

**TOWN OF BLACK MOUNTAIN  
PLANNING BOARD**

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The Black Mountain Planning Board held its regular meeting on Monday, June 28, 2021, at 6:00 p.m. in 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 (arrived late)  
Lauronda Teeple  
Rick Earley  
Chas Fitzgerald  
Kathy Phillips  
Shawn Slome

Staff:

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

The meeting was called to order at 6:05 p.m. and duly constituted and opened for business with a quorum of six (6) regular members.

**II. ADOPTION OF AGENDA**

Jennifer Tipton made several changes to the agenda. The right-of-way closure for Buckeye Street and the preliminary plat for Old Toll Road were removed from the agenda and discussion of the unified development ordinance was added. Chris Collins made a motion to adopt the agenda as amended. The motion was seconded by Shawn Slome and approved by a vote of 6-0.

**III. ADOPTION OF MINUTES**

Kathy Phillips had one change to note under recommendation of new members that she had also voted for Joe Laudenslayer. Chas Fitzgerald noted several typos. Lauronda Teeple made a motion to adopt the minutes as amended. The motion was seconded by Kathy Phillips and approved by a vote of 6-0.

**IV. OLD BUSINESS**

None.

**V. NEW BUSINESS**

**1. Village Way Major Subdivision Sketch Plan**

Jake D'Sabatino said that is looking to do a ten lot major subdivision off of Flat Creek Road. There are currently homes on four of the lots, so six would be available for development. The stormwater plan is being created by the engineer and the turnaround has been preliminarily approved by Charlie Russell. Mr. D'Sabatino said that they received small feedback from staff during the technical review and all of that has been addressed. Chas Fitzgerald asked about two of that lots that appear to overlap the underground storm vault and Jessica Trotman said that it will be reviewed by an outside engineer but doesn't think that there are any current rules

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prohibiting building over an underground stormwater vault. Mr. Fitzgerald said that staff might want to take a look at providing some language that would prohibit that. Mr. D'Sabatino said that he will request that the road be taken over by the Town. Kathy Phillips asked about lot number six and the proximity to the floodplain. Ms. Trotman explained that there are no current regulations that would prohibit building within the floodplain and it would not require a flood development permit if not within the floodplain. There may be a requirement for a base flood elevation but that is a building code matter and will be addressed at the time of permitting. The floodplain area will be designated on the final plat. Chas Fitzgerald asked about the common area and the bike trail and if there is a public easement. Mr. D'Sabatino said it is his understanding that it is a public right-of-way and there is not a specific easement in place but would grant one to the town in perpetuity. There will be curb and gutter on the south side of the road due to the length of the road and the sidewalk requirements. Staff will compile the feedback and send that to Mr. D'Sabatino for the preliminary plat.

**2. Proposed Text Amendment – Subdivision Cooling Off Period**

Jessica Trotman said that the purpose of the proposed text amendment for a cooling off period between minor subdivisions is to help prevent the circumvention of the major subdivision requirements. Most jurisdictions have a time period of two to three years and Anna Stearns noted that ten years might be more cumbersome for staff to go back and verify. There is not a legal rule on the timeframe. Chas Fitzgerald noted that most banks tend to lend in two year increments and felt that two or three years would be sufficient but that three years would allow for an economic downturn or delay. The board decided to delete item number two from the amendment and change ten years to three years in item D. Chris Collins made a motion to recommend the text amendment as amended. The motion was seconded by Chas Fitzgerald and approved by a vote of 7-0. Chris Collins made a motion to amend his motion and the new motion be to recommend the text amendment as amended and that the amendment is consistent with the Town's comprehensive plan and is reasonable and in the public interest because it keeps development from sidestepping the regulations that are in place and will in the future be in place and promote said plans. The motion was seconded by Chas Fitzgerald and approved by a vote of 7-0.

**3. Discussion of Proposed Sign Ordinance Amendments**

Jessica Trotman begin by saying that the existing sign ordinance is out of date with regards to a US Supreme Court ruling but staff has been applying the ordinance in compliance with the ruling. The existing sign ordinance is difficult to read and is poorly organized and part of the changes from the Reed v. Gilbert ruling are that signs are to be governed on time, manner, and location only. Jake Hair has worked diligently on taking the existing sign ordinance and making the necessary changes and it has now gone to Anna Stearns for a final draft. Anna Stearns told the Planning Board to be thinking about what signs Black Mountain currently has and what challenges have been seen with regards to signs. Ms. Stearns also noted that there may be signs that need more flexibility, such as yard sale signs and political signs. Ms. Stearns told the board to focus on the purpose for regulating signs, such as safety issues. Pam Norton said that the board had made some changes to the sign ordinance several years ago and Ms. Trotman noted that these changes are specific to the court case ruling. Shawn Slome said that it might be a good idea to limit temporary retail signs, such as those for a sidewalk sale, to a specific period of time so that it will allow the businesses to draw attention to themselves but not abuse the regulations. Staff will send out a PowerPoint on Reed v. Gilbert.

**4. Discussion of Returning to In-Person Meetings**

Jennifer Tipton said that it is up to the board if they are ready to go back to in-person meetings. We will continue to offer a hybrid meeting to allow for board members, staff, or public who may not be comfortable returning to in-person meetings. There is the possibility of keeping the hybrid meetings, which would be very beneficial in the winter during inclement weather. The board will begin hybrid meetings at their July meeting.

**5. Discussion of Unified Development Ordinance (UDO)**

Jessica Trotman announced that the creation of a unified development ordinance has been funded in the budget over the next two fiscal years. The request for proposals has been posted and is expected to close on August 10<sup>th</sup>. Ms. Trotman explained that a unified development ordinance combines all development ordinances into one document and makes them more organized and easier to read. Unified development ordinances are also very pictorial and read like a magazine in some ways in that anybody should be able to pick up the ordinances and be able to understand them. The current ordinances are scattered through the code of ordinances and the land use code, they are aged, and there are multiple inconsistencies. It is also a great timing coming off of the adoption of Elevate Black Mountain. The Planning Board will serve as the steering committee for this project and Ms. Trotman will send articles to everyone about unified development ordinances.

**VI. COMMUNICATION FROM PLANNING BOARD**

Shawn Slome asked about public comment during the Planning Board meetings and it has been handled in different ways. Written comments have been provided and the board has also voted to allow public comment during agenda items. Anna Stearns suggested having a public comment section, similar to the one that Town Council has, where the public comment on whatever is on their mind or on any of the agenda items. Jennifer Tipton said that she will add a public comment section to the agenda beginning in July.

**VII. COMMUNICATION FROM STAFF**

Jennifer Tipton said that there are three openings on the Planning Board and seven applicants. Per the new appointment policy, board members are allowed to review the applications and make recommendations for appointments. Several board members said that they did not receive all of the applications and Ms. Tipton offered to put the applications up on the screen for review. Ms. Tipton also noted that David Barley had also applied for the Board of Adjustment and has been recommended by them for the first alternate seat. Rick Earley made a motion to recommend Kathy Phillips, Chas Fitzgerald, and Pam Norton to fill the three vacant seats. The motion was seconded by Chris Collins and approved by a vote of 6-1 with Shawn Slome abstaining.

**VIII. ADJOURNMENT**

Rick Earley made a motion to adjourn at 7:29 p.m. The motion was approved by consensus.

Prepared by:

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Chris Collins, Chair

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Jennifer Tipton, Senior Admin