

HABERSHAM COUNTY BOARD OF COMMISSION
EXECUTIVE SUMMARY

SUBJECT: Smokey St. Abandonment - Public Hearing

DATE: 9-5-24

BUDGET INFORMATION:
ANNUAL-
SPLOST VI -

RECOMMENDATION
 POLICY DISCUSSION
 STATUS REPORT
 OTHER

COMMISSION ACTION REQUESTED ON: September 16, 2024

PURPOSE: The purpose of this agenda item is to seek approval from the BOC to authorize an abandonment of Smokey St.

BACKGROUND / HISTORY:

We have received a request from a property owner to abandon the remainder of the Smokey St. right-of-way located south of Alto-Mud Creek Rd. The use of this section of Smokey St was discontinued when Smokey Rd was re-aligned at its intersection with Alto-Mud Creek Rd. The property owner that owns both sides of the road has requested the abandonment in order to combine his parcels. The former street improvements (curb and pavement) had been removed years ago and has become overgrown. The abandonment will not land lock anyone because there is only one owner.

Building and Planning has received this and see no problem with the abandonment. Additionally, the proposed abandonment and public hearing have been advertised two times in the legal section of the paper.

FACTS AND ISSUES:

- A property owner is requesting that Smokey St. be abandoned.
 - Advertising requirements have been satisfied
 - County staff has reviewed the request and recommend the abandonment
-
-

OPTIONS:

- Approve the abandonment
 - Do not approve
 - Commission defined alternative
-
-

RECOMMENDED SAMPLE MOTION: Motion to approve the abandonment of Smokey St. as depicted on the attached plat exhibit.

DEPARTMENT:

Prepared by: Mike Gardner

Director ___ Jerry Bagget

**ADMINISTRATIVE
COMMENTS:** _____

_____ **DATE:** _____

County Manager

A RESOLUTION PROVIDING FOR THE ABANDONMENT AND CONVEYANCE OF HABERSHAM COUNTY'S INTEREST IN AND TO A CERTAIN SECTION OF THE COUNTY ROAD SYSTEM, SPECIFICALLY SMOKEY STREET, LYING AND BEING IN LAND LOTS 164 & 191 OF THE 10TH LAND DISTRICT OF HABERSHAM COUNTY, GEORGIA.

WHEREAS, a property owner has requested that all of the existing right of way of Smokey Road (a/k/a/ Smokey Street) from its intersection with Ballew Road to its intersection with Alto-Mud Creek Road be abandoned; and

WHEREAS, said right of way lies adjacent to tax parcels 055013, 055043 and 055014, so designated by the Habersham County Board of Tax Assessors; and

WHEREAS, a plat and a legal description of the above-referenced right of way have been tendered and are attached hereto as Exhibit "A" showing the location of the right of way adjacent to the above-described tax parcels; and

WHEREAS, Section 32-7-2(b) of the Official Code of Georgia Annotated authorizes a county to abandon a section of the county road system when it is determined that a section of the county road system has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it or that its removal from the county road system is otherwise in the best public interest; and

WHEREAS, said Georgia code section further provides that upon certification recorded in its minutes, accompanied by a plat or sketch, and, after notice to property owners located thereon, after notice of such determination is published and after a public hearing on such issue, a county may declare that section of the county road system abandoned and that thereafter, that section of road shall no longer be part of the county road system and the rights of the public in and to the section of road as a public road shall cease; and

WHEREAS, pursuant to Section 32-7-2(b) of the Official Code of Georgia Annotated notice has been provided to the adjoining property owners; and

WHEREAS, notice of the public hearing for the abandonment of the proposed parcels were duly published within the County legal organ; and

WHEREAS, a public hearing was held on September 16, 2024 at the appointed time; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Habersham County, Georgia and it is hereby resolved and certified by the authority of the same, as follows:

1. The Board of Commissioners has determined that Smokey St, a right-of-way in the county road system, is not useful or convenient to the public in general to the extent that no substantial public purpose will be served in the future by this right-of-way property.
2. It is certified that the removal of the right-of-way as shown on the attached legal description and plat (see Exhibit "A") from the county road system is in the best public interest.
3. That the abandonment of said right-of-way herein described be and is approved.
4. That the best interest of Habersham County would be served by the conveyance of said property to the abutting property owner so that it may be subject to taxation by Habersham County.
5. That a deed of abandonment be executed by the Chairman of the Board of Commissioners conveying interest in said right of way within Habersham County in Land Lots 164 & 191 of the 10th District, of Habersham County, Georgia, as shown on the attached legal description and copy of plan to MPE Holdings, LLC, its assigns, transferees and successors in interest.

HABERSHAM COUNTY BOARD OF COMMISSIONERS

TY AKINS, CHAIRMAN

ATTEST:

BRANDILYN CARNES
CLERK OF THE COMMISSION

EXHIBIT "A"

DESCRIPTION OF SUBJECT SECTION OF ROAD:

Legal Description: Tract A-1

All that tract or parcel of land lying and being in Land Lots 164 & 191, 10th Land District, Habersham County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for MPE Holdings, LLC, dated August 8th, 2024 and being more particularly described as follows:

Commencing at a PK Nail set at the centerline intersection of Alto-Mud-Creek Road & Smokey Road, located at Georgia State Plane Coordinate Northing 1625308.789, Easting 2468577.246, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE South 67 degrees 18 minutes 17 seconds West for a distance of 56.57 feet to a 1/2" rebar pin set and said point being the TRUE POINT OF BEGINNING.

Thence South 22 degrees 18 minutes 17 seconds West for a distance of 138.50 feet to a 1/2" rebar pin set; Thence South 62 degrees 35 minutes 56 seconds West for a distance of 38.66 feet to a 1/2" rebar pin set; Thence North 22 degrees 18 minutes 17 seconds East for a distance of 73.14 feet to a 1/2" rebar pin set; Thence North 18 degrees 23 minutes 25 seconds West for a distance of 85.53 feet to a 1/2" rebar pin set; Thence North 67 degrees 41 minutes 43 seconds West for a distance of 235.88 feet to a 1/2" rebar pin set; Thence along a curve to the right having a radius of 1502.39 feet and an arc length of 234.98 feet, being subtended by a chord of North 63 degrees 12 minutes 52 seconds West for a distance of 234.74 feet to a 1/2" rebar pin set; Thence South 59 degrees 28 minutes 14 seconds West for a distance of 29.10 feet to a 1/2" rebar pin set; Thence South 48 degrees 23 minutes 04 seconds East for a distance of 245.46 feet to a 1/2" rebar pin set; Thence South 44 degrees 07 minutes 27 seconds East for a distance of 258.14 feet to a 1/2" rebar pin set; Thence South 85 degrees 43 minutes 00 seconds East for a distance of 33.37 feet to a 1/2" rebar pin set; Thence South 77 degrees 01 minutes 25 seconds West for a distance of 35.23 feet to a 1/2" rebar pin set; Thence South 70 degrees 05 minutes 26 seconds West for a distance of 35.09 feet to a PK Nail set; Thence North 44 degrees 07 minutes 27 seconds West for a distance of 85.76 feet to a PK Nail set; Thence South 59 degrees 30 minutes 01 seconds West for a distance of 41.16 feet to a point; Thence North 44 degrees 07 minutes 27 seconds West for a distance of 152.05 feet to a 1/2" rebar pin set; Thence North 48 degrees 23 minutes 04 seconds West for a distance of 352.30 feet to a 1/2" rebar pin set; Thence North 45 degrees 20 minutes 04 seconds West for a distance of 47.34 feet to a point; Thence North 41 degrees 54 minutes 04 seconds West for a distance of 96.49 feet to a 1/2" rebar pin set; Thence North 55 degrees 59 minutes 23 seconds West for a distance of 157.93 feet to a 1/2" rebar pin set; Thence North 59 degrees 30 minutes 03 seconds West for a distance of 5.81 feet to a 1/2" rebar pin set; Thence North 40 degrees 48 minutes 39 seconds East for a distance of 96.51

feet to a 1/2" rebar pin set; Thence South 54 degrees 32 minutes 51 seconds East for a distance of 315.47 feet to a 1/2" rebar pin set; Thence along a curve to the left having a radius of 1472.39 feet and an arc length of 337.87 feet, being subtended by a chord of South 61 degrees 07 minutes 17 seconds East for a distance of 337.13 feet to a 1/2" rebar pin set; Thence South 67 degrees 41 minutes 43 seconds East for a distance of 316.65 feet to a 1/2" rebar pin set and said point being the POINT OF BEGINNING.

Said property contains 2.36 acres more or less.

Legal Description: Tract B-1

All that tract or parcel of land lying and being in Land Lot 191, 10th Land District, Habersham County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for MPE Holdings, LLC, dated August 8th, 2024 and being more particularly described as follows:

Commencing at a PK Nail set at the centerline intersection of Alto-Mud-Creek Road & Smokey Road, located at Georgia State Plane Coordinate Northing 1625308.789, Easting 2468577.246, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE South 67 degrees 18 minutes 17 seconds West for a distance of 56.57 feet to a 1/2" rebar pin set; Thence South 22 degrees 18 minutes 17 seconds West for a distance of 138.50 feet to a 1/2" rebar pin set; Thence South 62 degrees 35 minutes 56 seconds West for a distance of 38.66 feet to a 1/2" rebar pin set and said point being the TRUE POINT OF BEGINNING.

Thence South 22 degrees 18 minutes 17 seconds West for a distance of 26.86 feet to a point; Thence North 85 degrees 43 minutes 00 seconds West for a distance of 45.50 feet to a 1/2" rebar pin set; Thence North 77 degrees 01 minutes 25 seconds East for a distance of 26.19 feet to 1/2" rebar pin set; Thence North 62 degrees 35 minutes 56 seconds East for a distance of 33.84 feet to a 1/2" rebar pin set and said point being the POINT OF BEGINNING.

Said property contains 0.01 acres more or less.

PUBLIC NOTICE
State of Georgia
Habersham County

The Habersham County Board of Commissioners, having received a request to abandon, as a public road, Smokey St., and being described below, hereby serves notice to all interested parties that a Public Hearing is scheduled for the regular County Commission meeting on September 16, 2024 after which a decision will be rendered as to whether or not said section of county road will cease to remain a public road.

DESCRIPTION OF SUBJECT SECTION OF ROAD:

Legal Description: Tract A-1

All that tract or parcel of land lying and being in Land Lots 164 & 191, 10th Land District, Habersham County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for MPE Holdings, LLC, dated August 8th, 2024 and being more particularly described as follows:

Commencing at a PK Nail set at the centerline intersection of Alto-Mud-Creek Road & Smokey Road, located at Georgia State Plane Coordinate Northing 1625308.789, Easting 2468577.246, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE South 67 degrees 18 minutes 17 seconds West for a distance of 56.57 feet to a 1/2" rebar pin set and said point being the TRUE POINT OF BEGINNING.

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Said property contains 2.36 acres more or less.

Legal Description: Tract B-1

All that tract or parcel of land lying and being in Land Lot 191, 10th Land District, Habersham County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for MPE Holdings, LLC, dated August 8th, 2024 and being more particularly described as follows:

Commencing at a PK Nail set at the centerline intersection of Alto-Mud-Creek Road & Smokey Road, located at Georgia State Plane Coordinate Northing 1625308.789, Easting 2468577.246, Georgia West Zone, North American Datum of 1983/2007 adjustment, THENCE South 67 degrees 18 minutes 17 seconds West for a distance of 56.57 feet to a 1/2" rebar pin set; Thence South 22 degrees 18 minutes 17 seconds West for a distance of 138.50 feet to a 1/2" rebar pin set; Thence South 62 degrees 35 minutes 56 seconds West for a distance of 38.66 feet to a 1/2" rebar pin set and said point being the TRUE POINT OF BEGINNING.

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Said property contains 0.01 acres more or less.

For official use by Clerk's office only

Return To:

Hunt & Taylor Law Group, LLC.
1001 Riverside Drive, Suite A
Gainesville, Georgia 30501

DEED OF ABANDONMENT AND QUITCLAIM

STATE OF GEORGIA

COUNTY OF HABERSHAM

THIS INDENTURE, made this 16TH day of September, between **HABERSHAM COUNTY**, a political subdivision of the State of Georgia (hereinafter referred to as "Grantor") and **MPE HOLDINGS, LLC** (hereinafter referred to as "Grantee"), ("Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH:

GRANTOR, for and in consideration of TEN AND NO/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATIONS, in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does bargain, sell, remise, release, and forever quitclaim unto the said Grantee, all the right, title, interest, claim or demand which the said Grantor has, or may have had, in and to the following described property, to wit:

See EXHIBIT "A" attached hereto and incorporated herein.

TO HAVE AND TO HOLD, the said described premises unto the said Grantee, so that neither the said Grantor, nor any other person or persons claiming under Grantor shall at any time, claim or demand any right, title or interest to the aforesaid-described premises or its appurtenances.

This deed is given pursuant to that certain Resolution by the Board of Commissioners of Habersham County, Georgia, duly adopted at a meeting following a public hearing thereon, held on

the 19th day of August, 2024, it being determined that said Road has ceased to be used by the public to the extent that no substantial public purpose is served thereby and that Grantee owns the adjoining land to said Road as described herein.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed, and delivered in the presence of:

Witness

Ty Akins, Chairman
Habersham County Board of Commissioners

Notary Public
Commission Expires: _____

This 16th day of September, 2024.

(SEAL)

EXHIBIT "A"

Legal Description: Tract A-1

All that tract or parcel of land lying and being in Land Lots 164 & 191, 10th Land District, Habersham County, Georgia as shown on a plat prepared by Patton Land Surveying, LLC, for MPE Holdings, LLC, dated August 8th, 2024 and being more particularly described as follows:

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Said property contains 2.36 acres more or less.

Legal Description: Tract B-1

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