

## CARE AND MAINTENANCE OF MIXON CREEK ROADS

The 54 lots that make up the Mixon Creek community are connected by two main paved roads, Mixon Creek Drive and Mill Creek Lane, both ending in cul-de-sacs. These two roads are private roads which means simply that the roads belong to Mixon Creek residents and are not open for use by the public, that the community can set speed limits and weight limits, and that the Mixon Creek Homeowners Association is responsible for the roads' upkeep instead of the North Carolina Department of Transportation. All the rules and regulations that apply to public roads, however, also apply to these two private roads and driving violations occurring on our roads can be ticketed if the driver is caught by a law enforcement officer. In addition, Mixon Creek homeowners may report driving violations to the police or highway patrol, though convictions and tickets rarely result unless the law enforcement officer has observed the violation.

The Homeowners Association has known for some time that the Mixon Creek roads are not built to Department of Transportation standards. This means that Mixon Creek Drive and Mill Creek Lane are both of substandard construction and are more easily affected by daily use than most public roads. In addition, they are more easily damaged by misuse. Because of this, wise and careful use of our roads becomes the responsibility of all Mixon Creek residents. We are all responsible for regular maintenance, but homeowners causing damage to roads through misuse are responsible for bearing the cost of repair according to the restrictive covenants (Article XIII 3.b).

The Board of Directors has carefully researched what would be involved in repairing, resurfacing, or replacing the roads at Mixon Creek. The Directors have also looked at having the roads taken over by the NC Department of Transportation. The cost of replacing the roads or having the Department of Transportation take the roads over (essentially the same thing) is prohibitive. Completely resurfacing the roads will also be costly – in 2004, the estimated cost was \$60,000, later determined to be on the low end - but it can be done at some point in the future when the budget has accumulated enough money to make this happen. Progress is slow because repair and maintenance to worn and damaged areas each year is also expensive, averaging \$4000 to \$6000 annually, but progress is being made toward that goal. An increase in annual dues was approved by the Homeowners Association in 2005 and that increase is being set aside in a specific account for ongoing road repair due to daily usage and for resurfacing at some point in the future.

(A copy of this 2004 report is attached. Please be aware that costs of road maintenance, repair, and replacement rise daily and that the figures reported are significantly below what the costs would be today. The report is included for the purpose of giving homeowners a sense of the basis upon which the plan for Mixon Creek roads was developed in 2004.)

Most Mixon Creek residents are responsible people who understand the importance of taking care of our roads. Recently, however, two situations have occurred which have resulted in action from the Board. The first is the unfortunate misuse of the roads and common property along the roads for destructive operation of all-terrain vehicles (ATVs). Homeowners have

complained loudly about the damage being done and those responsible have been addressed. A second, similar problem is the driving of cars at high speed along the roads, endangering not only the roads, but also the people and pets that live along them. Obviously, these activities have also been the source of a number of homeowner complaints.

These two situations resulted in the Board's sending out the following notification to all homeowners in February, 2007:

**NOTICE:** The Board asks that all HOA members and their guests refrain from or discontinue use of **ATVs or other vehicles on common grounds** and road easements of Mixon Creek subdivision. Off road use of ATVs has been observed and damage evidence obvious. These common and easement properties are private properties for the collective common good of this HOA. Off road use of ATVs or other vehicles is not considered an appropriate use of these properties. Further action is under consideration by the Board.

Attend particularly to the phrase "...members and their guests..." This basically means that homeowners are responsible for the actions of their children, their guests, and their children's guests and are encouraged to make everyone who lives in their household or who visits aware of the rules governing our roads. Fortunately, since the publication of this notice, both speeding and misuse by ATVs appears to have stopped, but the Board stands ready to pursue further action if these violations begin again.

It is our hope that Mixon Creek will be the kind of community that will attract homeowners who wish to participate in the development of the neighborhood and who will take pride in what we as a group accomplish. Caring for our roads is one part of this responsibility.

The Board of Directors

Mixon Creek Homeowners Association

November, 2007

ADDENDUM TO STATEMENT ON MIXON CREEK ROAD MAINTENANCE: Please note that the figures offered in this report are based on estimated costs in 2004. They are likely to be woeful underestimates at today's prices.

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**Report on Mixon Creek Subdivision Roads**  
**April 28, 2004**

**Conclusion:**

1. Road surface is in pretty good shape, except for few spots with breakthroughs and those places where previous road patch repairs had been made.
2. Previous recent road surface repairs are sub-standard, such that these and any future repairs of this quality actually interfere with and may increase our cost to resurface the roadway. Doing nothing to repair the road piecemeal is better than continuing like repairs.
3. We may delay resurfacing indefinitely and still get a good finish-resurfacing product. "Replacing the roadway" ...excavating it and starting with a re-graded roadbed ...will most assuredly NOT be necessary.
4. The cost of delaying resurfacing is in the amount and severity of roadbed damage requiring excavation and bed preparation prior to resurfacing.
5. Breakpoint in the resurfacing cost is about 3-5 years.
6. Resurfacing the road with a good 1 1/2" thickness of asphalt with our current light traffic will easily add 20 years of life.

**Recommendations:**

1. Repair only severely damaged area - those that are through the entire road surface, which may result in safety or property damage.
2. Plan for and execute resurfacing the entire roadway with 1 1/2" asphalt in two to three years.
3. Any repairs between now and resurfacing the entire roadway should be quality work, contributing to the quality of the roadway, rather than increasing the cost of resurfacing the roadway in the future.
4. With the information here, evaluate our existing resources and the future cash stream and plan for resurfacing entire roadway in 2007 or 2008.
5. Restructure HOA Assessment fee accordingly.

**Introduction**

The HOA Board asked me to arrange for repairs of the roadway and seek advice regarding the longer-term viability of the roadway. Regarding repairs, I agreed to contact our current road repairman and perhaps others for whom I could get good referrals. A budget was approved for \$2500 in repairs without additional Board approval, but the Board wanted to avoid throwing good money after bad. It wanted to avoid spending "annual repair" money after the cost breakpoint for the inevitable resurfacing the entire roadway. Regarding long-term viability, it was suggested that I seek information from asphalt contractors and others. This I agreed to do following an effort to obtain "independent" knowledgeable advice and counsel, I could find it.

Ray and I walked the road Monday, April 26 to identify places with damage. Following that I sought the advice and counsel of personal association who is with a State Highway Department, a technical employee who inspects and approves highway construction and repair materials and contracted work. I preferred this to that of an asphalt-paving contractor, as his advice came with knowledge and no personal gain, financial or otherwise.

He and his NCDOT associate inspected our roadway Tuesday April 27. And their collective and consensus comments have lead to the recommendations and conclusions above. They also gave me information to estimate the cost to resurface the roadway. The estimate appears below as does some specific observations made by these NCDOT employees.

### Details

The repairs that are not level with the existing roadbed will interfere with any future roadway resurfacing, its grading and leveling. The existing roadway when resurfaced will require careful grading and resurfacing to level out our previous repairs. Otherwise our current "speed" bumps (using Harold's expression for emphasis) will simply survive and remain following the resurfacing. Repairs of this quality would be rejected and require removable and repair again under NCDOT standards.

The departing enlightening comment from these Highway employees: "You have a very nice, quality community here. The quality of the repair work you have now is fitting for a trailer park, but not here. To maintain the quality of this place, you should not settle."

### Repair Recommendations:

1. Any repair should require saw cutting the area requiring replacement, removal of the asphalt surface over the bedding material, and patching to a level surface with the surroundings following compaction. Saw cutting provides a good sound surface interface for the patching material, and helps maintain the integrity of the surrounding "good" roadbed. They suggest we not allow backhoe or hammer/ hand tool as prep for patching.
2. Do not use liquid seal in cracks. It boils out of the repaired surface when resurfacing with the hot asphalt and causes the new surface to prematurely breakdown.
3. Do not allow any further top coat patching. ANY repair made must be level with existing surface. Minor cracks, all "alligator" cracks, surface breaks should be left as is. Damage that we find unacceptable as is, such as deep pothole, may be repaired, but to the repair standards described in #1 above. Do no more than we must until we are prepared to resurface the entire roadway.
4. A good 1 1/2 "asphalt topping should last 20 years, given the light frequency and loads within the subdivision. This 1 1/2 "recommendations comes in part due to the irregular surface of the roadway with its many repair patches.

### Estimate

Basis: 1.5 miles of roads, 20' wide; resurfacing: 160# of asphalt / sq. yds (1 1/2 in. thick)  
\$42/ ton asphalt delivered and applied (range is \$35 -48, highway work is \$43-48)

So ...

1.5 mi X 5280ft/mi X 20ft X 1 sq yd / 9 sq. ft X 160#/sq yd X 1 ton/ 2000# X \$42/ ton =

**\$59,136 call it \$60, 000**