

PROCESS TO CLOSE A PUBLIC RIGHT-OF-WAY

NCGS § 153A-241 states that “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.”

NCGS § 136-63 (a) provides that “The board of county commissioners of any county may, on its own motion or on petition of a group of citizens, request the Board of Transportation to change or abandon any road in the secondary system when the best interest of the people of the county will be served thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or abandonment, and if in its opinion the public interest demands it, shall make such change or abandonment.” Part (b) states “In keeping with its overall zoning scheme and long-range plans regarding the extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for maintenance of a road within one mile of its corporate limits once it is abandoned from the State highway system.

The following steps outline a process and (example time line) for closing SR 1734, Pickett Road in Orange County:

1. Orange County requests NCDOT to abandon maintenance of SR 1734

- The Orange County Board of Commissioners (BOCC), finding that removing SR 1734, Pickett Road, from the State Maintained System is in the best interest of the people of Orange County, adopts a resolution requesting that the NCDOT execute abandonment of SR 1734. (BOCC action April 1, 2008)
- The Clerk to the Board of Commissioners forwards a copy of the resolution, along with a petition to remove Pickett Road from NCDOT maintenance, to the NCDOT District Engineer to complete a Secondary Road Abandonment Report. (April 2, 2008)

The petition should be signed by all property owners adjacent to the right-of-way being abandoned and any residents in the immediate vicinity who would be affected. For petitions to abandon public right-of-way from State maintenance that are noncontroversial (no opposing parties or cutting off connecting access), NCDOT can generally complete its investigation within a few weeks. For situations involving roads classified as thoroughfares, the process could take a few months.

- The NC Board of Transportation considers the request, and if in its opinion the public interest demands it, abandons SR 1734 from the State Maintained System. (The earliest the NCBOT could act on this item would be at its meeting on May 7-May 8, 2008. If the District NCDOT Office needs a longer time to prepare the investigation report (2 months), the petition may not be ready until the August 6-August 7, 2008, BOT agenda. Any request by a board of county commissioners refused by the Board of Transportation (BOT) may be presented again upon the expiration of 12 months.

2. Orange County declares its intent to close the public right-of-way

- The BOCC adopts a resolution declaring its intent to close the public right-of-way for SR 1734, and sets a public hearing for August 25, 2008 (Joint Quarterly Public Hearing). (BOCC action by June 24, 2008) If the NCBOT has not acted on the petition to remove SR 1734 from the State Maintained System by that time, the Board of County Commissioners may wish to wait for this step until its meeting in August 19, 2008, and set the public hearing for the November 24, 2008, quarterly public hearing, or some other time.
- Staff forwards a copy of the resolution, with a cover letter, to the Durham County Manager (by June 25, 2008, for the August public hearing, or the day after the Board acts to declare its intent to close the public right-of-way.)
- Staff forwards memorandum to Orange County Emergency Services, Orange County Animal Control, Chapel Hill-Carrboro Board of Education and Orange County Sheriffs Department apprising those agencies of the public hearing to close the right-of-way, and informing those departments to direct any concerns regarding how the road closing may affect service provision to the Board of Commissioners at the public hearing (by June 25, 2008, or the day after the Board acts to declare its intent to close the public right-of-way).
- Staff posts a notice of the road closing and public hearing in at least two prominent places along the road. This will be done about three (3) weeks prior to the public hearing (by August 1, 2008, for an August public hearing or three weeks prior to date of public hearing).
- Staff publishes the Resolution in the Chapel Hill Herald and the News of Orange (and perhaps the Durham Herald-Sun) once a week for three (3) successive weeks before the public hearing. (Staff, on July 31, 2008, sends a copy of the resolution to newspapers to be published on August 6, August 13 and August 20, 2008, or at a later date if public hearing is scheduled for a later date.)
- Staff will send a copy of the resolution by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road to be closed (and any residents in the immediate vicinity who would be affected). (Staff will send letters August 1, 2008, for an August public hearing.)
- The Board of County Commissioners, at the public hearing on August 25, 2008, will hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or that no individual owning property in the vicinity of the road would be deprived of reasonable means of ingress and egress to his/her property.
- The Board may take action on August 25th if the NCBOT has removed SR 1734 from the State Maintained System. However, the Board usually does not take action at the time of the public hearing, but at a subsequent meeting. If the NCBOT has not taken action on this item by August 25th, 2008, the Board of County Commissioners may act at a subsequent meeting after the road has been removed from the State Maintained System.

3. Durham-Chapel Hill-Carrboro Metropolitan Planning Organization Transportation Advisory Committee Amends the 2030 Long-Range Transportation Plan

- Pickett Road, SR 1734 in Orange County, SR 1303 in Durham County, is a thoroughfare in the 2030 LRTP network. Removing this access will necessitate an amendment to the regional plan that demonstrates conformity with air quality requirements.