance.**

So the county should follow their own rules and stay in their lane when they state they will take no responsibility of the design, engineering, construction, inspection or maintenance.

It's Private Property.

Private Driveway	Up to THREE residential dwellings
Private Drive	FOUR to TEN residential dwellings
Private Road	ELEVEN or more residential dwellings.

Residential Dwelling in the eyes of Oconee County

Any livable structure on a property. Understand, this is NOT a 911 address. This means, if you have your main house, a pool house with a bathroom and a cooking surface or a garage apartment, or a bunk house in the barn, you could already be at 3 Residential Dwellings on your property and you are no longer able to subdivide your property for other livable structures if you don't have the required 50' access right-of-way.



**23' access
point**





42'

Miyocan Rd

Rwy 182




2 Properties already using the road.
If owner "B" builds a garage
apartment, owner "A" can never add
a dwelling (or subdivide for a dwelling)
their 20 acres.



Three homes already exist on this road with a 38' ROW access. The current Ordinance reads that a ROW must be 50' to service more than 3 homes.

Per the ordinance, these owners can't build on their property without appeal to the county.



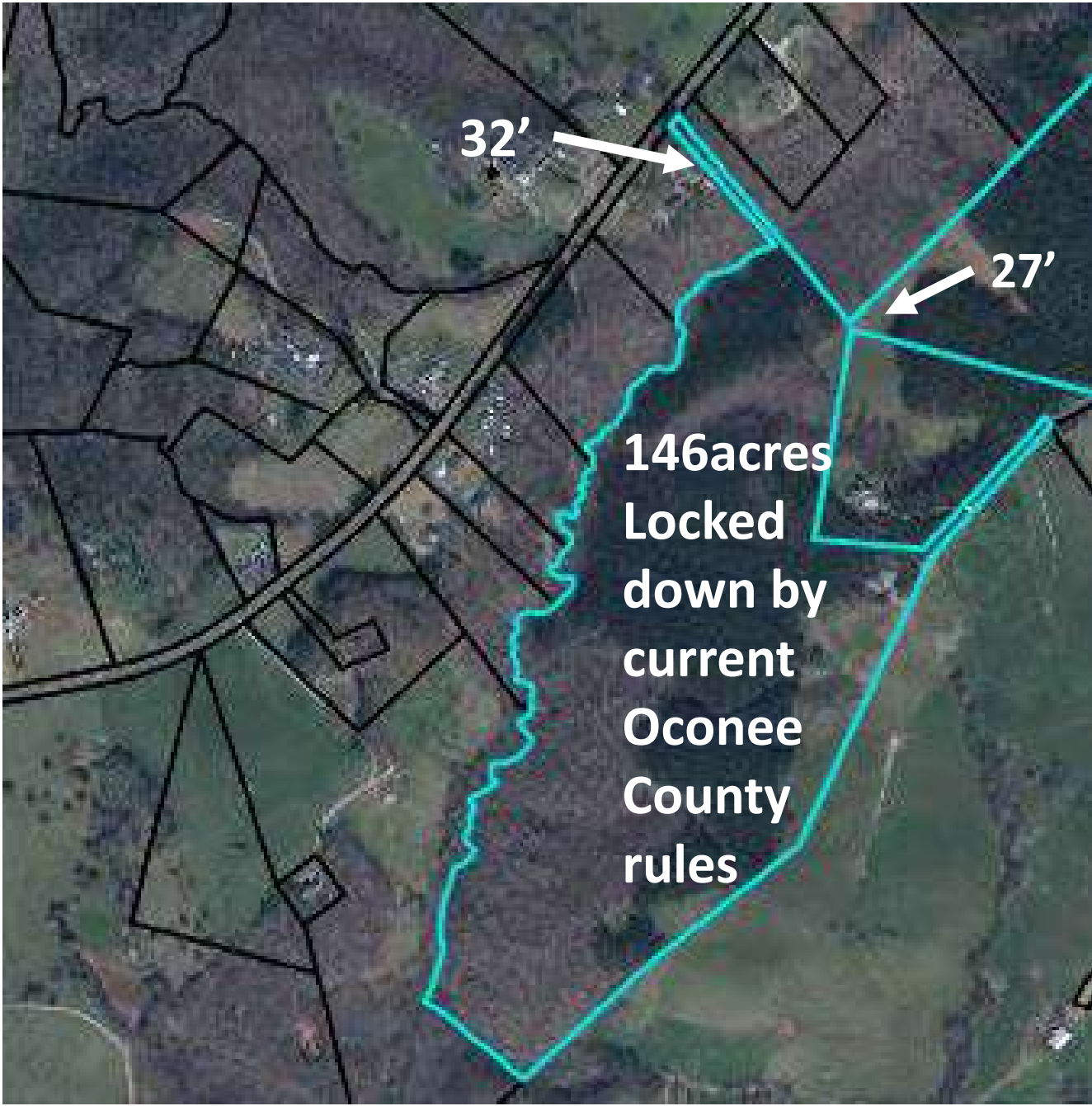


Pinch point access off the road of only 36 feet for 140 acres.
This owner's potential use of their private property is restricted by this county government ordinance.

ft ▲

POWERED
esi

1398994.76_1014750.8



32'

27'

146 acres
Locked
down by
current
Oconee
County
rules



Example after example, and 100's of acres, of owners who cannot subdivide their property, or build a 4th livable structure, if they can't meet the 50' access requirement for PRIVATE PROPERTY



Now consider this...

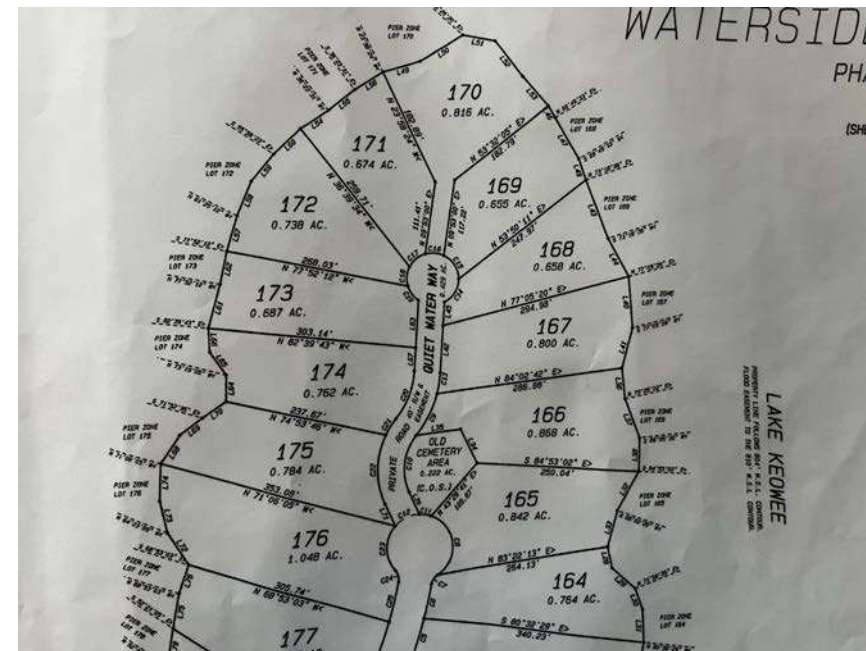
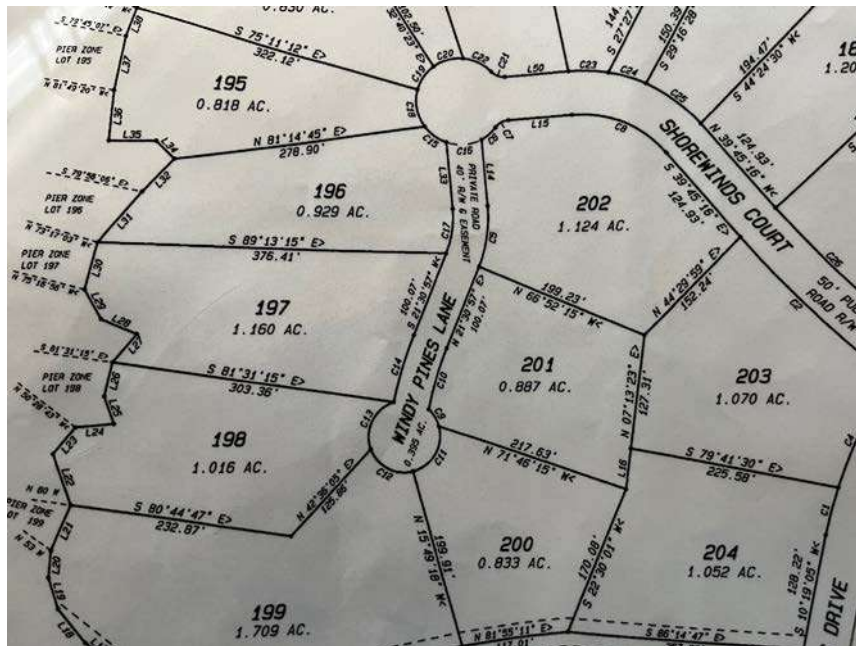
Unlike the previous examples, you might be an owner with plenty of main road frontage to have a 50' ROW, but this ordinance still LIMITS RIGHTS TO YOUR PRIVATE PROPERTY within the RIGHT-OF-WAY.

County Ordinance 26-3 (f) (7) clearly defines
how a County Approved Right-of-Way should be viewed and managed:

“The entire right-of-way area SHALL be cleared of all stumps, roots, brush, and other objectionable materials. All trees stumps and other vegetation SHALL be removed. The entire right-of-way shall be graded.”

While 26-3 (f)(7) is for County Road ROW's, understand that you could be in violation even in PRIVATE ROAD Right-of-Ways if you have a horse fence, shrub row, or any beautification improvement within 15' of the driving surface on your Private Property.

In 2022, Oconee County adopted the maintenance of 6 private roads within the subdivision of Waterside Crossing through an appeal to the BZA. These “Private Roads”, previously maintained by the private community funded HOA, having only a 40’ ROW, were accepted for county maintenance as a new County Road. **This suggests that County Roads can have an acceptable lesser standard than is required of private citizens on private roads on private property.**

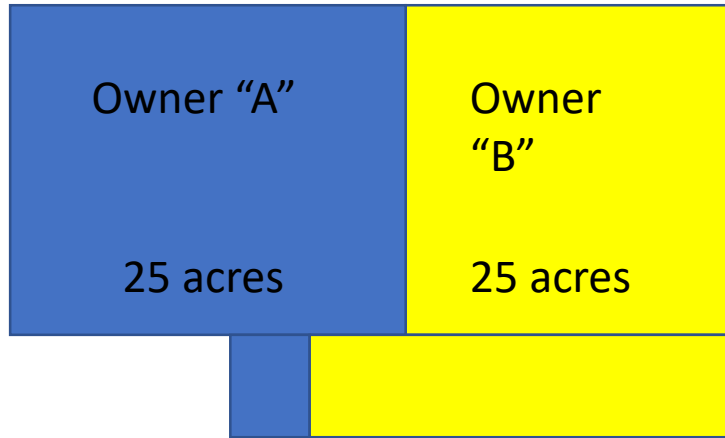


Throughout Oconee County exist many private roads built with a significantly less than the current 50' Right-of-Way. In fact, many communities in the county would not exist as they look if they were required to follow the current 50' Right-of-Way for their private roads.

Each of these private property owners, in each of these communities, has navigated the ingress and egress to their homes for years, driving on their 20 foot wide private road without the need of a 50' right-of-way.

Beacon Shores, Harbor Oaks, The Summit, Waterford Point, and Waterside Crossing are just a hand full of examples of Oconee County neighborhoods with private roads. The Waterford Community has 39 lots accessible by private roads, some simply by easement rather than Right-of-Way.

**One last point regarding the subject of developments.
The 50' Right-of-Way does not restrict development. It only penalizes
owners of private property.**



Real life example. Owner A has 25 acres. Owner A has a local builder friend who would like to buy the land and build 12 to 15 houses. Owner A sees an opportunity help out his family by paying for the grandkids to start college.

The builder friend loves the land but starts looking into the Oconee County Rules and discovers that his friend does not have the 50' access to the main road required to build 12 to 15 homes. The builder loves the general area so he approaches the neighbor; Owner B. Owner B hasn't owned the property long. In fact, he hasn't even moved to the area yet. But the land has good access to the road and the builder has made him a great offer that he can't pass up.

Using the above example, the developer is still going to develop.

He will do so using the Oconee County development standards, and jump through the necessary hoops, whatever those written standards might be.

We've not stopped or even slowed development; all we have done is to penalize some property owners of their equal rights under the law.

In Review

It is clearly reasonable for Public County Roads to have a 50' ROW.

It is clearly reasonable that Private Roads should have a 20' wide road surface for fire and passing safety and a requirement for construction quality for consumer protection in the event the property is ever sold.

It is unreasonable to require that land be held aside for utilities when the property owner might get their water from a well and might get electricity from a completely different inbound area of the property. If the owner needs utilities, the owner needs to plan for utilities through a ROW or Easement. But I don't believe the county should dictate for a need that may not exist.

It is unreasonable for the county to restrict owner's uses of their private land due to ROW requirements, while having allowed for years, owners to follow lesser reequipments.

It is unreasonable that a property owner who has a main house and a garage apartment for their relative and can't one day give that same relative a section of their private land simply because they don't have a 50' entrance to their property.

The Planning Commission has voted 6/0 to remove the following from Ordinance 26-2.

“(b)(2) Have a minimum road right-of-way of 50 feet, or an appropriately executed private roadway easement as defined by these regulations”

“(c)(2) Have a minimum road right-of-way width of 50 feet”