

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

- MEETING DATE:** May 3<sup>rd</sup>, 2021
- SUBJECT:** Public Hearing to close portions of Courtland Boulevard, Mountain Home Street, and Cosmos Drive 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 portions of Cosmos Drive, Courtland Boulevard, and Mountain Home Street  
(5) PowerPoint

#### **SUMMARY OF REQUEST:**

Planning and Property Addressing staff have received the attached petitions to close unopened portions of Courtland Boulevard, Mountain Home Street, and Cosmos Drive. 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:**

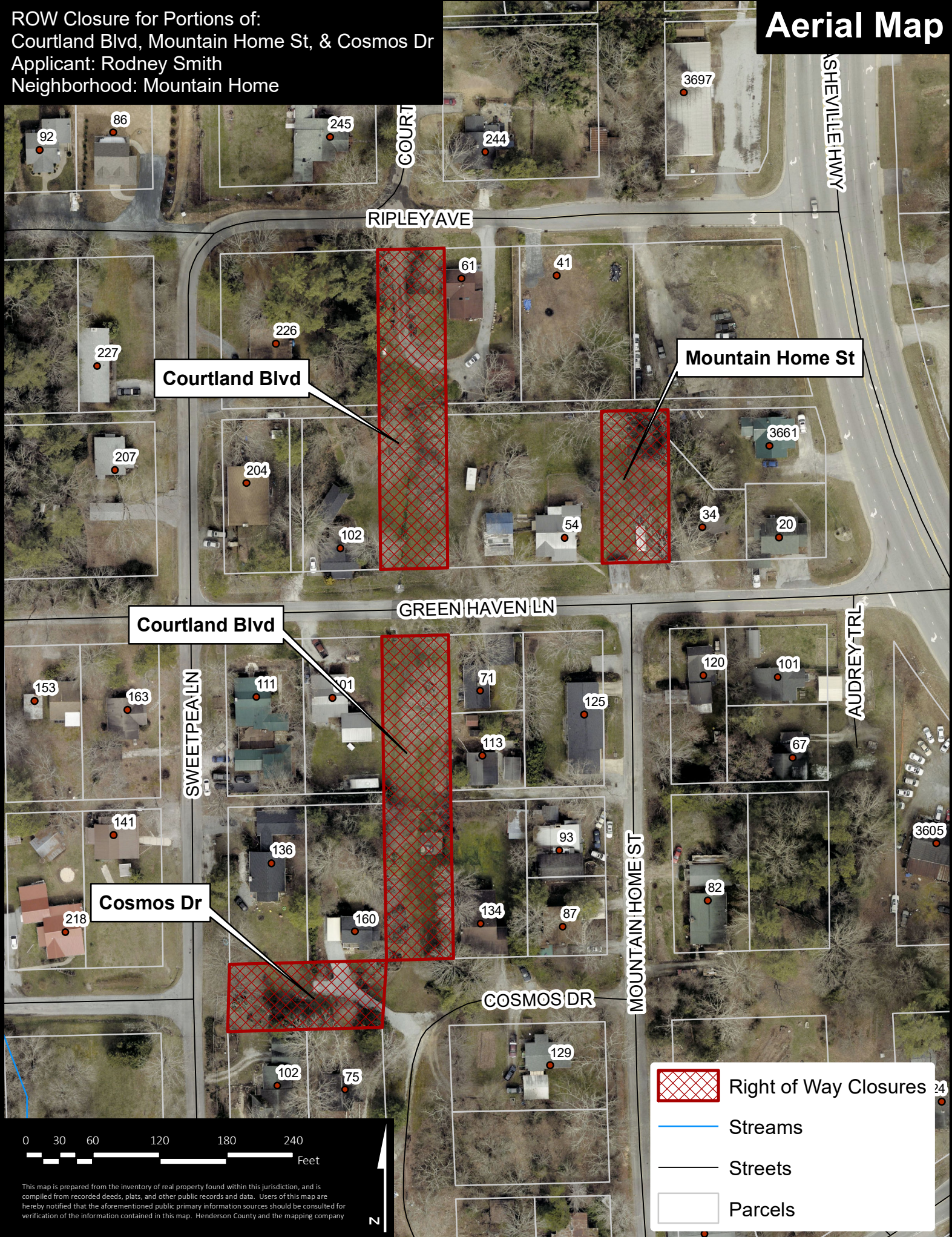
Staff recommends approval of closing portions of Cosmos Drive, Courtland Boulevard, and Mountain Home Street.

#### **Suggested Motion:**

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

ROW Closure for Portions of:  
Courtland Blvd, Mountain Home St, & Cosmos Dr  
Applicant: Rodney Smith  
Neighborhood: Mountain Home

# Aerial Map



Courtland Blvd

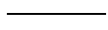
Mountain Home St

Courtland Blvd

Cosmos Dr

 Right of Way Closures

 Streams

 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

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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.)

February 17, 2021

Sam Starr  
Henderson County Property Addressing  
100 N. King St.  
Hendersonville, NC 28792

RE: Permanent Road Closure – Section of Cosmos Dr.

Dear Mr. Starr:

I am writing to you regarding the permanent road closure of an unopen street in the Mountain Home community. Robert A. Smith is requesting the closure of Cosmos Dr. between Courtland Blvd. and Sweet Pea Lane. The area mentioned is between 160 Cosmos Lane and 75 Courtland Blvd and between 134 Sweet Pea Lane and 102 Sweet Pea Lane.

A map of the areas effected street to be closed and property's adjoining it will be enclosed in the letter. Then comprise all of the affected owners of properties adjoining the sections of unopen street to be closed.

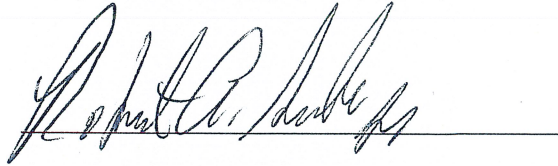
It is the desire of Robert A. Smith, Kenneth and Iris Judge, Douglas and Martha Berglind and Jacqueline Ranly and Judy Bazzle to permanently close the unopen section of Cosmos Dr. as indicated. It is the understanding of the parties that once closed, one half of each right of way will vest in the adjoining owner. Should you have any questions or require any further documentation, please do not hesitate to call me.

Thanks,   
Rodney A. Smith / For Robert A. Smith - - Father  
828-674-2698

CONSENT TO REQUEST STREET CLOSURE PORTION OF COURTLAND BLVD:

We join in this petition to permanently close the unopened street identified in this letter from Rodney A Smith/ For Robert A. Smith.

Robert A Smith  
Barbara A Smith  
160 Cosmos Dr.



A handwritten signature in cursive script, appearing to read "Robert A. Smith", written over a horizontal line.

Martha Berglind  
Douglas Berglind  
134 Sweet Pea Lane

*\* See Emails Provide \**

Kenneth Judge  
Iris Judge  
102 Sweet Pea Lane



A handwritten signature in cursive script, appearing to read "Ken E. Judge", written over a horizontal line.

Jacqueline Ranly  
Judy Bazzle  
75 Courtland Blvd.

*\* See Emails Provided \**

## Smith, Rodney

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**From:** Marthaberglind Berglind <marthaberglind@gmail.com>  
**Sent:** Wednesday, March 3, 2021 9:11 PM  
**To:** Smith, Rodney  
**Subject:** Agreement to Closure Cosmo Dfive

**CAUTION:** This email originated from outside the organization.

I Martha E. Berglind with address at 136 Sweetpea Ln, agree to the road closure of Coismo Drive with my neighbors..

## Smith, Rodney

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**From:** Rodney Smith <rasmithlawncare@aol.com>  
**Sent:** Wednesday, March 3, 2021 6:58 PM  
**To:** Smith, Rodney  
**Subject:** Fwd: Re: Petition of closure of Cosmos road Mtn. Home N.C

**CAUTION:** This email originated from outside the organization.

Sent from AOL Mobile Mail  
Get the new AOL app: mail.mobile.aol.com

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From: Alfred Bazzle <alfredbazzle@yahoo.com>  
Date: Wednesday, March 3, 2021  
Subject: Re: Petition of closure of Cosmos road Mtn. Home N.C  
To: rasmithlawncare <rasmithlawncare@aol.com>

Sent from my iPhone

On Mar 3, 2021, at 12:42 PM, jackranly123 <[jackranly123@gmail.com](mailto:jackranly123@gmail.com)> wrote:

To whom it may concern, I Judy Bazzle co-owner of 75 Courtland BLVD, Mtn. Home N.C., are in full agreement with the surrounding neighbors petition to close Cosmos Dr.

Sincerely,

Judy Bazzle

Sent from my Galaxy Tab® A

## Smith, Rodney

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**From:** Rodney Smith <rasmithlawncare@aol.com>  
**Sent:** Wednesday, March 3, 2021 6:57 PM  
**To:** Smith, Rodney  
**Subject:** Fwd: Petition of closure of Cosmos road Mtn. Home N.C

**CAUTION:** This email originated from outside the organization.

Sent from AOL Mobile Mail  
Get the new AOL app: mail.mobile.aol.com

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From: jackranly123 <jackranly123@gmail.com>  
Date: Wednesday, March 3, 2021  
Subject: Petition of closure of Cosmos road Mtn. Home N.C  
To: Rasmithlawncare <Rasmithlawncare@aol.com>, alfredbazzle <alfredbazzle@yahoo.com>

To whom it may concern, I Jacqueline J. Ranly, co-owner of 75 Courtland BLVD, Mtn. Home N.C., are in full agreement with the surrounding neighbors petition to close Cosmos Dr.

Sincerely,

Jacqueline J. Ranly

Sent from my Galaxy Tab® A





February 17, 2021

Sam Starr  
Henderson County Property Addressing  
100 N. King St.  
Hendersonville, NC 28792

RE: Permanent Road Closure – Section of Courtland Blvd

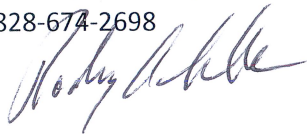
Dear Mr. Starr:

I am writing to you regarding the permanent road closure of an unopen street in the Mountain Home community. Robert A. Smith, Wesley A. Smith and Douglas Strickland request the closure of sections of Courtland Blvd. between Cosmo Dr. and Ripley Ave. Area between 54 Greenhaven and 102 Green Haven, Area between 72 Green Haven and 101 Green Haven and Area between 160 Cosmo Dr. and 134 Cosmo Dr. and area between 61 Ripley Dr. and 226 Sweet Pea Lane.

A map of the areas effected street to be closed and property's adjoining it will be enclosed in the letter. Then comprise all of the affected owners of properties adjoining the sections of unopen street to be closed.

It is the desire of Robert A. Smith, Wesley A. Smith, Douglas Strickland, Arthur Pelkey, John Lorntz and R&L Distribution to permanently close the unopen sections of Courtland Blvd. as indicated. It is the understanding of the parties that once closed, one half of each right of way will vest in the adjoining owner. Should you have any questions or require any further documentation, please do not hesitate to call me. There is a check for \$450.00 for the application fee.

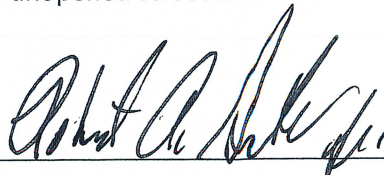
Thanks,  
Rodney A. Smith / For Robert A. Smith - - Father  
828-674-2698

A handwritten signature in cursive script, appearing to read "Rodney A. Smith".

CONSENT TO REQUEST STREET CLOSURE PORTION OF COURTLAND BLVD:

We join in this petition to permanently close the unopened street identified in this letter from Rodney A Smith/ For Robert A. Smith

Robert A Smith Jr. Barbara Smith  
71 Greenhaven St.  
120 Greenhaven St.  
160 Cosmo Dr.



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Wesley A. Smith  
101 Greenhaven St.



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Douglas and Debra Strickland  
54 Greenhaven St.



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Arthur and Eileen Pelkey  
226 Sweet Pea Lane

LSEE letters

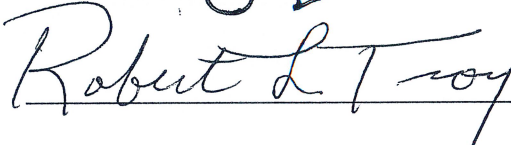
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John and Maribel Lorntz  
61 Ripley Ave.



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R & L Distribution LLC  
134 Cosmo Dr.



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February 17, 2021

Sam Starr  
Henderson County Property Addressing  
100 N. King St.  
Hendersonville, NC 28792

RE: Permanent Road Closure – Section of Mountain Home St.

Dear Mr. Starr:

I am writing to you regarding the permanent road closure of an unopen street in the Mountain Home community. Douglas and Debra Strickland and Russell and Pamela Pressley request the closure of the last section of Mountain Home St. between 34 Green Haven Lane and 54 Green Haven Lane.

A map of the areas effected street to be closed and property's adjoining it will be enclosed in the letter. Then comprise all of the affected owners of properties adjoining the sections of unopen street to be closed.

It is the desire of Douglas and Debra Strickland and Russell and Pamela Pressley to permanently close the unopen section of Mountain Home St. as indicated. It is the understanding of the parties that once closed, one half of each right of way will vest in the adjoining owner. Should you have any questions or require any further documentation, please do not hesitate to call me.

Thanks;

Douglas Strickland



828-674-3943

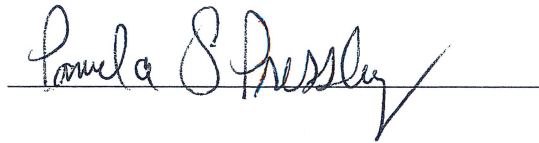
CONSENT TO REQUEST STREET CLOSURE PORTION OF COURTLAND BLVD:

We join in this petition to permanently close the unopened street identified in this letter from Douglas Strickland:

Douglas and Debra Strickland  
54 Green Haven Lane



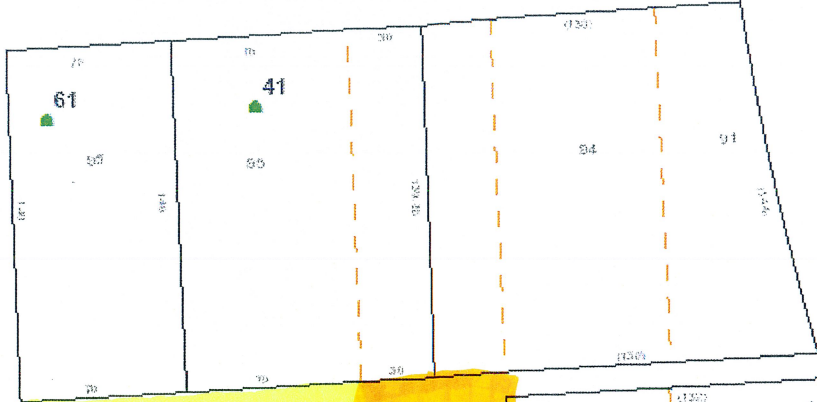
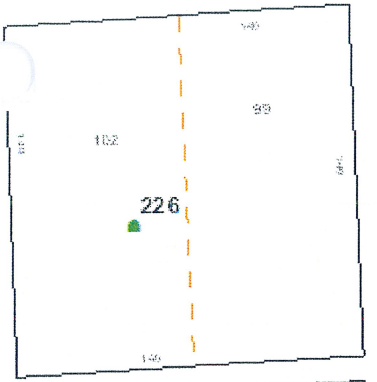
Russell and Pamela Pressley  
34 Green Haven Lane



Ripley Ave

Ripley Ave

Ashville Hwy



Green Haven Ln

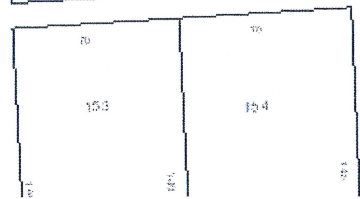
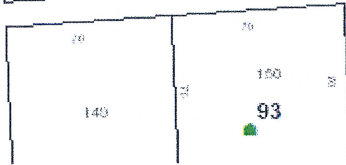
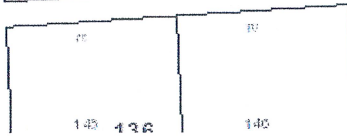
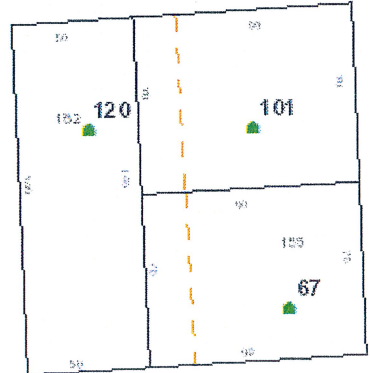
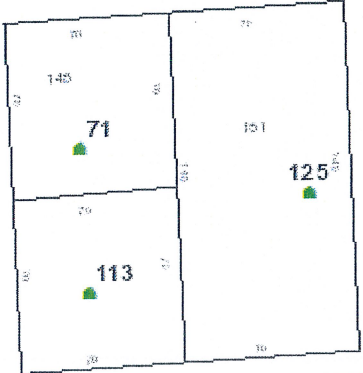
Green Haven Ln

Greer

Sweetpea Ln

Mountain Home St

Audrey Trl



**Henderson County  
North Carolina**

Before the Board of Commissioners

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**ORDER CLOSING A PORTIONS OF  
RIGHTS-OF-WAY FOR COSMOS DR, COURTLAND BLVD, & MOUNTAIN HOME ST**

THIS MATTER came on for hearing before the Henderson County Board of Commissioners at its regular May 3<sup>rd</sup> 2021, meeting, pursuant to N.C. Gen. Stat. §153A-241, on the issue of closing a portion of rights-of-way for portions of Cosmos Drive, Courtland Boulevard, and Mountain Home Street 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 April 5<sup>th</sup>, 2021, on the petition of Rodney Smith to close portions of Cosmos Drive, Courtland Boulevard, and Mountain Home Street was heard in Henderson County.
2. At the Board's April 5<sup>th</sup>, 2021 meeting, the Board adopted a resolution "declaring its intent to close" the said portions of Cosmos Drive, Courtland Boulevard, and Mountain Home Street.
3. A map showing the area under consideration is shown on the attachment hereto, Exhibit A, (indicated by a red hatched area).
4. A notice of this Board's May 3<sup>rd</sup> 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 May 3<sup>rd</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 Cosmos Drive, Courtland Boulevard, and Mountain Home Street in Henderson County as shown on the attached map is hereby closed.

Adopted by the Board by motion duly made, this the 3<sup>rd</sup> day of May, 2021.

BOARD OF COMMISSIONERS  
OF HENDERSON COUNTY

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

Attest:

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



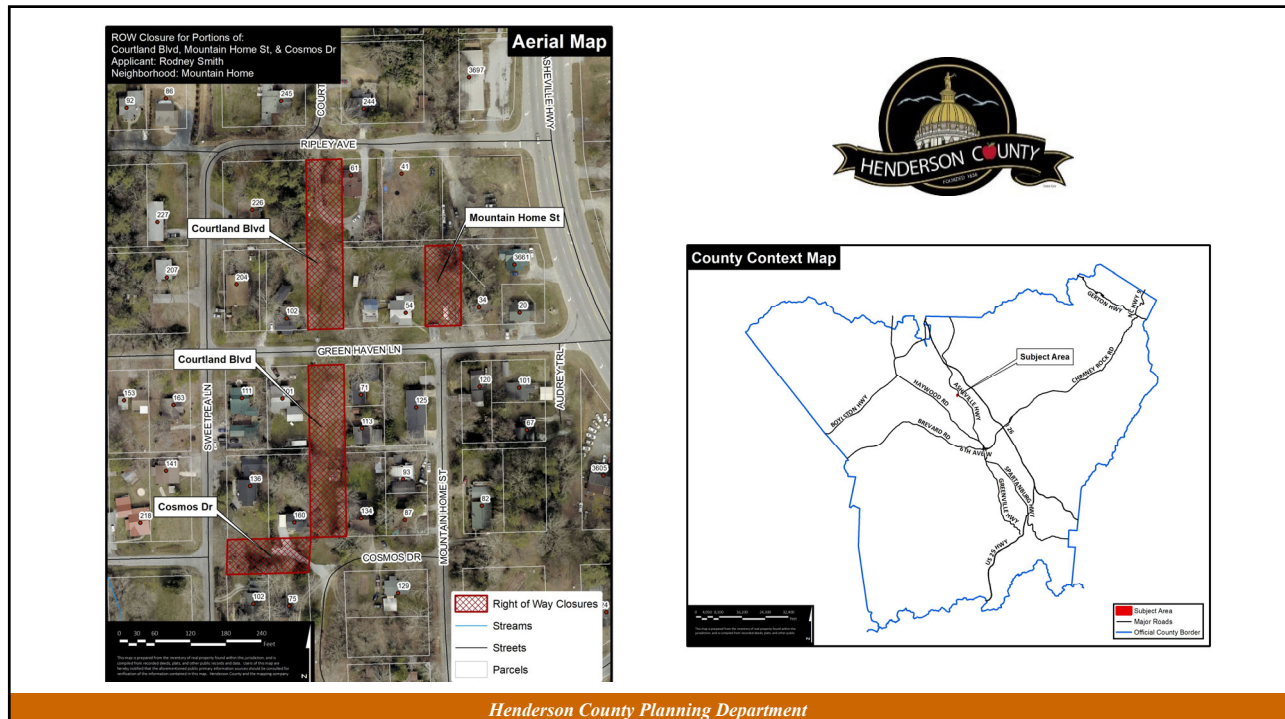
# Public Hearing to Abandon Portions of Rights of Way for Cosmos Dr, Courtland Blvd, & Mountain Home St



Henderson County Board of Commissioners  
May 3<sup>rd</sup>, 2021

*Henderson County Planning Department*

1



2

# Questions or Comments



Henderson County Board of Commissioners  
May 3<sup>rd</sup>, 2021

*Henderson County Planning Department*

3

# Public Hearing Comments

*Henderson County Planning Department*

4