Gaston County

County Attorney

Board Action

File #: 21-088

Commissioner Worley - County Attorney - To Schedule a Public Hearing Regarding Closure of a Portion of an Approximately 25-Foot Right-of-Way off Edgewater Drive in the South Point Township

Staff Contact:

Jonathan L. Sink - County Attorney

BACKGROUND:

Brian and Melanie Elliott (Petitioners), the owners of Parcel 191763, wish to close a portion of an approximately 25-foot right-of-way, which is as shown on the plat recorded in Plat Book 22 at Page 24 in the Gaston County Registry, off Edgewater Drive in Gaston County, North Carolina, in order to build a garage.

Section 153A-241 of the North Carolina General Statutes requires the Board to first adopt a resolution declaring its intent to close a public road or easement and calling a public hearing on the question.

Policy Impact:

N/A

ATTACHMENTS:

Petition and Exhibit "A" (Including Maps)

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	AFraley	BHovis	KJohnson	TKeigher	PPhilbeck	BWorley	Vote
2021-079	03/23/2021	CB	RW	A	A	A	A	A	AB	A	U

DISTRIBUTION:
Laserfiche Users

A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

January 27/2021

Brian R Elliott
856 Edgewater Drive
Belmont, NC 28012
443-807-0511
Brianrelliott@verizon.net

To Gaston County,

My name is Brian Elliott and I am the property owner at 856 Edgewater Drive Belmont, NC
28012. Deed Book 4841, Page 1104, Lots P/O 1 & 9. Subdivision Shangri La, Plat Book 22/33
Page 24/64. Tax map #15, Page 85, Parcel 4.0, PID # 191763.

When my lot was originally subdivided the driveway was labeled as a "road". The "road" has
never been given a name and was never turned into a "road", just a common driveway that
myself and my neighbors maintain. The County road maintenance for Edgewater Drive actually
ends before my driveway. Because the original plat has a "road easement" running through my
property it limits my ability to build a garage on my property. I am asking to close the road
easement running through my property only. This will not affect the easement on either of my
neighbors properties. My neighbors are aware of my request and have no issues with it.

I am asking to close the road easement just at the top of my property past the common
driveway in the grass portion of my lot and run to the common driveway running down to 862
Edgewater Drive. (see proposed road easement closing plat) I have enclosed pictures of the
driveway and the area the easement closure will start. (Exhibit A)

Sincerely,

Brain Elliott

NORTH CAROLINA
GASTON COUNTY

PETITION TO CLOSE
ROAD EASEMENT

The undersigned Petitioner(s), pursuant to N.C. Gen. Stat. 153A-241, hereby respectfully request that the Gaston County Board of Commissioners permanently close a road easement shown as:

1. The Road Easement is a dedicated 25 ft right of way as shown on Plat recorded in Plat Book 22/33 at Page 24/64 in Gaston County Registry and located on a private common driveway off of Edgewater Drive in Gaston County, North Carolina.

2. That Petitioner(s) hereby request the entire road easement for 856 Edgewater Drive be closed. For closing is more particularly described as follows:
   a. SEE "EXHIBIT A" ATTACHED (5 pages)

3. That the undersigned Petitioner(s) is the sole property owner where the Easement will be closed.

4. That no individual or corporate entity would be deprived of reasonable means of ingress and egress to the real property of said individual(s).

5. That the plat as shown and depicted on Exhibit A has never been fully opened and the closing of the said Road Easement would not be contrary to the public interest.

WHEREFORE, the undersigned Petitioner(s) respectfully request the Board of County Commissioners as follows:

That the Board adopt a Resolution declaring its intention to close the Road Easement and call for public hearing on the closing at which time the Road Easement will be permanently closed in accordance with the procedures set forth in N.C. Gen. Stat. 153A-241.

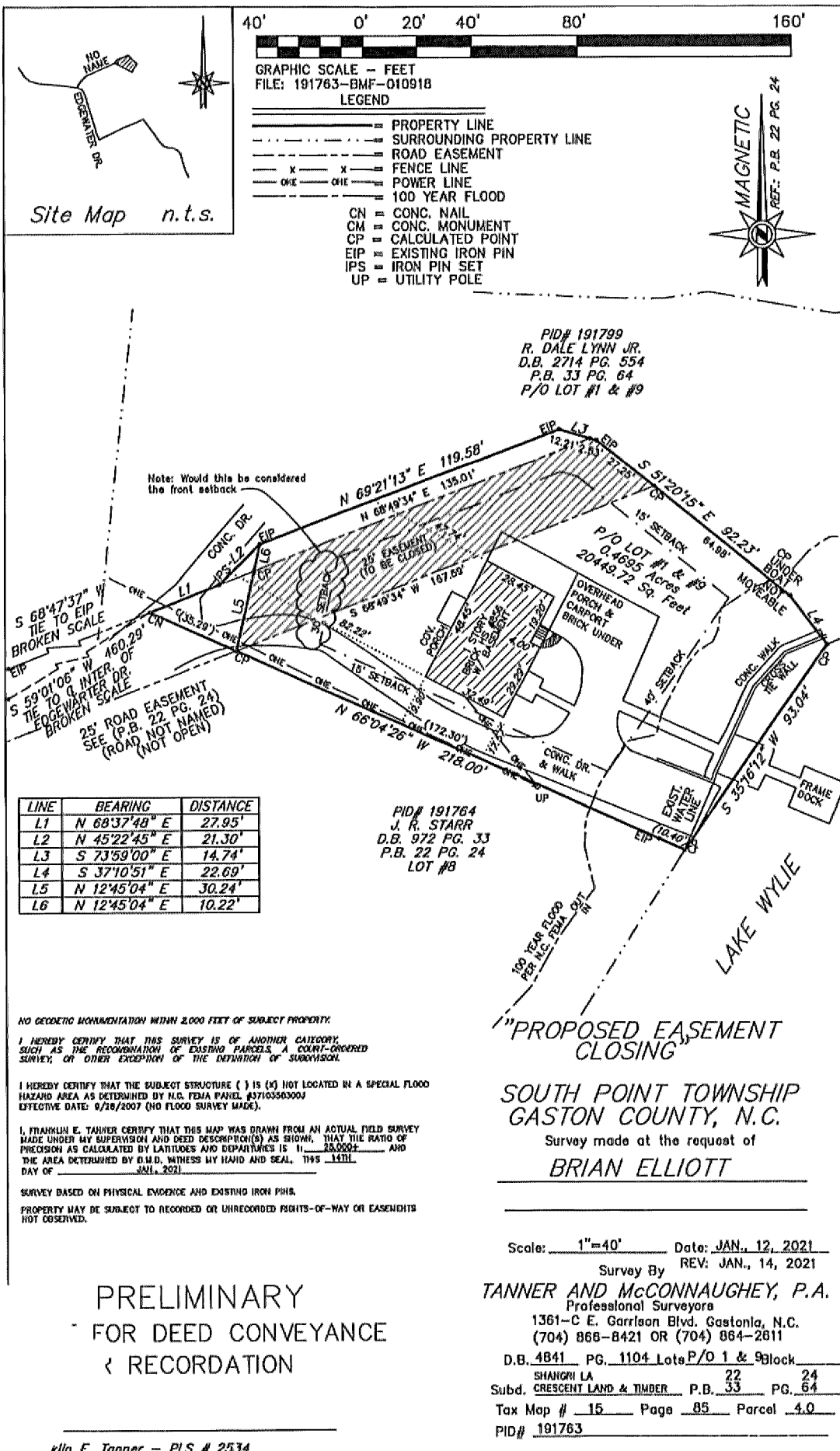This the __10__ day of __February__, 2021

PETITIONER(S):

_____

_____

Exhibit A

Site Map n.t.s.

NO NAME
EDGEWATER DR.

40'

80'   160'

MAGNETIC
REF.: P.B. 22 PG. 24

LEGEND
———————	PROPERTY LINE
— · · — · · —	SURROUNDING PROPERTY LINE
— — — —	ROAD EASEMENT
—x—x—	FENCE LINE
—OHE—OHE—	POWER LINE
————————	100 YEAR FLOOD

CN = CONC. NAIL
CM = CONC. MONUMENT
CP = CALCULATED POINT
EIP = EXISTING IRON PIN
IPS = IRON PIN SET
UP = UTILITY POLE

Proposed Closure
Proposed Closure
Proposed Garage Revision in closure

PID# 191799
R. DALE LYNN JR.
D.B. 2714 PG. 55
P.B. 33 PG.
P/O LOT #

NOTE: THIS WILL REQUIRE A VARIANCE

N 69°21'13" E 119.58'
N 68°49'45" E 148.85'
S 51°20'15" E 92.23'

25' EASEMENT (TO BE CLOSED)
15' SETBACK
P/O LOT #1 & #9
0.4695 Acres
20449.72 Sq. Feet

S 68°47'37" W
TIE TO EIP
BROKEN SCALE

S 59°01'06" W 460.29'
TIE TO C INTER. OF
EDGEWATER DR.
BROKEN SCALE

25' ROAD EASEMENT
SEE (P.B. 22 PG. 24)
(ROAD NOT NAMED)
(NOT OPEN)

OVERHEAD PORCH & CARPORT
BRICK UNDER

N 66°04'26" W 218.00'

CONC. DR. & WALK

CONC. WALK
TIE WALL
EXIST. WATER LINE
S 35°16'12" W 93.04'
FRAME DOCK

LINE	BEARING	DISTANCE
L1	N 68°37'48" E	27.95'
L2	N 45°22'45" E	21.30'
L3	S 73°59'00" E	14.7'
L4	S 37°10'51" E	22.
L5	N 14°16'11" W	2.

PID# 191764
J. R. STARR
D.B. 972 PG. 33
P.B. 22 PG. 24
LOT #8

100 YEAR FLOOD
PER N.C. FEMA PANEL

LAKE WYLIE

"PROPOSED EASEMENT CLOSING"

SOUTH POINT TOWNSHIP GASTON COUNTY, N.C.
Survey made at the request of

BRIAN ELLIOTT

PRELIMINARY
NOT FOR DEED CONVEYANCE
OR RECORDATION

Scale: __1"=40'__   Date: __JAN., 12, 2021__
                     REV: JAN., 14, 2021
                     REV: JAN., 20, 2021
            Survey By

TANNER AND McCONNAUGHEY, P.A.
Professional Surveyors
1361-C E. Garrison Blvd. Gastonia, N.C.
(704) 866-8421 OR (704) 864-2611

D.B. __4841__ PG. __1104__ Lots __P/O 1 & 9__ Block _____
Subd. __SHANGRI LA__
__CRESCENT LAND & TIMBER__ P.B. __22__ PG. __24__
                                    __33__   __64__
Tax Map # __15__ Page __85__ Parcel __4.0__
PID# __191763__

Franklin E. Tanner – PLS # 2534

40' 0' 20' 40' 80' 160'

GRAPHIC SCALE — FEET
FILE: 191763-BMF-010918
LEGEND

= PROPERTY LINE
= SURROUNDING PROPERTY LINE
= ROAD EASEMENT
x —— x = FENCE LINE
OHE —— OHE = POWER LINE
= 100 YEAR FLOOD
CN = CONC. NAIL
CM = CONC. MONUMENT
CP = CALCULATED POINT
EIP = EXISTING IRON PIN
IPS = IRON PIN SET
UP = UTILITY POLE

Site Map n.t.s.

NO NAME
EDGEWATER DR

MAGNETIC
REF.- P.B. 22 PG. 24
N

PID# 191799
R. DALE LYNN JR.
D.B. 2714 PG. 554
P.B. 33 PG. 64
P/O LOT #1 & #9

Note: Would this be considered
the front setback

N 69'21'13" E 119.58'
N 68'49'34" E 135.01'
EIP L3 EIP
12.21' 3.85'
S 51'20'15" E 92.23'
15' SETBACK 64.98'
CP UNDER BOAT
MOVEABLE

CONC. DR.
IPS-L2 EIP
OHE
L1
S 68'47'37" W
TIE TO EIP
BROKEN SCALE
CN
C(35.29')
L5
CP
OHE

15' EASEMENT
(TO BE CLOSED)

P/O LOT #1 & #9
0.4695 Acres
20449.72 Sq. Feet

OVERHEAD
PORCH &
CARPORT
BRICK UNDER

15' SETBACK

CONC. WALK
TIE WALL
93.04'

EIP
S 59'01'06" W 460.29'
TIE TO Q INTER. OF
EDGEWATER DR.
BROKEN SCALE

25' ROAD EASEMENT
SEE (P.B. 22 PG. 24)
(ROAD NOT NAMED)
(NOT OPEN)

N 68'04'26" W 218.00' (172.30')

15' SETBACK

CONC. DR.
& WALK
UP

EXIST. WATER LINE
S 35'16'12" W
(70.40')
EIP

FRAME DOCK

PID# 191764
J. R. STARR
D.B. 972 PG. 33
P.B. 22 PG. 24
LOT #8

100 YEAR FLOOD
PER N.C. FEMA

LAKE WYLIE

LINE	BEARING	DISTANCE
L1	N 68'37'48" E	27.95'
L2	N 45'22'45" E	21.30'
L3	S 73'59'00" E	14.74'
L4	S 37'10'51" E	22.69'
L5	N 12'45'04" E	30.24'
L6	N 12'45'04" E	10.22'

NO GEODETIC MONUMENTATION WITHIN 2,000 FEET OF SUBJECT PROPERTY.

I HEREBY CERTIFY THAT THIS SURVEY IS OF ANOTHER CATEGORY,
SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED
SURVEY, OR OTHER EXCEPTION OF THE DEFINITION OF SUBDIVISION.

I HEREBY CERTIFY THAT THE SUBJECT STRUCTURE ( ) IS (X) NOT LOCATED IN A SPECIAL FLOOD
HAZARD AREA AS DETERMINED BY N.C. FEMA PANEL #37103560300J
EFFECTIVE DATE: 9/26/2007 (NO FLOOD SURVEY MADE).

I, FRANKLIN E. TANNER CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY
MADE UNDER MY SUPERVISION AND DEED DESCRIPTION(S) AS SHOWN, THAT THE RATIO OF
PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1: 25,000+ AND
THE AREA DETERMINED BY D.M.D. WITNESS MY HAND AND SEAL, THIS 14TH
DAY OF JAN., 2021.
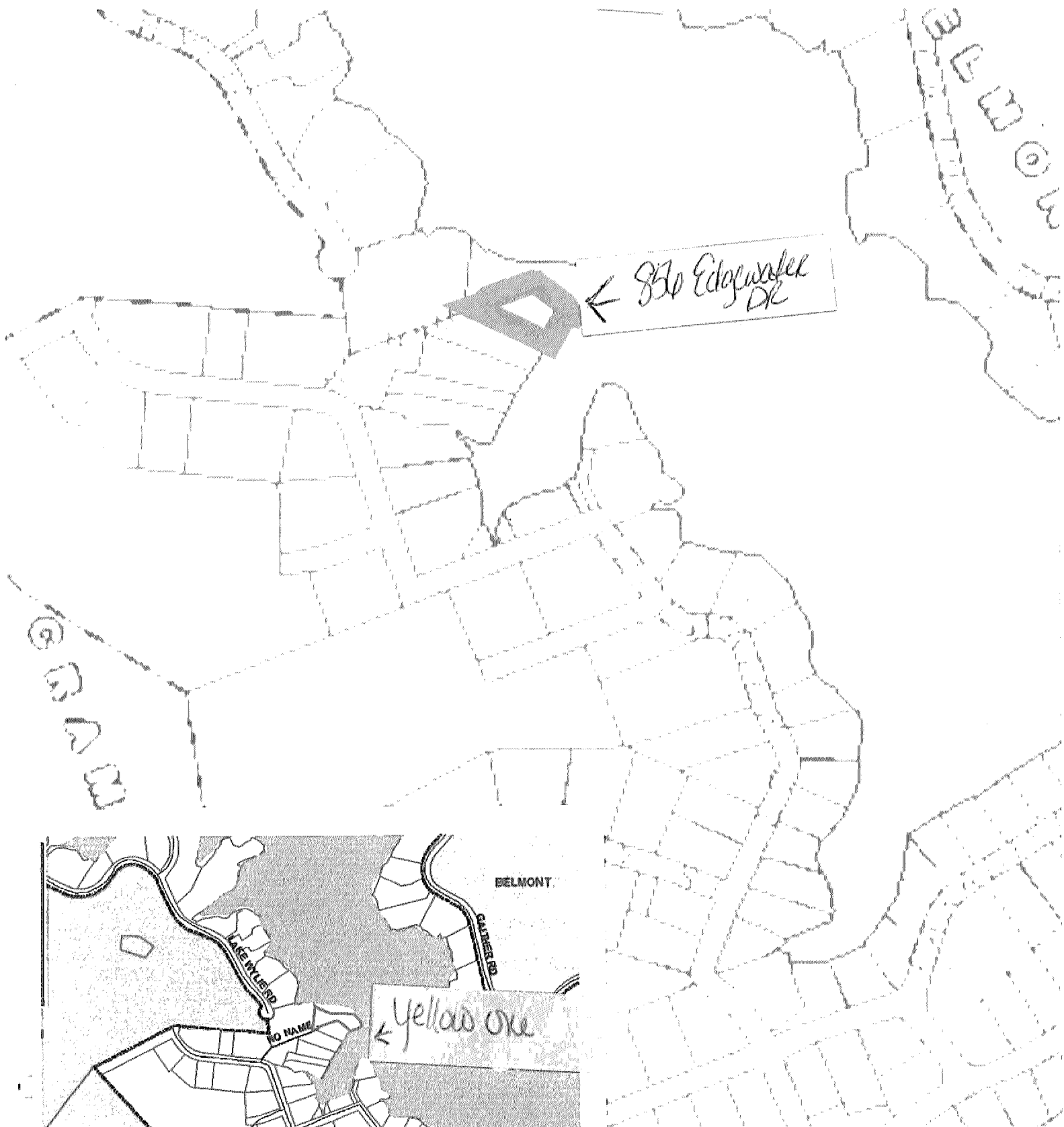
SURVEY BASED ON PHYSICAL EVIDENCE AND EXISTING IRON PINS.

PROPERTY MAY BE SUBJECT TO RECORDED OR UNRECORDED RIGHTS-OF-WAY OR EASEMENTS
NOT OBSERVED.

"PROPOSED EASEMENT
CLOSING"

SOUTH POINT TOWNSHIP
GASTON COUNTY, N.C.
Survey made at the request of

BRIAN ELLIOTT

Scale: 1"=40' Date: JAN., 12, 2021
REV: JAN., 14, 2021
Survey By
TANNER AND McCONNAUGHEY, P.A.
Professional Surveyors
1361-C E. Garrison Blvd. Gastonia, N.C.
(704) 866-8421 OR (704) 864-2611

D.B. 4841 PG. 1104 Lots P/O 1 & 9 Block
SHANGRI LA
Subd. CRESCENT LAND & TIMBER P.B. 33 PG. 24
Tax Map # 15 Page 85 Parcel 4.0
PID# 191763

PRELIMINARY
FOR DEED CONVEYANCE
& RECORDATION

klln E. Tanner — PLS # 2534

Site Map   n.t.s.

EDGEWATER DR.

Exhibit A

GRAPHIC SCALE – FEET
FILE: 191763-BMF-010918
LEGEND

40'   80'   160'

= PROPERTY LINE
= SURROUNDING PROPERTY LINE
= ROAD EASEMENT
—x—x— = FENCE LINE
—ONE—ONE— = POWER LINE
= 100 YEAR FLOOD
CN = CONC. NAIL
CM = CONC. MONUMENT
EIP = EXISTING IRON PIN
IPS = IRON PIN SET
UP = UTILITY POLE

MAGNETIC   REF.; P.B. 22 PG. 24

Current Plot

Current Easement

PID# 191799
R. DALE LYNN JR.
D.B. 2714 PG. 554
P.B. 33 PG. 64
P/O LOT #1 & #4

EIP   L3   EIP
N 64°21'13" E 119.58'

S 51°20'15" E 127.51'

P/O LOT #4

CONC. DR.   EIP
IPS   L2   EIP

25' ROAD EASEMENT
SEE (P.B. 22 PG. 24)
(ROAD NOT NAMED)
(NOT OPEN)

S 68°47'57" W
TIE TO EIP I
BROKEN SCALE

EIP   S 59°01'06" W 460.29'
TIE TO & INTER OF
EDGEWATER DR.
BROKEN SCALE

OVERHEAD
PORCH &
CARPORT
BRICK UNDER

COV'D
PORCH

P/O LOT #1 & #4
0.4695 Acres
20,449.72 Sq. Feet

MOVEABLE

N 66°04'26" W 219.00'

CONC. DR.
& WALK

CONC. WALK
ROCK WALL

93.04'

S 35°16'12" W

FRAME
DOCK

EXIST.
WATER
LINE

EIP

LINE	BEARING	DISTANCE
L1	N 68°37'48" E	27.95'
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PID# 191764
J. R. STARR
D.B. 972 PG. 33
P.B. 22 PG. 24
LOT #8

100 YEAR FLOOD
PER N.C. FEMA DWG

LAKE WYLIE

NO GEODETIC MONUMENTATION WITHIN 2,000 FEET OF SUBJECT PROPERTY.

I HEREBY CERTIFY THAT THIS SURVEY IS OF EXISTING PARCEL OR PARCELS OF LAND.

I HEREBY CERTIFY THAT THE SUBJECT STRUCTURE ( ) IS (X) NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY N.C. FEMA PANEL #3710858300J EFFECTIVE DATE: 9/20/2007 (NO FLOOD SURVEY MADE).

I, FRANKLIN E. TANNER CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION AND DEED DESCRIPTION(S) AS SHOWN, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:_10,000_ AND THE AREA DETERMINED BY D.M.D. WITNESS MY HAND AND SEAL, THIS _9TH_ DAY OF _JAN. 2018_.

SURVEY BASED ON PHYSICAL EVIDENCE AND EXISTING IRON PINS.

PROPERTY MAY BE SUBJECT TO RECORDED OR UNRECORDED RIGHTS-OF-WAY OR EASEMENTS NOT OBSERVED.

NORTH CAROLINA
PROFESSIONAL
SEAL
L-2534
LAND SURVEYOR
FRANKLIN E. TANNER

**SOUTH POINT TOWNSHIP
GASTON COUNTY, N.C.**

Survey made at the request of

BRIAN ELLIOTT

Scale: 1"=40'   Date: JAN. 9, 2018

Survey By

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D.B. _4841_ PG. _1104_ Lots _P/O 1 & 4_ Block ____
Subd. _CRESCENT LAND & TIMBER_ P.B. _33_ PG. _64_
SHANGRI LA   22   24
Tax Map # _15_ Page _85_ Parcel _4.0_
PID# _191763_

Exhibit A
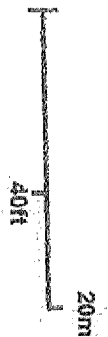
← 850 Edgewater Dr

BELMONT

GALISER RD

LAKE WYLIE RD

NO NAME

← Yellow one

Exhibit A

GIS MAP

113.12

122.85 NAME

188.74

188.56

(289)

N

40ft
20m

218

119.5
119.43

856 Edgewater Dr

(88)

(81)

92.23

68.28

80.0

36.12

75.96

51.62

423

15.68

Easement Closure
↓ area

Common Driveway
(not road) ↓

Home

856 Edge

County Maint ends
← on Edgewater Dr
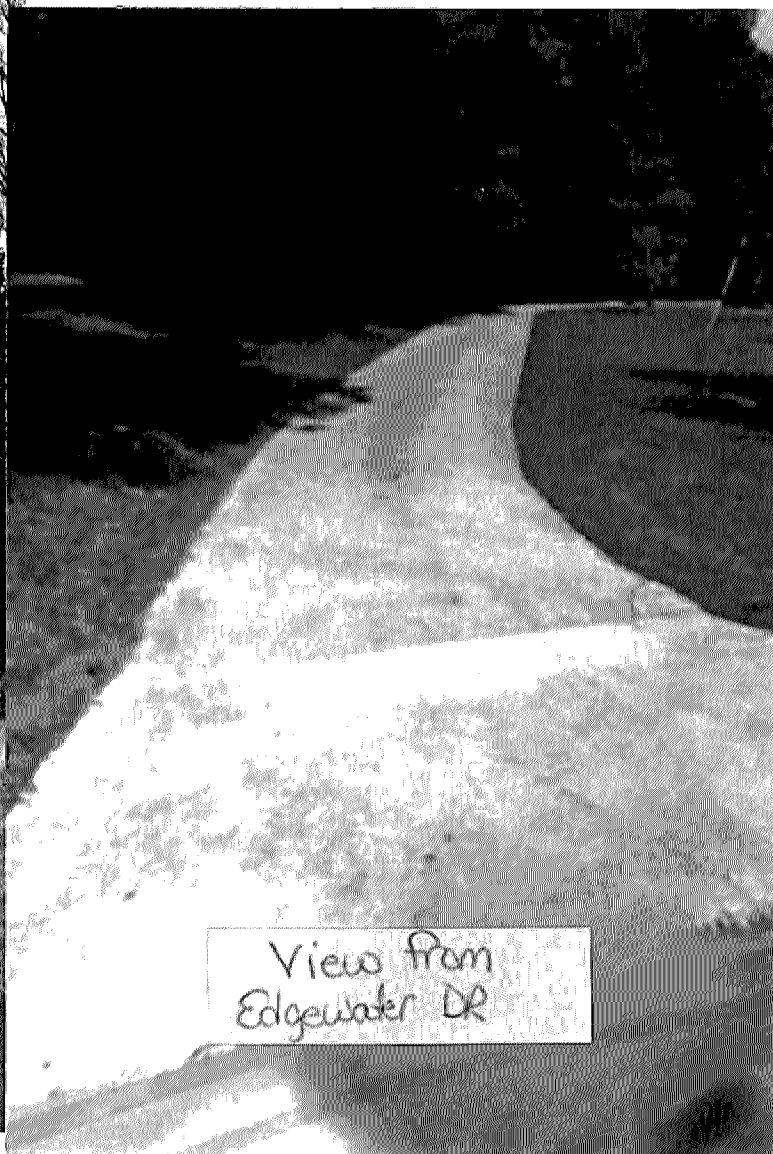
2654

Easement Closure
@ grass area

862 856 844
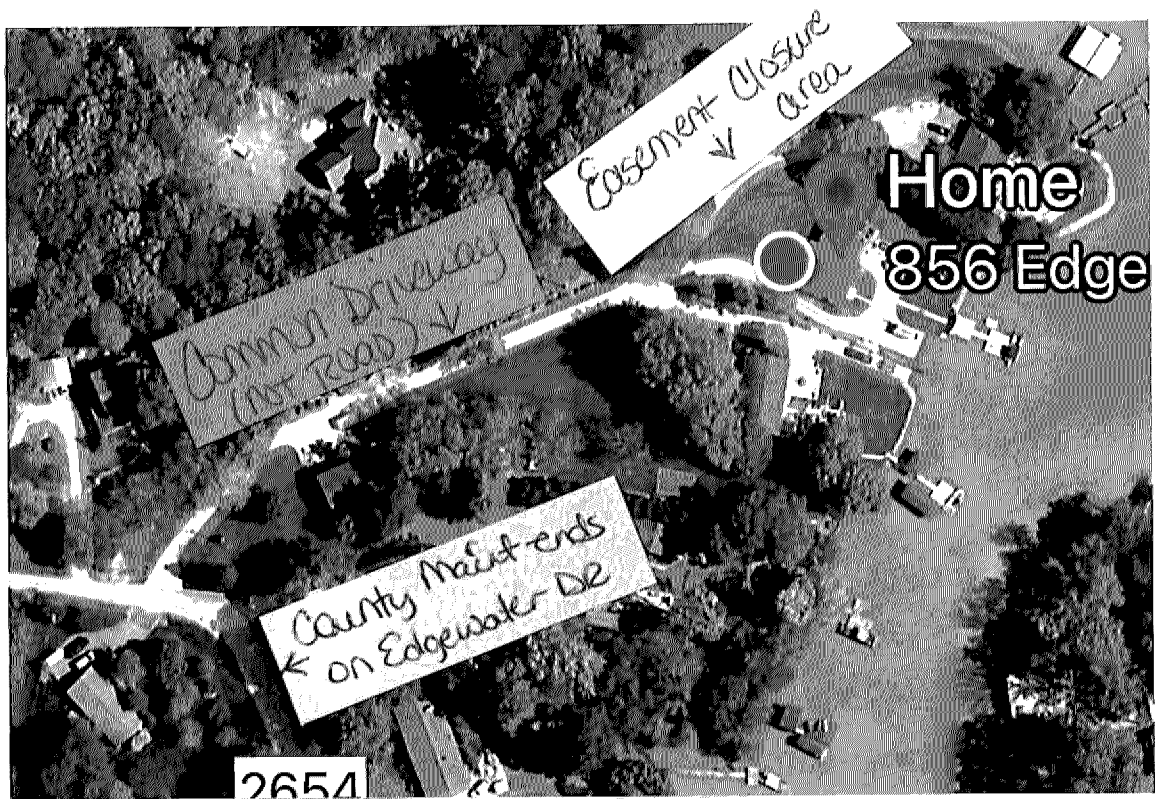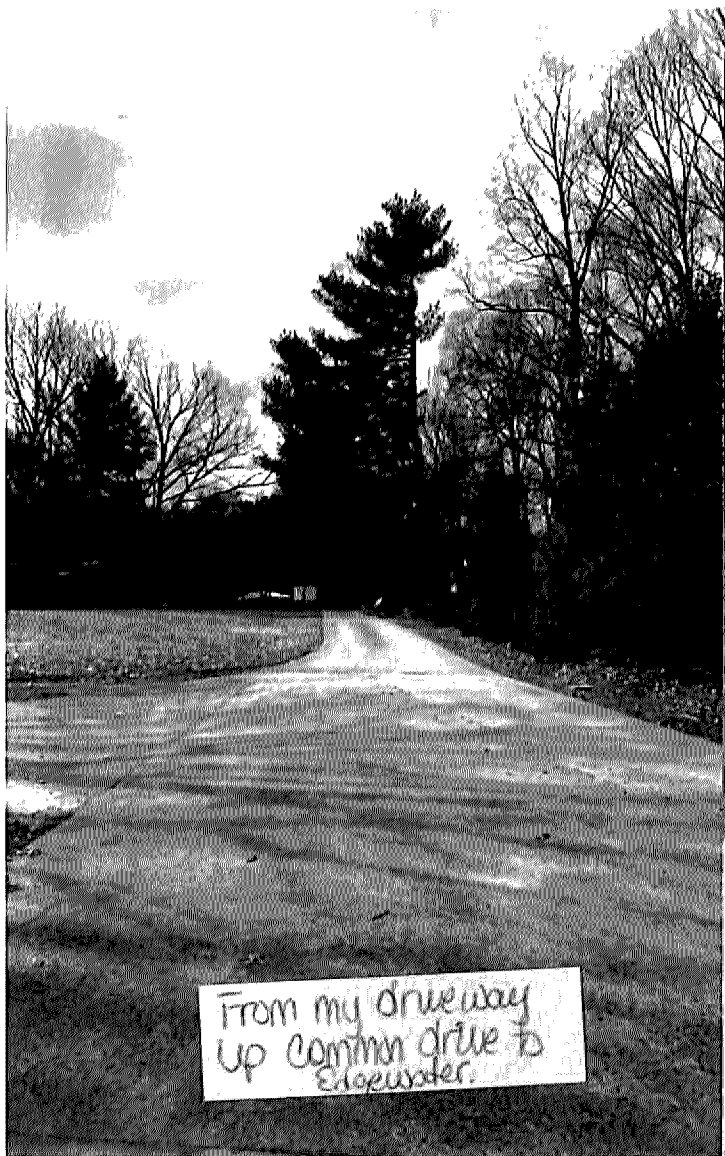
From my driveway
up common drive to
Edgewater.

View from
Edgewater Dr.