Closure of Unopened Right-of-Way Between Sulphur Springs Road and Lane Avenue

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THE CITY OF ASHEVILLE



Closure of Right-of-Way
Between Sulphur Springs Road and Lane Avenue

- Jeremy Cohen, property owner of 160 Sulphur Springs, has petitioned for this closure.
- Mr. Cohen wishes to permanently close an unopened right-of-way that runs roughly north-south between Sulphur Springs Road and Lane Avenue between the following properties:
  - 158 Sulphur Springs Road
  - 160 Sulphur Springs Road - applicant
  - 17 Lane Ave
  - 23 Lane Ave
- If the closure is approved, the right-of-way will be divided among the 4 properties and a new plat will be filed.
- All adjacent property owners have signed affidavits of approval.

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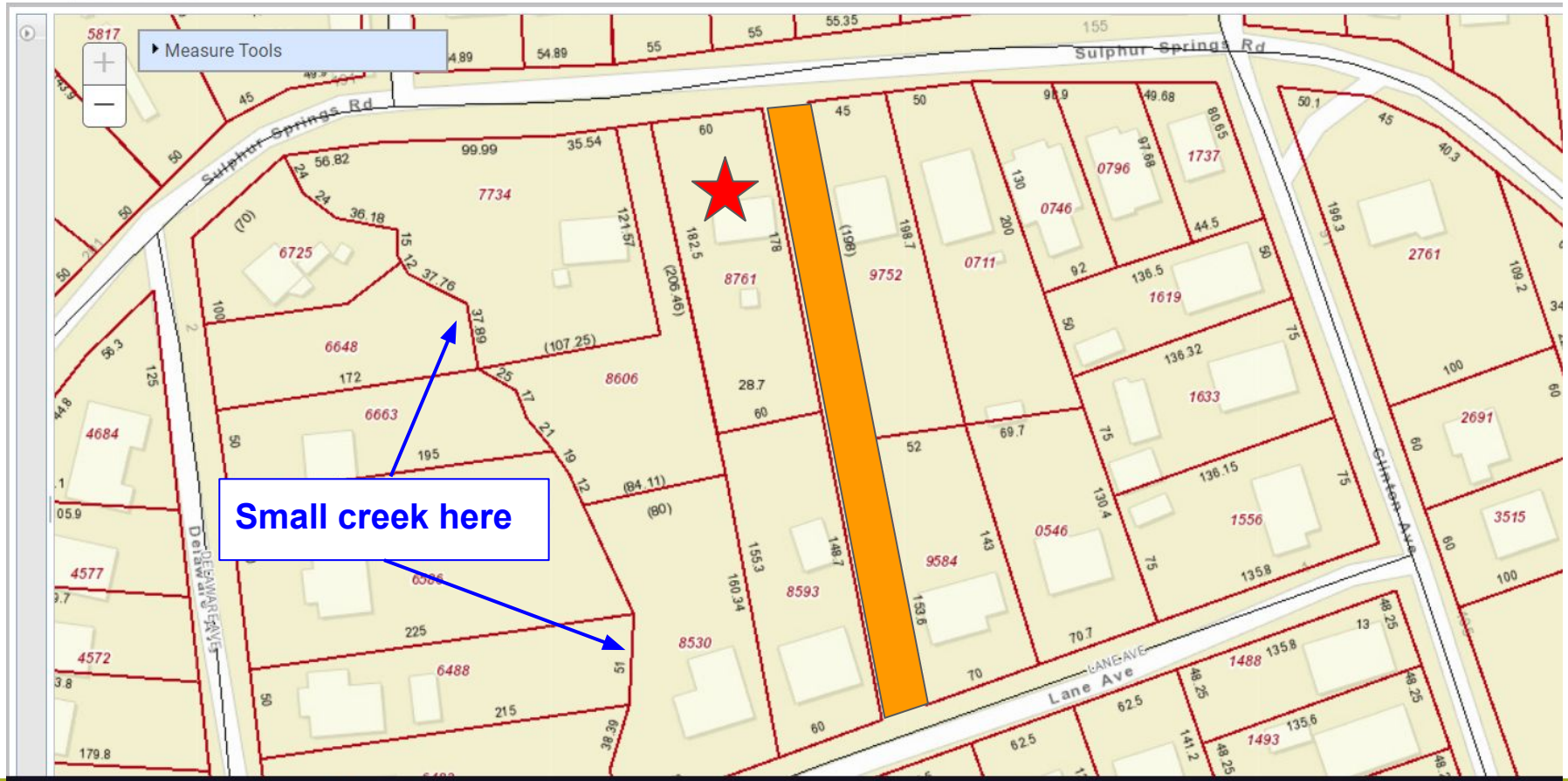
- The Applicant has indicated that the purpose of the right-of-way closure is to facilitate construction of additional residential units to the rear of the property
- The applicant has not yet submitted an application to Development Services
- Information regarding the intended number/size/type of units has not been provided
- State law does not require an Applicant to provide the development plan or purpose associated with the ROW closure request. However if there is an application that has already been submitted, or if the Applicant provides one voluntarily, staff can process them simultaneously. However this is not a legal requirement for a closure application.

Right-of-Way Closure Map



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Vicinity Map/Parcel Lines



City Staff (Technical Review Committee) Recommendation

- Technical Review Committee (TRC) met on July 17, 2023.
- TRC determined:
  - There are no utility conflicts present
  - That a viable transportation-related connection within the unopened right-of-way would be difficult to construct due to the topography
  - Additionally, there would be limited demand for a connection in this location because there are other parallel roads in the vicinity providing the same access

Vicinity Map - Transportation Connectivity





Existing sidewalk

Proposed ROW closure

Sulphur Springs Rd. looking east toward Herring Elem.



City Staff (Technical Review Committee) Recommendation

- Additionally, as part of the TRC review, it was noted that there was an unpermitted retaining wall within the unopened right-of-way adjacent to the residence at 23 Lane Avenue (not the applicant).
- Records indicate that the property was issued a stop work order in 2021.
- A permit could not be issued at that time due to the wall having been constructed in the unopened right-of-way.
- Approval of this right-of-way closure request would also bring the wall into compliance and a permit could be issued.

160 Sulphur Springs Road looking south



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Lane Avenue looking north



Lane Ave. Looking East toward Herring Elem.



City Staff (Technical Review Committee) Recommendation

- TRC recommended approval of the closure request and forwarded it to the Multimodal Transportation Commission.

MMTC Recommendation

- Multimodal Transportation Commission reviewed the request on August 28, 2023
- MMTC **did not recommend** approval 5-2
- MMTC members that voted “no” had 2 primary concerns:
  - The presence of the unpermitted retaining wall at 23 Lane Avenue
  - The desire to have a better understanding and context of right-of-way closure requests
  - MMTC requested that staff complete a study of all unopened rights-of-way within the City to identify possible opportunities for transportation connections to be made, particularly for bicyclists, pedestrians, and people with disabilities.

Staff Response to MMTC Recommendations

- Staff advised the MMTC that the unpermitted wall would be brought into compliance if the right-of-way were closed and that the presence of the unpermitted wall is not generally within the scope of the factors that the City Council would consider, per statute, in deciding to close the right-of-way.
- Separately, staff advised the MMTC that a comprehensive review of all unopened rights-of-way within the City would be an extensive project that is not currently on staff's work program.
- Since the August MMTC meeting, staff has provided MMTC members with copies of the State Law, the City’s existing policy, and additional information from the City’s Attorney’s office regarding ROW closure requests.

Proposed Motion

Motion to adopt a resolution to permanently close an unopened right-of-way between Sulphur Springs Road and Lane Avenue.

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