

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: March 20, 2019

SUBJECT: Public Hearing for Proposed Right of Ways Closure

PRESENTER: Autumn Radcliff, Planning Director

ATTACHMENTS: (1) Petition and documentation for ROW closure from East Flat Rock Grace Baptist Church
(2) Map of area
(3) Order of Closure

SUMMARY OF REQUEST:

Planning staff received a petition from the East Flat Rock Grace Baptist Church to close a portion of a right of way in the East Flat Rock area of Henderson County. The petitioners are requesting a portion of a shared right of way and alley to be closed and the property resurveyed to show the closure.

On February 4, 2019 the Board approved a resolution of intent to close the right of ways and to hold a public hearing on this closure.

BOARD ACTION REQUESTED:

Board action is required to close the right of ways and approve the Order of Closure.

Suggested Motion:

I move that the Board approve the closure of the un-opened right of ways and sign the Order of Closure.

COINER & HARRELSON, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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November 5, 2018

Curtis Griffin
Henderson County Property Addressing
100 N. King St.
Hendersonville, N.C. 28792

Re: Road Closure – Unopened Alley & Portion of 2nd Ave.

Dear Mr. Griffin:

I am writing on behalf of Grace Baptist Church regarding the permanent closure of a street and alley adjoining the Church property pursuant to N.C.G.S. 153A-241. Grace Baptist Church requests that the county permanently close those portions of 2nd Avenue between Spartanburg Hwy (U.S. 176) and Lamplighter Ln. (S.R. 1809) and an unopened alleyway extending from 2nd Avenue to Olde Jordan Street, as shown on an updated plat of survey by Freeland-Clinkscapes & Associates. Grace Baptist Church is joined in this request by the adjacent property owners Jonathan Jones and Rebecca Orr.

A map of the streets to be closed is attached. The Church and Jones and Orr comprise all of the owners of property adjoining these unopened streets/alleys. 2nd Avenue is shown on a plat entitled "A Part of the MacMillan C. King Estate" dated July 20, 1925, which is a copy of a plat originally filed December 14, 1920 at Plat Book 1, at Page 23, now re-indexed at Plat Cabinet B, at Slide 11-A. On this map, U.S. Hwy. 176 as presently located appears to be named Fisher Street. Lamplighter Lane appears as Tabor Road or Appalachian Highway.

The property is further shown on a map entitled "C.F. Pack Subdivision, East Flat Rock, North Carolina" which is dated March 1, 1929 and which was recorded March 17, 1957 at Plat Book 5, at Page 116, now re-indexed at Plat Cabinet C, Slide 22-A. On this map, U.S. Hwy. 176 is identified as "State Highway" and Lamplighter Lane is shown as Old Spartanburg Highway. The unopened alley is shown on this plat as running between First Avenue and Second Avenue.

It is the desire of the Church and the two adjoining owners to permanently close 2nd Avenue and the alley above mentioned. It is the understanding of the parties that once closed, one half of each right of way will vest in the adjoining owner.

Yours sincerely,



Edward L. Harrelson
ELH/lb
Enclosures

**CONSENT TO REQUEST FOR STREET CLOSURE
PART OF 2ND AVENUE AND ALLEY, EAST FLAT ROCK**

We join in this petition to permanently close the unopened streets identified in the letter Of Edward L. Harrelson dated November 5, 2018.

GRACE BAPTIST CHURCH

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Bruce Brown

BRUCE BROWN, TRUSTEE

Larry Carroll

LARRY CARROLL, TRUSTEE

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KENNETH C. WALKER, TRUSTEE

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**Henderson County
North Carolina**

Before the Board of Commissioners

ORDER CLOSING THE UNOPENED

RIGHT-OF-WAYS FOR EAST FLAT ROCK GRACE BAPTIST CHURCH

THIS MATTER came on for hearing before the Henderson County Board of Commissioners at its regular March 20, 2019 meeting, pursuant to N.C. Gen. Stat. §153A-241, on the issue of closing of an unopened right-of-way near East Flat Rock Grace Baptist Church, and was heard by the Board after public hearing. The Board of Commissioners makes the following findings:

1. This matter first came before the Board of Commissioners on at the Board's regular meeting on February 4, 2019 on the petition of East Flat Rock Grace Baptist Church to close the unopen ROW and unopened alley in the East Flat Rock area of Henderson County.
2. At the Board's February 4, 2019 the Board adopted a resolution "declaring its intent to close" the said unopened right of way.
3. A notice of this Board's March 20, 2019 hearing was published once a week for three successive weeks before the hearing in the *Hendersonville Lightning* a copy of the resolution was 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 along the road or easement.
4. Before the Board on March 20, 2019 the Board heard "all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights" are required by N.C. Gen. Stat. §153A-241.
5. After such hearing, the Board is satisfied and finds:
 - A. That closing the right of ways or easement is not contrary to the public interest; and,
 - B. That no individual owning property in the vicinity of the right of ways or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to the property.

WHEREFORE IT IS ORDERED that the unopened right of ways in the East Flat Rock area of Henderson County as shown on the attached map is hereby closed. It is further ordered that a certified copy of this Order shall be filed in the office of the register of deeds of the county.

Adopted by the Board by motion duly made, this the 20th day of March, 2019.

BOARD OF COMMISSIONERS
OF HENDERSON COUNTY

By: _____
GRADY HAWKINS, Chairman

Attest:

TERESA L. WILSON, Clerk to the Board