



## Legislation Details (With Text)

**File #:** [18-1000]      **Version:** 1      **Name:**

**Type:** Discussion Item      **Status:** Passed

**File created:** 11/8/2018      **In control:** Town Council

**On agenda:** 12/5/2018      **Final action:** 12/5/2018

**Title:** Open the Public Hearing and Consider a Request to Close a Portion of the Public Right-of-Way on Aberdeen Drive for the Expansion of the Lumina Theater.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit for Requested Right-of-Way Closure, 2. Draft Staff Presentation, 3. Closure Request Letter from Dixon Pitt, Bryan Properties, 4. Plan for Requested Right-of-Way Closure, 5. NC Statute 160A-299, 6. Memorandum from Town Attorney on "Authority to Require Compensation for Closure of Right-of-Way", 7. Staff Presentation, 8. A RESOLUTION TO CLOSE A PORTION OF THE PUBLIC RIGHT-OF-WAY ON ABERDEEN DRIVE FOR THE EXPANSION OF THE LUMINA THEATER (2018-12-05/R-9)

Date	Ver.	Action By	Action	Result
12/5/2018	1	Town Council	closed the public hearing	Pass
12/5/2018	1	Town Council	adopted	Pass

### Open the Public Hearing and Consider a Request to Close a Portion of the Public Right-of-Way on Aberdeen Drive for the Expansion of the Lumina Theater.

**Staff:**

Lance Norris, Director  
Chris Roberts, Manager of Engineering and Infrastructure

**Department:**

Public Works

**Overview:** Bryan Properties (Manager of Market Street Association and assisting in the Lumina Theater expansion project) along with the owner of the Lumina Theater have requested closure of a small area of sidewalk on Aberdeen Drive in front of the theater to allow for the theater expansion. The Lumina Theater is located at the intersection of Market Street and Aberdeen Drive in Southern Village, and the requested sidewalk closure is within the public right-of-way on Aberdeen Drive.

North Carolina General Statute Sec. 160A-299 "Procedures for Permanently Closing Streets and Alleys" sets the process for closing public rights-of-way (see copy attached). The steps outlined in this report and the attached resolution follow the statutory requirements.

★ **Recommendation(s):**

That the Council open the Public Hearing and consider closing a portion of the public right-of-way on Aberdeen Drive for the expansion of the Lumina Theater.

**Key Issues:**

- This right-of-way closure will require converting two on-street parking spaces on Aberdeen Drive into a sidewalk to continue to meet the sidewalk width requirement outlined in the Southern







- Village Special Use Permit.
- Bryan Properties polled the area tenants and reported that they have no concern with this right-of-way closure. Market Street Association (the Southern Village business association) and the Town of Chapel Hill Police Department have also reviewed this plan and have no concerns.
- The theater expansion project request is also moving through the planning approval process. An application for a zoning compliance permit was submitted for the expansion.

**Fiscal Impact:** The Town Attorney provided the attached memorandum describing his review and conclusion that the Town does not have the authority to seek remuneration for the closure of this right-of-way.

**Where is this item in its process?**



**Council Goals:**

<input checked="" type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input type="checkbox"/>		Support Community Prosperity	<input type="checkbox"/>		Nurture Our Community
<input type="checkbox"/>		Facilitate Getting Around	<input type="checkbox"/>		Grow Town and Gown Collaboration



**Attachments:**

- Resolution
- Draft Staff Presentation
- Closure Request Letter from Dixon Pitt, Bryan Properties
- Plan for Requested Right-of-Way Closure
- Exhibit for Requested Right-of-Way Closure
- NC Statute 160A-299
- Memorandum from Town Attorney on "Authority to Require Compensation for Closure of Right-of-Way"

**A RESOLUTION TO CLOSE A PORTION OF THE PUBLIC RIGHT-OF-WAY ON ABERDEEN DRIVE FOR THE EXPANSION OF THE LUMINA THEATER (2018-12-05/R-9)**

WHEREAS, the Town of Chapel Hill has received a request to close a portion of the public right-of-way on Aberdeen Drive to accommodate an expansion of the Lumina Theater; and

WHEREAS, Market Street Association and the Town of Chapel Hill Police Department have reviewed this plan and have no concerns; and

WHEREAS, this right-of-way closure will result in two on-street parking spaces on Aberdeen Drive being converted into sidewalk areas to meet the sidewalk width requirement set forth in the Southern Village Special Use Permit; and

WHEREAS, the Council has held a public hearing on the requested right-of-way closure, in accordance with North Carolina General Statute Sec. 160A-299; and

WHEREAS, the Council finds, upon review of the facts and of information received at the Public Hearing, that closing the said portion of the Aberdeen Drive right-of-way would not be contrary to the public interest and that no individual owning property in the vicinity of the proposed closures would be deprived of reasonable means of ingress and egress to his or her property by the closing of said right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts this order pursuant to North Carolina G.S. 160A-299, permanently closing this portion of Aberdeen Drive that is near the intersection of Aberdeen Drive and Market Street.

BE IT FURTHER RESOLVED that a plat showing the closure and a copy of this Order shall be recorded by the adjacent property owners, with the Orange County Register of Deeds upon approval by the Town and certification by the Town Manager that the preceding conditions of approval have been met, said certification to be attached to this Resolution as an Exhibit prior to recordation.

This the 5<sup>th</sup> day of December, 2018.

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**The Agenda will reflect the text below and/or the motion text will be used during the meeting.**

PRESENTER: Chris Roberts, Manager of Engineering & Infrastructure  
Dixon Pitt, Bryan Properties

- a. Without objection, the *preliminary* report and any other materials submitted at the hearing for consideration by the Council will be entered into the record
- b. Introduction
- c. Comments from the public
- d. Comments and questions from the Mayor and Town Council
- e. Motion to adjourn the Public Hearing
- f. Motion to approve the right-of-way closure.

RECOMMENDATION: That the Council open the Public Hearing and consider closing a portion of the public right-of-way on Aberdeen Drive for the expansion of the Lumina Theater.