

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

- MEETING DATE:** June 6th, 2022
- SUBJECT:** Public Hearing to close a portion of N Cureton Place (Cureton Place Extension) Right of Way
- PRESENTER:** Matt Champion, Zoning Administrator
Autumn Radcliff, Planning Director
- ATTACHMENTS:** (1) Site Map depicting proposed Rights of Way to be abandoned, and existing conditions
(2) North Carolina General Statute 153A-241
(3) Applicants Petition for Road Closures
(4) Order to permanently close a portion of N Cureton Place (Cureton Place Extension)
(5) PowerPoint

SUMMARY OF REQUEST:

Planning and Property Addressing staff have received the attached petitions to close a portion of N Cureton Place (Cureton Place Extension. 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 a portion of N Cureton Place (Cureton Place Extension).

Suggested Motion:

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

ROW Closure for Portion of
N Cureton Place
Applicant: NCDOT-Egolf
Township: Hoopers Creek

Aerial Map



**N Cureton PL
(Cureton PL Extension)
SR 2049**

- Right of Way Closure
- Portion to Remain Open
- Streets
- Parcels

0 30 60 120 180 240
Feet

This map is prepared from the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained in this map. Henderson County and the mapping company

N

§ 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.)



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

February 22, 2022

Board of Commissioners
Henderson County - North Carolina
One Historic Courthouse Square
Hendersonville, NC 28792

Re: SR-3 Road Abandonment petition for partial abandonment of Cureton Place Road.

To whom it may concern:

NCDOT has prepared a petition to abandon a portion of SR 2049 from the NCDOT state road system.

The portion of Cureton Place Extension (SR-2049) that is requested to be abandoned is 240 feet (0.045mi.) at dead end. The portion of Cureton Place Extension that is to be retained by the NCDOT state road system is 660 feet (0.11 mi.)

Attached, please find the SR-3 form for your review. Upon review of this petition, please complete and submit a form SR-2 to our office. If you have any additional questions, please contact this office at (828) 891-7911 or myself at rh darnell@ncdot.gov.

Sincerely,

DocuSigned by:
R.H. Darnell

R.H. "Rusty" Darnell
Assistant District Engineer
NC Department of Transportation

RHD/bgs

Enclosures
Cc: File

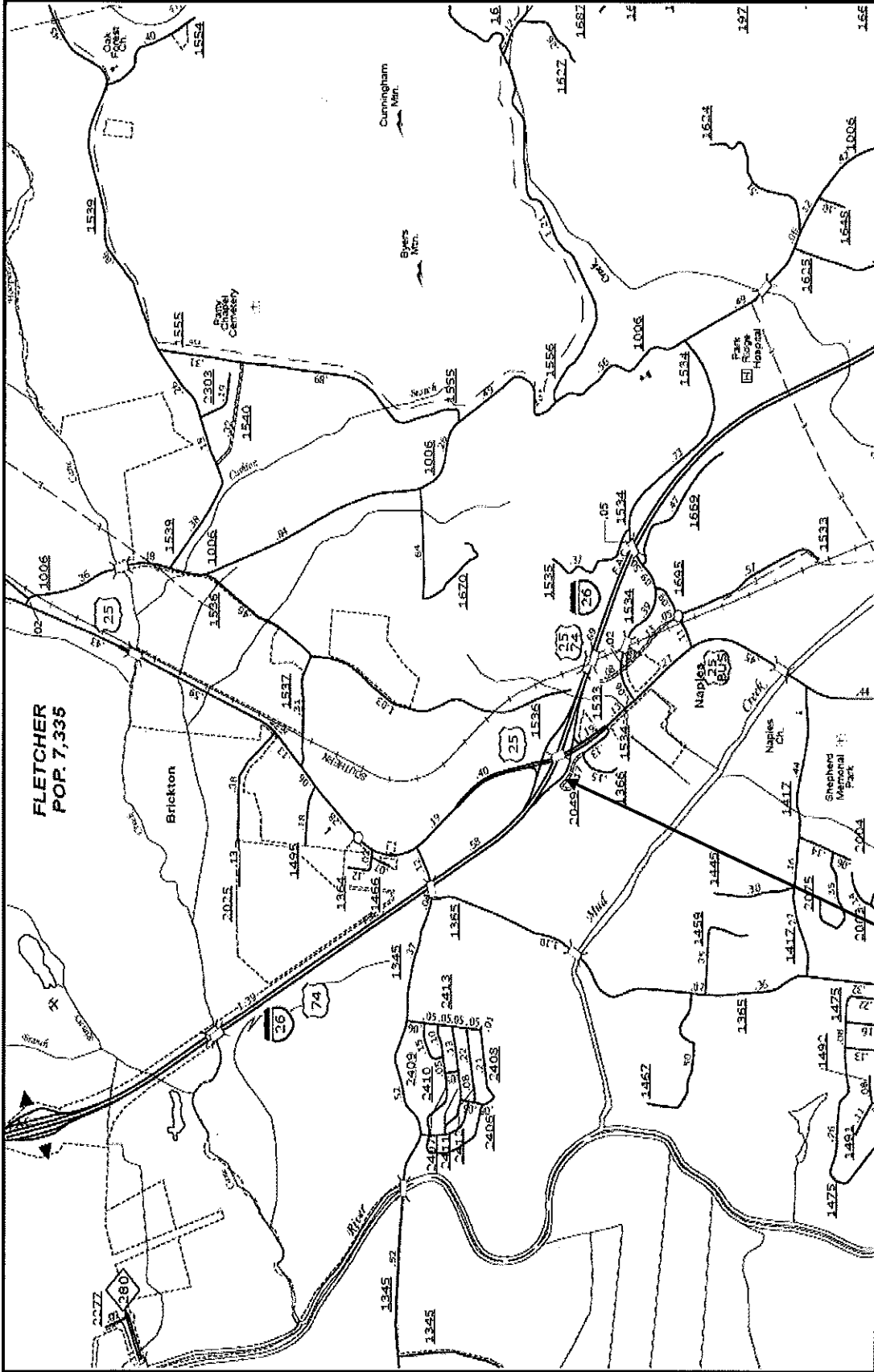
Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION 14, DISTRICT 1
4142 HAYWOOD ROAD
MILLS RIVER, NORTH CAROLINA 28759

Telephone: 828-891-7911
Fax: 828-891-5026
Customer Service: 1-877-368-4968

Website: ncdot.gov

Location:
4142 HAYWOOD ROAD
MILLS RIVER, NORTH CAROLINA 28759

Henderson County Vicinity Map - SR2049-Cureton Place Rd (Partial Road Abandonment)



SR 2049-Cureton Place Rd
Proposed Partial Abandonment
Abandoned Length: 0.045 mi / Retained Length: 0.11 mi

**Henderson County
North Carolina**

Before the Board of Commissioners

**ORDER CLOSING A PORTIONS OF
RIGHT-OF-WAY FOR N CURETON PLACE (CURETON PLACE EXTENSION)**

THIS MATTER came on for hearing before the Henderson County Board of Commissioners at its regular June 6th 2022, meeting, pursuant to N.C. Gen. Stat. §153A-241, on the issue of closing a portion of right-of-way for a portion of N Cureton Place (Cureton Place Extension) 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 May 18th, 2022, on the petition of NCDOT to close a portion of N Cureton Place (Cureton Place Extension) was heard in Henderson County.
2. At the Board's May 18th, 2022, meeting, the Board adopted a resolution "declaring its intent to close" the said portion of N Cureton Place (Cureton Place Extension).
3. A map showing the area under consideration is shown on the attachment hereto, Exhibit A, (indicated by a yellow road identifier).
4. A notice of this Board's June 6th 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 in at least two places along the road or easement.
5. Before the Board on June 6th, 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 a portion of N Cureton Place (Cureton Place Extension) in Henderson County as shown on the attached map is hereby closed.

Adopted by the Board by motion duly made, this the 6th day of June, 2022.

BOARD OF COMMISSIONERS
OF HENDERSON COUNTY

By: _____
Chairman

Attest:

Clerk to the Board

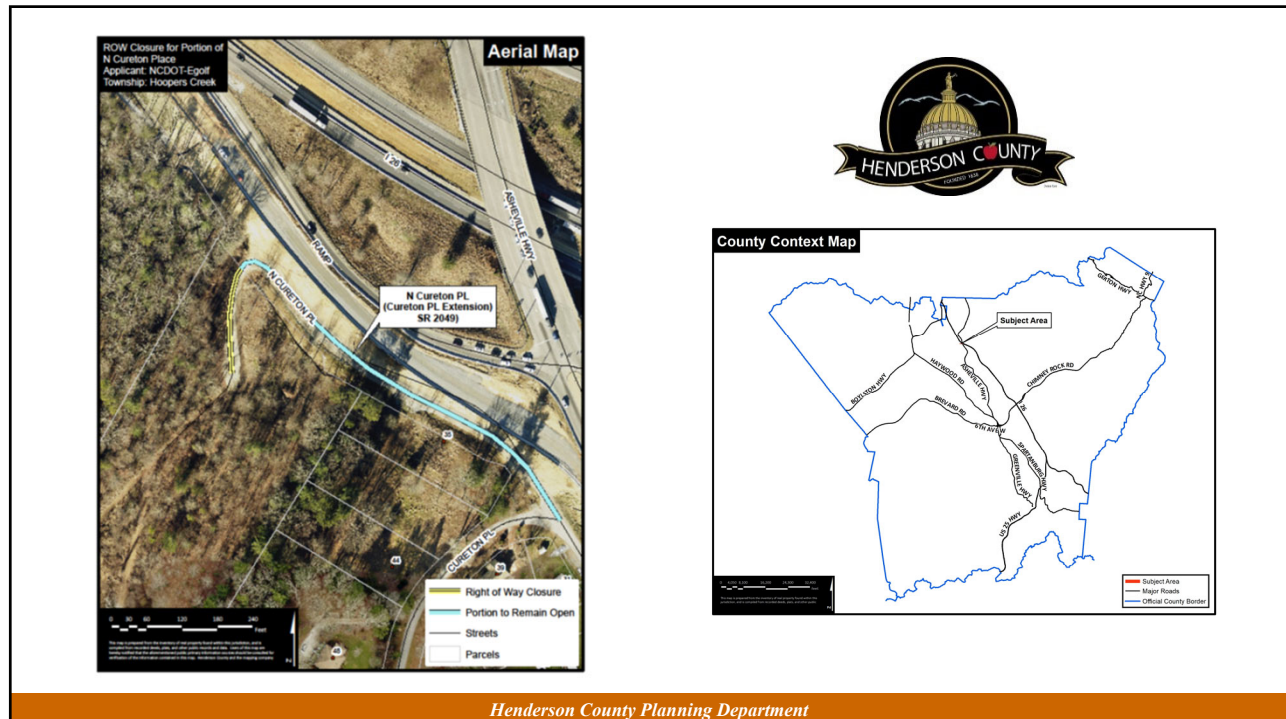
Public Hearing to Abandon a Portion of Right of Way for N Cureton Place (Cureton Place Extension)



Henderson County Board of Commissioners
June 6th, 2022

Henderson County Planning Department

1



2

Questions or Comments



Henderson County Board of Commissioners
June 6th, 2022

Henderson County Planning Department

3

Public Hearing Comments

Henderson County Board of Commissioners
June 6th, 2022

Henderson County Planning Department

4