

**TOWN OF BLACK MOUNTAIN
PLANNING BOARD**

The Black Mountain Planning Board held its regular meeting on Monday, May 24, 2021, at 6:00 p.m. electronically via Zoom.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Chris Collins, Chair
Pam Norton, Vice Chair
Lauronda Teeple
Kathy Phillips
Chas Fitzgerald
Rick Earley

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Jake Hair, Planner
Anna Stearns, Town Attorney

The meeting was called to order at 6: 01 p.m. and duly constituted and opened for business with a quorum of six (6) regular members.

II. ADOPTION OF AGENDA

Jennifer Tipton added review and recommendation of new board members as the last item to new business. Chas Fitzgerald made a motion to adopt the agenda as amended. The motion was seconded by Rick Earley and approved by a vote of 6-0.

III. ADOPTION OF MINUTES

Chas Fitzgerald noted a change on page two, paragraph two, in the last sentence to add “in width”. Chris Collins made a motion to adopt the minutes as amended. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Resolution of Appreciation – Jesse Gardner

Jennifer Tipton read the Resolution of Appreciation thanking Jesse Gardner for his time and service to the Planning Board. Chris Collins made a motion to adopt the Resolution of Appreciation. The motion was seconded by Kathy Phillips and approved by a vote of 6-0.

2. Old Toll Road Sketch Plan Review

Brownie Newman presented his major subdivision sketch plan. The property is just under four acres and has two existing buildings, a commercial metal garage (which will be removed) and a single-family residence (which will be retained and renovated). The property has been annexed into the Town of Black Mountain and Mr. Newman said his intention is to build additional single-family homes. Mr. Newman said the property has a moderate topography, is very pretty

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with two creeks, open space, and a hardwood grove. Mr. Newman has retained Advanced Civil Engineering to help with the Development. Brad Howell, engineer, explained that the property currently consists of two separate parcels that combined equal 3.41 acres. The plan is to have ten lots total even though density would allow a maximum of twenty-seven lots. The access road will be off of Old Toll Road and there is public water and sewer. Open space will be provided by the creek. Stormwater will be required due to the disturbance of approximately 1.6 acres. The sewer allocation design has been sent to MSD and is awaiting approval and the water demand has been verified by Public Works. A water line extension will be required.

Chas Fitzgerald mentioned a typo on the setbacks where it is indicating a zero front setback. Mr. Fitzgerald suggested having an access easement to the west (connecting to Brooks Cove Road) to allow for greater connectivity. Mr. Fitzgerald noted that a sewer easement was not shown for lot nine. Mr. Fitzgerald asked if there would a homeowner's association because if any of the lots are to be sold, there will need to be an association for road maintenance if the roads are to remain private.

Mr. Howell said that this a sewer easement proposed. The easement is twenty feet in width and will run from the existing manhole to the future connection for the subdivision. An open space/recreational easement will also be provided.

Mr. Fitzgerald noted a discrepancy in the terms of concrete and asphalt between the notes and the leader notes. Mr. Howell said that all roads will be asphalt.

Mr. Fitzgerald noted the open space noted along the back of lots nine and ten and suggested making those common space in a separate lot and Mr. Howell said that the could pull that open space out and not have an easement going through lots.

Mr. Newman said that a final business decision has not yet been made on whether any of the lots will be sold but if they do ever sell any lots, they will create a homeowner's association. Mr. Newman said that Mr. Fitzgerald's comments on the access easement resonate with him on a land use level as there is a lack of interconnectivity on the east end of town but on a personal level, Mr. Newman said that he has been working with the neighbors and all have expressed concerns about extending that road and he has ensured them that he would not be using that road for access. Mr. Newman said that he would be willing to accommodate an easement if necessary but would require future cooperation from the neighbors. Mr. Newman said he wants to preserve the creek and riparian areas and wants to keep the houses on the level parts of the lots. Mr. Newman said he wants to clearly think about the easement but does not want to be inconsistent on what he has told the neighbors.

Pam Norton thanked Mr. Newman for not developing to the maximum density and that people she has talked to feel that the town is getting too crowded.

Mr. Newman said that he does not want to compromise the character and beauty of the land.

Rick Earley said the zoning should be UR-8 and not TR-4.

Kathy Phillips asked about the pedestrian pathways that are shown and that they are shown as mulched walking paths. Mr. Howell said that one of the things he liked about the pedestrian circulation requirement was that concrete sidewalks are not necessarily required and that a developer can do green walking paths. They are trying to be environmentally friendly and provide the connectivity without adding additional impervious surface.

Lauronda Teeple asked about the footprint of the buildings shown and Mr. Newman said that a final determination has not been made on the square footages but that the town does allow secondary dwelling so he wanted to show some of the lots with the secondary dwellings and they would be capped at fifty percent of the square footage of the primary structure. Mr. Newman said

his intent is to have the upper north lots only have one structure so as to preserve and retain the hardwood grove areas.

Ms. Tipton said that all of the comments from the board will be put in writing and submitted to Mr. Newman and Mr. Howell.

3. Right-of-Way Closure Request – Remainder of W. College Street/Goldmont Street

This request is for the remainder of the W. College Street/Goldmont Street right-of-way. Chris Collins made a motion to recommend the closure of the remainder of the right-of-way between W. College Street and Goldmont Street. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

4. Right-of-Way Closure Request – Buckeye Street

Jennifer Tipton recommended that the board table this request as the applicant is not the legal owner of the property according to the property records and the applicant is searching for paperwork to show he is the legal owner. Chris Collins made a motion to table this item to a date uncertain. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0. Chas Fitzgerald said he is not in favor of closing such large rights-of-way and asked if a statement could be made in that regard. Anna Stearns advised against making a blanket statement and instead advised to express the concern for each request and ask to have that concern reflected in the minutes. Ms. Stearns noted that the recommendation always has to tie back to the comprehensive plan and greenway master plan and if the right-of-way in question is not shown as a connector then it may be more difficult to document the decision to not recommend the closure. Lauronda Teeple and Kathy Phillips expressed some concerns that the right-of-way in question contains part of Arnette Drive that is used to access the Fire Department training grounds and asked if the closure would affect that access. Jennifer Tipton said that she will ask the Fire Chief to provide comments regarding this closure request.

5. Proposed Text Amendment – Conditional Zoning

Jessica Trotman began by explaining that conditional zoning is a powerful tool that can help control the types of uses and mitigate ways they work within the district but it is not a blank check for any and all uses and developments. Ms. Trotman said that there are three basic concepts of conditional zoning. The first is mirror copies of the base zoning districts that are conditional. These would be a rezoning request that was conditional and they would be married to a site plan which would help mitigate impacts on neighbors and would have voluntary conditions. The second is to have uses that are unique to a conditional district and this could include types of developments as well as uses. The third is where everything is hyper unique to that location. This method has a lot of power and a lot of stress. Ms. Trotman suggested starting with mirror copies and then look at a more moderate version with uses that are conditional. Anna Stearns went over the actual text amendment language and noted that a tech review by staff would be required. The application process has been laid out and is much the same as a map amendment. The zones are tied to site-specific plans and any minor changes would be approved by staff and any major changes would have to go back through the process and come to the Planning Board for a recommendation and then to the Town Council for a zoning amendment. The criteria for substantial changes is laid out in the ordinance. Chris Collins thanked Ms. Stearns and staff for adding the criteria for substantial changes. Mr. Collins said that this is a really good tool and is in the spirit of the comprehensive plan.

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Chas Fitzgerald said he is thrilled to give staff and the town this tool and is glad there is something that will hold the developer accountable for neighbor concerns. The board discussed some examples of where conditional zoning might be helpful including the Sunset Road rezoning that was denied and the Brooks Cove Road project. It was noted that site-specific plan will only be required upfront if an applicant is seeking a conditional rezoning. Ms. Stearns did note that the current zoning districts of TND (traditional neighborhood development) and ICD (institutional campus development) are both functionally already conditional districts. Ms. Stearns has been in touch with both Montreat College and Sikes Ragan (developer of Cheshire) to talk about rezoning both districts to meet the new conditional zoning requirements and both have been receptive. Ms. Stearns did say that it will save time to have a uniform application process and standards for both of these districts but did note that this was not imminent as there is still lots of work to be done and we want to make sure that we capture all of the parcels that need to be rezoned. Chris Collins made a motion to recommend the proposed text amendments for conditional zoning as written as it allows the Planning Board to align its recommendations for a rezoning request with the comprehensive plan by implementing site-specific requirements and agreements that further all aspects as applicable in the comprehensive plan. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0.

6. Review and Recommendation of Planning Board Applicants

Jennifer Tipton explained that the Town Council has adopted a new appointment policy for boards and commissions, and as such, the board or commission gets to review the applications and make a recommendation to the Town Council. There are two applicants who have applied to fill the vacant seat, left vacant by the resignation of Jesse Gardner, and that term will expire in 2022. The two applicants are Shawn Slome and Joe Laudenslayer. Ms. Tipton read both applications and also read the recommendation section from the new policy. The board asked about receiving applications in advance to be able to have time to review and staff explained that this board is the guinea pig as this board was the first to have a vacant seat before the expiration of terms. In the future, applications should go out with agenda packets. The board asked if they could ask questions of the applicants or be able to ask for additional information. Anna Stearns said that information to help determine a recommendation needs to be limited to what has been included in the application. Rick Earley made a motion to recommend Shawn Slome for the appointment of the unexpired vacant term for Planning Board. The motion was seconded by Chas Fitzgerald and approved by a vote of 5-2 with Pam Norton and Kathy Phillips voting for Joe Laudenslayer.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman updated the board that the Town Council held a special call meeting for Elevate Black Mountain to allow them time to have a good presentation and have a lighter public hearing which will take place at their next meeting.

VIII. ADJOURNMENT

Rick Earley made a motion to adjourn at 7:38 p.m. The motion was approved by consensus by a vote of 6-0.

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Prepared by:

Chris Collins
Chris Collins, Chair

Jennifer Tipton
Jennifer Tipton, Senior Admin