

ORDINANCE APPROVING A REQUEST TO CLOSE THE RIGHT-OF-WAY OF OLD KIT CREEK ROAD (SR 1639)

WHEREAS, Ed Sconfienza of The Site Group has submitted a petition to close the Old Kit Creek Road right-of-way; and

WHEREAS, Old Kit Creek Road has been replaced by Kit Creek Road in a more northerly alignment, and is therefore no longer needed; and

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

WHEREAS, Old Kit Creek Road was abandoned from the North Carolina Department of Transportation's road maintenance program in January 2014; and

WHEREAS, NCDOT has determined that their 2014 abandonment action voided any and all of their "control and supervision" interest in the Old Kit Creek Road right-of-way, and that the authority to permanently close this right-of-way now lies with the Wake County Board of Commissioners; and

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

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

WHEREAS, the closed right-of-way area will be recombined with the adjoining properties (Tract "A" and Tract "B") to form a unified development site that will result in economic development, increase the tax base, and create jobs—all of which are in the public interest; and

WHEREAS, the North Carolina General Statutes 153A-241, indicates that the interest vested in the adjoining landowners (upon closure 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; and

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; and

WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing on October 16, 2017 to consider adopting an ordinance to close 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 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 closes the right-of-way for Old Kit Creek Road (SR 1639).

Commissioner _____ made a motion that the above ordinance be adopted. Commissioner _____ seconded the motion, and upon vote, the motion carried this 16th day of October 2017.

This Instrument Approved as to Form

Wake County Attorney

Date