

RESOLUTION APPROVING A REQUEST TO THE NORTH CAROLINA BOARD OF TRANSPORTATION TO CLOSE AND ABANDON THE RIGHT-OF-WAY OF OLD KIT CREEK ROAD (SR 1639)

WHEREAS, Tyler Ware of WSP Legacy Corp. on behalf of The Research Triangle Foundation, submitted the original petition to close and abandon the Old Kit Creek Road right-of-way;

WHEREAS, Larry McBennett of Everett Gaskins Hancock, LLP, on behalf of Integrated DNA Technologies (IDT), became the petition successor after IDT purchased the property on December 22, 2016;

WHEREAS, Old Kit Creek Road was replaced by Kit Creek Road in a more northerly alignment in the 1990s and early 2000s;

WHEREAS, other segments of Old Kit Creek Road, west of Davis Drive, were closed and abandoned in 1994 and 2001;

WHEREAS, the reasons that NCDOT had previously requested that this segment of Old Kit Creek Road be kept open are no longer needed;

WHEREAS, the closure and abandonment of the Old Kit Creek Road right-of-way will not deny access to any property owner;

WHEREAS, Old Kit Creek Road was deleted from NCDOT's road maintenance program in January 2014;

WHEREAS, Old Kit Creek Road is not listed in the Wake County Thoroughfare Plan and the road closure and right-of-way abandonment will not be detrimental to the public interest;

WHEREAS, the adjoining property owners, IDT, The Research Triangle Foundation, and NCDOT are in support of the request to close and abandon the Old Kit Creek right-of-way;

WHEREAS, the abandoned right-of-way area will be recombined with the adjoining properties (Tract "A" and Tract "B"), which are both owned by IDT;

WHEREAS, the North Carolina General Statutes 153A-241, indicates that the interest vested in the adjoining landowner (upon abandonment and recombination) 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.

WHEREAS, the current owner, IDT, and Frontier Communications of the Carolinas, LLC, and Duke Energy Carolinas, LLC, have agreed to coincidental replacement easements centered upon the existing gravel road, with the understanding that the

easements are subject to being reconfigured and moved to another location on the subject property upon development of the site;

WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing on February 20, 2017 to consider adopting a resolution to request that the North Carolina Board of Transportation close and abandon the right-of-way for Old Kit Creek Road (SR 1639).

NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS:

The requested closure and abandonment of the right-of-way for Old Kit Creek Road (SR 1639), is found to be in the public interest, and otherwise promotes the public health, safety and general welfare. Therefore, the Wake County Board of Commissioners hereby requests that the North Carolina Board of Transportation formally close and abandon the right-of-way for Old Kit Creek Road (SR 1639).

Commissioner _____ made a motion that the above resolution be adopted. Commissioner _____ seconded the motion, and upon vote, the motion carried this 20th day of February 2017.

This Instrument Approved as to Form

Wake County Attorney

Date