

ORDINANCE NO. 13

AN ORDINANCE BY THE COUNCIL OF THE VILLAGE OF FLAT ROCK, NORTH CAROLINA TO CLOSE MUD CREEK CEMETERY ROAD

WHEREAS, the Village of Flat Rock Council has received a petition to close Mud Creek Cemetery Road (S.R. 1165) located within the Village of Flat Rock; and

WHEREAS, the petition to close Mud Creek Cemetery Road (S.R. 1165) was signed by the Mud Creek Baptist Church, Inc., and by Joe Crowell Construction, Inc., both being owners of the only property adjoining, or having access to, Mud Creek Cemetery Road (S.R. 1165); and

WHEREAS, Mud Creek Cemetery Road (S.R. 1165) lies entirely within the corporate limits of the Village of Flat Rock; and

WHEREAS, the Village of Flat Rock Council has followed all the specific legal requirements outlined in North Carolina General Statutes §160A-299, regarding the closing of a public road by a municipality; and; upon the hearing on the 13th of May, 1999, there was presented to the Council at the hearing information and testimony of parties expressing an interest in the issue before the Village of Flat Rock Council and the Council make the following findings of fact:

1. The Village of Flat Rock has heretofore adopted a Resolution of Intention to close that road known as Mud Creek Cemetery Road (S.R. 1165) and that the publication of the notice of hearing on closing was run in the Hendersonville Times-News on successive weeks namely on April 8th, April 15th, April 22nd and 29th, all of 1999 in the form and content as shown on the attached copy of said notice.
2. THAT a copy of the notice was sent by Certified Mail to all of the adjoining property owners as shown on the tax records of Henderson County, North Carolina they being namely Mud Creek Baptist Church, Inc., and Rutledge Road Properties, Inc.
3. THAT a posting of the notice of the hearing was made at two places along Mud Creek Cemetery Road, namely at the North and South ends of said road.
4. THAT a copy of the resolution was duly mailed to the North Carolina Department of Transportation on the 14th day of April, 1999.
5. THAT opportunity was fully given to all parties to offer evidence as to whether the closing of Mud Creek Cemetery Road would be detrimental to the public interest, or that the property rights of any individual would be adversely affected; and that no evidence was offered showing that the closing of said road would in any way be detrimental to the public interest or the property rights of any individual.

6. THAT after hearing all of the evidence presented at said hearing and the testimony given it was determined that the closing would not harm or adversely affect or be contrary to the public interest.
7. THAT there was no individual owning property in the vicinity of Mud Creek Cemetery Road who would be deprived of any means of access, ingress or egress to his or its property and that no property owner would be deprived of any access except the Mud Creek Baptist Church, Inc., and Rutledge Road Properties, Inc., and they being the property owners or agents for the property owners who had petitioned for the closing of said road and each of them having other access at least equal to or superior in all respects by the remaining public roads.

BASED UPON THE FOREGOING findings of fact,

BE IT RESOLVED that in accordance with procedures outlined in the North Carolina General Statutes §160A-299 and each of its sections, the Village of Flat Rock Council finds that the public interest would be served and requirements set out in North Carolina General Statutes §160A-299 have been met; and that the Village of Flat Rock Council does hereby order the closing of Mud Creek Cemetery Road (S.R. 1165).

BE IT FURTHER RESOLVED, that a certified copy of this Ordinance shall forthwith be filed in the office of the Register of Deeds for Henderson County, North Carolina.

BE IT FURTHER RESOLVED that a certified copy of this ordinance be forwarded to the North Carolina Department of Transportation.

ADOPTED this, the _____ day of _____, 1999.

AYES: _____ NOES: _____ ABSENT: _____

APPROVED:

Cyrus C. Highlander, Mayor

ATTEST:

APPROVED AS TO FORM:

Rowena M. Sweezy, Village Clerk

Kenneth Youngblood, Village Attorney