

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, September 28, 2020, at 6:00 p.m. in Town Hall via Zoom.

I. CALL TO ORDER

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

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

Absent:

Lauronda Teeple
Scott Reed

Staff:

Jennifer Tipton, Senior Admin
Jake Hair, Planner
Jessica Trotman, Planning Director
Ron Sneed, Town Attorney

The meeting was called to order at 6:10 p.m. and duly constituted and opened for business with a quorum of five (5) regular members.

II. ADOPTION OF AGENDA

Jessica Trotman recommended the board move the text amendments ahead of the rezoning request. Pam Norton made a motion to adopt the agenda as amended. The motion was seconded by Chas Fitzgerald and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Chas Fitzgerald made a motion to adopt the minutes of August 24, 2020 as written. The motion was seconded by Chris Collins and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Proposed Text Amendments – Road Standards

Jessica Trotman explained the currently there are technical standards sprinkled throughout the Land Use Code. The proposed amendments would remove those specifics and reference a Standards and Details Manual. There are no proposed changes to the actual ordinance and the manual would include standards from NCDOT Subdivision Roads, Appendix D of the NC State Fire Code, the NC State Fire Code in its entirety, and Complete Streets. Ms. Trotman said that the standards exist but they are inconsistent throughout the Land Use Code. Jesse Gardner asked if the Planning Board would be able to review the Standards and Details Manual and it was explained that that is not the purview of the Planning Board. Chas Fitzgerald made a motion to recommend the text amendments as presented. The motion was approved by a vote of 5-0.

2. Proposed Text Amendment – Water Improvements

Jessica Trotman explained that the proposed text amendment will be removing language that requires parcels outside of town limits conform to town zoning requirements to obtain water. The town is not empowered to impose such requirements on parcels outside of town limits. Water will still be available to parcels outside of town limits. Chas Fitzgerald made a motion to recommend the text amendments as presented. The motion was seconded by Chris Collins and approved by a vote of 5-0.

3. Rezoning Request – 134 Sunset Drive and 6 and 99999 Vance Ave – TR-4 to UR-8

Jennifer Tipton began by reading emails and comments from the following:

The concerns stated included potential developments, road issues, traffic, stormwater, tree clearing, and walkability.

Jake Hair explained that the rezoning request was made by Ruby Begley to rezone three parcels (134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive) from TR-4 to UR-8. Mr. Hair explained that the biggest difference in the two districts is the lot size and units per acre. The uses are very similar and both are residential districts. Mr. Hair did point out that the properties are encumbered by a stream and MSD sewer lines.

Chas Fitzgerald asked about recreation and open space not being a permitted use in the UR-8 district and it was explained that a developer would not be prohibited from providing open space but that the use of recreation and open space is for a public park.

Chris Collins asked if a 50-60 lot subdivision were to be proposed, what would be the process. It was explained that it would go before staff for technical review and then would go before the Planning Board. It was explained that no development plan has been submitted nor is one required to be submitted for a rezoning request. Jessica Trotman explained that MSD sewer lines, stream buffer restrictions and other encumbrances would reduce the amount of buildable space but that those and other ordinances such as stormwater cannot be considered in making a decision and are not handled at the rezoning level. Ms. Trotman explained that stormwater, road capacity, walkability, traffic impact analysis and other requirements would be handled at the development stage. Ms. Trotman did explain that any improvements that might come out of a traffic impact analysis would be incurred by the developer and would have to be approved by the Board of Aldermen.

Jesse Gardner said that realistically the density would more like four to five units because of the roads, open space. Mr. Gardner said that it makes sense because this property is flatter and lower. Mr. Gardner said that because of the interstate, it is loud so he does think a developer would want to build six hundred thousand dollar homes and would be better for a more dense and more affordable development.

Pam Norton said she is against this rezoning as it is a spot zoning and too many good points have been made from the emails read earlier. Ms. Norton said that the reason people come here is going to be gone by the removal of trees and loss of green space. Ms. Norton is opposed to high density and said that the roads already can't handle existing traffic and that adding traffic would be increasing dangerous situations.

Chas Fitzgerald asked about the notices that were sent out. Jennifer Tipton explained that North Carolina General Statutes and the Land Use Code specify the notice requirements and that is to notice everyone within two hundred feet of the properties and post the property with a sign giving the date and time of the meeting and including the website to be able to get the Zoom link.

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Mr. Fitzgerald said that there are measures in place to ensure appropriate infrastructure, a traffic impact analysis if over seventy-five lots, stormwater, and verification of water to ensure capacity and pressure. Mr. Fitzgerald said that he does not like spot zoning but that there are factors that make sense for the rezoning such as the property being adjacent to the interstate. Mr. Fitzgerald agreed that the interstate probably devalues the property and that a developer would probably try and look to more affordable housing. Mr. Fitzgerald said that when taking in the encumbrances of the lots, it allows more flexibility and creative development. Mr. Fitzgerald said that he does feel that Sunset Drive should be improved and sidewalks added if a development is realized.

Chris Collins asked about multifamily housing and what that process would be. It would require a trip to the Board of Adjustment and an evidentiary hearing.

Rick Earley asked when the last affordable housing development was done in town. It was the Mountain Housing Opportunities Project on Central Avenue. Mr. Earley said he cannot get his head around a development meeting the thirty percent income threshold and a developer being able to make money unless the project is subsidized. Mr. Earley said that he has heartburn about something that is twenty five hundred feet from Town Square being rezoned to UR-8 and taking away the medium residential density and having to rely on the development process and design review board. Mr. Earley said he would like to keep the property as TR-4. Chris Collins reminded the board that they cannot condition their decision on affordable housing.

David Begley, 107 Sundance Drive, said that he has been a lifelong resident of the community and grew up on the property. Mr. Begley said that their old home place is in the middle of the properties and there used to be a five acre lake where Interstate 40 is now. Mr. Begley said that they want nothing to devalue the property and his family is close to the land and will do everything in the power to ensure that nothing devalues the community. Mr. Begley said that he participated in the comprehensive plan process in 2004. Mr. Begley said that there are very few large tracks that are walkable. Mr. Begley said that is a path that runs from the property down to the Welcome to Black Mountain sign at the red light at NC 9 Hwy. Mr. Begley said they want to make the best use of the property and preserve the integrity of the higher up areas. Mr. Begley said that he has never seen it flood in that area or seen water across the road. Mr. Begley said that they would want sufficient buffers and open spaces. Mr. Begley said that he knows that the entire property cannot be developed and realistically would probably be developed at four to six units an acre. Mr. Begley said that his family wants to see something nice and feels the best use is high density and to look at more affordable housing due to the size of the lot. Mr. Begley said his family feels responsible for what happens to the land and are not looking to devalue anything. Mr. Begley said that maybe the trail leading down to NC 9 Hwy could an improved pedestrian path and that maybe a crosswalk could be added. Mr. Begley said that they are not looking at the numbers that were referenced in the email in terms of development.

Chas Fitzgerald made a motion to open up public comment to residents within two hundred feet of the property who received the notice with a total time limit of fifteen minutes at three minutes per speaker. The motion was seconded by Chris Collins and approved by a vote of 4-0 with Pam Norton abstaining. Jennifer Tipton asked that anyone who would like to speak either use the raise hand feature or type a message in the chat feature.

Sharon Allison, 34 Western View Street, said that her daughter, Lauren Dodgin had some concerns. Ms. Dodgin said that she is concerned about the carrying capacity of Sunset Drive and worries that a development will devalue the road and neighboring properties in the future. She reiterated that she is concerned about traffic and utilities.

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Irene White, 9 Vance Drive, said that she would like the property to stay TR-4 and does not want her property to be devalued.

Victor, 212 Sunset Drive, said that Sunset Drive is dangerous and difficult to manage.

Jesse Gardner made a motion to close the public comment. The motion was seconded by Rick Earley and approved by a vote of 5-0.

The Planning Board went through the rezoning worksheet required for spot zonings and found the following:

1. The size of the overall tract proposed is reasonable because it is a reasonable size tract that could have a development on it. The board agreed with this by 4-1 with Pam Norton not agreeing.
2. The proposed rezoning is consistent with the comprehensive plan because most of the town's higher density zoning is in proximity to Interstate 40. The board agreed 3-2 with Chris Collins and Pam Norton not agreeing.
3. The impact to the adjacent property owners is not reasonable because there is enough harm that it would be reasonable and based on the input from the community and not knowing what the worst case scenario could be because there is no development proposal. The board agreed 4-1 with Jesse Gardner not agreeing
4. The uses in the proposed zoning district are similar to the uses in the current zoning district. The board agreed with this by 5-0.

Chris Collins made a motion to recommend denial of the zoning request based on the following findings of fact:

1. The size of the overall tract proposed for rezoning is reasonable compared to the size of the zoning district in which the property is located.
2. The proposed rezoning is consistent with the comprehensive plan.
3. The impact to the adjacent property owners in the surrounding community is not reasonable and the benefits of the rezoning may outweigh any potential inconveniences or harm to the community.
4. The uses in the proposed zoning district are similar to those in the current zoning district.

The motion was seconded by Rick Earley and approved by a vote of 3-2 with Jesse Gardner and Chas Fitzgerald voting against the motion.

Chris Collins made a motion to that the rezoning request is consistent with the comprehensive plan but is not reasonable because of possible negative impacts on community features such as traffic and property values. The motion passed by a vote of 4-1 with Jesse Gardner voting against the motion.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

Jesse Gardner made a motion to adjourn at 8:06 p.m. The motion was seconded by Pam Norton and approved by consensus.

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Prepared by:

Chris Collins, Chair

Jennifer Tipton, Zoning Administrator