

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** June 2, 2025

**SUBJECT:** Set Public Hearing to Close an Unopened Right-of-way

**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 30-foot unopened 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:

1. Vote to adopt a resolution declaring the Board's intent to close the public road or easement.
2. 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.
3. 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.
4. 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.
5. File a copy of the Board's order with the Register of Deeds.

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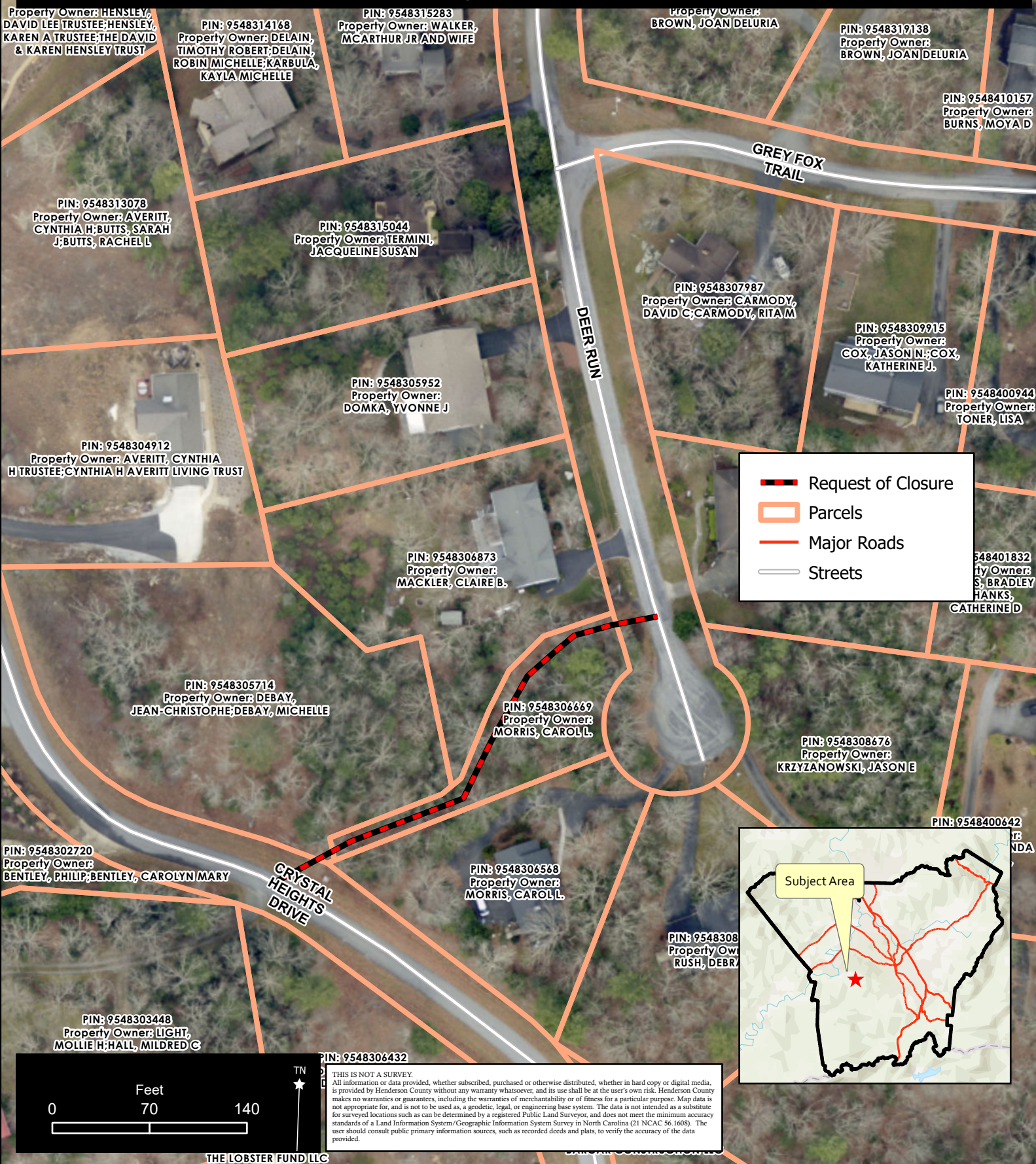
### **BOARD ACTION REQUESTED:**

The board is requested to approve the resolution and the setting of the public hearing for June 18, 2025, at 9:30 am.

### **Suggested Motion:**

*I move that the Board approve the proposed resolution and set the public hearing for June 18, 2025, at 9:30 am.*

# Unopened 30' Right of Way Abandonment

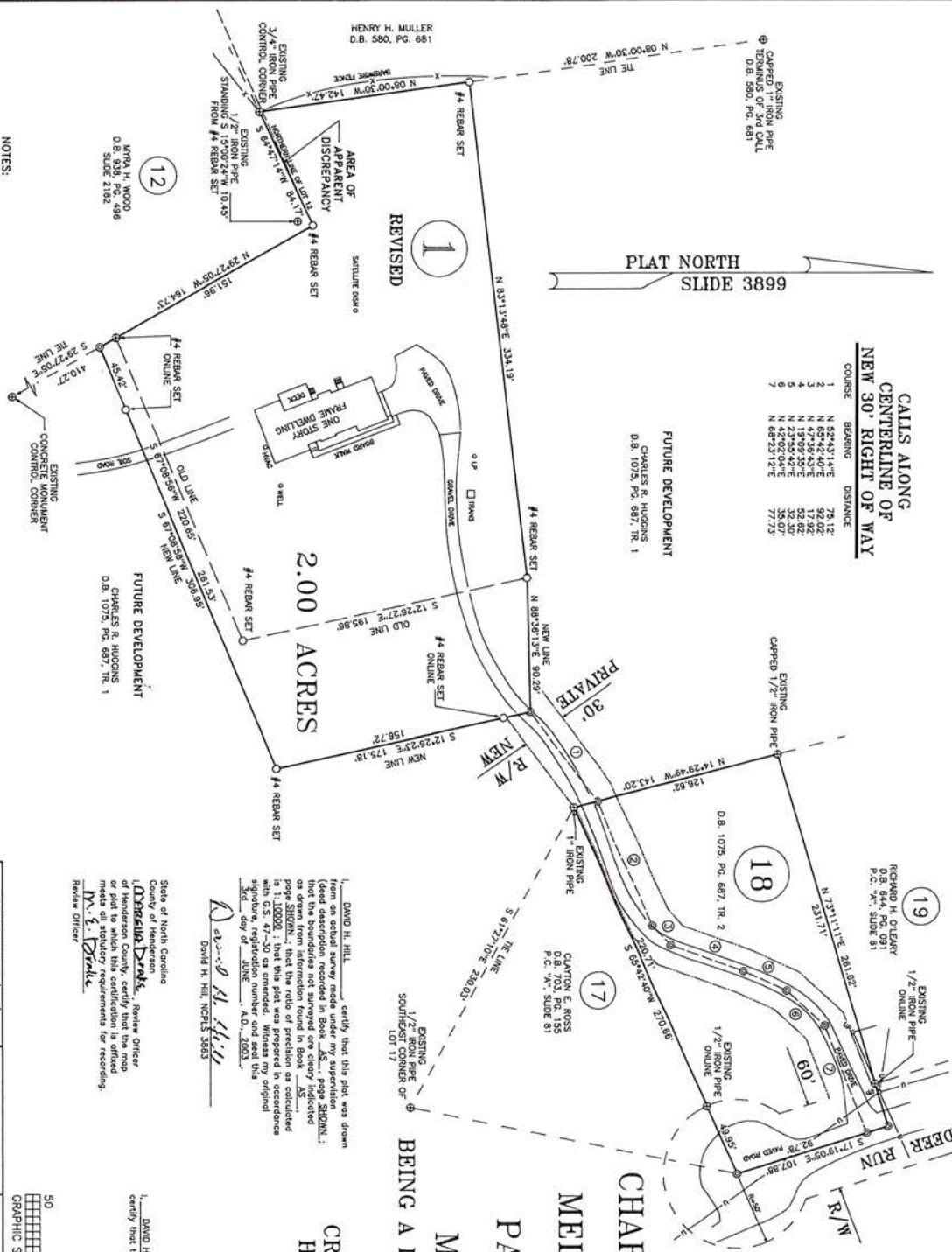


Applicant: Claire Mackler, Jean-Christophe and Michelle Debay, and Carol Morris





SLIDE 4572



This instrument was prepared for registration and recorded in the Office of Register of Deeds in the State and County designated, at Post Sale 1572, this 3 day of June, 2003, At 4:45 O'clock PM.

BY: Kevin S. Mello

PLAT OF SURVEY  
FOR  
CHARLES R. HUGGINS  
AND WIFE  
MELBA G. HUGGINS  
AND  
PAUL E. JANSEN  
AND  
MYRA H. WOOD

CRAB CREEK TOWNSHIP  
HENDERSON COUNTY  
NORTH CAROLINA

SCALE: 1" = 50'  
JUNE 3rd, 2003

I, DAVID H. HILL, a Professional Land Surveyor  
certify that this survey is a recombination of property.  
David H. Hill

50 0 50 100 150

GRAPHIC SCALE — FEET

SURVEY BY  
HILL AND ASSOCIATES  
SURVEYORS, P.A.

ROUTE 23 BOX 459  
HENDERSONVILLE, NORTH CAROLINA 28792  
PHONE: (828) 693-1409

OEDD REFERENCES: 0.8, 10/23, PG, 667 SLIDE 3699	
TAX REFERENCES: 00-9548-20-6848-25	
PARTY CHIEF: DHM	
REASONS: SEE NOTE 5	
	
DATE: JUNE 24, 2003	CHECKED BY: DHM
PREPARED BY: DHM	SCREENED FILE: 2113601
FILE: 21136	



**§ 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.)



[illegible]





[illegible]

**Henderson County  
North Carolina**

Before the Board of Commissioners

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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.

Claire Mackler, Jean-Christophe and Michelle Debay, and Carol Morris has petitioned the Board for the closure of a 30-foot unopened right-of-way 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 30-foot unopened right-of-way at its regularly scheduled meeting on June 18, 2025 at 9:30 am., 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 June, 2025.

BOARD OF COMMISSIONERS  
OF HENDERSON COUNTY

By: \_\_\_\_\_  
William G. Lapsley, Chairman

Attest:

\_\_\_\_\_  
Denisa Lauffer, Clerk to the Board