

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: January 2nd, 2024

SUBJECT: Set Public Hearing to close a portion of 20-foot right-of-way and right-of way area from road centerline of Slick Rock Road to the Eastern line of the Heritage Farms & Orchards, LLC

PRESENTER: Autumn Radcliff, Planning Director
Austin Parks, Planner

ATTACHMENTS: (1) Site Map depicting proposed ROW 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 close a 20-foot right-of-way and right-of-way area from road centerline of Slick Rock Road to the Eastern line of the Heritage Farms & Orchards, LLC. 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.

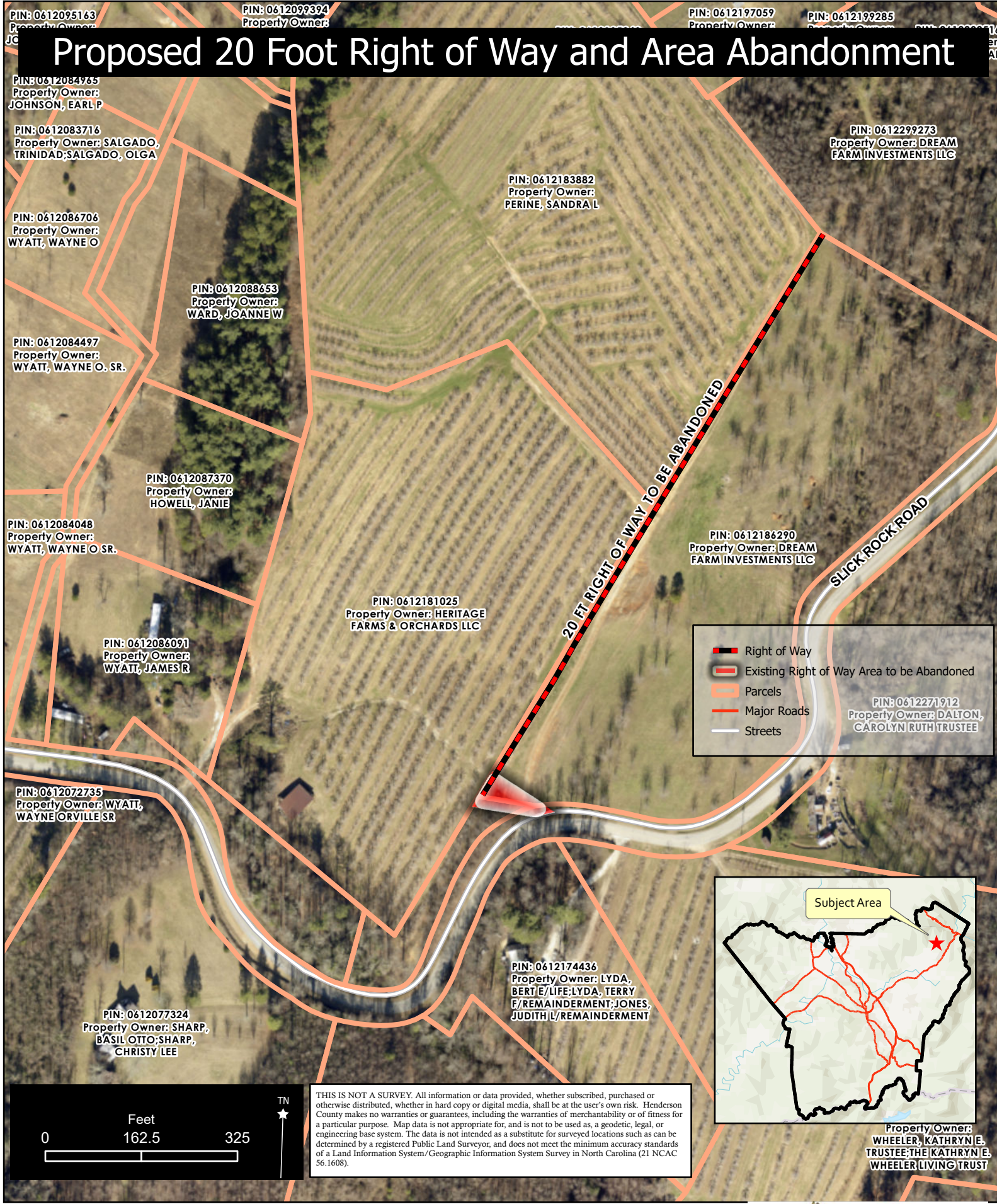
BOARD ACTION REQUESTED:

The board is requested to approve the resolution and the setting of the public hearing to February 05, 2024 at 5:30 pm.

Suggested Motion:

I move that the Board approve the proposed resolution and set the public hearing for February 05, 2024 at 5:30 pm.

Proposed 20 Foot Right of Way and Area Abandonment



PIN: 0612095163
Property Owner: JOHNSON, EARL P

PIN: 0612099394
Property Owner: JOHNSON, EARL P

PIN: 0612197059
Property Owner: JOHNSON, EARL P

PIN: 0612199285
Property Owner: JOHNSON, EARL P

PIN: 0612084965
Property Owner: JOHNSON, EARL P

PIN: 0612083716
Property Owner: SALGADO, TRINIDAD; SALGADO, OLGA

PIN: 0612086706
Property Owner: WYATT, WAYNE O

PIN: 0612084497
Property Owner: WYATT, WAYNE O. SR.

PIN: 0612084048
Property Owner: WYATT, WAYNE O. SR.

PIN: 0612072735
Property Owner: WYATT, WAYNE ORVILLE SR

PIN: 0612077324
Property Owner: SHARP, BASIL OTTO; SHARP, CHRISTY LEE

PIN: 0612088653
Property Owner: WARD, JOANNE W

PIN: 0612087370
Property Owner: HOWELL, JANIE

PIN: 0612086091
Property Owner: WYATT, JAMES R

PIN: 0612181025
Property Owner: HERITAGE FARMS & ORCHARDS LLC

PIN: 0612183882
Property Owner: FERINE, SANDRA L

PIN: 0612186290
Property Owner: DREAM FARM INVESTMENTS LLC

PIN: 0612299273
Property Owner: DREAM FARM INVESTMENTS LLC

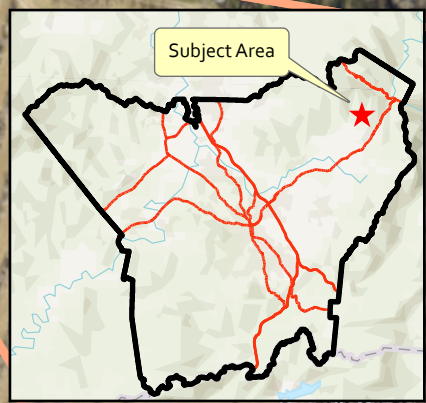
PIN: 0612271912
Property Owner: DALTON, CAROLYN RUTH TRUSTEE

PIN: 0612174436
Property Owner: LYDA, BERT E/LIFE; LYDA, TERRY F/REMAINDERMENT; JONES, JUDITH L/REMAINDERMENT

Property Owner: WHEELER, KATHRYN E. TRUSTEE; THE KATHRYN E. WHEELER LIVING TRUST

Legend

- Right of Way
- Existing Right of Way Area to be Abandoned
- Parcels
- Major Roads
- Streets



THIS IS NOT A SURVEY. All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).

Applicant: Heritage Farms & Orchards, LLC

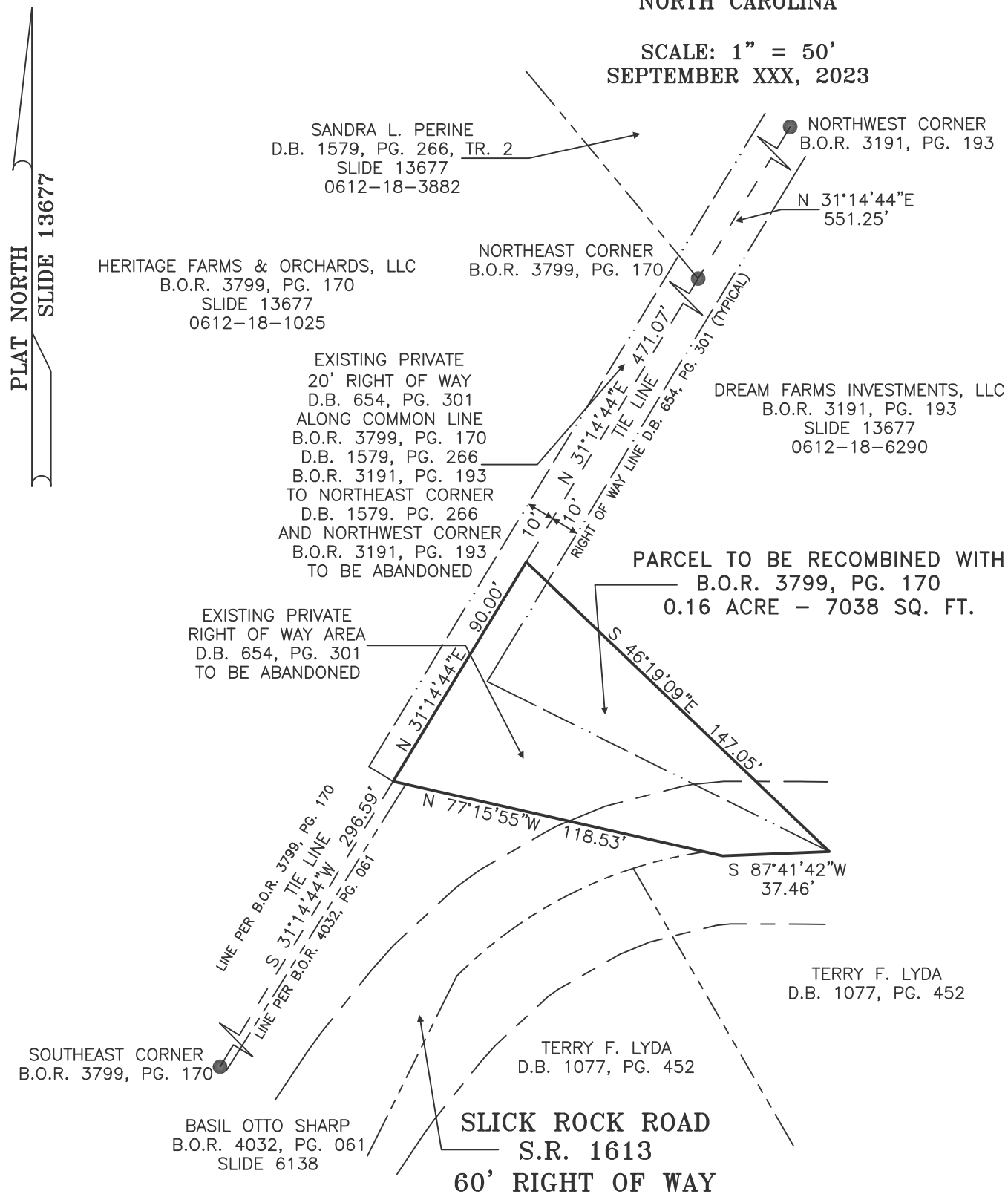


NOTES:

- 1- AREAS BY COORDINATE COMPUTATION.
- 2- THIS PROPERTY IS WITHIN AN AREA ZONED R3 BY HENDERSON COUNTY.
- 3- THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

PLAT OF RIGHT OF WAY ABANDONMENT
FOR
HERITAGE FARMS & ORCHARDS, LLC
AND
DREAM FARMS INVESTMENTS, LLC
SERVING BOOK OF RECORD 3799, PAGE 170
DEED BOOK 1579, PAGE 266
AND BOOK OF RECORD 3191, PAGE 193
EDNEYVILLE TOWNSHIP
HENDERSON COUNTY
NORTH CAROLINA

SCALE: 1" = 50'
SEPTEMBER XXX, 2023



PRELIMINARY

HILL AND ASSOCIATES
SURVEYORS, P.A.

LICENSE NUMBER: C-1991
 DAVID H. HILL NCPLS L-3863
 403 WEST BLUE RIDGE ROAD
 EAST FLAT ROCK, NC 28726

(828)693-1409

DRAWN BY: DHH

CHECKED BY : DHH

JOB NUMBER: 20232699

DRAWING: 20232699RW

- © POINT NOT STAKED
- LEGEND**
- P-PED - PHONE PEDESTAL
 - ⊕ - MONUMENT FOUND AS NOTED
 - UP - UTILITY POLE
 - - MONUMENT SET AS NOTED
 - PHP - PHONE POLE
 - TRANS - TRANSFORMER
 - TV-PED - CABLE TV PEDESTAL
 - WM - WATER METER
 - WV - WATER VALVE

§ 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 PLANNING DEPARTMENT
100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

LOCAL ROAD AND EASEMENT ABANDONMENT PETITION FORM

***Requires Pre-Application Meeting**
***Requires 100% of property owner signatures**

APPLICANT INFORMATION:

Name: Heritage Farms & Orchards, LLC Email: heritageorchard@yahoo.com
Address: 23 Violet Drive, Hendersonville, NC 28792
Telephone: (828)606-2754

Name of road or easement to be abandoned
(If easement is not named, please provide a
Parcel(s) PIN for identification)

PIN # 0612181025, 0612186290,
0612183882

PETITION:

We the under signed, being all of the property owners that have a deeded ROW to road or
easement _____ do hereby request Henderson County Board of
Commissioners to approve the closure of the road or easement and certify Order of Closures.

PROPERTY OWNERS:

Name	Address	Signature
Heritage Farms & Orchards, LLC	23 Violet Drive, Hendersonville, NC 28792	
By: Robert Scott Case, Member/Manager	<u>279751c Paups. Rd. Hendersonville, NC 28792</u>	<u>Robert Scott Case</u>
By: Sandra Lyda Perine, Member/Manager		<u>Sandra Lyda Perine</u>
Sandra Lyda Perine	23 Violet Drive, Hendersonville, NC 28792	<u>Sandra Lyda Perine</u>
Dream Farm Investments, LLC	1105 Chickory Lane, Asheville, NC 28803	
By: Jeffrey Scott Barfield, Member		<u>Jeffrey Scott Barfield</u>
By: Jonathan Campbell, Member		<u>Jonathan Campbell</u>
By: Kristi Campbell, Member		<u>Kristi Campbell</u>
By: Leslie Barfield, Member		<u>Leslie Barfield</u>

**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.

Robert Scott Case and Sandra Lyda Perine, on behalf of Heritage Farm, Dream Farm Investments, LLC. has petitioned the Board for the closure of a 20-foot right-of-way and right-of-way area from the road centerline of Slick Rock Road to the Eastern line of the Heritage Farms & Orchards, LLC 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 closing a 20-foot right-of-way and right-of-way area as described above at its regularly scheduled meeting on February 05, 2024 at 5:30 pm., 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 2nd day of January, 2024.

BOARD OF COMMISSIONERS
OF HENDERSON COUNTY

By: _____
Rebecca K. McCall, Chairman

Attest:

Denisa Lauffer, Clerk to the Board