

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** September 8<sup>th</sup>, 2020

**SUBJECT:** Public Hearing to close portion of Dove Haven Lane Road Right of Way

**PRESENTER:** Sam Starr, Property Addressing Coordinator  
Autumn Radcliff, Planning Director

**ATTACHMENTS:** (1) Site Maps depicting proposed RROW closure  
(2) North Carolina General Statute 153A-241  
(3) Petition for Road Closure  
(4) Order to permanently close portions of Dove Haven Lane  
(5) PowerPoint Presentation

### SUMMARY OF REQUEST:

Planning and Property Addressing staff have received the attached petition and survey to close an unopened portion of Dove Haven Lane. Under North Carolina General Statute (NCGS) 153A-241, Counties have the power to close any public road or easement not within a city, except public roads or easements for public roads under control of the Department of Transportation. To close any road, the Board must:

- Vote to adopt a resolution declaring its intent to close the public road or easement.
- Call and notice a public hearing on closing the road or easement, with notice "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".
- Hold the public hearing, where the Board must "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".
- Then, if the Board "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."
- File a copy of the Board's order with the Register of Deeds.

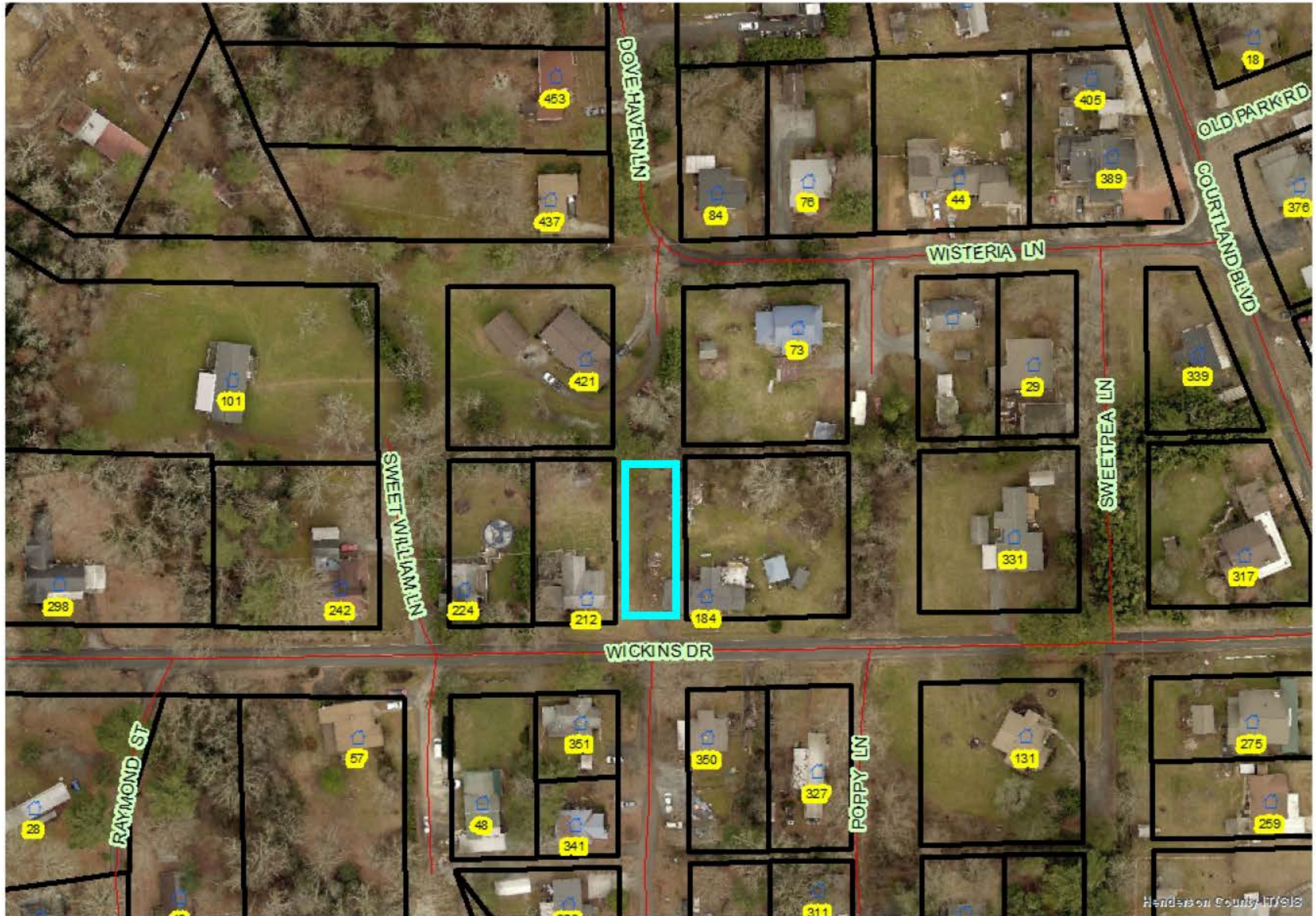
### BOARD ACTION REQUESTED:

Staff recommends approval of closing portions of Dove Haven Lane.

### Suggested Motion:

I move that the Board approve the closure of the rights-of-way and certify the Order of Closure

# Site Map With Highlighted Area Indicating Proposed RRROW Closure




Henders on County 11/9/18



 - Proposed RRROW Closure

0 0.025 0.05 Miles



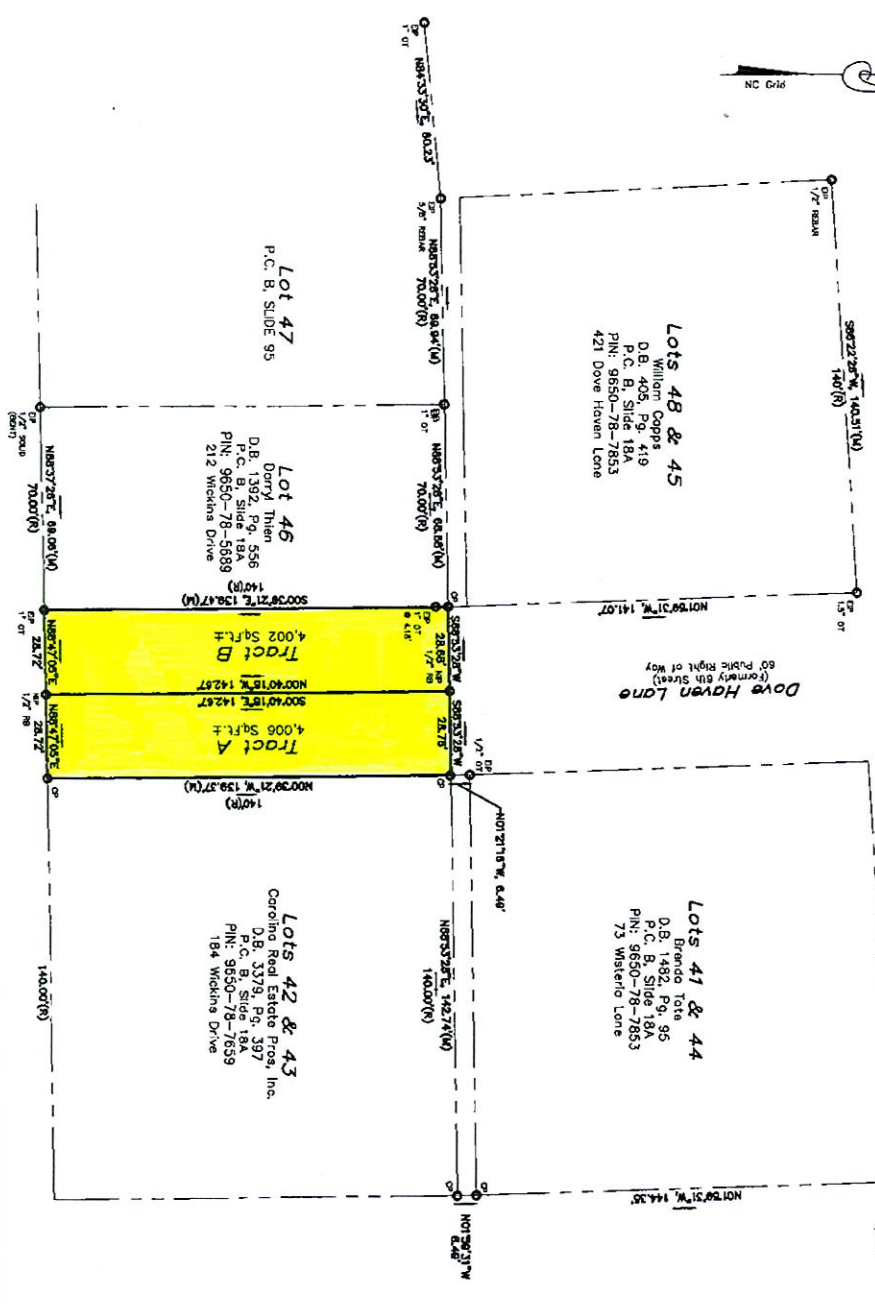
# Proposed ROW Closure (Highlighted in yellow)

NOTES:  
1) The Basis of Bearings for this survey is NC Grid, based on NAD83.  
2) This survey was performed as a result of Henderson County clearing an unopened portion of Dove Haven Lane, formerly 5th Street.



**LEGEND:**

- NEW IRON PIN (5/8" REBAR)
- EXISTING IRON PIN
- CALCULATED POINT ONLY
- LIGHT POLE
- WATER VALVE
- GAS VALVE
- WATER METER
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- CLEANOUT
- CURB RILET
- OVERHEAD POWER
- FENCE LINE

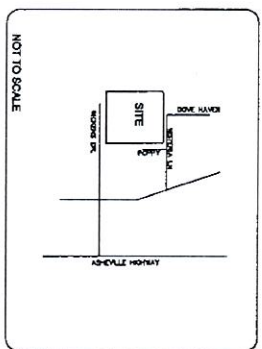


Tract A is to be combined with Lots 42 & 43  
Tract B to be combined with Lot 46

Dove Haven Lane  
(Formerly 5th Street)  
80' Public Right of Way



OWNER  
HENDERSON COUNTY



I, Fulton V. Chikacosta, Jr., certify that this plat was drawn under my supervision from an actual survey made under my personal supervision and that the boundaries and bearings are true and correct. I am a duly licensed Professional Land Surveyor in the State of North Carolina. The date of this survey is 11/10/2020. I certify that the original plat was filed in the Public Records Office of Henderson County, North Carolina, on 11/10/2020. My license number is 28514.

Professional Land Surveyor Fulton V. Chikacosta, Jr.  
License Number - 28514

State of North Carolina  
HENDERSON COUNTY  
I, \_\_\_\_\_, Register of Deeds, certify that the map or plat to which this certification is attached meets all statutory requirements for recording.

Register of Deeds

Plat of Boundary Survey for  
**Dove Haven Lane Closure**  
(Formerly 5th Street)  
184 & 121 Wickers Drive  
73 Wisteria Lane  
421 Dove Haven Lane  
Mountain Home Township, Henderson County  
State of North Carolina  
Lots 41-46 & 48, Mountain Home

**PRELIMINARY**

AS F. K. GAINES, JR., P.E.  
L-2894

REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF NORTH CAROLINA  
EXPIRES 12/31/2024

FREELAND, QUINCSALES & ASSOCIATES, INC. OF NC  
501 SOUTH WIRE CENTER  
HENDERSONVILLE, N.C. 27534  
Henderson@freeland.com

REG. PLAT BOOK \_\_\_\_\_ of \_\_\_\_\_  
REG. BOOK \_\_\_\_\_ of \_\_\_\_\_  
TAX MAP \_\_\_\_\_ of \_\_\_\_\_  
PLAT DATE \_\_\_\_\_  
DRAWN BY \_\_\_\_\_  
DATE \_\_\_\_\_  
FILED \_\_\_\_\_

**§ 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.

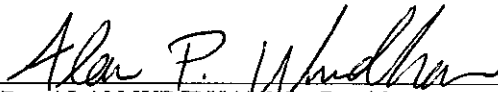
No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within 30 days after the day the order is adopted.

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.)

CONSENT TO REQUEST FOR STREET CLOSURE  
PORTION OF DOVE HAVEN LANE

We join in this petition to permanently close the unopened streets identified in the letter of Edward L. Harrelson dated July 7, 2020.

CAROLINA REAL ESTATE PROS, INC.


  
By: ALAN WINDHAM, Its President

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Hendersonville, N.C. 28791

Phone: (828) 551-6949

E-Mail: Alan@CarolinaRealEstatePros.com

Owner of: 184 Wickins Dr.  
Hendersonville, N.C. 28791

  
DARRYL V. THIEN

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HENDERSONVILLE NC 28791

Phone: 828-290-7218

E-Mail: BURNTBUBB@GMAIL.COM

Owner of: 212 Wickins Dr.  
Hendersonville, N.C. 28791

**Henderson County  
North Carolina**

Before the Board of Commissioners

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**ORDER CLOSING A PORTION OF THE  
RIGHT-OF-WAY FOR DOVE HAVEN LANE**

THIS MATTER came on for hearing before the Henderson County Board of Commissioners at its regular September 8th 2020, meeting, pursuant to N.C. Gen. Stat. §153A-241, on the issue of closing a portion of rights-of-way for portions of Dove Haven Lane 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 August 19<sup>th</sup> 2020, on the petition of Carolina Real Estate Pros, LLC to close portions of Dove Haven Lane was heard in Henderson County.

2. At the Board's August 19<sup>th</sup>, 2020 meeting, the Board adopted a resolution "declaring its intent to close" the said portions of Dove Haven Lane.

3. A map showing the area under consideration is shown on the attachment hereto, Exhibit A, (indicated by a highlighted portion indicating closure areas)

4. A notice of this Board's September 8<sup>th</sup> hearing was published once a week for three successive weeks before the hearing in the *Hendersonville Tribune*, 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 in at least two places along the road or easement.

5. Before the Board on September 8<sup>th</sup>, 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.

6. After such hearing, the Board is satisfied and finds:

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.

**WHEREFORE IT IS ORDERED** that portions of Dove Haven Lane in Henderson County

as shown on the attached map is hereby closed.

Adopted by the Board by motion duly made, this the 17<sup>th</sup> day of June, 2020.

BOARD OF COMMISSIONERS  
OF HENDERSON COUNTY

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk to the Board

# Public Hearing to Close Portions of Dove Haven Lane

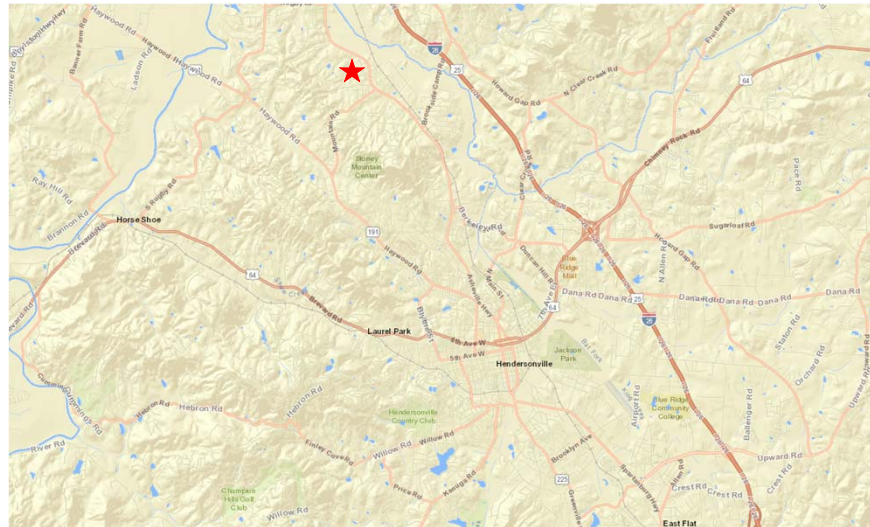


Henderson County Board of Commissioners  
September 8<sup>th</sup>, 2020

*Henderson County Planning Department*

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## Context Map I

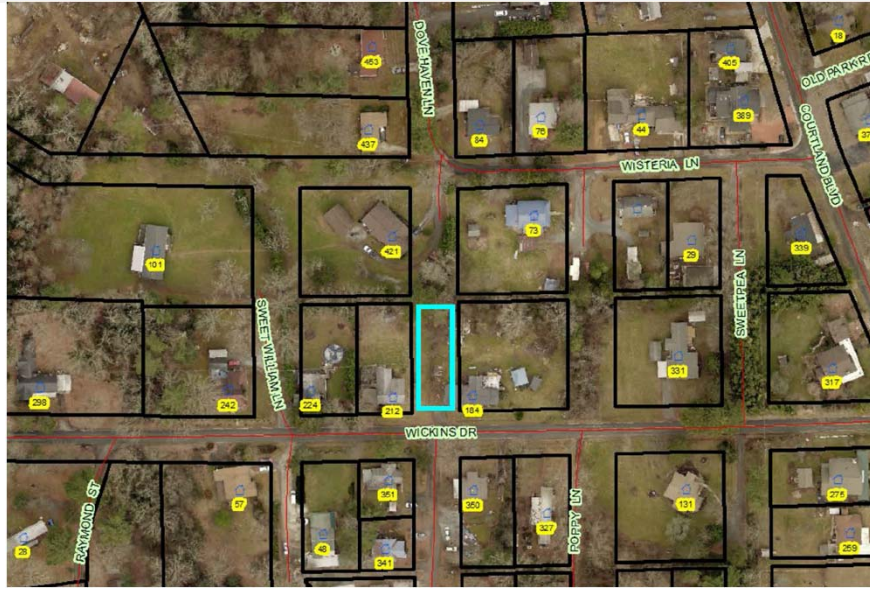


*Henderson County Planning Department*

2



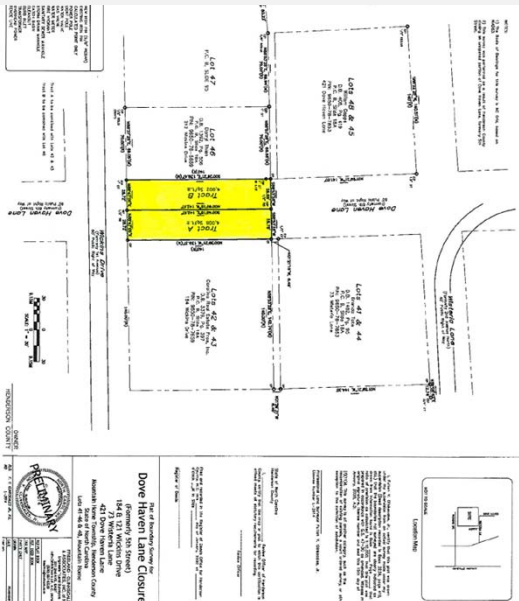
# Context Map II



Henderson County Planning Department

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# Proposed Closures



- Paper Right of way
- No impacts to existing driveways or access
- No plans to improve portions of Dove Haven Lane

Henderson County Planning Department

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## **Public Noticing + Comments**

- **Paper notice: 8/19, 8/26, 9/2**
- **Bi-directional signage posted for 21 days**
- **Adjacent and applicant notified per NCGS mailing standards**
- **No public comment received for this closure**

*Henderson County Planning Department*