



TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: October 12, 2020 Time: 6:00 p.m.

Regular Session Agenda

The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at www.townofblackmountain.org. Click on **Town Government** and select **Mayor and Board of Alderman** to download materials for all Town board meetings.

 **Conserve resources; print only when necessary.**

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Should you need other assistance or accommodation for this meeting, please contact

Town Clerk at 419-9310, or by email at townclerk@townofblackmountain.org

(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

- Welcome
- Pledge of Allegiance
- Invocation
- Announcements

2. PROCLAMATIONS, AWARDS & RECOGNITION

3. CITIZEN COMMENTS

Individuals wishing to address the Board are asked to sign in at the entrance to the board room, indicating the topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Board. **Comments by any one speaker shall be limited to three (3) minutes.**

To send comments **prior to the meeting**, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile them and present them to the Mayor for consideration.

4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES

A. Annual Streets & Parks Report – Jamey Matthews

5. CONSENT AGENDA

All items on the consent agenda are considered routine, to be enacted by one motion without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

A. Adoption of Minutes

Motion: To adopt the minutes of September 14, 2020 Regular Session Meeting and Closed Session Meeting.

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

October 12, 2020

- B.** Resolution to Award Badge & Service Weapon to Police Sergeant Stacy Ayers # R-20-07
Motion: *To adopt Resolution #R-20-07 awarding retiring Police Sergeant, Stacy Ayers his badge and service weapon as provided in NC G.S. 20-187.2.*
- C.** Resolution to Award Badge & Service Weapon to Police Major Rob Austin # R-20-08
Motion: *To adopt Resolution #R-20-08 awarding retiring Police Major, Rob Austin, his badge and service weapon as provided in NC G.S. 20-187.2.*
- D.** Black Mountain Police Department Forfeiture Funds.
Motion: *To approve Budget Amendment #BA-FY-21-07 as presented, increasing 10-10-5100-180 (Forfeiture Funds) by \$88,000 and increasing 10-00-3907-000 (Fund Balance Approp. - Police) by \$88,000.*
- E.** Call for Public Hearing to Rezone 134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive from TR-4 (town residential) to UR-8 (urban residential).
Motion: *To call for a public hearing to rezone 134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive from TR-4 (town residential) to UR-8 (urban residential) to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible in the Board Room of Town Hall at 160 Midland Avenue.*
- F.** Call for Public Hearing for Text Amendments to Road Standards (Land Use Code).
O-20-15
Motion: *To call for a public hearing for text amendments road standards in the Land Use Code to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*
- G.** Call for Public Hearing for Text Amendments to Water Improvements. #**O-20-16**
Motion: *To call for a public hearing for text amendments clarifying prohibited uses to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

Consent Motion: *To approve consent item A-G as presented.*

6. CITIZEN COMMENTS

The chair will recognize individuals requesting to address the Board regarding the specific **New Business or Unfinished Business items below**. Comments by any one **speaker shall be limited to three (3) minutes.** If the topic you wish to discuss pertains to a **public hearing** scheduled for this meeting, please reserve your comment for the applicable public hearing.

To send comments **prior to the meeting**, please call Town Hall at 828-419-9310 or email comments to **Comments@townofblackmountain.org**. The Clerk will compile and present written comments to the Mayor for consideration.

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA
October 12, 2020

7. UNFINISHED BUSINESS

8. NEW BUSINESS

9. PUBLIC HEARING

- A. Text amendments to the intents and purposes of the zoning districts.

Motion:

*To open the public hearing for **Ordinance #O-20-12** for amendments to zoning district intents and purposes.*

To close the public hearing.

*To adopt **Ordinance #O-20-12** as presented [or as amended].*

- B. Rezone 324 N. Fork Road (PIN #0700-92-8001) from CR-1 to TR-4 on the west side of the property and from CR-1 to SR-2 on the west side of the property.

Motion:

To open the public hearing to rezone 324 N. Fork Road from CR-1 to TR-4 on the west side of the property and from CR-1 to SR-2 on the east side of the property.

To close the public hearing.

To adopt the Statement of Consistency as presented [or as amended].

*To adopt Zoning Ordinance **#Z-O-20-04** to rezone 324 N. Fork Road from CR-1 to TR-4 on the west side of the property and from CR-1 to SR-2 on the east side of the property.*

- C. Text amendments clarifying prohibited uses.

Motion:

*To open the public hearing for **Ordinance #O-20-11** for amendments to clarify prohibited uses.*

To close the public hearing.

*To adopt **Ordinance #O-20-11** as presented [or as amended].*

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA
October 12, 2020

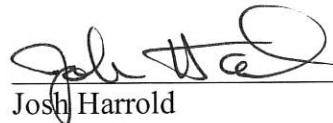
The chair will recognize individuals requesting to address the Board regarding the specific topic of the public hearing. Public hearing comments by any on speaker shall be limited to ten (10) minutes. The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each Public Hearing.

10. COMMUNICATION FROM STAFF

- A. Town Attorney – Ron Sneed
- B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT



Josh Harrold
Town Manager



PUBLIC NOTICE

In order to maintain the safety of Town residents, staff, and the Board of Aldermen, the Board of Aldermen **Agenda Work Session scheduled for Thursday, October 8, 2020 at 5:00 p.m. has been CANCELED.**

The Board of Aldermen Regular Session scheduled for **Monday, October 12, 2020 at 6:00 p.m. will be conducted electronically using YouTube Live software.** In order to comply with the State, County, and Town State of Emergency Declarations and social distancing requirements the only individuals that will be located at Town Hall will be the Mayor, Board of Aldermen, Town Manager, Town Clerk and one videographer. Other staff may participate remotely.

The meeting will be televised as normal on Charter Cable's Buncombe County Channel 192 at 8:00 p.m. on Sundays and posted on the website: <https://www.townofblackmountain.org>. To comply with NC § 143-318.13. Electronic meetings; written ballots; acting by reference, the meeting will also allow live audio and video feed via Zoom.

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

1. **Join the meeting through YouTube Live on your computer or smart device. * Citizens will be able to comment at the appropriate time using the chat feature to enter their comments. *Citizen video feeds will not be enabled. There is no password.**

https://www.youtube.com/channel/UCWJmKy_6LVe7VFXUrHwpESA

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).**

Call toll free 877 853 5247 or 888 788 0099

Meeting ID: 827 1999 5586

Passcode: 365630

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

Call in comments prior to meeting: Town Clerk at 828-419-9310

Email comments to: Comments@townofblackmountain.org.

The Town is making every effort to ensure that the public is able to not only listen to the meeting, but also to participate in the public comment portion of the Board meeting, while still maintaining all of the Town's statutory requirements and keeping the public safe. **During the meeting, if at any time inappropriate content is detected the electronic meeting will be ended by the host.**

Savannah M. Parrish
Town Clerk

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Posted to the Town Bulletin Board 09/29/20



Town of Black Mountain
Public Works Department
Annual Streets & Parks Report 2019

2019 Street Capital Projects

- Paved Bartlett St., Buckeye St., Burnette Dr., Ridge St.
- Street Striping on 36 roads
- New truck and plow
- Sidewalk repair and replacement
- Hwy 9 Sidewalk

2019 Street Maintenance

- Storm Water Ditching and Culvert Replacement/Repair accounted for 9% of total work orders completed
- Street Trimming, Tree Removal and Mowing made up 13% of total work orders in 2019
- Culvert replacement and ditching
- Tree removal
- Hemlock Inoculation
- Snow Removal
- General Maintenance

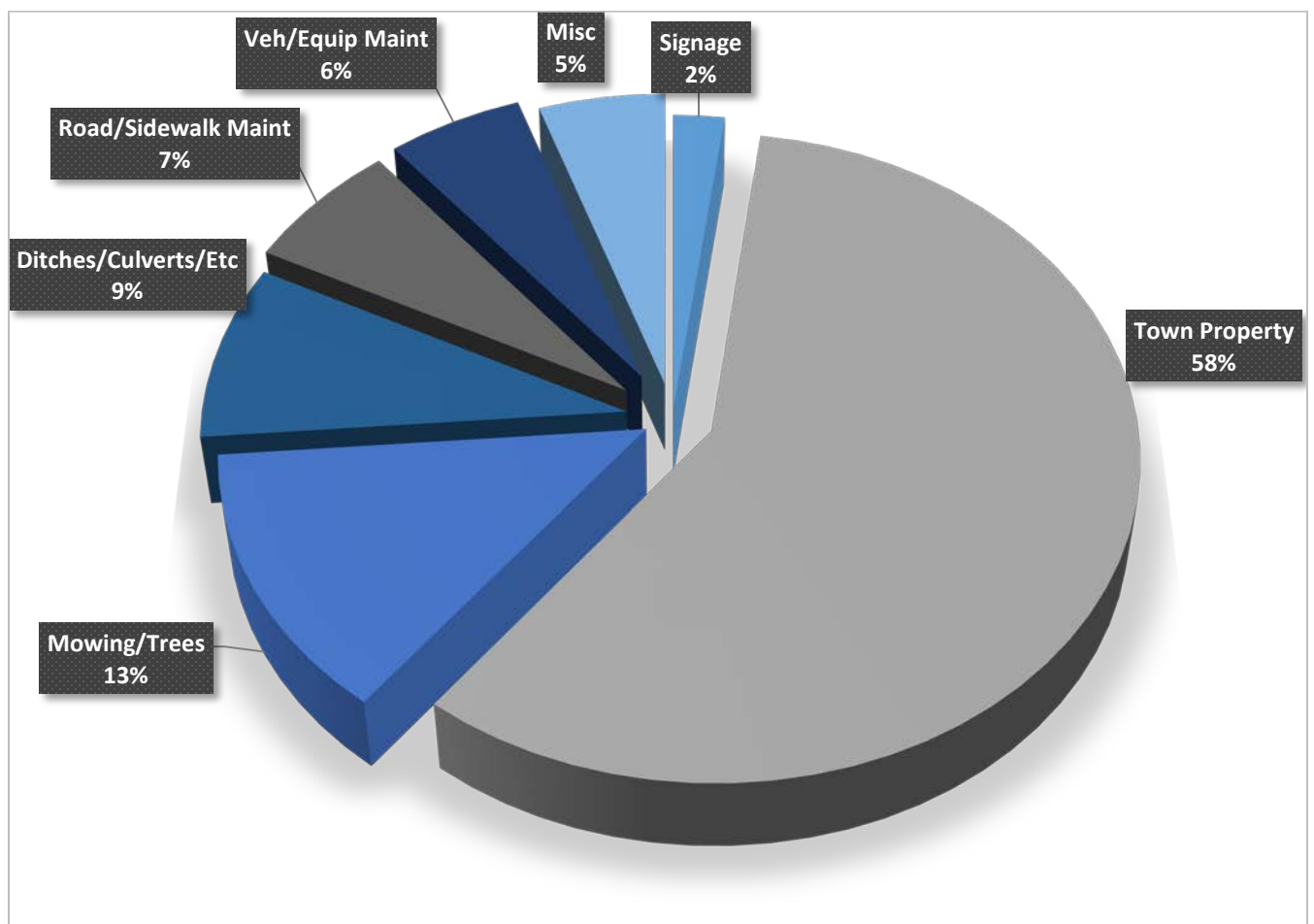
2019 Parks Projects/Maintenance

- Greenway Maintenance
- Lake Tomahawk forebay/stream restoration
- Lake Tomahawk dam inspection/repairs
- PARTF Grant/Parking lot at Veterans Park
- Pool Inspections
- Painted Poll House

Work Orders Completed

During 2019, the Public Works Department completed a total of 2041 work orders.

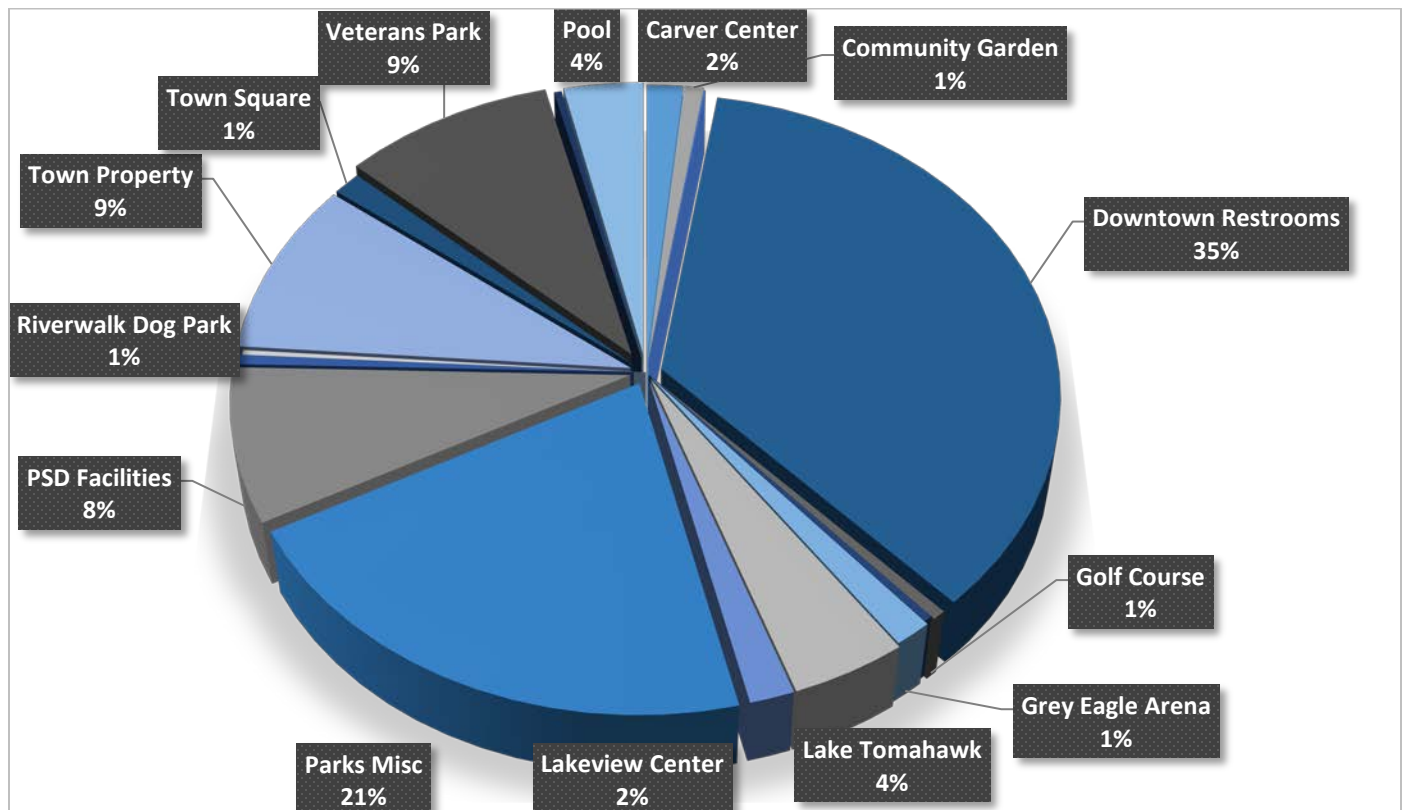
Description	Total Work Orders
Signage	43
Town Property	1192
Mowing/Tree Removal & Trimming	270
Ditches/Culverts/Etc	179
Road/Sidewalk Maintenance	135
Vehicle/Equipment Maintenance	115
Miscellaneous	107
Total	2041



Town Property Work Orders Completed

The Public Works Department completed a total of 1192 work orders for Town Properties.

Town Property	Total Work Orders
Carver Center	19
Community Garden	10
Cragmont Park	1
Downtown Restrooms	423
Golf Course	6
Greenway	4
Grey Eagle Arena	17
Lake Tomahawk	52
Lakeview Center	20
Parks Miscellaneous	249
Public Works Department Facility	98
Riverwalk Dog Park	6
Skate Park	0
Tennis Courts	3
Town Property/Town Hall/Police	111
Town Square	15
Veteran's Park	112
Playground Inspection	4
Pool	42
TOTAL	1192



Public Works Annual Streets & Parks 2019



Streets

Capital

- Street Paving: Bartlett Rd., Buckeye St., Burnette Dr., Ridge St.
- Street Striping: 36 Roads
- New truck and plow
- Sidewalk repair and replacement
- Hwy 9 Sidewalk

Maintenance

- Asphalt patching
- Culvert replacement and ditching
- Storm water reporting
- Tree removals
- Hemlock Inoculation
- Snow removal
- General Maintenance

Parks Maintenance

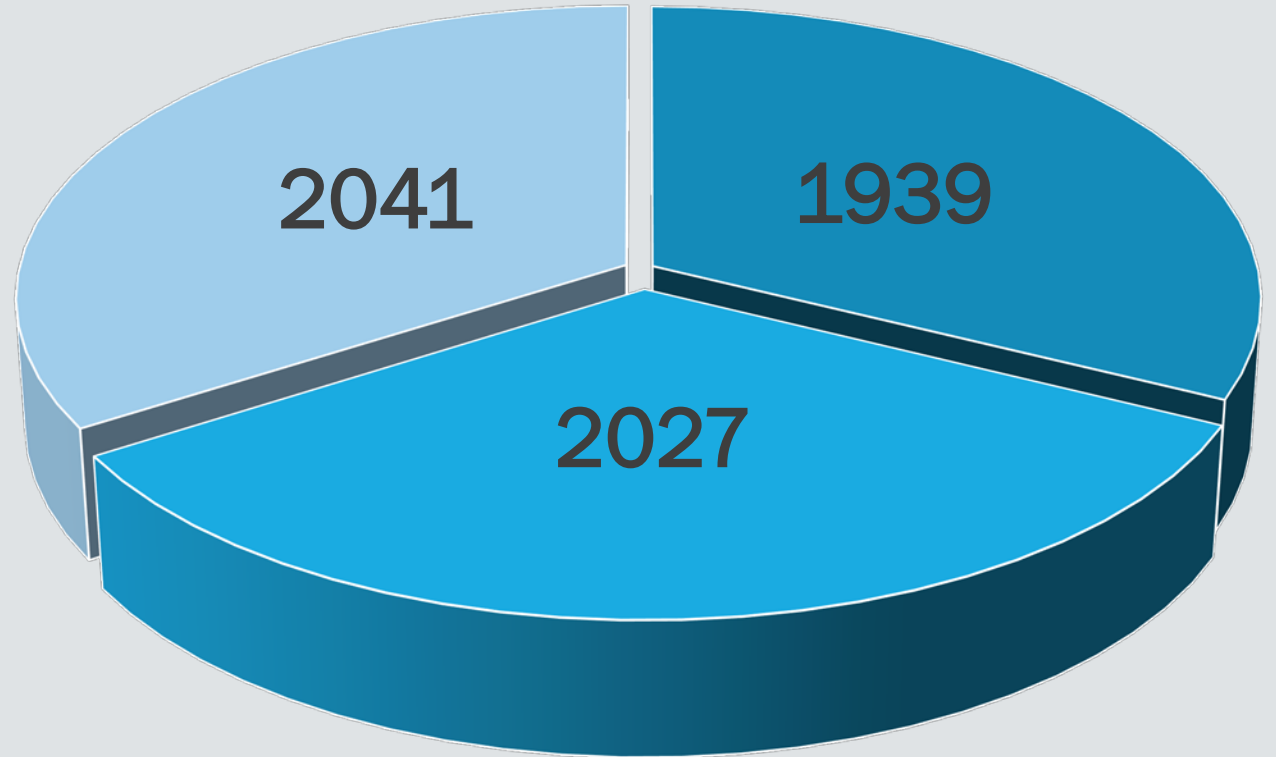
- Greenway Maintenance
- Lake Tomahawk forebay /Stream restoration
- Lake Tomahawk Dam inspection / repairs
- PARTF Grant / Parking lot at Veterans Park
- Pool inspections / Field repairs
- Painted Pool House

Total Work Orders

2017: 1939

2018: 2027

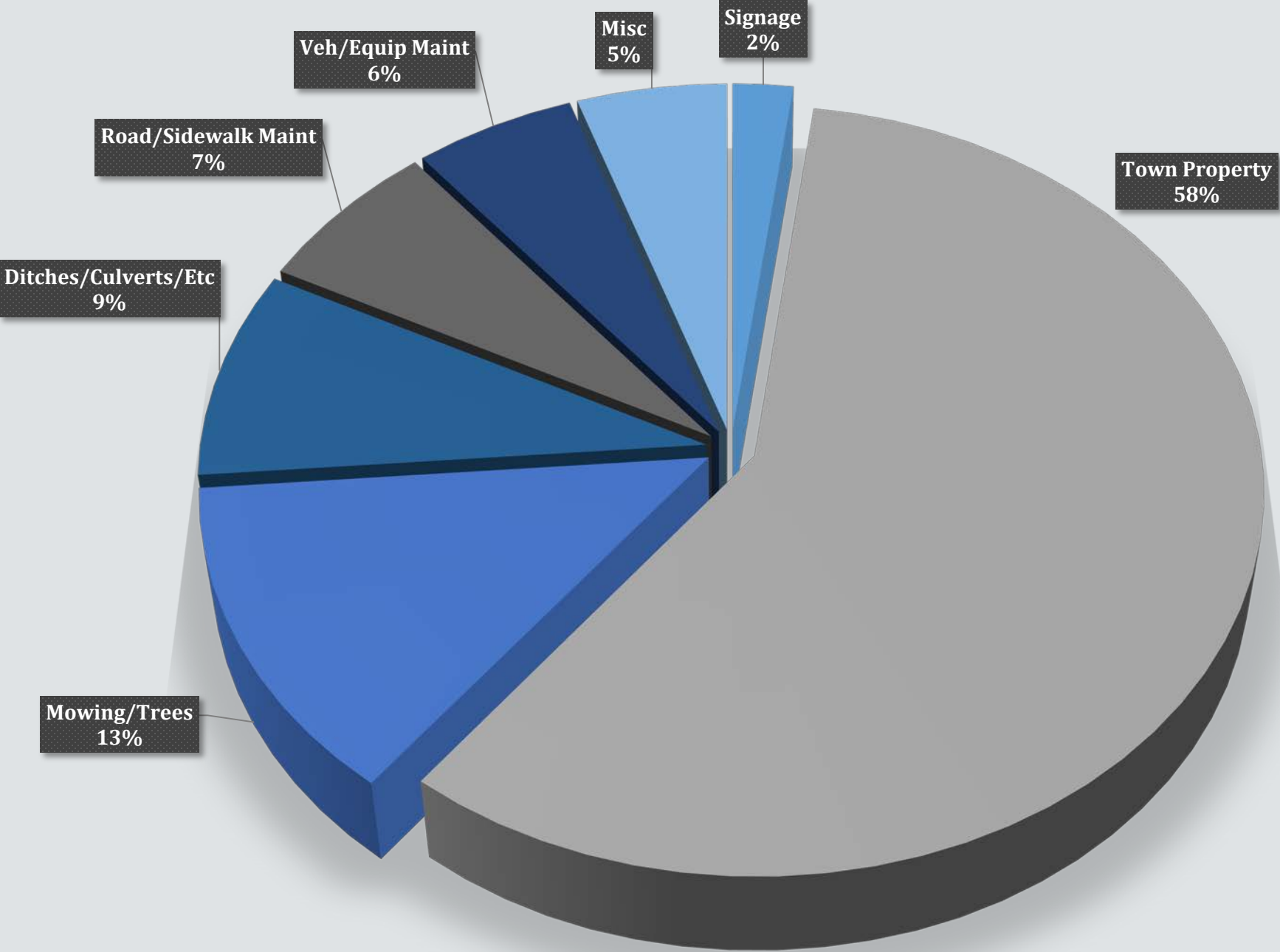
2019: 2041



Total Work Orders

Signage:	43
Town Property:	1192
Mowing/Tree Removal & Trimming :	270
Ditches & Culverts:	179
Road & Sidewalk Maint:	135
Vehicle & Equip. Maint:	115
Miscellaneous:	107

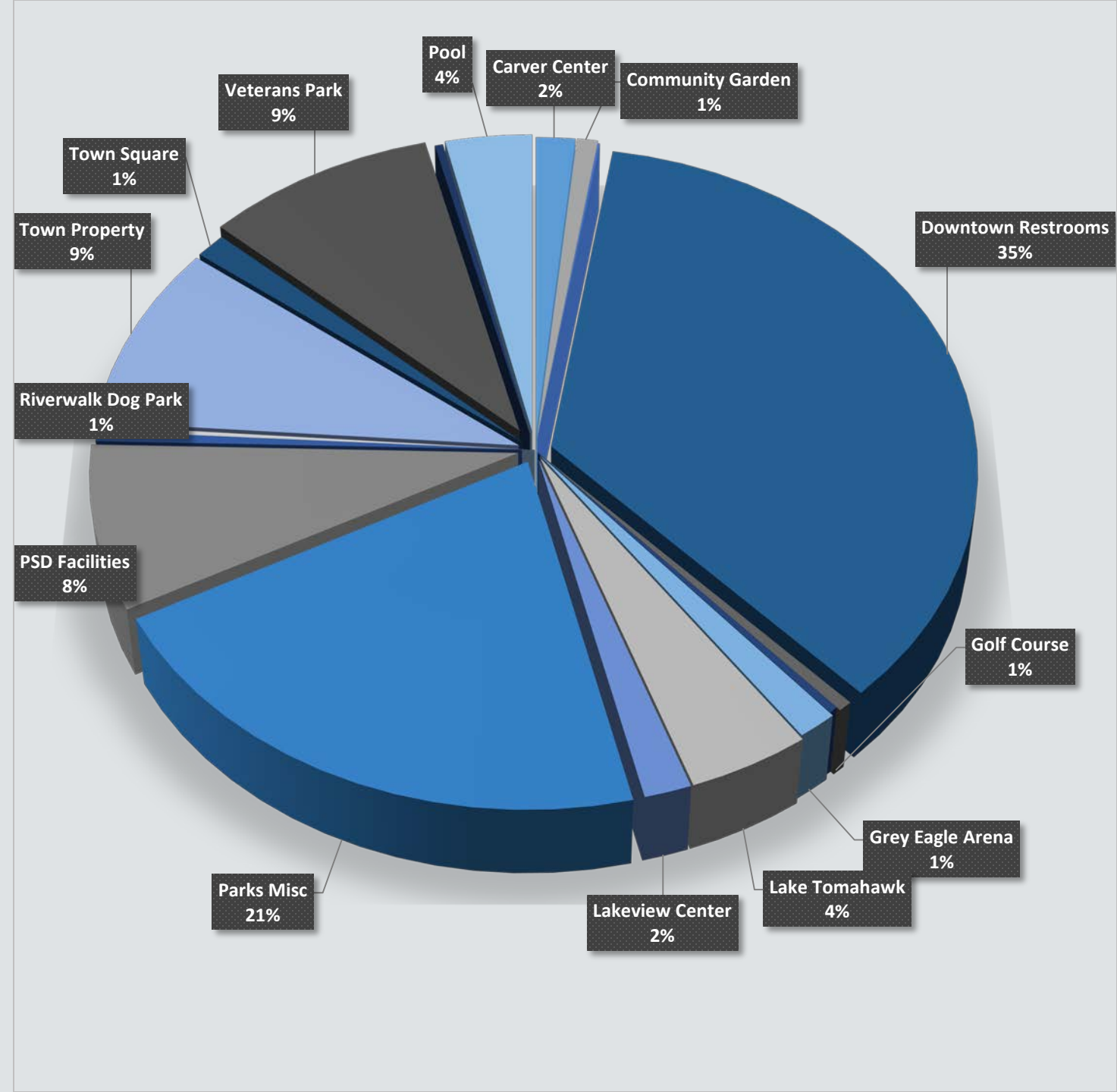
Total: 2027



Town Property Work Orders

Carver Center:	19
Community Garden:	10
Cragmont Park:	1
Downtown Restrooms:	423
Golf Course:	6
Greenways:	4
Grey Eagle Arena:	17
Lake Tomahawk:	52
Lakeview Center:	20
Parks Miscellaneous:	249
PW/Rec & Parks Building Maint:	98
Riverwalk Dog Park:	6
Skate Park:	0
Tennis Courts:	3
Town Property/Town Hall/Police:	111
Town Square:	15
Veteran's Park:	112
Playground Inspection:	4
Pool:	42

Total: 1192





TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: September 14, 2020 Time: 6:00 p.m. Regular Session Minutes

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(828) 419-9300 / TDD (800) 735-2962*

1. CALL TO ORDER

Mayor Larry Harris called the meeting to order at 6:00 p.m. with the following members present:

Mayor Larry Harris
Alderman Tim Raines
Alderman Archie Pertiller
Alderman Maggie Tuttle
Alderman Ryan Stone
Alderman Jennifer Willet

The following staff members were present:

Josh Harrold - Town Manager
Ron Sneed – Town Attorney
Savannah Parrish - Town Clerk/Assistant to the Manager
Jessica Troutman – Planning Director
Jennifer Tipton – Senior Admin

Fred McCormick, reporter from the Valley Echo was also present.

Mayor Harris welcomed everyone and led the Pledge of Allegiance and an invocation.
Mayor Harris welcomed Alderman Pertiller.

2. PROCLAMATIONS, AWARDS & RECOGNITION

- A. Town Manager Josh Harrold presented a certificate of appreciation to Jennifer Tipton for her dedication to the Town of Black Mountain. Ms. Tipton then exited the meeting.
- B. Mayor Harris read a proclamation honoring former Mayor Don Collins for his service to the Town of Black Mountain.
- C. Manager Harrold recognized Fire Chief Scottie Harris for his CFO designation.

3. CITIZEN COMMENTS

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4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES

Manager Harrold requested to add agenda item 7A – Art in the Afternoon Lease, and a closed session meeting to discuss personnel matters.

Motion: To adopt the agenda as amended.

Alderman Jennifer Willet moved to adopt the agenda as amended. The motion was approved by a vote of 5-0.

5. CONSENT AGENDA

All items on the consent agenda are considered routine, to be enacted by one motion without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

A. Adoption of Minutes

Motion: To adopt the minutes of August 10, 2020 Regular Session Meeting, the minutes of the June 8, 2020 (Regular Session and Closed Session), the minutes of the June 10, 2020 Budget Workshop CIP Meeting, and the minutes of the June 22, 2020 Budget Public Hearing Meeting.

B. Budget Amendment for Golf Course Bridge Repair

Motion: To approve Budget Amendment #BA-FY-21-04 in the amount of \$28,000.

C. Budget Amendment for Lake Tomahawk Forebay and Sedimentation Project

Motion: To approve Budget Amendment #BA-FY-21-05 in the amount of \$50,000.

D. Call for Public Hearing to Rezone 324 N. Fork Road

Motion: To call for a public hearing to rezone 324 N. Fork Road from CR-1 (conservation residential) to TR-4 (town residential) from N. Fork Road to the middle of the creek (the west side of the property) and rezone the east side of the property from CR-1 (conservation residential) to SR-2 (suburban residential) to be held on Monday, October 12, 2020, at 6:00 p.m., or as soon thereafter as possible in the Board Room of Town Hall at 160 Midland Avenue.

E. Call for Public Hearing for Text Amendments to Amend Zoning Districts Intents and Purposes.

Motion: To call for a public hearing for text amendments to intents and purposes of zoning districts to be held on Monday, October 12, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

F. Call for Public Hearing for Text Amendments to Clarify Prohibited Uses.

Motion: *To call for a public hearing for text amendments clarifying prohibited uses to be held on Monday, October 12, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

G. Budget Amendment for Governor's Crime Commission Grant

Motion: *To approve Budget Amendment #BA-FY-21-06 in the amount of \$22,000.*

Consent Motion: *To approve consent item A-G as presented.*

Alderman Maggie Tuttle moved to approve the consent agenda as presented. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS

Manager Harrold read the following citizen comments:

• Charlotte McRanie, 251 Valley Ridge Lane, Black Mountain

1) If a town document such as this is going to be discussed at the Board of Aldermen meeting, the document in question should either be attached to the agenda or be readily accessible on the town website. Neither is true in this instance. I have searched the town website and could not locate the Town Charter and had to request a copy from the Town Manager. The copy sent to me was dated 2000 and did not include the legislative changes made in 2019. He also did not provide me with a copy of that legislation changing the charter – I obtained a copy of that legislation from another Town citizen. The town charter needs to be updated as soon as possible and placed on the town website prior to any discussions about changes.

2) Given that a quorum of the Board of Alderman is now comprised of appointed not elected aldermen, any discussion much less votes, regarding changes in the Town Charter should be postponed until at least December when four of the five Aldermen will be elected Aldermen.

3) A number of town citizens have begun to educate themselves about the Town Charter and state statutes as they relate to the provisions surrounding aldermen and mayoral vacancies, appointments, and special elections. Given the interest of the citizens in this issue, it seems only reasonable to ask that after the election the Board of Aldermen convene a Town Hall to solicit public input and discussion on these issues prior to proceeding with any proposed changes to the Town Charter. And once any proposed changes have been drafted, a Public Hearing should be held with significant adequate notice of the draft changes to the Town citizens – e.g. 30-60 days – so that the citizens have time to digest and evaluate the proposed changes and prepare comments for the Public Hearing.

• Doug Hay, 209 E College St.

I would like to start by thanking the members of the Board of Aldermen for prioritizing a discussion on the Town Charter. I believe that several issues need to be addressed, including aligning ourselves with the NC School of Government's recommendations around Aldermen

appointments and putting vacant seats up for election during the next regularly scheduled election.

But I also firmly believe that any changes to the Town Charter should be made after citizen input. The first step could be to publish an updated version of the Town Charter publically for the community to read. If you are suggesting any changes, I encourage the Board to first engage the community and allow for at least 60 days of citizen input on any changes before voting on them.

Also, as you know, a voting majority of Aldermen were appointed to their positions and not elected by the people of Black Mountain. We are less than 50 days from an election where the people have an opportunity to elect three of the five seats. I encourage you not to rush any changes this close to the election and allow for the newly elected board to adopt any changes to the Town Charter, especially considering the NC General Assembly, which would need to approve any changes, is not back in session until next year.

Thank you for your time and consideration, and thank you again for opening up a discussion on the Town Charter.

- Kathy Phillips

I understand that discussion of the Town's Charter is on the Agenda this evening. First, a copy of the Town Charter along with any amendments should be posted on the Town's website. Second, I feel very strongly that the current Board should not be discussing or making changes to the Town Charter especially as it relates to appointments of empty seats. This should wait until after the election when the new Board will have a majority of members elected by the citizens of Black Mountain.

*The chair will recognize individuals requesting to address the Board regarding the specific **New Business or Unfinished Business items below**. Comments by any one **speaker shall be limited to three (3) minutes**. If the topic you wish to discuss pertains to a **public hearing** scheduled for this meeting, please reserve your comment for the applicable public hearing.*

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile and present written comments to the Mayor for consideration.

7. UNFINISHED BUSINESS

A. Art in the Afternoon Lease

Ms. Sulzman was unable to make her lease payments in July and August, but has since been able to open. She asks that the Board of Alderman waive her missed lease payments. She will begin payment in September.

Motion: *To approve the Art in the Afternoon Lease Agreement update*

Jennifer Willet moved to approve the Art in the Afternoon Lease update. The motion was approved by a vote of 5-0.

8. NEW BUSINESS

A. Utility Payment Plans

Manager Harrold presented a past due utility payment plan. Manager Harrold recommended allowing citizens six months to make their accounts current. There is also a possibility of acquiring CDBG funds to assist in making payments.

Mayor Harris asked what time other municipalities were allowing citizens to make their accounts current. Manager Harrold responded that Hendersonville was allowing 12 months. Alderman Jennifer Willet recommended allowing citizens of Black Mountain 12 months to make their accounts current.

Motion: *To approve utility payment plans for past due water customers as amended.*

Alderman Jennifer Willet moved to approve utility payment plans for past due water customers as amended, extending the amount of time for citizen to pay from six months to 12 months. The motion was approved by a vote of 5-0.

B. Town Charter Discussion

Mayor Harris first clarified that there was no legislation on the agenda for changes to the Town Charter. This is merely a discussion on filling vacant seats on the board. Attorney Ron Sneed presented information concerning the Town's charter and specifically the regulations surrounding special elections. Attorney Sneed referenced Chapter 160A, Article 5 of the state's general statutes that says if an appointment is made more than 90 days from the next election date, the appointed official would serve until the next election. This differs from the town charter that says the appointed official would serve until the end of the seat's initial term. Attorney Sneed said the town should refer to the statute when considering any future changes, specifically in reference to term length for appointments.

Manager Harrold stated that he believes that the public wanted increased citizen input concerning the appointment of aldermen to vacant seats. He mentioned the application process that went into filling Alderman Willet's seat on the board as a possibility moving forward. Mayor Harris stated that in the future the board should focus on an ordinance proposing term length and appointment regulations. Alderman Maggie Tuttle asked that the charter be added to the website.

9. PUBLIC HEARING

A. Blue Ridge Road Small Area Plan

A motion to open the public hearing was approved by a vote of 5-0.

Jessica Troutman entered the meeting to present the Blue Ridge Road Small Area Plan. Drew Draper, planning manager with Raleigh's Weatherill Engineering, says the plan will

be used by the town as a reference in future decision making for developing land by the road. Mr. Draper stated that the public supports maintaining the town's heritage.

The plan recommends two-lane roadways with a curb and gutter, a sidewalk, and a multiuse path on the connecting to a greenway. Additional roundabouts were also supported as an alternative for high traffic areas. The planning board approved the Blue Ridge Road Small Area Plan on July 27, 2020.

There were no public comments.

Alderman Maggie Tuttle moved to close the public hearing. The motion was approved by a vote of 5-0.

Motion: *To open the public hearing to adopt the Blue Ridge Road Small Area Plan and presented [or as amended].*

Alderman Jennifer Willet moved to approve the Blue Ridge Road Small Area Plan as presented. The motion was approved by a vote of 5-0.

The chair will recognize individuals requesting to address the Board regarding the specific topic of the public hearing. Public hearing comments by any on speaker shall be limited to ten (10) minutes. The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each Public Hearing.

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed - None

B. Town Manager – Josh Harrold - None

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Motion: *To move into closed session to discuss personnel matters.*

Alderman Maggie Tuttle moved to approve closed session meeting to discuss personnel matters. The motion was approved by a vote of 5-0.

A motion to return to open session was approved by a vote of 5-0.

Motion: *To approve the follow salary increases*

The following employees each receive a raise of \$1,500.00 per year:

James Bingham

George Bond

Chris Burnette

Bobby Davis

Robert Frame
Chance Hensley
Will Lonon
Derek McKinney
Carl Patton

Tausha Millwood's salary will increase from \$41,558.40 to \$45,926.40. Jamey Matthews' salary will increase from 72,355.40 to 79,988.74.

Alderman Jennifer Willet moved to approve the salary increases. The motion was approved by a vote of 5-0.

12. ADJOURNMENT

There being no further business, Mayor Larry Harris adjourned the meeting at 7:23 p.m.

ATTEST:

Larry B. Harris, Mayor

Savannah Parrish, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
October 12, 2020
Agenda Item 5B

RESOLUTION # R-20-07

RESOLUTION OF THE BOARD OF ALDERMENT OF THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA AWARDING TO RETIRING POLICE SERGEANT STACY AYERS HIS BADGE AND SERVICE SIDEARM

WHEREAS, Stacy Ayers has served the Town of Black Mountain, the Black Mountain Police Department and the citizens of Black Mountain for over 27 years; and

WHEREAS, G.S. 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, G.S. 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Stacy Ayers has served as a member of the Town of Black Mountain Police Department in the capacity of Police Officer, Police Sergeant and Police Lieutenant during his 27 plus year career and is retiring from the Town of Black Mountain Police Department effective on October 1, 2020, and

WHEREAS, Stacy Ayers should be recognized for his tireless commitment to his town and community, we recognize his 27 plus years of service and thank you for a job well done;

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, North Carolina as follows:

1. The Town Manager or his designee is hereby authorized in accordance with the provisions of G.S. 20-187.2 to transfer to Stacy Ayers the badge worn by him during his service with the Town of Black Mountain Police Department and his service sidearm, a Glock 9 millimeter caliber, Model 17, serial number KLY776.

DULY ADOPTED this the 12th day of October 2020.

Honorable Larry B. Harris, Mayor

ATTEST:

Savannah Parrish, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
October 12, 2020
Agenda Item ____

RESOLUTION #R-20-08

RESOLUTION OF THE BOARD OF ALDERMENT OF THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA AWARDING TO RETIRING POLICE MAJOR ROB AUSTIN HIS BADGE AND SERVICE SIDEARM

WHEREAS, Rob Austin has served the Town of Black Mountain, the Black Mountain Police Department and the citizens of Black Mountain for over 12 years; and

WHEREAS, G.S. 20-187.2 provides that retiring members of municipal law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service with the municipality; and

WHEREAS, G.S. 20-187.2 further provides that the governing body of the municipal law enforcement agency may, in its discretion, award to a retiring member the service sidearm of such retiring member; and

WHEREAS, Rob Austin has served as a member of the Town of Black Mountain Police Department in the capacity of Police Officer, Police Sergeant, Police Lieutenant and Police Major during his 12 plus year career and is retiring from the Town of Black Mountain Police Department effective on November 1, 2020, and

WHEREAS, Rob Austin should be recognized for his tireless commitment to his town and community, we recognize his 12 plus years of service and thank you for a job well done;

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, North Carolina as follows:

1. The Town Manager or his designee is hereby authorized in accordance with the provisions of G.S. 20-187.2 to transfer to Rob Austin the badge worn by him during his service with the Town of Black Mountain Police Department and his service sidearm, a Glock 9 millimeter caliber, Model 17, serial number KLY777.

DULY ADOPTED this the 12th day of October 2020.

Honorable Larry B. Harris, Mayor

ATTEST:

Savannah Parrish, Town Clerk

Josh Harrold, Town Manager



Black Mountain Police Department

106 Montreat Road
Black Mountain, NC 28711
(828)419-9350 office
(828)669-8143 fax



Shawn Freeman, Chief of Police

Date: 10/5/2020

To: Josh Harrold, Town Manager
Town of Black Mountain

From: Shawn Freeman, Chief of Police
Black Mountain Police Department

Ref: Major Rob Austin Retirement; Request to Present Badge and Duty Weapon

Josh,

In honor of Major Austin's 29+ years of service to the law enforcement profession and his 12+ years with the Black Mountain Police Department, Town of Black Mountain and the citizens of Black Mountain, and in keeping with the tradition of the Town and law enforcement practices, the

Black Mountain Police Department would like the honor to award Major Rob Austin with his badge and duty weapon. This is allowed by North Carolina General Statute 20-187.2, **Badges and service side arm of deceased or retiring member of state, city and county law enforcement agencies; weapons of active members.** Major Austin's official last day with the Black Mountain Police Department is October 31, 2020.

You will find a copy of the General Statute attached at the end of this request.

Thank you for the consideration of this award for Major Austin in recognition of his service and commitment to the Town of Black Mountain and its citizens.

A handwritten signature in black ink, appearing to read "S. Freeman".

Shawn Freeman, Chief of Police
Black Mountain Police Department



Honor ~ Integrity ~ Professionalism ~ Excellence ~ Service ~ Dedication ~ Respect

§ 20-187.2. Badges and service side arms of deceased or retiring members of State, city and county law-enforcement agencies; weapons of active members.

(a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, upon securing a permit as required by G.S. 14-402 et seq. or 14-409.1 et seq., or without such permit provided the weapon shall have been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department.

(b) Active members of North Carolina State law-enforcement agencies, upon change of type of weapons, may purchase the weapon worn or carried by such member at a price which shall be the average yield to the State from the sale of similar weapons during the preceding year. (1971, c. 669; 1973, c. 1424; 1975, c. 44; 1977, c. 548; 1979, c. 882; 1987, c. 122.)



Honor ~ Integrity ~ Professionalism ~ Excellence ~ Service ~ Dedication ~ Respect

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Black Mountain Police Department Forfeiture Funds.

#BA-FY-21-07

AGENDA INFORMATION

Agenda Location: Consent Agenda
Item Number: 5D
Department: Finance
Contact: Kirk Medlin, Finance Director
Presenter: Josh Harrold, Town Manager

SUMMARY: The Police Department has an immediate need for patrol vehicles due to the continued repairs and safety concerns regarding the older vehicles in the fleet. Due to COVID-19, no patrol vehicles were in the FY 21 budget. Therefore, the Police Department is proposing to use \$88,000 of their restricted forfeiture funds to purchase two vehicles. The vehicles are the majority of the cost; however, the total amount includes everything required to get them road ready (equipment, installation of the equipment, tax and tag, etc.).

MOTION FOR CONSIDERATION: To approve Budget Amendment FY 2021 - #7 as submitted, increasing 10-10-5100-180 (Forfeiture Funds) by \$88,000 and increasing 10-00-3907-000 (Fund Balance Approp. - Police) by \$88,000.

FUNDING SOURCE: Police Department Forfeiture Fund

ATTACHMENTS: Budget Amendment - FY 2021 - #7

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2021-7
Fiscal Year 2020-2021

Dept.	Account #	Account Name	Debit	Credit	Comments
	10-10-5100-180	Forfeiture Funds	88,000.00		To use forfeiture funds for the purchase of two new police cars, including outfitting to get them ready for use.
	10-00-3907-900	Fund Balance Approp. - Police		88,000.00	

Totals: 88,000.00 88,000.00

BD # _____

Journal # _____

Fiscal Yr _____

Date _____

Entered By: _____

Approved By: _____

Date _____

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Call for Public Hearing to Rezone 134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive from TR-4 (town residential) to UR-8 (urban residential)

#Z-O-20-05

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5E
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: Ruby Begley submitted a rezoning application to rezone her properties at 134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive from TR-4 to UR-8. The property consists of 11.26 acres combined. The property is located across from I-40. The difference in uses between the differing residential districts is comparable but the UR-8 district would allow a greater amount of density. The Planning Board voted 3-2 to not recommend the rezoning request as they found that even though it is consistent with the comprehensive plan it is not reasonable due to the potential impact on neighbors.

The properties are as follows:

134 Sunset Drive – PIN # 0619-44-9731.00000

6 Vance Drive – PIN #0619-54-3923.00000

99999 Vance Drive – PIN #0619-54-6910.00000

MOTION FOR CONSIDERATION: To call for a public hearing to rezone 134 Sunset Drive, 6 Vance Drive, and 99999 Vance Drive from TR-4 (town residential) to UR-8 (urban residential) to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Zoning Ordinance #Z-O-20-05, Statement of Consistency, Zoning Map, Aerial Map

MANAGER’S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, November 9, 2020, or as soon thereafter as possible.



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, November 9, 2020, at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, November 9, 2020, at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing to rezone 134 Sunset Drive (PIN #0619-44-9731), 6 Vance Drive (PIN #0619-54-3923), and 99999 Vance Drive (PIN #0619-54-6910) from TR-4 to UR-8.

The meeting is open to the public.

Savannah Parrish
Town Clerk

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, Savannah Parrish, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org.

*Posted to the Town Bulletin Board 10/15/2020
Published in the Black Mountain News 10/22/2020 and 10/29/2020*

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Call for Public Hearing for Text Amendments to Road Standards (Land Use Code)
O-20-15

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5F
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The collection of amendments reflect edits for consistent language and references for the Standards & Details Manual. This manual includes the construction methods from the NCDOT Subdivision Manual, NC Fire Code, and NC Fire Code Appendix D. There are no new standards proposed. The edits in the Land Use Code are limited to word choice, clarity, and consistency. The Planning Board voted 5-0 to recommend the text amendments as presented.

MOTION FOR CONSIDERATION: To call for a public hearing for text amendments road standards in the Land Use Code to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Ordinance # O-20-15

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, November 9, 2020, or as soon thereafter as possible.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Call for Public Hearing for Text Amendments to Water Improvements
#O-20-16

AGENDA INFORMATION

Agenda Location: CONSENT AGENDA
Item Number:
Department: Planning and Development Department
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The Town of Black Mountain does not have extra territorial jurisdiction (ETJ) and therefore cannot apply any zoning regulations to parcels outside of the city limits and cannot require that compliance be met before granting access to water. Any water improvements will be addressed in the Code of Ordinances under utilities. The Planning Board voted 5-0 to recommend the text amendment as presented.

MOTION FOR CONSIDERATION: To call for a public hearing for text amendments clarifying prohibited uses to be held on Monday, November 9, 2020, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: *Ordinance #O-20-16*

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, November 9, 2020, or as soon thereafter as possible.



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, November 9, 2020, at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, November 9, 2020, at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for text amendments to remove zoning compliance requirements to allow water improvements for parcels outside of town limits.

The meeting is open to the public.

Savannah Parrish
Town Clerk

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, Savannah Parrish, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org.

Posted to the Town Bulletin Board 10/15/2020
Published in the Black Mountain News 10/22/2020 and 10/29/2020

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Public Hearing for Text Amendments to Amend Zoning Districts Intents and Purposes
O-20-12

AGENDA INFORMATION

Agenda Location: PUBLIC HEARING
Item Number: 9A
Department: Planning and Development Department
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: In some of the intents and purposes of the zoning districts, the descriptions read like standards and regulations. If there are any regulations or standards for the zoning districts, those are laid out in the ordinance and not in the intent and purpose statement. The intent and purpose statement is only meant to describe the district. The proposed amendments remove any language that appears to be a standard or regulation and makes them descriptive only. The Planning Board recommended the amendment to the Board of Aldermen as written by a vote of 6-0 at their August 24, 2020, meeting.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Ordinance #O-20-12*** for amendments to zoning district intents and purposes.
2. To close the public hearing.
3. To adopt ***Ordinance #O-20-12*** as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance #O-20-12***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Ordinance #O-20-12*** as presented.

ORDINANCE #0-20-12

AN ORDINANCE TO AMEND CHAPTER 4, SECTION 4.6, SUBSECTIONS 4.6.6 AND 4.6.8

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Board of Aldermen to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendment is required in order to carry out vision statement nine: community planning of the 2014 Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that Chapter 4, Section 4.6, Subsections 4.6.6 and 4.6.8, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

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.~~

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.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of October, 2020.

Larry B. Harris, Mayor

ATTEST:

Savannah Parrish, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Public Hearing to Rezone 324 N Fork Road from CR-1 to TR-4 from N. Fork Road to the Middle of the Creek (West Side) and from CR-1 to SR-2 on the East Side
#Z-O-20-04

AGENDA INFORMATION

Agenda Location:	PUBLIC HEARING
Item Number:	9B
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: Sam Decker submitted a rezoning application to rezone his property at 324 N Fork Road from CR-1 to UR-8. The property consists of 16 acres and has a stream and MSD sewer easement. The property is located across from the Golf Course and is one parcel away from the UR-8 zoning district. The difference in uses between the differing residential districts is comparable but the UR-8 district would allow a greater amount of density, however, the property is encumbered by the stream and MSD sewer easement. The Planning Board heard the request at their August 24th meeting. After much discussion and concern regarding greater density and wanting to keep the area more in line with what is existing, a motion was made to rezone the entire parcel from CR-1 to TR-4. The motion failed with a tied vote of 3-3. A second motion was made to rezone from N. Fork Road to the middle of the creek (the west side) from CR-1 to TR-4 and then rezone the east side from CR-1 to SR-2. The motion passed with a vote of 5-1.

The property is as follows:
324 N Fork Road – PIN # 0700-92-8001

MOTION FOR CONSIDERATION:

1. To open the public hearing to rezone 324 N. Fork Road from CR-1 to TR-4 on the west side of the property and from CR-1 to SR-2 on the east side of the property.
2. To close the public hearing.
3. To adopt the Statement of Consistency as presented [or as amended].
4. To adopt ***Zoning Ordinance #Z-O-20-04*** to rezone 324 N. Fork Road from CR-1 to TR-4 on the west side of the property and from CR-1 to SR-2 on the east side of the property.

FUNDING SOURCE: N/A

ATTACHMENTS: *Zoning Ordinance #Z-O-20-04*, Statement of Consistency, Zoning Map, Aerial Map

MANAGER'S COMMENTS AND RECOMMENDATIONS: To adopt *Zoning Ordinance #Z-O-20-04* to rezone the property as presented and to adopt the Statement of Consistency as presented [or as amended].

ORDINANCE NO. #Z-O-20-04

**AN ORDINANCE AMENDING THE ZONING MAP FOR PROPERTY LOCATED AT
324 NORTH FORK ROAD**

WHEREAS, the Town of Black Mountain has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the Town's zoning regulations was adopted on January 11, 2010, (Ordinance No. #O-10-01) and is codified in Appendix A of the Town of Black Mountain Code of Ordinances (herein "Zoning Ordinance"), and maps dividing and classifying the property within the Town's zoning jurisdiction were adopted on January 11, 2010, Ordinance No. #O-10-01) and are on file and maintained in the Offices of the Town of Black Mountain Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, this proposed amendment is consistent with the Town of Black Mountain Comprehensive Plan and other official plans of the Town and is determined to be reasonable and in the public interest for the following reasons:

- a. The overall size of the tract of land proposed for the rezoning is reasonable compared to the size of the zoning district in which the subject property is located.
- b. The proposed rezoning is consistent with the comprehensive plan or elements thereof.
- c. The impact to the adjacent property owners and surrounding community is reasonable and the benefits of the zoning shall outweigh any potential inconveniences or harm to the community.
- d. The allowed uses within the proposed zoning district are similar or comparable to the permitted uses as currently zoned.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BLACK MOUNTAIN
BOARD OF ALDERMEN THAT:**

The Official Zoning Map be, and the same is hereby, amended as follows:

The zoning classification of that certain real property described in Exhibit A and identified on the Buncombe County tax maps as PIN 0700-92-8001, recorded in Deed Book 1966, Page 0037 and currently owned by Sam H. Decker, from Conservation Residential (CR-1) to Town Residential (TR-4) on the west side of the property and from Conservation Residential (CR-1) to Suburban Residential (SR-2) on the east side of the property. A copy of the official zoning map showing said lot is attached hereto as Exhibit "A" and made a part thereof.

This ordinance shall be in full force and effective on the date of adoption.

READ, APPROVED AND ADOPTED, this the 12th day of October, 2020.

Savannah Parrish, Town Clerk

Larry B. Harris Mayor

Approved as to form

**A STATEMENT OF CONSISTENCY TO REZONE 324 NORTH FORK ROAD FROM
CONSERVATION RESIDENTIAL TO TOWN RESIDENTIAL ON THE WEST SIDE
AND FROM CONSERVATION RESIDENTIAL TO SUBURBAN RESIDENTIAL ON
THE EAST SIDE OF THE PROPERTY**

BE IT ORDAINED by the Board of Aldermen for the Town of Black Mountain, North Carolina, that they adopt the following STATEMENT OF CONSISTENCY;

WHEREAS, when the Board of Aldermen adopted the Town of Black Mountain Code of Ordinances, the Planning Board committed to reviewing these regulations in order to improve their application to our community and context; and

WHEREAS, in accordance with the provisions of North Carolina General Statute §160A-383, it is determined that the adoption of the recommended rezoning is consistent with vision statement seven and vision statement nine of the adopted 2014 Comprehensive Plan and the adopted 2008 Comprehensive Pedestrian Plan; and

WHEREAS, the Board of Aldermen find that the proposed rezoning is consistent with current state regulations and find that this recommendation promotes the general welfare and is in keeping with good practice; and

WHEREAS, the Board of Aldermen find that the proposed rezoning is reasonable as the changes in zoning will not be incongruous with the surrounding character of the neighborhood and that there are minor differences in the three zoning districts

BE IT ORDAINED by the Board of Aldermen for the Town of Black Mountain, North Carolina, that the rezoning for 324 North Fork Road from conservation residential to town residential on the west side and from conservation residential to suburban residential on the east side is consistent with the Town's 2014 Comprehensive Plan and 2008 Comprehensive Pedestrian Plan.

READ, APPROVED AND ADOPTED this 12th day of October, 2020, by a vote of _____ to _____.

Larry B. Harris, Mayor

Josh Harrold, Town Manager

ATTEST:

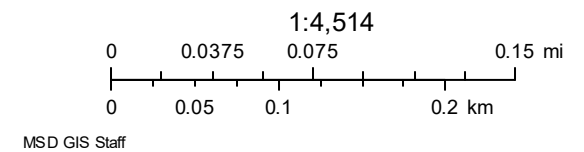
Savannah Parrish, Town Clerk



Buncombe County



September 4, 2020



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2020

SUBJECT: Public Hearing for Text Amendments to Clarify Prohibited Uses
O-20-11

AGENDA INFORMATION

Agenda Location:	PUBLIC HEARING
Item Number:	9C
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The Land Use Currently states that any use not specifically listed shall be prohibited. A 2015 court case states that prohibited uses must be clearly listed. Use categories shall be broad so as to accommodate uses that may not be specifically listed but are also not prohibited. The proposed amendment removes the sentence regarding uses not specifically listed.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Ordinance #O-20-11*** for amendments to clarify prohibited uses.
2. To close the public hearing.
3. To adopt ***Ordinance #O-20-11*** as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance #O-20-11***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve Ordinance #O-20-11 as presented.

ORDINANCE #0-20-11

AN ORDINANCE TO AMEND CHAPTER 4, SECTION 4.2, GENERAL ZONING PROCEDURES, SUBSECTION 4.2.1 – CONFORMANCE REQUIRED TO REMOVE SENTENCE REGARDING PROHIBITED USES

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Board of Aldermen to review the txt of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendment is required in order to carry out vision statement nine: community planning of the 2014 Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that Chapter 4, Section 4.2, General Zoning Procedures, Subchapter 4.2.1 – Conformance Required be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

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.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of October, 2020.

Larry B. Harris, Mayor

ATTEST:

Savannah Parrish, Town Clerk