

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: July 21st, 2021

SUBJECT: Set Public Hearing to Abandon NCDOT maintenance and close a portion of Old Hendersonville Road Right of Way

PRESENTER: Matt Champion, Zoning Administrator
Autumn Radcliff, Planning Director

ATTACHMENTS: (1) Site Map depicting proposed RROW closure
(2) North Carolina General Statute 153A-241
(3) Applicants Petition for Road Closures
(4) Proposed Resolution

SUMMARY OF REQUEST:

Planning and Property Addressing staff have received the attached petition to abandon NCDOT maintenance and close a portion of Old Hendersonville Road right-of-way. 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 the resolution and the setting of the public hearing to August 18, 2021 at 9:30AM.

Suggested Motion:

I move that the Board approve the proposed resolution and set the public hearing for August 18, 2021 at 9:30 am.

ROW Closure for Portion of
Old Hendersonville Rd
Applicant: Rodney NCDOT
Township: Hoopers Creek

Aerial Map



§ 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

October 30, 2020

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

Re: SR-3 Road Abandonment petition for partial abandonment of Old Hendersonville Road.

To whom it may concern,

NCDOT has prepared a petition to abandon a portion of SR 1536 from the NCDOT state road system.

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

E3DD5A4810424B2...

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

RHD/bgs

Enclosures
Cc: File

RECEIVED
OCT 29 2020

North Carolina Department of Transportation
Division of Highways
Abandonment Petition

NCDOT
DIVISION 14 - DISTRICT 1

North Carolina

County of HENDERSON

Petition request for the partial abandonment of Secondary Road SR 1536 - Old Hendersonville Road from the State Maintained System.

Beginning at the existing End of Maintenance on Old Hendersonville Road and continuing in a northerly direction for approximately 63 feet (0.012 miles) to be included in the partial abandonment process.

NOTE: From the intersection at Howard Gap Road to 1.46 miles, this portion of Old Hendersonville Road will continue to be State Maintained.

We the undersigned, being all the property owners on Secondary Road SR1536 - Old Hendersonville Road in Henderson County do hereby request the Division of Highways of the Department of Transportation to abandon this portion of the road from the State Maintained System.

PROPERTY OWNERS

Name

Address

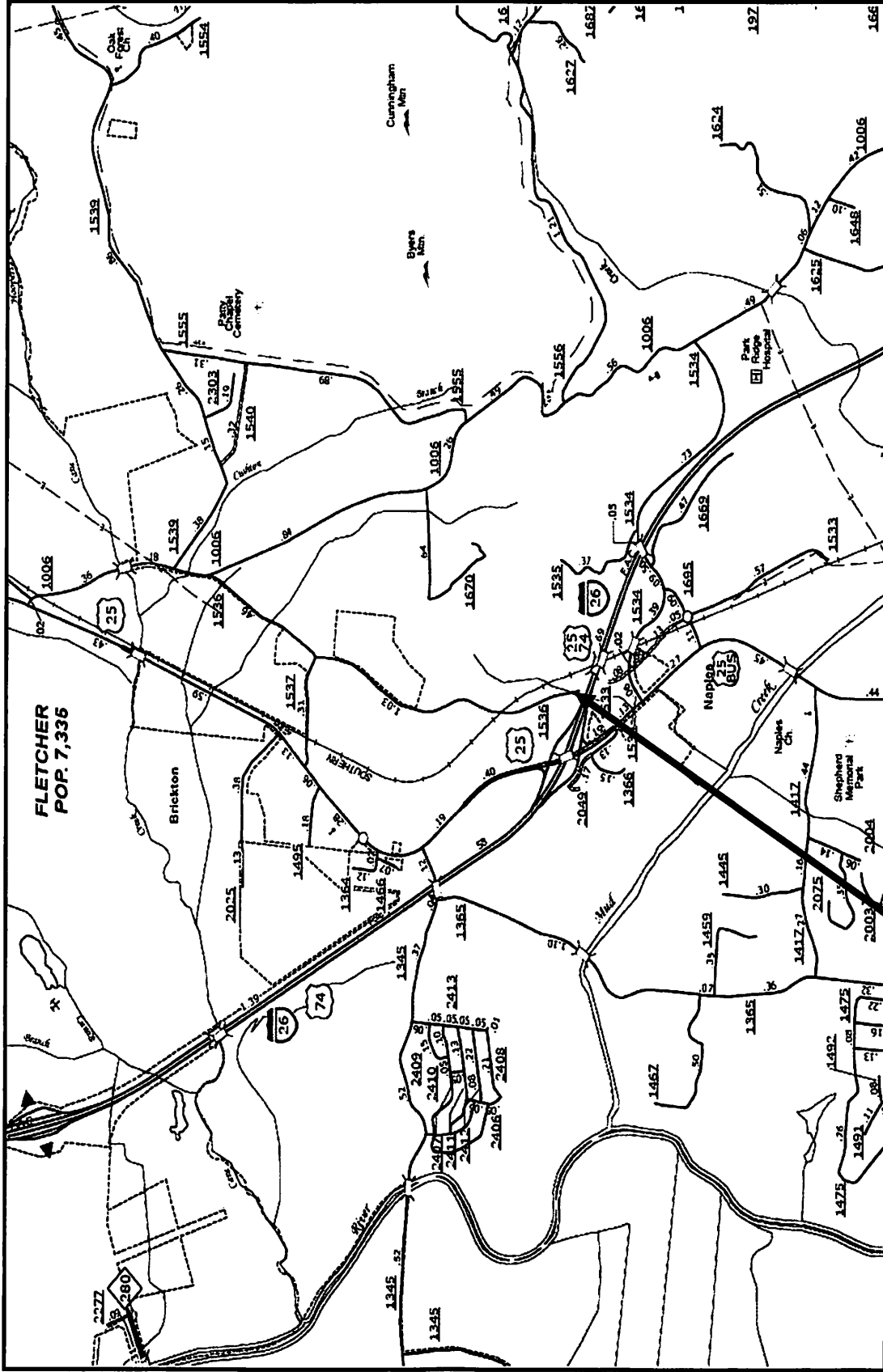
Andrew Patton Taber
Andrew Patton Taber

2A Hillside Dr
Greenville, SC 29607

WILLIAM RHETT TABER
William Rhett Taber

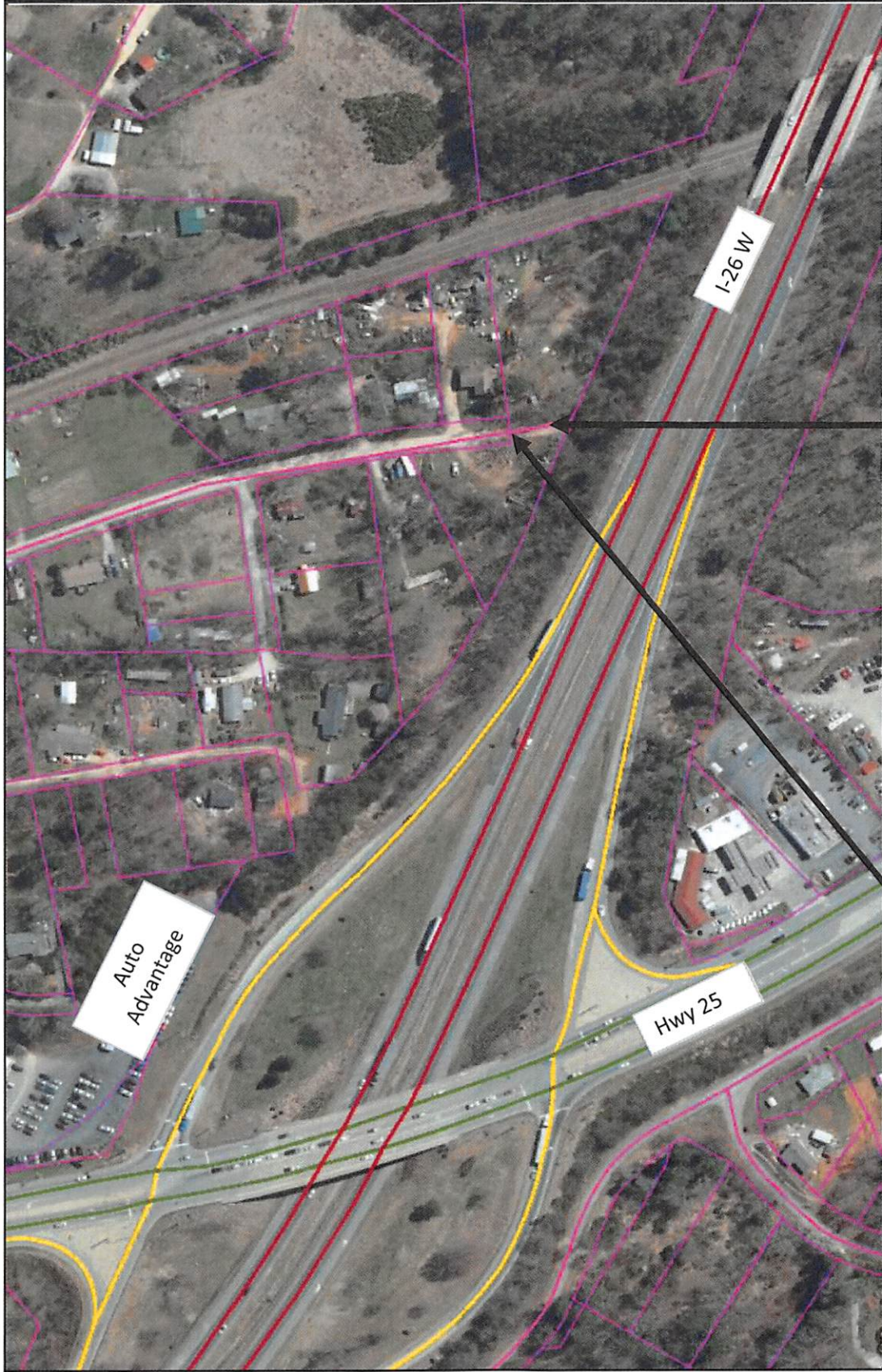
2028 FAIRVIEW RD
RALEIGH, NC 27608

Henderson County Vicinity Map - SR1536 Old Hendersonville Rd (Partial Road Abandonment)



SR 1536-Old Hendersonville Rd
Proposed Partial Abandonment
From End Of Maintenance For 0.012 miles

Henderson County Vicinity Map - SR1536 Old Hendersonville Rd (Partial Road Abandonment)



SR 1536-Old Hendersonville Rd
Proposed Partial Abandonment
From End Of Maintenance For 0.012 miles

**Henderson County
North Carolina**

Before the Board of Commissioners

Pursuant to N.C. Gen. Stat. §153A-241, this Board has the power to close public roads and easements which are not within a municipality except public roads and easements and under the control and supervision of the North Carolina Department of Transportation.

NCDOT, on behalf of Andrew Patton Taber and William Rhett Taber, has petitioned the Board for the closure of a portion of Old Hendersonville Road located in Henderson County which meets the criteria, above.

Prior to closing such an easement, the Board must first adopt a resolution indicating its intent to consider the same and call a public hearing on the issue.

NOW, THEREFORE, BE IT RESOLVED that the Board will consider the abandonment of NCDOT maintenance and closing a portion of Old Hendersonville Road at its regularly scheduled meeting on August 18, 2021, after a public hearing. The Board hereby calls a public hearing to be held on this issue on such date, and directs staff to provide notice, pursuant to N.C. Gen. Stat. §153A-241, of the same

Adopted by the Board by motion duly made, this the 21st day of July, 2021.

BOARD OF COMMISSIONERS
OF HENDERSON COUNTY

By: _____
William G. Lapsley, Chairman

Attest:

Denisa Lauffer, Clerk to the Board