



RESOLUTION TITLE: TO PROVIDE AN ADVISORY OPINION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RECOMMENDING AN ABANDONMENT OF THE EASTERNMOST 315 FEET OF BAY SHORE DRIVE

WHEREAS, a certain state-maintained road known as Bay Shore Drive exists in Gaston County; and,

WHEREAS, a property owner wishes to ultimately to close approximately three hundred and fifteen (315) feet of the easternmost portion of said right of way; and

WHEREAS, NCDOT requests that the County Commissioners make a recommendation to the NCDOT concerning abandonment of a state-maintained right-of-way; and,

WHEREAS, the NCDOT takes such recommendation into account when the NCDOT issues a final decision concerning the request to abandon a right-of-way; and

WHEREAS, if the NCDOT subsequently abandons the subject right-of-way, the Gaston County Board of Commissioners, upon application, can consider the merits of the subject right-of-way being closed. Such consideration cannot be undertaken unless the NCDOT abandons the right-of-way from state control.

NOW, THEREFORE, BE IT RESOLVED, that the Gaston County Board of Commissioners recommends to the North Carolina Department of Transportation that the subject property, being approximately three hundred and fifteen (315) feet of the eastern most portion of Bay Shore Drive, as depicted on said map, be abandoned.

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	Brown	Fraleigh	Grant	Hovis	Keigher	Philbeck	Worley	Vote
2017-232	09/26/2017	TP	RW	A	A	A	A	AB	A	A	U

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MAP DEPICTING PROPOSED ABANDONMENT OF BAY SHORE DRIVE

Site Map n.t.s.

LEGEND

- PROPERTY LINE
- ENCLOSING PROPERTY LINE
- SETBACK LINE
- RIGHT-OF-WAY
- FENCE LINE
- POWER LINE
- 100 YEAR FLOOD
- CH = CONC. HOUSING
- CP = CALCULATED POINT
- EL = ELLIPTICAL ARC LENGTH
- EP = EXISTING IRON PIN
- EO = ELEC. OUTLET
- GP = GUARD POST
- IP = IRON PIN SET
- UP = UTILITY POLE

NOTES

BUILDING SETBACK LINES ARE AS FOLLOWS:

- 10 FEET FROM ROAD R/W LIMITS
- 10 FEET FROM CONTOUR ELEV. 170
- 10 FEET FROM SIDE LOT LINES

NO GEODETIC MONITORING WITHIN 2000 FEET OF SUBJECT PROPERTY.

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

I HEREBY CERTIFY THAT THE SUBJECT STRUCTURE (S) IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY N.C. PDMA PANEL 431022220001 EFFECTIVE DATE: 4/2/2001 (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 DESCRIPTIONS AS GIVEN, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:250000, AND THAT THE AREA DETERMINED BY DIMS. FITNESS MY HAND AND SEAL, THIS DATE JULY 11, 2011.

SURVEY BASED ON PHYSICAL EVIDENCE AND EXISTING IRON PINS.

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

PRELIMINARY
NOT FOR DEED CONVEYANCE
OR RECORDATION

Franklin E. Tanner - PLS # 2534

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Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

County Attorney

Board Action

File #: 17-268

Commissioner Brown - County Attorney - *To PROVIDE AN ADVISORY OPINION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RECOMMENDING AN ABANDONMENT OF THE EASTERNMOST 315 FEET OF BAY SHORE DRIVE*

STAFF CONTACT

Charles Moore - County Attorney - 704-866-3400

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Gerald and Sonya Kennedy seek to close approximately Three Hundred and Fifteen (315) feet of the easternmost section of Bay Shore Drive, as indicated on the attachment. The Petitioners as well as HK Paradise Point, LLC (which was formed by the Petitioners) own the property surrounding the proposed area to be closed. The relevant Parcel Identification Numbers are depicted on the attached map.

The North Carolina Department of Transportation (NCDOT) owns and controls the right of way (ROW) and has ultimate authority concerning whether or not to abandon Bay Shore Drive (abandoned roads are no longer maintained by the State). However, NCDOT policy requires the relevant local governing body to provide an advisory opinion on whether or not the subject area should be abandoned. Although not binding, the NCDOT will take any such recommendation into consideration for an action to ABANDON the entire or partial ROW of Bay Shore Drive.

The Board of Commissioners held a public hearing at its Regular Meeting of August 22, 2017. Although it wasn't required, Planning staff determined it was prudent to enable all interested parties to speak either for or against such proposed action due to the interest expressed by nearby and adjacent property owners.

(Continued on Page 2)

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

If the NCDOT elects to abandon the road, the road can only be officially closed by Gaston County at another public hearing pursuant to NC General Statute. This is done by an official request by a Petitioner along with the payment of a filing fee. If the NCDOT does not abandon the road, Gaston County has no authority to close the subject road.

Provided that the turn-around is created as indicated on the attached map, Planning staff has no objections to the ultimate desire of the Petitioner, which is to close a portion of Bay Shore Drive. If the subject area is closed, the entities on either side of the area will take ownership to the center line of the right of way. Planning staff does not have any opinion concerning whether the NCDOT should abandon the right of way. However, Planning staff does wish to emphasize that if the road is abandoned by the NCDOT *all maintenance of the road will be the responsibility of property owners along Bay Shore Drive; the State will not contribute monies for right of way improvements.*

The Board of Commissioners tabled the item to the next Regular Meeting and requested representatives from NCDOT be present. On 9/26/2017, the BOC unanimously voted to provide a recommendation to the NCDOT for the abandonment of the requested three hundred and fifteen (315) feet of the easternmost section of Bay Shore Drive. The adopted Resolution and Map were forwarded to NCDOT.

POLICY IMPACT

N/A

ATTACHMENTS

Revised Resolution; Map of proposed right of way closure and turn-around area