



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Zoning Administrator
Re: Agenda Packet for August 24, 2020
Date: August 14, 2020

The **Town of Black Mountain Planning Board** will meet on **Monday, August 24, 2020 at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from July 27, 2020;
3. Election of Officers;
4. Rezoning Request for 324 N Fork Road – CR-1 to UR-8;
5. Text Amendment – Conformance (Uses); and
6. Proposed Text Amendments – Zoning Districts (Purpose and Intent).

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@townofblackmountain.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Sneed, Town Attorney
Jake Hair, Planner



PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

In order to maintain the safety of Town residents, staff, and the Planning Board, the Planning Board regular meeting scheduled for **Monday, August 24, 2020 at 6:00 p.m. will be conducted electronically using Zoom software** in lieu of its in-person meeting. The Town of Black Mountain Town Hall will not be open for this meeting.

There are three ways the public can participate in the meeting:

1. **Join the meeting through Zoom on your computer or smart device.** **Citizen video feeds will not be enabled. There is no password.*

<https://us02web.zoom.us/j/81313428550>

Meeting ID: 813 1342 8550

If you have not used Zoom before on a computer or smart device, you are encouraged to download the application from their website at [Zoom.us/download](https://zoom.us/download) and try it out prior to the meeting. There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

2. **Join the meeting by telephone (listen only).**

Simply call US Toll-free 1-877-853-5247 or US Toll-free 1-888-788-0099

Meeting ID: 813 1342 8550 followed by the Pound sign (#)

3. **Email or call in your comments or questions prior to the meeting.**

Call in comments prior to the meeting: Clerk to Planning Board at 828-419-9371

Email comments to: jennifer.tipton@townofblackmountain.org


Jennifer Tipton
Clerk to Planning Board

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 07/29/2020
www.townofblackmountain.org



**Planning Board Regular Meeting
August 24, 2020**

PROPOSED AGENDA

I. CALL TO ORDER

- Welcome
- Determination of Quorum

II. ADOPTION OF AGENDA

- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of July 27, 2020 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Election of Officers
- Rezoning Request for 324 N Fork Road – CR-1 to UR-8
- Text Amendment – Conformance (Uses)
- Proposed Text Amendment – Zoning Districts (Purpose and Intent)

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, July 27, 2020 at 6:00 p.m. virtually via Zoom.

I. CALL TO ORDER

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

Jesse Gardner, Chair
Pam Norton, Vice Chair
Lauronda Teeple
Chris Collins
Rick Earley
Chas Fitzgerald

Absent:

Scott Reed

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Jake Hair, Planner

The meeting was called to order at 6:02 p.m. and duly constituted and opened for business with a quorum of five (5) regular members. Pam Norton arrived later in the meeting. Jesse welcome new members Rick Earley and Chas Fitzgerald.

II. ADOPTION OF AGENDA

Lauronda Teeple made a motion to adopt the agenda as presented. The motion was approved by consensus with a vote of 5-0.

III. ADOPTION OF MINUTES

Chris Collins made a motion to adopt the minutes of June 29, 2020 as written. The motion was approved by consensus with a vote of 5-0.

IV. OLD BUSINESS

1. Blue Ridge Road Small Area Plan Final Report – Drew Draper, Wetherill Engineering

Drew Draper, Wetherill Engineering, began his report by highlighting the steps that were taken in completing this project. Mr. Draper went through the public meetings and the data that was collected and how that was compiled to make the final conclusions for the report. The plan highlights both transportation and land use recommendations. Mr. Draper said that another good thing to come of out this project is the Blue Ridge Road modernization plan, which is going through the scoring process with DOT.

Chas Fitzgerald noted some typos in the document. Mr. Fitzgerald asked if the plan could be a bit more instructional since it will be used as a guiding document for the future. Mr. Fitzgerald asked about having the flood layers added to the map. Mr. Fitzgerald asked about the extension of the mixed-use concentric circle expanding into part of the residential area and it was explained that the Board of Aldermen had requested the extension of the mixed-use area after the second public meeting. Mr. Fitzgerald also asked if there could be road names added so that there would be context for the boundaries as shown in the plan. Mr. Fitzgerald talked about not having gas

Planning Board Regular Meeting
July 27, 2020

stations and Jessica Trotman spoke about conditional zoning and how that would allow conditions to be placed on uses to make them more compatible. While staff is working on amendments required by the statute changes of 160D, conditional zoning will be approached after those updates have been made. There was discussion about the multiuse trails and the roundabouts.

Jesse Gardner spoke about the low and medium density categories and said he still disagreed with the suggestion of low density. Mr. Draper explained that the categories were derived from what the people at the public meetings wanted but would gladly change it if the board wanted to provide direction to term it something else. Ms. Trotman explained that the terms do not mean that there would be any downzoning of properties. Mr. Trotman also said that while the terms are based on the expressed desire of the public, they are not written in stone and the conditions along Blue Ridge Road will reflect the changes organically.

Pam Norton said that the results were based on what the people wanted and should not be based on what the Planning Board wants. The board asked if instead of low and medium density, if it could be based on reference points. The board also asked that Mr. Draper strike out defining the densities back to zoning districts. Mr. Gardner also asked the contact information for the board members and staff be updated.

Chris Collins made a motion to recommend the Blue Ridge Road Small Area Plan to the Board of Aldermen with the following amendments:

- Change medium density to 6 units or less
- Change low density to 4 units or less
- Fix all typos
- Add floodplain layer
- Add street names
- Add sentence about protecting and preserving right-of-way
- Encourage exclusion of gas stations

The motion passed by consensus with a vote of 6-0.

V. NEW BUSINESS

1. Introduction of Jake Hair, Planner

Jessica Trotman introduced Jake Hair, who started on July 2nd. Jake joins us from Currituck County and while still new, is excited to be here. Jake said that he enjoys being in Black Mountain and is excited to work with the Planning Board.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman said she will have a scheduled and next steps for the Comprehensive Plan Update soon and will share those once she has them.

VIII. ADJOURNMENT

Chas Fitzgerald made a motion to adjourn at 7:30 p.m. The motion was approved by consensus and passed by a vote of 6-0.

Planning Board Regular Meeting
July 27, 2020

Prepared by:

Jesse Gardner, Chair

Jennifer Tipton, Zoning Administrator

TOWN OF BLACK MOUNTAIN PLANNING BOARD
AGENDA ITEM INFORMATION
Meeting Date: August 24, 2020

SUBJECT: Rezoning at 324 North Fork Road

BRIEF SUMMARY: Sam Decker has put in a request to rezone his property at 324 North Fork Road from CR-1 to UR-8.

MOTION FOR CONSIDERATION: Mr. Decker wants smaller lot size requirements for future distribution of his land.

ATTACHMENTS: Rezoning application.

PLANNING STAFF COMMENTS AND RECOMMENDATIONS: This will be a spot zoning as his property is bordered by CR-1.



**Town of Black Mountain
Building, Planning and Zoning**

160 Midland Avenue ♦ Black Mountain ♦ North Carolina ♦ 28711
Phone: 828-419-9300 ♦ Fax: 828-669-2030 ♦ TDD: 1-800-735-2962

STAFF REPORT

Planning Board Meeting Date: August 24, 2020

GENERAL INFORMATION

APPLICANT:	Sam Decker
HEARING TYPE:	Rezoning Request (Spot Zoning)
REQUEST:	CR-1 (Conservation Residential District) to UR-8 (Urban Residential District)
CONDITIONS:	N/A
LOCATION:	324 North Fork Road
PARCEL ID NUMBER(S):	0700-92-8001
PUBLIC NOTIFICATION:	The notification for this public meeting was 200 feet (Chapter 1, Section 1.5.4 F of the Land Use Code requires notification of the owner of that parcel of land and the owners of all parcels within 200' of the property boundary of the proposed amendment). 16 notices were mailed to those property owners in the mailing area.
TRACT SIZE:	16.45 acres
TOPOGRAPHY:	18.72% slope
VEGETATION:	Residential

SITE DATA

EXISTING USE

Residential

ADJACENT PROPERTY

ADJACENT ZONING

ADJACENT LAND USE

324 North Fork Road	CR-1	Single-Family Residential
99999 North Fork Road	N/A	N/A
100 Temple Road	N/A	N/A
99999 Hi View Drive	CR-1	Empty Lot
55 Hi View Drive	CR-1	Single-Family Residential
45 Hi View Drive	CR-1	Multiple Residences
26 Hi View Drive	CR-1	Single-Family Residential
99999 Hi View Drive	CR-1	Empty Lot
15 Hi View Drive	CR-1	Single-Family Residential
23 Walker Cove Road	CR-1	Single-Family Residential
19 Walker Cove Road	CR-1	Single-Family Residential
28 Walker Cove Road	CR-1	Single-Family Residential
99999 Walker Cove Road	N/A	N/A
99999 Walker Cove Road	N/A	N/A
16 Walker Cove Road	CR-1	Single-Family Residential
13 Daniel Lane	CR-1	Single-Family Residential
10 Walker Cove Road	CR-1	Single-Family Residential
6 Walker Cove Road	CR-1	Single-Family Residential
10 Daniel Lane	CR-1	Single-Family Residential
4 Daniel Lane	CR-1	Single-Family Residential
1 Ross Drive	CR-1	Town Golf Course
320 North Fork Road	CR-1	Single-Family Residential

N/A- Properties are not located within the town's boundaries.

SUMMARY OF DISTRICT PURPOSES

CR-1 (Conservation Residential District)	Purpose: The Conservation Residential District is established to protect areas in which the principal use of the land is residential or agricultural and where steep slopes or other environmental features make it more suitable for large lot development, conservation development and the preservation of open space.
UR-8 (Urban Residential District)	Purpose: The Mixed Residential District is established to provide a variety of housing types, promote density in the more urbanized and developable areas of Town, and structure the orderly development of residential neighborhoods.

ZONING DISTRICT STANDARDS

District Summary

	<u>Existing</u>	<u>Requested</u>
Zoning District Designation:	CR-1	UR-8
Max. Density:	1 units/acre	8 units/acre
Front Setback:	30'	20'
Side Setback:	10'	10'
Rear Setback:	30'	15'
Min. Lot Size:	1 acre (43,560 sf)	1/8 acre (5,446 sf)
Max. Height:	35'	35'
Min. Width:	80'	15'
Min. Depth:	100'	None

Permitted Uses:

- | | |
|--|--|
| <ul style="list-style-type: none">• Government facilities• Public Utilities• Single-Family Residences• Two-Family Residences (duplex) | <ul style="list-style-type: none">• Community Living Facilities• Government facilities• Places of worship• Public utilities• Single-Family Residences• Two-Family Residences (duplex) |
|--|--|

Additional Requirements:

- | | |
|---|--|
| <ul style="list-style-type: none">• Accessory structures• Agribusiness• Agriculture• Boarding House• Camps, summer• Conference Centers• Family Care Homes• Home Occupations• Park Model Housing• Manufactured Home on individual lots• Market Gardens• Secondary Dwellings | <ul style="list-style-type: none">• Accessory structures• Agriculture• Bed & Breakfast Homes• Boarding House• Camps, summer• Conference Centers• Family Care Homes• Home Occupations• Manufactured Home (on individual lots)• Market Gardens• Multi-family Residential• Secondary Dwellings |
|---|--|

Conditional Uses:

- | | |
|--|--|
| <ul style="list-style-type: none">• Bed & Breakfast Homes & Inns• Cultural, Community Facilities• Educational facilities | <ul style="list-style-type: none">• Bed & Breakfast Homes & Inns• Cultural, Community Facilities• Educational facilities |
|--|--|

	• Multi-family residential • Places of worship	
Special Uses:	• Residential Special Use Developments: • Conservation Subdivisions • Cottage Housing (CHD) • Residential Planned Unit Development (PUD)	• Residential Special Use Developments: • Conservation Subdivisions • Cottage Housing (CHD) • Residential Planned Unit Development (PUD) • Manufactured Home Parks
Exclusions:	• Correctional institutions • Manufactured Home Parks • All uses not specifically enumerated.	• Correctional institutions • All uses not specifically enumerated

SPECIAL INFORMATION

Overlay Districts

Historic District Overlay	N/A
Flood Damage Prevention Overlay	N/A
US 70 Corridor Overlay	N/A
Fire District Overlay	N/A
Pedestrian Master Plan Overlay	N/A
Wellness Protection Overlay	N/A

Environmental

Floodplain	N/A
Floodway	N/A
Stream	A stream runs through the lower half of the property near North Fork Road

Utilities

Water	City of Asheville water lines
Sewer	A 8" sewer line runs through the property

Landscaping

There are no landscaping requirements for residential property

Transportation

Street Classification	NCDOT Road – North Fork Road
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Site Access	Access is available from North Fork Road
Traffic Counts	There are no sidewalks on North Fork Road. None Not required by Land Use Code
Sidewalks	N/A
Transit in Vicinity	N/A
Traffic Impact Analysis (TIA)	
Street Connectivity	
Other	

IMPACT/POLICY ANALYSIS

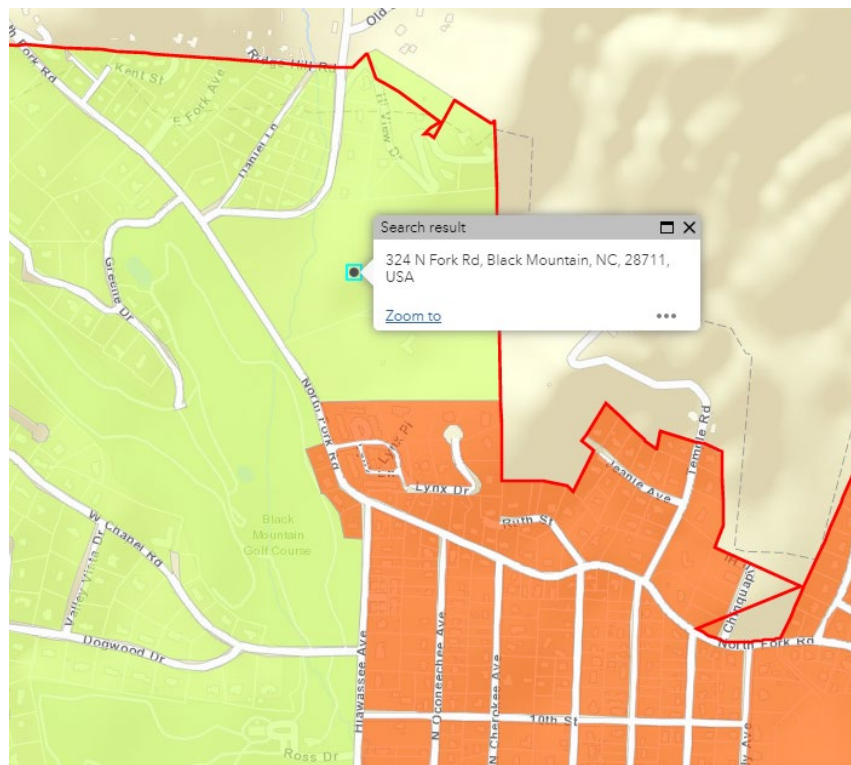
The UR-8 district would allow for more residential uses.

CONFORMITY WITH OTHER PLANS

MISC COMMENTS

This rezoning request will be a spot zoning. Spot zoning is the application of zoning to a specific parcel or parcels of land within a larger zoned area.

Mr. Decker is currently in the CR-1 zoning district and does not touch up against UR-8. He is one property away from UR-8 as you can see by the image below.



REZONING WORKSHEET

Address: 324 N Fork Rd

PIN #: 0700-92-8001

Current Zoning District: CR-1

Requested Zoning District: UR-8

The rezoning was granted based on the following reasonable findings of fact:

1. The overall size of the tract of land proposed for rezoning () is / () is not reasonable compared to the size of the zoning district in which the subject property is located.
2. The proposed rezoning () is / () is not consistent with the comprehensive plan or elements thereof.
3. The impact to the adjacent property owners and the surrounding community () is / () is not reasonable, and the benefits of the rezoning shall outweigh any potential inconveniences or harm to the community.
4. The allowed uses with the proposed zoning district () are / () are not similar or comparable to the permitted uses as currently zoned.

TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES

REZONING APPLICATION

APPLICATION INFORMATION

Applicant Name: Sam H. Decker Date: 3-10-2020
Address: 324 North Fork Rd. Black Mountain, N.C., 28711
Phone: 828-777-3880 Fax: _____ Email: DeckerSam23@Gmail.Com

MAP AMENDMENT LOCATION AND REQUEST

Property Address: 324 North Fork Rd PIN #: 0700-92-8001
Current Zoning Classification: CR-1 Requested Zoning Classification: R-20
Current Land Use: Farming/Home Size of Parcel: 16.43 Acres
Reason for Requested Rezoning: (See Attached Letter)

Sam H. Decker
Applicant Signature

Sam H. Decker 3-10-2020
Applicant Printed Name Date

FOR OFFICE USE ONLY

Date Received: 3/10/2020 Received by: Jennifer Tipton

Pre-Application Meeting Date: _____

Fee: \$350.00 Cash: _____ Check: 1900 Credit: _____

Planning Board Meeting Date: _____ Vote: _____ to _____ For ☐ Against ☐

Board of Aldermen Call for Public Hearing Date: _____

Board of Aldermen Meeting Date: _____ Vote: _____ to _____ For ☐ Against ☐

Town of Black Mountain
160 Midland Avenue, Black Mountain, NC 28711
Phone: 828-419-9300 ~ 828-669-2030
www.townofblackmountain.org

2181

Black Mountain

8-8-2020

TO: Town Planning Board

I understand from your representative
that R-20 is no longer a category. Please
change my application and change my request
to WR-2 instead of R-20

Thank
Sam H. Decker

03/10/2020

Mayor

Town Board of Black Mountain

Town Zoning Board

Re: Rezoning of 324 N Fork Road, 16.43 acres, Black Mountain, NC

Property of Sammy Howard Decker, residing at said address

Sam Decker

324 North Fork Road

Black Mountain, NC 28711

To Whom it May Concern;

On 04/10/1990 I **voluntarily placed my 16.43 acres of property**, located at 324 an Fork Road, into the city limits of the town of Black Mountain, with the **understanding that the property would be zoned R-20**. This original zoning R-20 was applied to my property at that time.

It just recently came to my attention that, **without my knowledge and without notification**, the zoning on my property was changed on 03/10/2010, to CR-1.

I ask at this time that my property be reinstated to its original zoning of R-20. Currently all the properties around me, that are developed, are zoned R-20.

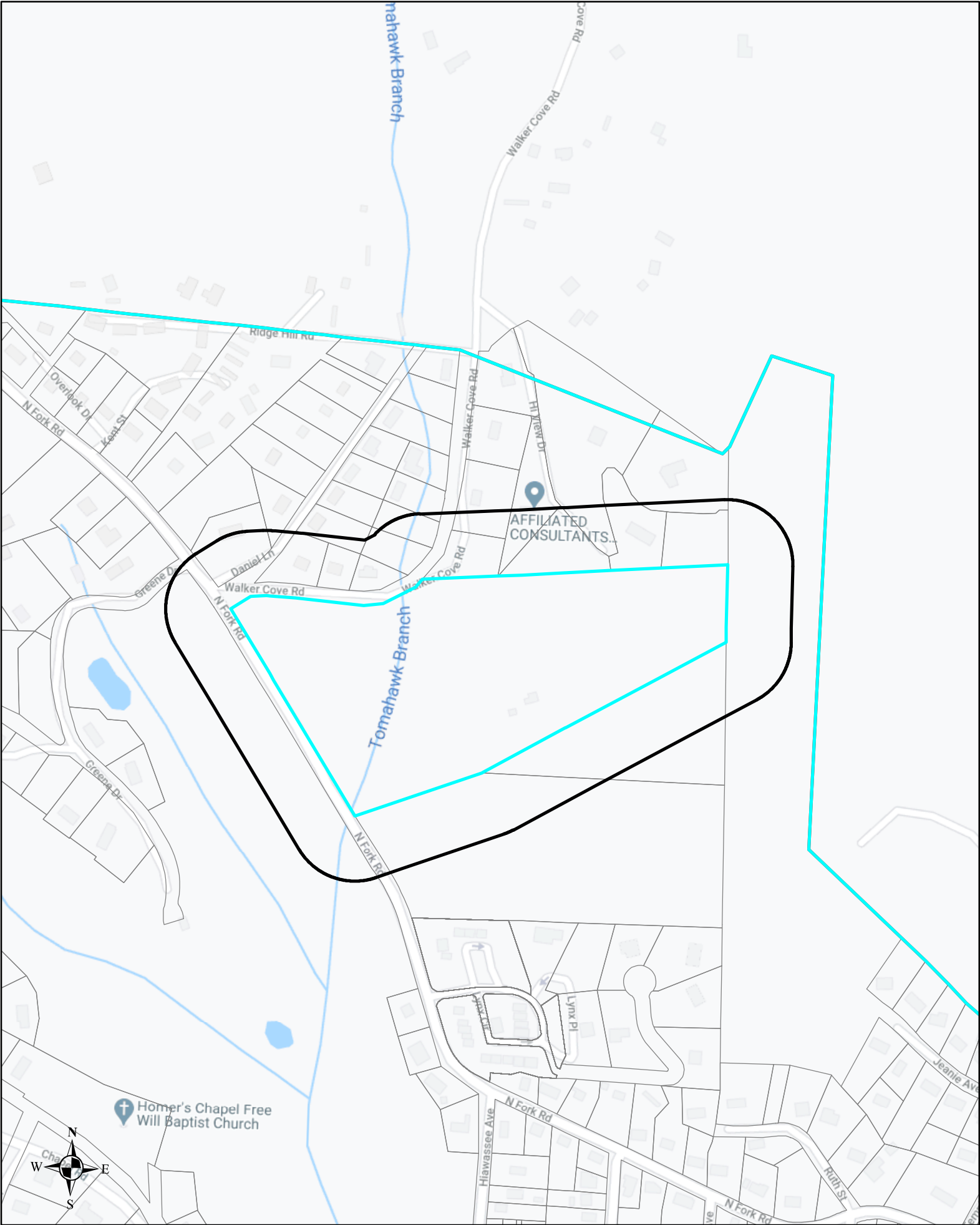
I ask that this request be sent directly to the Town Board for a vote on correcting this Situation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sam H. Decker".

Sam H Decker

324 N Fork Road - 200' Buffer



324 N Fork Road Rezoning Request
Property Owners within 200'

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>
Sam Decker	324 N Fork Road	Black Mountain	NC	28711	0700-92-8001
Kerri Parker; Dana Cheek	3 Maybury Ct	Arden	NC	28704	0710-01-1880
John Alexander Jr (LE); Susan Alexander (LE)	PO Box 26837	Raleigh	NC	27611	0710-12-3586
Jonathan Linke; Casey Linke	45 Hi View Dr	Black Mountain	NC	28711	0710-02-4462
Kathleen English; John English	55 Hi View Dr	Black Mountain	NC	28711	0710-02-4605
Jonathan Linke; Casey Linke	45 Hi View Dr	Black Mountain	NC	28711	0710-02-2484
Kenneth Phillips; Kathryn Phillips	26 Hi View Dr	Black Mountain	NC	28711	0710-02-1727
Swaim Teague	406 Oliver Dr	Brookhaven	MS	39601	0710-02-4031
Philip Bisesi	15 Hi View Dr	Black Mountain	NC	28711	0700-92-9559
Michael Marler; Janet Marler	23 Walker Cove Rd	Black Mountain	NC	28711	0700-92-8525
Dorothy Vitale	19 Walker Cove Rd	Black Mountain	NC	28711	0700-92-7358
David Gange; Donald Gange; Robert Gange	1257 N Main St	Centerville	UT	84014	0700-92-6506
Gene Quesinberry; Sandra Quesinberry	16 Walker Cove Rd	Black Mountain	NC	28711	0700-92-5487
Gene Quesinberry; Sandra Quesinberry	16 Walker Cove Rd	Black Mountain	NC	28711	0700-92-5358
Gene Quesinberry; Sandra Quesinberry	16 Walker Cove Rd	Black Mountain	NC	28711	0700-92-4391
Judy Eubanks	13 Daniel Ln	Black Mountain	NC	28711	0700-92-3466
Meredith Fowler	10 Walker Cove Rd	Black Mountain	NC	28711	0700-92-3374
Alvin Johnson; Rose Johnson	6 Walker Cove Rd	Black Mountain	NC	28711	0700-92-2326
Ryan Kohout; Morgan Kohout	10 Daniel Ln	Black Mountain	NC	28711	0700-92-1581
Don Johnson; Martha Johnson	4 Daniel Ln	Black Mountain	NC	28711	0700-92-0441
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711	0700-90-1165
M Linda Parker Trustee	320 N Fork Rd	Black Mountain	NC	28711	0700-91-9497



Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina, 28711
Phone: 828-419-9373 ♦ Fax: 828-669-2030 ♦ TDD: 1-800-735-5962

NOTICE OF REZONING REQUEST

(REGARDING NEIGHBORS WITHIN 200 FEET OF PROPERTY)

DATE: **August 11, 2020**

TO: **Property Owner**

FROM: **TOWN OF BLACK MOUNTAIN
ZONING ADMINISTRATOR**

APPLICANT NAME: **Sam H Decker**

PROPERTY ADDRESS: **324 N. Fork Road, Black Mountain, NC 28711**

PIN #: **0700-92-8001**

CURRENT ZONING CLASSIFICATION: **CR-1 (conservation residential)**

REQUESTED ZONING CLASSIFICATION: **UR-8 (urban residential)**

CURRENT LAND USE: **single family residence/farming**

SIZE OF PARCEL: **16.43 acres**

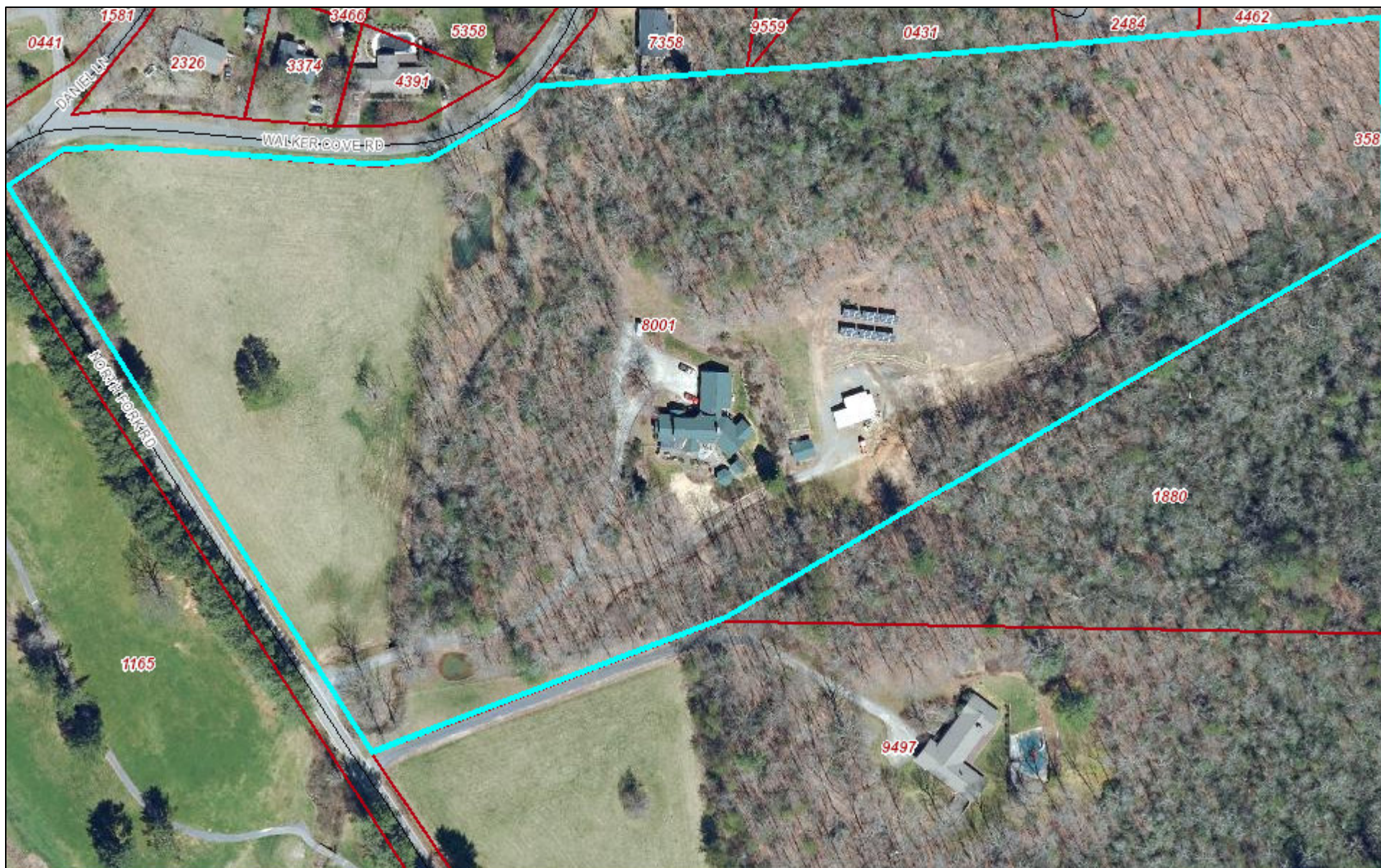
REASON FOR REQUESTED REZONING:

See attached letter

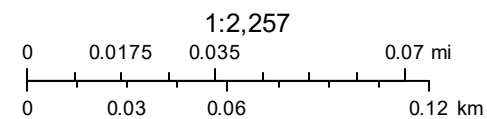
***A public meeting of the Planning Board on this matter will be held Monday, August 24, 2020
@ 6:00 p.m. virtually via Zoom.***

This is your notification for this request specified under 1.5.4 of the Land Use Code for the Town of Black Mountain. Section 1.5.4 (G) and (I) indicate that notice be provided to all property owners within 200 feet of the site's property lines. Notice of the time, date and place of the hearing will be published in the Black Mountain News in accordance with the Land Use Code of the Town of Black Mountain.

324 N Fork Road 2020 Aerial Map



August 11, 2020



PUBLIC MEETING

MONDAY,
AUGUST 24
6:00 PM

<https://www.lowmtnblackmountain.org>

160 MIDLAND AVENUE
BLACK MOUNTAIN, NC 28711
FOR MORE INFORMATION CALL 419-9373

TOWN OF BLACK MOUNTAIN PLANNING BOARD
AGENDA ITEM INFORMATION
Meeting Date: August 24, 2020

SUBJECT: Text Amendment Removing Language from XXXX

BRIEF SUMMARY: The NC Supreme Court ruled in 2015 that a zoning ordinance may not prohibit unlisted uses. The Land Use Code contains this language and needs to be removed.

MOTION FOR CONSIDERATION: To remove language from section XXXX as presented.

ATTACHMENTS: Draft text amendment

PLANNING DIRECTORS COMMENTS AND RECOMMENDATIONS: Recommend the text amendment to the Board of Alderman as presented.

4.2.1 - Conformance required.

- A. No building or land shall be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the town zoning regulations.
- B. Except for improvements initiated by approval of a preliminary plat, no building or zoning permit shall be issued on new lots which were created by the subdivision of land unless the subdivision has been approved and is recorded with the register of deeds for Buncombe County.
- ~~C. Uses not designated as permitted by right or subject to additional conditions, shall be prohibited.~~
- D. Conditional uses or special uses are permitted upon compliance with the additional regulations imposed and as specified by the zoning board of adjustment.
- E. Any building, structure, or use of land existing at the time of the enactment of this chapter, or any amendment thereto, that does not conform to the requirements of the district in which it is located may be continued or maintained subject to the provisions of the section on nonconformities.
- F. Any introduction or initiation of a nonconforming use or structure after the adoption of these regulations shall be treated as a zoning violation.
- G. Unless otherwise specified within regulations governing the district within which a project (new development or redevelopment) is located, all development must adhere to other regulations enumerated by town ordinances, including but not limited to flood hazard prevention (see land use code chapter 2), stormwater (see LUC Chapter 8), lighting (see Town of Black Mountain Ordinances title IX: Section 103), signage (see LUC chapter 9), parking (see LUC chapter 10), pedestrian planning and other requirements (see LUC chapter 4).
- H. Adult businesses, amusements, massage therapists and massage therapy, solicitors, peddlers and itinerant merchants shall be allowed as provided under the Town of Black Mountain Code of Ordinances chapter 9, or as identified as health care services within the land use code definitions. Nothing in this chapter shall be construed or interpreted to preempt or supersede the town's adopted business regulations.

Editor's note— References to title IX can be found at the office of the city clerk.

TOWN OF BLACK MOUNTAIN PLANNING BOARD
AGENDA ITEM INFORMATION

Meeting Date: August 24, 2020

SUBJECT: Zoning District Intent (Descriptions)

BRIEF SUMMARY: During the course of regular business, planning staff found language that is no longer supported by the North Carolina General Statutes in the “intent” section of NMU-8 zoning district. Staff then reviewed all intent sections for other potential issues or other improvements, of which there are only a few. Each intent sections has been collect and commented on in the following document for your consideration.

MOTION FOR CONSIDERATION: To remove language not supported by NCGS in NMU-8 zoning district and any other modifications as determined by the Planning Board.

ATTACHMENTS: Intent sections from all zoning districts as a working document.

PLANNING DIRECTORS COMMENTS AND RECOMMENDATIONS: To, at a minimum recommended remove language which is inconsistent with the NCGS in NMU-8 as a text amendment to the Board of Alderman.

4.6.1 - Conservation residential district (CR-1).

4.6.1.1 Purpose.

The conservation residential district is established to protect areas in which the principal use of the land is residential or agricultural and where steep slopes or other environmental features make it more suitable for large lot development, conservation development and the preservation of open space.

Staff Comment: We have CR-1 in some areas which are not steep slopes and lacking remarkable environmental features unique to the area. Planning Board may consider adding a simple sentence or two which specifically describes maintaining low density.

4.6.2 - Suburban residential district (SR-2).

4.6.2.1 Intent.

The suburban residential district is established to protect areas in which the principal use of the land is single-family residential and where less dense development is preferred for the protection of slopes or environmentally sensitive areas, traditional single-family neighborhoods and the preservation of open space.

Staff Comment: None.

4.6.3 - Town residential district (TR-4).

4.6.3.1 Intent.

The town residential district is established to allow for a variety of housing types while maintaining an overall residential character with medium density. Any use which, because of its characteristics would interfere with the residential nature of the area is excluded.

Staff Comment: Mention of transition between lower/higher density would be a valid addition, but not required.

4.6.4 - Urban residential district (UR-8).

4.6.4.1 Intent.

The mixed residential district is established to provide a variety of housing types, promote density in the more urbanized and developable areas or town, and structure the orderly development of residential neighborhoods.

Staff Comment: None.

4.6.5 - Office and institutional district (OI-6).

4.6.5.1 Intent.

The office and institutional district is established to provide transition between residential and commercial districts; to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety; to accommodate planned developments that are institutional in nature and which may have multiple buildings and uses within one property; and to protect property values of residential, institutional and professional uses within the district in a way that is mutually beneficial.

Staff Comment: None.

4.6.6 - Neighborhood mixed use district (NMU-8).

4.6.6.1 Intent.

The neighborhood mixed use district is established to serve the needs of the surrounding residential neighborhoods by providing compatible goods and services without negatively impacting the residential nature of the adjacent neighborhoods. It is also intended to establish areas for low-intensity business centers which are accessible to pedestrians from the surrounding residential neighborhoods ~~and to minimize conflicts with surrounding residential uses in terms of architecture, noise, smell, or traffic. The neighborhood mixed use district shall retain the residential character of buildings in both appearance and scale and should provide for the daily convenience and personal service of the surrounding neighborhood.~~

Staff Comment: Staff proposes removing this section of the description of NUM-8 for the following reasons:

1. There are no sort of standards established to prove or disprove a proposed project creates a burden for the area with things like noise and smell. The town has adopted a traffic impact analysis ordinance, this makes these criteria impossible to administer. In order for this to be practical and enforceable, an inventory of each neighborhood would need to be conducted and guidelines written and adopted by the town. This would be a very time consuming and expensive undertaking, which would still not apply to one and two family units. This type of inventory would be required of all current and future districts which are not primarily residential, commercial or industrial. This method of regulation for appearance is not typical in North Carolina and does create some amount of vulnerability to the town regarding application of these standards. If such guidelines every existed, it would not apply to one and two unit dwellings, which is the vast majority of development in Black Mountain.
2. The state prohibits utilizing police powers to regulate architecture, appearance, scale or other matters of aesthetics on one and two family homes outside of an establishment of a historic district, which event then are limited by the North Carolina General Statutes. This is something that has changed in recent years, and removing it is a continual effort to remove language which is not aligned with general statutes.

4.6.7 - Central business district (CB).

4.6.7.1 Intent.

The central business district includes the area traditionally known as "downtown" and includes the "downtown historic district". This district is established to maintain the village-like community that preserves architectural heritage and small-town character of Black Mountain. It is intended to promote a safe, convenient, and attractive environment for pedestrians; promotes business in buildings of a size and scale appropriate to a small town; encourage locally-owned businesses, entrepreneurs, and artists; provide a wide range of shopping, dining, working, and cultural attractions with storefronts that interact with the sidewalk; promote the beautification of the public rights-of-way; and encourage residential development that blends with the commercial character of the district and enhances the variety of housing options provided in the town.

Staff Comment: The CB district is not limited to the Historic District, and an appreciable distinction should be made. This will ensure the description does not describe authority to use police powers on matters of aesthetics outside of the Historic District. It should also be clear that the regulations applied to the district are not established by the CB district, but instead by the adopted historic district overlay, which describes the specifics, regards to the appropriate guidelines and decision-making processes.

4.6.8 - Highway business district (HB-8).

4.6.8.1 Intent.

The highway business district is established to provide goods and services which complement primary retail trade operations in the town. Because of the objectives and characteristics of this district, it should be located contiguous to major streets or within proximity to primary commercial districts. The intent of the district is to provide orderly growth along the town's major thoroughfares; promote access management and traffic safety for all modes of transportation, encourage the redevelopment of existing commercial sites; create economic opportunities ~~for general retail, restaurants, professional services, banks, automotive sales and service, and other uses which expand the town's economic base;~~ promote a safe, convenient and attractive environment for pedestrians to access ~~stores~~ **goods and services**; create gateways and entrances into the town along central corridors; and encourage residential development that blends with the commercial character of the district and enhances the variety of housing options provided in the town.

Staff Comment: Nothing significant, this is a little word and has been edited for improved readability.

4.6.9 - Light industrial district (LI-8).

4.6.9.1 Intent.

The light industrial district is intended to provide areas in which the principal use of the land is for light manufacturing, materials processing, warehousing, and retail operations incidental thereto; promote moderate-sized, clean industries which provide jobs and career opportunities within the community; permit uses that are conducted so that noise, odor, dust and glare of each operation is completely confined within an enclosed building, insofar as is practical; encourage entrepreneurship and small business development; allow limited residential uses which do not conflict with the ability of industrial enterprises to conduct their businesses within the district area; allow community facilities and convenience trade establishments which provide needed services to industrial development.

Staff Comment: None.

4.6.10 - Heavy industrial district (HI-0).

4.6.10.1 Intent.

The heavy industrial district is intended to provide areas in which the principal use of the land is for general manufacturing, materials processing, warehousing or outdoor storage of materials, and retail operations incidental thereto; to promote clean industries which provide jobs and career opportunities within the community; permit uses that are conducted so that noise, odor, dust and glare of each operation impacts only other industrial uses; encourage entrepreneurship and business development; and to restrict residential uses which conflict with the ability of industrial enterprises to conduct their businesses within the district area; and to allow community facilities and convenience trade and fleet establishments which provide needed services to industrial development.

Staff Comment: In application there isn't much buffer between HI and residential areas, discussion of buffer zones may be a worthwhile conversation for Planning Board. Also, a primary reason heavy industrial uses are located in specific sections relates to the protection of public health and the environment. It also relates to reducing the unique traffic of large equipment and trucks which may be used in heavy industrial activity from traveling through neighborhoods and other districts where there is a significant number of people living or recreating. A sentence expressing this intent may be helpful in reviewing future development activity and rezoning requests.

4.6.11 - TND traditional neighborhood development (master planned).

4.6.11.1 Intent.

The purpose of this district is to allow for the development of fully integrated, mixed-use pedestrian oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation. The provisions of this district are based on urban design and development conventions which were widely used in the United States from colonial times until the 1940's and were based on the following principles:

- A. All neighborhoods have identifiable centers and edges.
- B. The center of the neighborhood is easily accessed by non-vehicular means from lots on the edges (i.e. approximately one-quarter-mile from center to edge, or a five-minute walk).
- C. Uses and housing types are mixed and in close proximity to one another.
- D. Street networks are interconnected and blocks are small.
- E. Civic buildings are given prominent sites throughout the neighborhood.

Staff Comment: None.

4.6.12 - ICD institutional campus development (master planned).

4.6.12.1 Intent.

This district is intended to allow for the continued and future use, expansion, and new development of academic, religious, government, and similar type uses where such campus or facilities qualify for location. The purpose of this district is to maintain the overall design integrity of the campus or facility setting while minimizing any adverse impacts on the neighboring areas.

Staff Comment: None.