

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: February 20, 2008

SUBJECT: Resolution for permanent closure of easement on the East Flat Rock First Baptist Church property

ATTACHMENTS: (1) Petition to close easement at East Flat Rock First Baptist Church  
(2) Petition to close easement at the Albert M Moreno Jr. "et al." property and Minute Man Anchors Inc property  
(2) North Carolina General Statute 153A-241  
(3) Proposed resolutions

SUMMARY OF REQUEST: North Carolina General Statute 153A-241 requires that the Board of Commissioners first adopt a resolution declaring its intent to close a public road or easement. Attached is a proposed resolution declaring the Board's intent of closing the easement on the East Flat Rock First Baptist Church property at 2227 Spartanburg Hwy, Albert M Moreno Jr "et al." property at 13 Sapling Dr, and Minute Man Anchors Inc property at 305 W King St, East Flat Rock, North Carolina.

#### BOARD ACTION REQUESTED:

Recommend approving the adoption of the attached resolution.

#### Suggested Motion:

I move for the adoption of the attached resolution.

1.  
STATE OF NORTH CAROLINA

Petition Under § 153A-241.  
Closing public roads or easements.

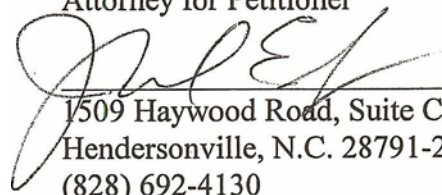
COUNTY OF HENDERSON

NOW COMES, Heirs of Albert M Moreno, Jr.; Heirs of Eilen Hudspeth; Marion Little Moreno; and MORENO PROPERTIES LLC through John "Chip" Gould, Manager of Gould Properties, LLC, by and through Attorney, J Michael Edney, pursuant to the provisions of N.C.G.S. 153A-241, and petitions the Henderson County Board of Commissioners to:

2. Adopt a resolution declaring its intent to close, as to PARCEL 9963175 and 9963178, the named and unnamed public roads or public ingress / egress or regress easements, including Walker Road, as shown on the US Census map, Exhibits "A-I" and Land Record Map "A-2", attached hereto and incorporated herein by reference, and to call a public hearing on the question, excepting "Sapling Drive."
3. Cause a notice of the public hearing reasonably calculated to give full and fair disclosure of the proposed closing to be published once a week for three successive weeks before the hearing.
4. Cause a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed; upon information and belief: 1003720; 9905747; 9905746; 0107937; 9905765; 0116776; 0110067; 0115805; 0107404; 9961996; 0102216; 0101250; 0107886; 0111603; 1003703; 9974470; 9963176; 9974469 and 9964865.
5. Cause a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement.
6. To Conduct a Public Hearing and at the hearing hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights.
7. That after said hearing Adopt an ORDER finding as facts (a) that closing the public road or easement is not contrary to the public interest and (b) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property.
8. Cause a certified copy of the order to be filed in the office of the Register of Deeds of Henderson County.

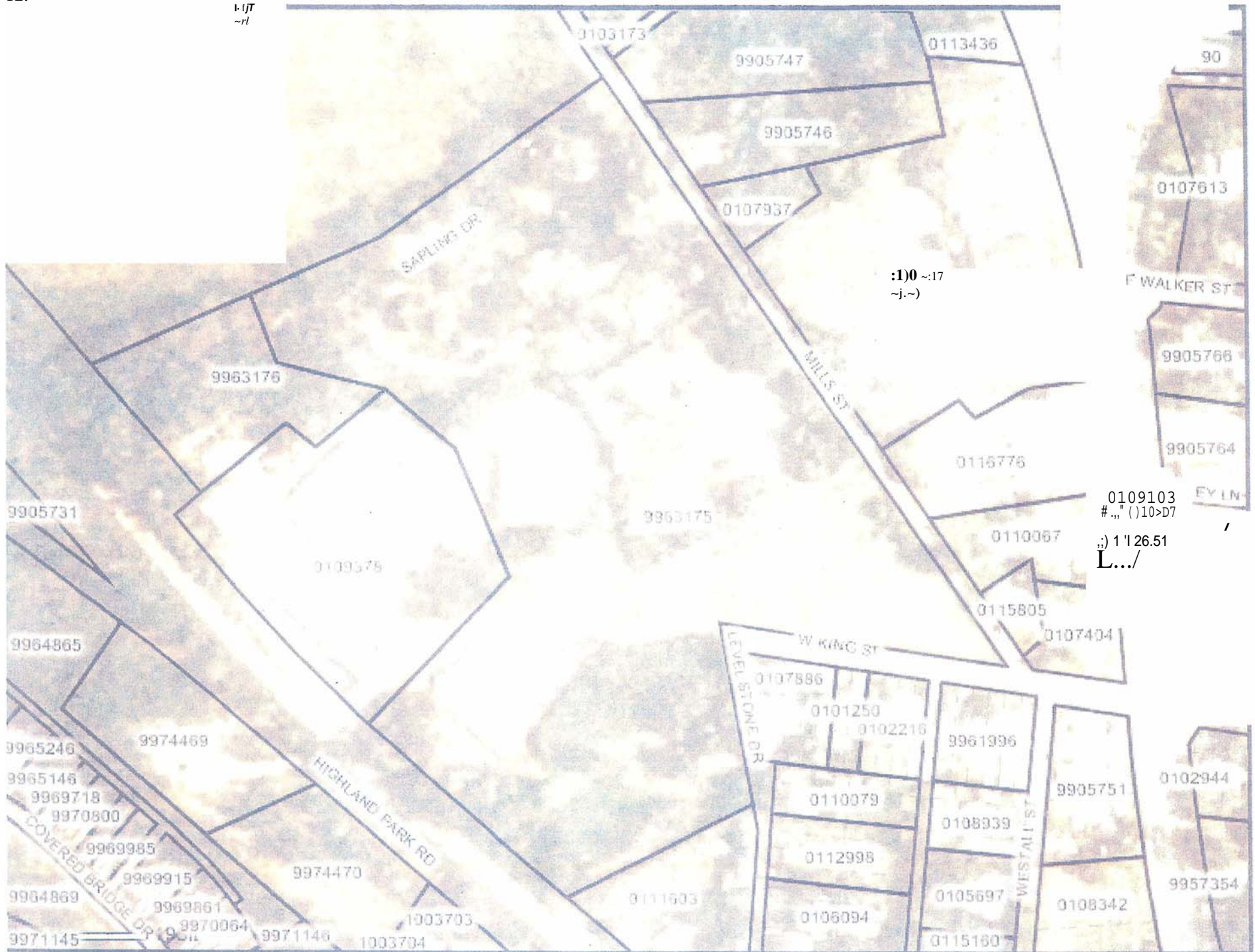
This ~y of January 2008.

Law Office of J Michael Edney  
Attorney for Petitioner

  
1509 Haywood Road, Suite C  
Hendersonville, N.C. 28791-2607  
(828) 692-4130  
[jmedney@michaeledneylaw.com](mailto:jmedney@michaeledneylaw.com)



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COVERED BRIDGE DR

HIGHLAND PARK RD

WEST TALL ST

13.

STATE OF NORTH CAROLINA

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Petition Under § 153A-241. Closing public roads or easements.

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COUNTY OF HENDERSON © (Q)0 .

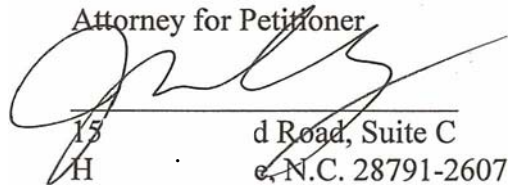
14.

NOW COMES, First Baptist Church of East Flat Rock, Inc., by and through Attorney, J Michael Edney, pursuant to the provisions of N.C.G.S. 153A-241, and petitions the Henderson County Board of Commissioners to:

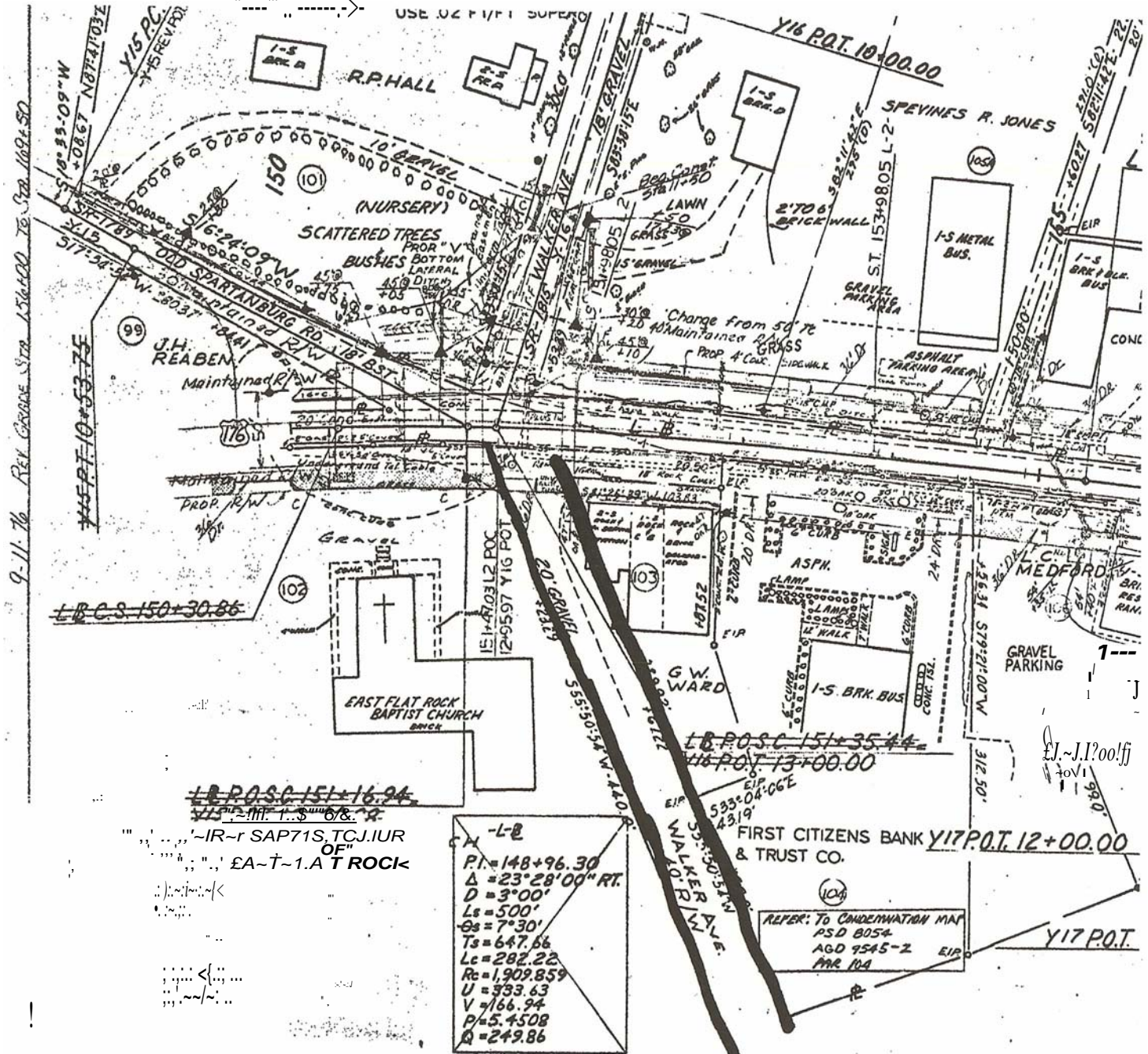
1. Adopt a resolution declaring its intent to close the public road or easement as shown on Exhibit "A" attached hereto and incorporated herein by reference, and to call a public hearing on the question.
2. Cause a notice of the public hearing reasonably calculated to give full and fair disclosure of the proposed closing to be published once a week for three successive weeks before the hearing.
3. Cause a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed.
4. Cause a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement.
5. To Conduct a Public Hearing and at the hearing hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights.
6. That after said hearing Adopt an ORDER finding as facts (a) that closing the public road or easement is not contrary to the public interest and (b) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property.
7. Cause a certified copy of the order to be filed in the office of the Register of Deeds of Henderson County.

This \_\_ day of January 2008.

'09 Haywood  
Hendersonville (828) 692-4130

Law Office of J Michael Edney  
 Attorney for Petitioner  
  
 15  
 H d Road, Suite C  
 e, N.C. 28791-2607

[jmedney@michaeledneylaw.com](mailto:jmedney@michaeledneylaw.com)



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PLAN VIEW OF Y15 REV  
 DETAIL OF Y15 REV

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**§ 153A-241. Closing public roads or easements.**

A county may permanently close any public road or any easement within the county and not within a city, except public roads or easements for public roads under the control and supervision of the Department of Transportation. The board of commissioners shall first adopt a resolution declaring its intent to close the public road or easement and calling a public hearing on the question. The board shall cause a notice of the public hearing reasonably calculated to give full and fair disclosure of the proposed closing to be published once a week for three successive weeks before the hearing, a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed, and a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement. At the hearing the board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. If, after the hearing, the board of commissioners is satisfied that closing the public road or easement is not contrary to the public interest and (in the case of a road) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the board may adopt an order closing the road or easement. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county.

Any person aggrieved by the closing of a public road or an easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within 30 days after the day the order is adopted.

Upon the closing of a public road or an easement pursuant to this section, all right, title, and interest in the right-of-way is vested in those persons owning lots or parcels of land adjacent to the road or easement, and the title of each adjoining landowner, for the width of his abutting land, extends to the center line of the public road or easement. However, the right, title or interest vested in an adjoining landowner by this paragraph remains subject to any public utility use or facility located on, over, or under the road or easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved the reasonable cost of removing and relocating the facility. (1949, c. 1208, ss. 1-3; 1957, c. 65, s. 11; 1965, cc. 665, 801; 1971, c. 595; 1973, c. 507, s. 5; c. 822, s. 1; 1977, c. 464, s. 34; 1995, c. 374, s. 1.)

**RESOLUTION OF INTENTION TO CLOSE EASEMENT ON THE PROPERTY OF ALBERT  
M MORENO JR "et al.", PARCEL IDENTIFICATION NUMBER 9577758714**

**WHEREAS**, North Carolina General Statute 153A-241 requires the County Board of Commissioners to adopt a resolution for the intention of closing an easement on property;

**WHEREAS**, The Henderson County Board of Commissioners proposed to hold a public hearing on the closing of easement on the Albert M Moreno Jr. "et al." property;

**NOW, THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners, as follows:

1. The Henderson County Board of Commissioners, which is authorized to close public roads and easements, hereby makes the following declaration which is intended to constitute a Declaration of Official Intent:
  - (a) **Hold a public hearing.** The Henderson County Board of Commissioners intend to hold a public hearing on the closure of easements on the property of Albert M Moreno Jr "et al."
2. This resolution shall take effect immediately upon its passage.

**ADPTED THIS** the \_\_\_ day of February, 2008

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:**

**William L. Moyer, Chairman**

**ATTESTED BY:**

**Elizabeth W. Corn, Clerk to the Board**

**[OFFICIAL SEAL]**



**RESOLUTION OF INTENTION TO CLOSE EASEMENT ON THE PROPERTY OF  
MINUTE MAN ANCHORS INC, PARCEL IDENTIFICATION NUMBER 9577753655**

**WHEREAS**, North Carolina General Statute 153A-241 requires the County Board of Commissioners to adopt a resolution for the intention of closing an easement on property;

**WHEREAS**, The Henderson County Board of Commissioners proposed to hold a public hearing on the closing of easement on the Minute Man Anchors Inc. property;

**NOW, THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners, as follows:

1. The Henderson County Board of Commissioners, which is authorized to close public roads and easements, hereby makes the following declaration which is intended to constitute a Declaration of Official Intent:
  - (a) **Hold a public hearing.** The Henderson County Board of Commissioners intend to hold a public hearing on the closure of easements on the property of Minute Man Anchors Inc.
2. This resolution shall take effect immediately upon its passage.

**ADPTED THIS** the \_\_ day of February, 2008

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_

**ATTESTED BY:** **William L. Moyer, Chairman**

**Elizabeth W. Corn, Clerk to the Board**

**[OFFICIAL  
SEAL]**

**RESOLUTION OF INTENTION TO CLOSE EASEMENT ON THE PROPERTY OF EAST  
FLAT ROCK FIRST BAPTIST CHURCH, P ARCEL IDENTIFICATION NUMBER  
9577862171**

**WHEREAS**, North Carolina General Statute 153A-241 requires the County Board of Commissioners to adopt a resolution for the intention of closing an easement on property;

**WHEREAS**, The Henderson County Board of Commissioners proposed to hold a public hearing on the closing of easement on the East Flat Rock First Baptist Church property;

**NOW, THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners, as follows:

1. The Henderson County Board of Commissioners, which is authorized to close public roads and easements, hereby makes the following declaration which is intended to constitute a Declaration of Official Intent:
  - (a) **Hold a public hearing.** The Henderson County Board of Commissioners intend to hold a public hearing on the closure of easements on the property of East Flat Rock First Baptist Church.
2. This resolution shall take effect immediately upon its passage.

**ADPTED THIS** the \_\_ day of February, 2008

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_

**William L. Moyer, Chairman**

**ATTESTED BY:**

**Elizabeth W. Corn, Clerk to the Board**

**[OFFICIAL SEAL]**