

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 19, 2018

SUBJECT: Petition to close portion of Right of Way off Ripley Avenue in the Mountain Home area and set Public Hearing

PRESENTER: Autumn Radcliff – Planning Director

ATTACHMENTS:

- (1) Petition to close easement
- (2) Plat of area
- (3) Survey of area
- (4) Copy of N.C. G. S. 153A-241
- (5) Proposed Resolution

SUMMARY OF REQUEST:

Planning staff received a petition from Mr. Emery Lorntz and Mr. Roger Gagnon to close a portion of a right of way off Ripley Avenue in the Mountain Home area of Henderson County.

North Carolina General Statute 153A-241 requires that the board must adopt a resolution of intent prior to setting a public hearing for permanently closing a public road or easement or a right-of-way if it deems no individual owning property would be deprived of a reasonable means of ingress and egress.

BOARD ACTION REQUESTED:

Staff request the Board approve the attached resolution of intent to close the right of way and schedule the required public hearing.

Suggested Motion:

I move that the Board approve the resolution of intent to close a portion of the right-of-way and to set a public hearing for Wednesday, October 17, 2018 at 9:00 A.M.

LORNTZ & ASSOCIATES

Medicare Advantage Plans, Supplements, Insurance, and Secure Investments

July 19, 2018

Curtis Griffin
Planning Department
Property Addressing Division
100 North King Street
Hendersonville, NC 28792

RE: Proposed Right of Way (Between my property and Mr. Gagnon) closure

Dear Mr. Griffin,

Thanks for your time today as we discussed the ROW issues.

Mr. Gagnon and I have agreed to apply for a closure of the ROW that exists between our two properties.

Enclosed, please find the following documents pertaining to the same:

Original letter of intent

General Warranty Deed for my property

Maps of Mountain Home (2)

NC Department of Transportation Map

Please begin the process for this ROW closure and advise us of anything else you might need from us.

Sincerely,


Emery Lorntz

Roger Gagnon



John Lorntz, Ph.D. • PO Box 337 • Mountain Home, NC 28758
98 Ripley Avenue, Hendersonville, NC 28791 • E-Mail: jlorntz@gmail.com
Office: 828-699-5562 • Toll Free: 888-846-4849

B-264



MAP
OF
MOUNTAIN HOME
Henderson County
N.C.

FEESTES,
R. C. RIDGELY, ENGRS.

Scale: 1" = 100' Oct. 1914.



NOTE: LOTS 84
108 to 127
137 to 158
168 to 189
204 to 226
ARE OMITTED.

APPROXIMATELY 4.6
ACRES UNPLOTTED.

PSD 248-07-R
 TIP R-2214A
 PROJECT 8.1951101
 WBS 34389.1.1
 PAR 66
 TOWNSHIP HENDERSONVILLE

STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION
 MAP OF DEED REMAINDER AREA
 PROJECT OF
 STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION
 HENDERSONVILLE COUNTY

STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION
 MAINDER AREA
 PROJECT OF
 STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION
 HENDERSONVILLE COUNTY



TABLES OF METES AND BOUNDS

PARCEL NO. 66 - DEED REMAINDER AREA = 0.385 ACRE

-LREV-

COURSE	BEARING	DISTANCE	ARC	RADIUS
202+70.34 - 1	S 88°27'45" W	56.80'		
1 - 2	S 88°27'45" W	134.79'		
2 - 3	N 01°19'49" W	140.15'		
3 - 4	N 89°23'33" E	81.01'	81.01'R	2834.7892'
4 - 5	S 89°47'15" E	28.74'		
5 - 1	S 11°38'03" E	140.13'	140.24'L	1009.9297'

SLOPE EASEMENT

-LREV-

COURSE	BEARING	DISTANCE	ARC	RADIUS
202+70.34 - 1	S 88°27'45" W	56.80'		
1 - 6	S 88°27'45" W	10.19'		
6 - 7	N 20°56'44" W	14.54'		
7 - 8	N 11°43'58" W	53.45'		
8 - 9	N 10°47'27" W	72.95'		
9 - 5	S 89°47'15" E	11.65'		
5 - 1	S 11°38'03" E	140.13'	140.24'L	1009.9297'

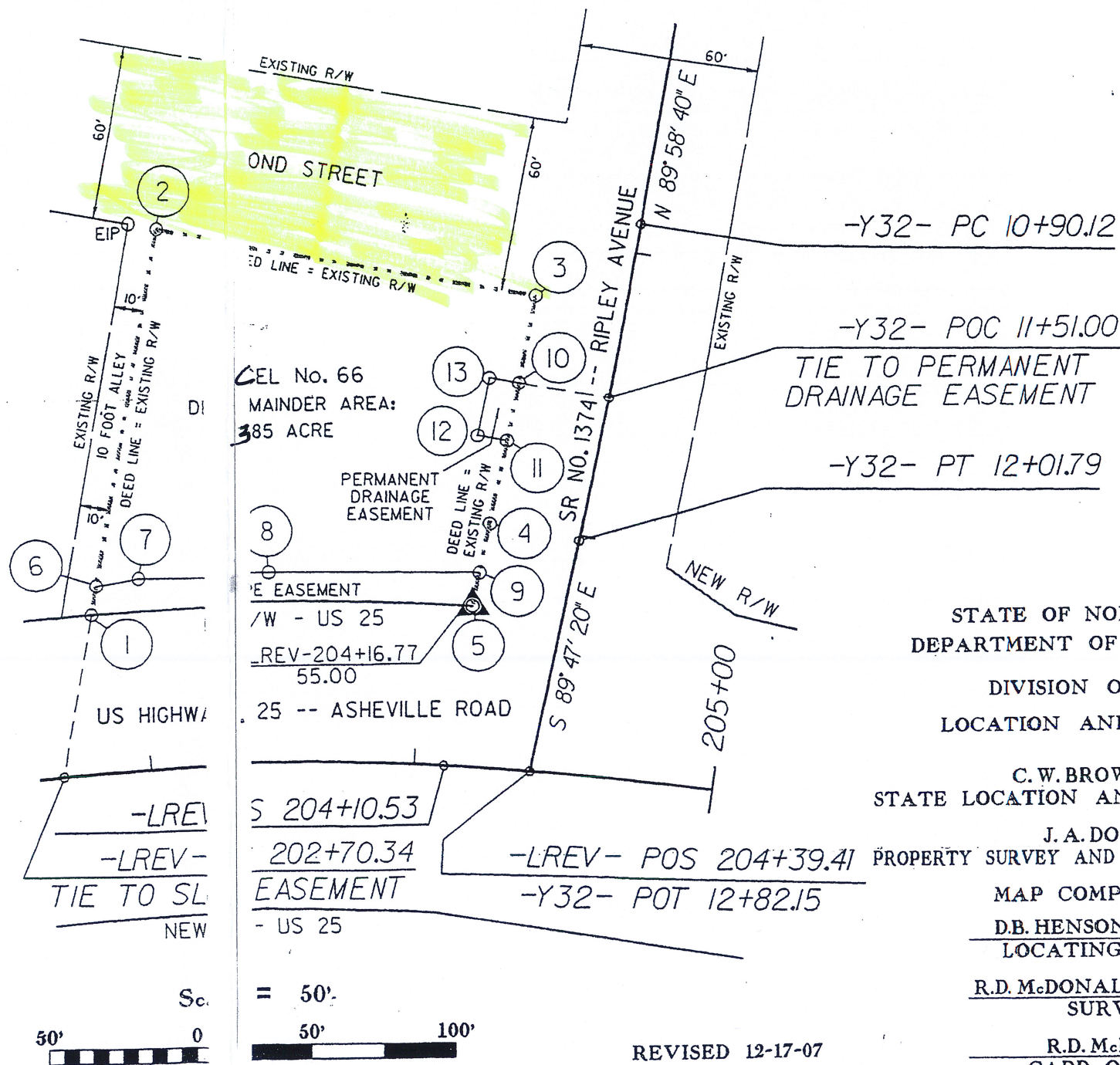
PERMANENT DRAINAGE EASEMENT

-Y32-

COURSE	BEARING	DISTANCE	ARC	RADIUS
11+51.00 - 10	S 00°48'17" E	30.00'		
10 - 11	N 89°24'19" E	20.78'	20.78'R	2834.7892'
11 - 12	S 00°23'05" E	10.00'		
12 - 13	S 89°24'19" W	20.71'		
13 - 10	N 00°48'17" W	10.00'		

TABLE OF AREAS

TOTAL AREA	16792 SQ. FT.	0.385 AC.
REMAINING AREA	16792 SQ. FT.	0.385 AC.
REMAINING AREA SUBJECT TO EASEMENTS:		
PERMANENT DRAINAGE EASEMENT	208 SQ. FT.	0.005 AC.
SLOPE EASEMENT	1463 SQ. FT.	0.034 AC.



STATE OF NORTH CAROLINA
 DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 LOCATION AND SURVEYS UNIT

C. W. BROWN, PE, P.L.S.
 STATE LOCATION AND SURVEYS ENGINEER

J. A. DODSON, PE
 PROPERTY SURVEY AND CADD MAPPING ENGINEER

MAP COMPILED 11-06-07
 D.B. HENSON, P.L.S. No. 5282
 LOCATING ENGINEER

R.D. McDONALD, P.L.S. No. 2845
 SURVEYOR

R.D. McDONALD
 CADD OPERATOR

REVISED 12-17-07

§ 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.)

**Henderson County
North Carolina**

Before the Board of Commissioners

Resolution on Proposed Road or Easement Closing

BOARD OF COMMISSIONERS ENACTMENT 2018-____

WHEREAS, N.C. Gen. Stat. §153A-241 allows for the closing by a county of any public road or easement located within the county but not within a municipality; and

WHEREAS, the Board of Commissioners of Henderson County has received a petition from Emery Lorntz and Roger Gagnon for the closing of a road or easement indicated on the plat for Mountain Home as the apparent northern extension of "Second Avenue", as shown as the yellow highlighted area indicated on the attached copy of plat; and

WHEREAS, the Board of Commissioners of Henderson County, following the procedures required by §153A-241, are adopting this Resolution declaring their intent to possibly close the public road or easement, and of their intent to hold a public hearing on the question.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Board of Commissioners shall hold a public hearing on the 17th day of October, 2018, at 9:00 o'clock a.m., on the issue of whether to close the public road/easement noted above.
2. A notice of this public hearing, giving full and fair disclosure of the proposed closing, shall be published once a week for three (3) weeks.
3. A copy of this notice shall 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. A copy of this Resolution and the public hearing notice shall be prominently posted in at least two places along the road or easement.

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5. At the conclusion of the public hearing, the Board of Commissioners will determine whether or not closing the public road or easement is contrary to the public interest and (in the case of a road) whether any 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 their property. If the Board finds that such closing would not be contrary to the public interest and that, in the case of a road, that no individual would be deprived of reasonable means of ingress or egress, the Board may grant the closing of the public road or easement.

Adopted this the 19th day of September, 2018.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
J. MICHAEL EDNEY, Chairman Attest:

TERESA L. WILSON, Clerk to the Board