TOWN OF BLACK MOUNTAIN

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

Date: **May 10, 2021** 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 Council** to download materials for all Town Council meetings.*

Conserve resources; print only when necessary.

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 (ADA). Hearing assistive devices are available at the door. 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
- Prayer – Rev. Richard White, Christ Community Church
- Announcements

2. PROCLAMATIONS, AWARDS & RECOGNITION

A. Pro Bono Celebration Day

3. CITIZEN COMMENTS

*Individuals wishing to address the Council are asked to sign in at the entrance to the Council 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 Council. **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, COUNCILS, COMMISSIONS & AGENCIES

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 April 8, 2021 Agenda Workshop and the April 12, 2021 Regular Session Meeting.*

B. Fire Department Donation Budget Amendment

Motion: *To approve the budget amendment as presented.*

C. Duke Energy Grant Budget Amendment
Motion: *To approve the budget amendment as presented.*

D. Police Department Revenue Budget Amendment
Motion: *To approve the budget amendment as presented.*

E. Tomahawk Dam Repair Budget Amendment
Motion: *To approve the budget amendment as presented.*

F. Fire Department Special Revenue Fund Budget Amendment
Motion: *To approve the budget amendment as presented.*

G. Powell Bill Budget Amendment
Motion: *To approve the budget amendment as presented.*

H. Call for Public Hearing for Text Amendments to Comply with Chapter 160D ***#O-21-05***
Motion: *To call for a public hearing for text amendments to comply with Chapter 160D to be held on Monday, June 14, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

I. Call for Public Hearing for Elevate Black Mountain
Motion: *To call for a public hearing for Elevate Black Mountain to be held on Monday, June 14, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

J. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street and Central Avenue ***#R-21-08***
Motion: *To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between W. College Street, Goldmont Street, and Central Avenue to be held on Monday, July 12, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

K. Call for Public Hearing to Create a Stormwater Utility Ordinance ***#O-21-06***
Motion: *To call for a public hearing to create a stormwater utility ordinance to be held on Monday, June 14, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

L. Call for Public Hearing to Create a Stormwater Utility Fund
Motion: *To call for a public hearing to create a stormwater utility fund to be held on Monday, June 14, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

M. Resolution to Provide Matching Funds for Ninth Street Bridge Replacement ***#R-21-07***
Motion: To approve ***Resolution #R-21-07*** to provide matching funds in the amount of $136,000 for the Ninth Street Bridge replacement.

N. Approval of Contract for Audit Services.

Motion: *to approve contract for audit services for the fiscal year ending June 30, 2021/*

Consent Motion: *To approve consent items A-N as presented.*

6. CITIZEN COMMENTS

The chair will recognize individuals requesting to address the Council 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. Riverwalk Greenway Update

8. NEW BUSINESS

A. Conditioned Financial Contribution from Black Mountain Greenways Trails Committee

Motion: *To approve accepting funds from the Greenways Trails Committee as presented.*

B. Town Council and Boards & Commissions Appointment Policy

Motion: *To approve or deny the Town Council and Boards & Commissions Appointment Policy as presented.*

C. Carver Center Playground Renovations

Motion: *To approve or deny request to renovate the playground.*

D. Personnel Policy Amendment

Motion: *To approve the amendment to the Personnel Policy as presented.*

E. Fire Department Career Ladder

Motion: *To approve forming the Fire Department Career Ladder as presented.*

9. PUBLIC HEARING

The chair will recognize individuals requesting to address the Council 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.*

A. Public Hearing for Voluntary Annexation for 201 and 207 Old Toll Road ***#O-21-03***

Motion:
To open the public hearing for the proposed voluntary annexation for 201 and 207 Old Toll Road (PIN #'s: 0619-87-6495.00000 and 0619-87-7613.00000).

To close the public hearing.

To adopt ***Ordinance #O-21-03*** as presented.

B. Public Hearing for Rezoning of 201 and 207 Old Toll Road ***#Z-O-21-01***

Motion:
To open the public hearing to rezone 201 and 207 Old Toll Road from R-1 to UR-8.

To close the public hearing.

To adopt ***Zoning Ordinance #Z-O-21-01*** (statement of consistency included) to rezone 201 and 207 Old Toll Road from R-1 to UR-8.

C. Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street ***#R-21-06***

Motion:
To open the public hearing for ***Resolution #R-21-06*** to Close Unopened, Platte Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street.

To close the public hearing.

To approve ***Resolution #R-21-06*** for the right-of-way closure.

D. Public Hearing for Text Amendments to Open Space Requirements in Major Subdivisions ***#O-21-04***

Motion:
To open the public hearing for ***Ordinance #O-21-04*** for amendments to open space requirements in major subdivisions.

To close the public hearing.

To adopt Ordinance #0-21-04 (statement of consistency included) as presented [or as amended].

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed

B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

12. ADJOURNMENT

Josh Harrold
Town Manager

PUBLIC NOTICE

In order to maintain the safety of Town residents, staff, and the Town Council, **The Agenda Work Session scheduled for Thursday, May 6, 2021 at 5:00 p.m. will be conducted electronically using YouTube Live.**

The Town Council Regular Session scheduled for **Monday, May 10, 2021 at 6:00 p.m. will be conducted electronically using YouTube Live**. 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, Town Council, Town Manager, Town Clerk, staff members and videographers.

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.**

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 **877-853-5247or 888-788-0099**

   Meeting ID: 820 175 2195
   Passcode: 916686

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
Savannah M. 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

Please visit www.townofblackmountain.org to obtain agenda packets and other meeting information.

Posted to the Town Bulletin Board 4/14/21

PUBLIC NOTICE

BLACK MOUNTAIN TOWN COUNCIL

AGENDA WORKSHOP MEETING

Thursday, May 6, 2021 at 5:00 p.m.

The Black Mountain Town Council monthly Agenda Workshop Meeting will be held on **Thursday, May 6, 2021 at 5:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, NC.

The meeting is open to the public via:

- Join the meeting through YouTube Live on your computer or smart device. https://www.youtube.com/channel/UCWJmKy_6LVe7VFXUrHwpESA

- Join the meeting by telephone (listen only). 877-853-5247or 888-788-0099
  Meeting ID: 820 175 2195
  Passcode: 916686

Savannah M. Parrish

Savannah M. 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 419-9300 or by email at townclerk@townofblackmountain.org

Please visit www.townofblackmountain.org to obtain agenda packets and other meeting information.

Posted to the Town Bulletin Board 4/14/21

Proclamation

"Pro Bono Celebration Day"

May 10, 2021

WHEREAS, the Buncombe County Bar's annual pro bono celebration highlights the amazing free legal work performed by hundreds of lawyers, paralegals, and volunteers across the County; and

WHEREAS, the Bar's pro bono committee works to honor the tremendous impact lawyers make in our community, recruit and train new pro bono volunteers, and create partnerships that form the basis of the private bar's most successful pro bono efforts; and

WHEREAS, every year dozens of citizens within the Town of Black Mountain benefit from the free legal work provided by members of the Buncombe County Bar; and

WHEREAS, over the last year over 300 volunteer attorneys provided over 3,343 hours of free legal work estimated to be worth over $835,750; and

WHEREAS, the following attorneys and pro bono projects have been recognized this year by the Buncombe County Bar for their exceptional pro bono work:

Barrett McFatter – Young Lawyer Pro Bono Award;
Julie Northup and Vann Vogel – Emeritus Lawyer Pro Bono Award;
Unemployment Insurance Benefit Project – Collaborative Legal Project Pro Bono Award;
Jean Lee – Outstanding Lawyer of the Year Pro Bono Award; and
William Christy – Lifetime Achievement Pro Bono Award; and

WHEREAS, the citizens of the Town of Black Mountain are better off when justice is not limited to only those who can pay for an attorney.

NOW THEREFORE, I, Larry B. Harris, Mayor of the Mayor of the Town of Black Mountain, do hereby proclaim May 12, 2021 as

PRO BONO CELEBRATION DAY

in Black Mountain and call upon all Black Mountain residents to recognize and appreciate the dedication and contributions of these legal professionals who enhance the lives of our citizens by providing free legal work to those most in need throughout our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town of Black Mountain, North Carolina to be affixed this 10th day of May 2021.

____

Larry B. Harris
Mayor, Town of Black Mountain

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
AGENDA WORKSHOP MEETING MINUTES
March 4, 2021

THE BLACK MOUNTAIN TOWN COUNCIL held an agenda workshop on Thursday, April 8, 2021 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to review the agenda for the regular monthly meeting scheduled for Monday, March 12, 2021 at 6:00 p.m and to discuss Community Funded Projects and the Ridgecrest Water Agreement.

1. CALL TO ORDER

Mayor Larry B. Harris called the meeting to order at 5:00 p.m. *with the following members present*:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Council Member Tim Raines
Council Member Pam King
Council Member Doug Hay

The following staff members were present:

Josh Harrold, Town Manager
Savannah Parrish, Assistant to Manager/ Town Clerk
Ron Sneed, Town Attorney

Mayor Larry Harris opened the meeting. Town Manager, Josh Harrold presented the proposed agenda to the Town Council.

Manager Josh Harrold discussed item 7A, Riverwalk Greenway Update. He explained that this month's update would be slightly lengthier as there has been some discussion with North Carolina DOT concerning the next steps forward.

Manager Harrold also briefly reviewed 8A, The Library Garden Proposal. Attorney Sneed confirmed that the Town Council could approve the plan subject to no changes being made by the Library Board.

Items 8B and 8C, Golf Course Rates and the Purchase/Lease of Golf Carts. Brent Miller will attend the meeting on April 12, 2021 to present these items to the Town Council. Manager Harrold stated that he believed purchasing golf carts was likely a better long term plan.

The remaining agenda items were presented with little discussion.

Town Clerk Savannah Parrish discussed the Community Funded Projects. She explained that House appropriators officially bring back earmarks, ending the ban. That will allows 1.4 trillion in discretionary spending. Each member of the House of Representatives can submit requests for general appropriations, community funded projects, and transportation infrastructure. The Clerk has been in touch with Rep. Madison Cawthorn's office and they are working on solidifying their internal process to manage applications. If the Town has projects that meet the qualifications the Town Manager and the Town Clerk will work to submit application to Rep. Cawthorn's office.

Manager Harrold informed the Council that Ridgecrest is not able to meet their water demands during the summer months due to an increase in summer campers. They approached the Town to see if it would be possible to buy water at out of town rates from the Town. The Manager will continue discussions with Ridgecrest and bring the official agreement before the Town Council.

Manager Harrold presented the Town Council with mockup designs from NC DOT which give options for sidewalks, bike lanes, and multiuse paths along Blue Ridge Road. DOT is looking for guidance from the Town Council as to their preferred option. Alderman Doug Hay stated he felt the multiuse path was the best option for families. There was some discussion concerning this plan and the greenway project. Manager Harrold reiterated to the Council that working with the railroad on the greenway would likely be a slow and time consuming process, and will explore the idea of splitting the greenway project into two sections in order to complete one portion in a timelier manner.

There being no further discussion Mayor Larry B. Harris adjourned the meeting at 5:30 p.m.

ATTEST:

______________________________	______________________________
Savannah Parrish, Assistant to Manger/Town Clerk	Larry B. Harris, Mayor

TOWN OF BLACK MOUNTAIN

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

Date: **April 12, 2021** Time: **6:00 p.m.** **Regular Session Minutes**

*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 Town Council** to download materials for all Town board meetings.*

Conserve resources; print only when necessary.

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 (ADA). Hearing assistive devices are available at the door. Should you need other assistance or accommodation for this meeting, please contact Town Clerk Savannah Parrish at 419-9310, or by email at townclerk@townofblackmountain.org
(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 B. Harris
Vice Mayor Ryan Stone
Council Member Archie Pertiller
Council Member Ryan Stone
Council Member Tim Raines
Council Member Doug Hay
Council Member Pam King

The following staff members were present:
Josh Harrold, Town Manager
Savannah Parrish, Town Clerk
Ron Sneed, Town Attorney

Mayor Harris welcomed everyone and led the Pledge of Allegiance. Mayor Harris also invited the council and members of the public to reflect on gratitude, especially in light of the COVID-19 pandemic, during a moment of silence.

Manager Harrold explained that during rain events the Town is required by state law to lower the lake levels to take into account the increase of water. The valve during a recent rain event became blocked by debris and was not able to be closed. The public works department is working to clear the valve and it should be closed shortly.

2. PROCLAMATIONS, AWARDS & RECOGNITION

Mayor Harris read a proclamation for retiring building inspector Dan Cordell.

Mayor Harris read the Mayors Monarch Pledge, which proclaims support for the monarch butterfly species.

3. CITIZEN COMMENTS

Town Manager Josh Harrold read the following comments:

Andrea Menzel - Our current skatepark is in need of updating so that it is more attractive to the community's youth skateboarders and bikers as well as giving them a safe location to ride.
I believe construction of a new skatepark / pump track in the Veterans Park would be a new way to envision a playground for all wheels.

Today there are more improved designs that allow reasonable ways to construct skateparks / pump tracks.

My vision would be that kids could safely skate/bike our greenways to access this skatepark / pump track therefore making our community safe for our kids to stay active and healthy.

I have teamed up with The skateboard project to ensure this vision would be created efficiently and up to community standards. As well as guidance on ways to raise money for the town and apply for grants to help fund this project.

To conclude, I would like to ask the Council Members of Black Mountain to consider I organize a steering committee with members from the town as well as interested parents that would meet on a regular basis to pursue this project and be able to look into it further.

Thank you for your time and consideration of this project.

Melisa Pressley - Thank you, Council members, for renaming our governing body from archaic terms to those more inclusive and representative of our community. The fact that you approved the name change to Town Council on International Women's Day did not escape the notice of your constituents. Kudos to you and thank you!

Jeannie Regan - I would like to propose a 'Lake Monster' parade around Lake Tomahawk. Drawing on the myth of the giant snapping turtle that lives in the lake, participants could design and create their own lake monster, fish, pirate or mer-person and we can progress in a parade around the lake. A kayak could be used to present a large scale puppet. This event could be socially distanced and masked.

I think the community could do with something fun and creative to look forward to and participate in. Food trucks and vendors could be invited as well.

Thank you for your time and everything you do to keep Black Mountain running so smoothly.

Joseph Blalock - I, my wife, and several of our neighbors on the east side of Tomahawk Avenue have concerns about storm water flows, as well as flows of muddy, polluted, waters into the town golf course, Lake Tomahawk, and the waterways of the Swannanoa River, and downstream. In a previous meeting March 8, 2021, Theresa Fuller voiced similar concerns.

My concerns are more pointed, particularly as the Council is also voting on today's Agenda items 9B, ***Resolution #R-21-02***, and 9C***, Resolution #R-21-05.***

Flooding, and runoff of storm water and muddy (turbid) waters from developments from the east bank of the Lake Tomahawk from sites on Allen Mountain and even immediately adjacent to rights-of-way noted in Agenda items 9B and 9C is clearly damaging Town property – parts of the golf course, such as the 5th hole, appear to be permanent wetlands – and damaging to the roads, and almost certainly violations of the Clean Water Act. State, county, and municipal responsibility are ultimately governed by the Clean Water Act and continued unmitigated release of turbid waters is not only against the interests of the Town ("contrary to the town") and citizens of North Carolina, but also the United States, since the Swannanoa flows ultimately into the Tennessee River Basin. I have photographic evidence of multiple releases of muddy (turbid) water from nearby developments that are not being addressed by the Town. I have unsuccessfully raised only some of these issues with the Town previously.

There are multiple storm water and pollution issues related to the watercourse crossing both tracts in the rights-of-way under discussion in Items 9B and 9C. Chronically muddy water flows across or under both of these tracts, damaging: roads, the golf course, parks, Lake Tomahawk, and downstream waters. The discharge from Tomahawk now appears to be eroding the dam at the south end of the lake (as recently as yesterday, April 11, 2021).

I ask the Council to please act expeditiously and wisely to address on-going damage to the Town's and citizen's roads, culverts, property, and also to uphold the Town's obligations under local, state, and federal environmental law.

4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES

Gail Bromer gave The Black Mountain Beautification Committee annual report to the Town Council. Although several events had to be canceled due to COVID-19, the Beautification Committee accomplished their three major commitments. The 42 plant containers throughout town, maintenance of the over 20 garden sites, and Town Square. They also renovated several garden sites and began work on the hill.

Mayor Harris thanked the Beautification Committee for their work.

Recreation and Parks Director Josh Henderson gave the annual report for the Recreation and Parks Department. His presentation focused on what the department was able to accomplish in spite of COVID-19. The new outdoor programs were especially successful, including the Arm's Length Adventures, Park cleanups, and the Fall Peaks Hiking Series. Director Henderson's slides are made part of these minutes.

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.

Manager Josh Harrold presented the consent agenda to the Town Council.

A. Adoption of Minutes

Motion: *To adopt the minutes of March 4, 2021 Agenda Workshop, the March 8, 2021 Regular Session Meeting and the March 10, 2021 Special Call Meeting.*

B. Budget Amendment for debt payment at 304 Black Mountain Avenue.

Motion*: To approve the budget amendment #FY-2021-14*

C. Call for Public Hearing for Voluntary Annexation for 201 and 207 Old Toll Road ***#O-21-03***

Motion*: To call for a public hearing for voluntary annexation for 201 and 207 Old Toll Road (PIN #'s: 0619-87-6495.00000 and 0619-87-7613.00000) to be held on Monday, May 10, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

D. Call for Public Hearing for Rezoning of 201 and 207 Old Toll Road ***#Z-O-21-01***

Motion*: To call for a public hearing for rezoning 201 and 207 Old Toll Road (PIN #'s:0619-87-6495.00000 and 0619-87-7613.00000) to UR-8 to be held on Monday, May 10, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

E. Call for Public Hearing for Text Amendments to Open Space Requirements for Major Subdivisions ***#O-21-04***

Motion*: To call for a public hearing for text amendments to open space requirements for major subdivisions to be held on Monday, May 10, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

Council Member Archie Pertiller moved to approve consent items A-D as presented. The motion was approved by a vote of 5-0

6. CITIZEN COMMENTS - NONE

7. UNFINISHED BUSINESS

Manager Harrold presented an update on the Riverwalk Greenway. The preferred alignment is no longer an option. He mentioned there was some interest in using the Hemphill property in a new alignment, which would avoid another alternate alignment set to use sidewalks through town. Manager Harrold presented the Riverwalk Hemphill options to the board. The route narrative is made part of these minutes. This project is able to be split into two portions in order to move forward with a portion without delay.

Council Member Pam King moved to split the project. The motion was approved by a vote of 5-0.

8. NEW BUSINESS

Recreation and Parks Director Josh Henderson presented the Black Mountain Library Garden Proposal. The Black Mountain Library Garden Proposal would offer growing space for gardeners that integrates art, education, conservation, and community while serving as an extension to the library. The proposal includes plans for raised beds, pollinator beds, and a ground bed. If approved by Town Council, the proposal will go before the Library Board.

Council Member Doug Hay moved to approve the Black Mountain Library Garden Proposal. The motion was approved by a vote of 5-0.

Golf Course Manager Brent Miller presented the proposed golf course rates for fiscal year 2021-22. The Town increases the rates yearly in order to stay competitive with surrounding courses and cover increased costs for maintenance, supplies, chemicals, etc. The golf course manager is proposing an increase in annual pass rates, cart fees, and greens fees. The rate sheet, and comparison sheet with surrounding courses are made part of these minutes.

Council Member Tim Raines moved to approve the proposed golf course rates for FY 21-22. The motion was approved by a vote of 5-0.

Brent Miller presented the need for new golf carts to the Town Council. He stated that the golf carts at the Black Mountain Golf Course are reaching the end of their useful life for the course. They are nearing 10 years old and need to be replaced soon. Staff has received two quotes. One from Yahama and one from Club Car. Either vendor will purchase our existing carts in turn reducing the cost of new carts. Both the Town Manager and the Golf Course Manager feel purchasing new carts instead of leasing is a better option financially.

Vice Mayor Ryan Stone moved to approve the purchase of gas Club Car golf carts. The motion was approved by a vote of 5-0.

Recreation and Parks Director presented the updated Town Square Use Policy. The current Town Square Use Policy was developed and adopted in 2016. The policy outlines proper and prohibited use on the grounds of Town Square Park. The Chamber of Commerce recently requested amendments to the policy in an effort to expand the reach of the Sourwood Festival by moving certain elements of the festival to Town Square Park. In order to do this in the manner in which the Chamber of Commerce would prefer, certain amendments to this policy would need to be made and adopted, including allowing structures such as tents on Town Square.

Council Member Doug Hay moved to approve amendments to the Town Square Use Policy. The motion was approved by a vote of 5-0.

Josh Henderson presented the Memorandum of Understanding to the Town Council. He explained that the Charles D. Owen Babe Ruth organization has partnered with the Town in recent years to provide little league baseball and softball. As a part of this partnership, an MOU was established and was last updated in 2016. The Charles D. Owen Babe Ruth organization is requesting to update the MOU to make several changes, including reducing the amount of time required in noticing the Town of games and practices.

Council Member Archie Pertiller moved to approve the updated MOU with Charles D. Owen Babe Ruth Organization as presented. The motion was approved by a vote of 5-0.

9. PUBLIC HEARING

Consideration of Charter Update

Vice Mayor Ryan Stone moved to open the public hearing for the proposed charter amendments. The motion was approved by a vote of 5-0.

Manager Josh Harrold presented the information to the Town Council concerning the changes to the charter. The current town charter has not been updated for several decades, although there have been amendments. The proposed updated town charter is to be considered, modified as deemed appropriate by the town council, an, if approved, submitted to our delegation in the state legislature for approval and adoption. The state legislature will not take the matter up until the short session begins in May 2022 due to time constraints in the legislature. The changes to the charter were discussed at length in a special call meeting, which was held on February 25, 2021.

There were no public comments.

Vice Mayor Ryan Stone moved to close the public hearing for the proposed charter amendments. The motion was approved by a vote of 5-0.

Vice Mayor Ryan Stone moved approve the proposed charter amendments. The motion was approved by a vote of 5-0.

Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel to Fairway Drive and Tomahawk Avenue.

Vice Mayor Ryan Stone moved to open the public hearing for Resolution #R-21-02 to Close Unopened, Platted Right-of-Way Terminating at Fairway Drive and Tomahawk Avenue intersection. The motion was approved by a vote of 5-0.

Planning Director Jessica Trotman presented the matter to the Town Council. Jerry Jackson has filed a petition to close a portion of a right-of-way between Fairway Drive and Tomahawk Avenue. The properties that abut the right-of-way are 99999 Hiawassee Avenue, 99999 Hiawassee Avenue, 99999 Tomahawk Avenue, and 603 Tomahawk Avenue. The requested closure is approximately 75eet in the length and 8 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The Planning Board recommend the closure with a vote of 7-0 at the January 25, 2021 meeting.

There were no public comments.

Vice Mayor Ryan Stone moved to close the public hearing. The motion was approved by a vote of 5-0.

Vice Mayor Ryan Stone moved to approve Resolution #R-21-02 for the right-of-way closure. The motion was approved by a vote of 5-0.

Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between Hiawassee Avenue and S. Oconeechee Avenue.

Council Member Archie Pertiller moved to open the public hearing for Resolution #R-21-05 to Close Unopened, Platted Right-of-Way Parallel and Between Hiawassee Avenue and S. Oconeechee Avenue. The motion was approved by a vote of 5-0.

Planning Director Jessica Trotman presented the matter to the Town Council. Becki Janes, Brandon and Abigail Moffitt, Toby and Sarah Broughton-Ives, Darla Sublette, Eric and Erica Christopher, Phillip Abernathy, Caitlin Hettich and Casey Sharpe, and Don and Dorinda Blankenship have filed a petition to close a portion of a right-of-way between Hiawassee Avenue and S. Oconeechee Avenue. The requested closure is approximately 759 feet in the length and 8-

10 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. The Planning Board recommend the closure with a vote of 7-0 at the January 25, 2021 meeting.

Manager Josh Harrold read the following public comments:

Becki Janes **–** I'm writing to support the closure of the utility right-of-way that runs between houses on Hiawassee Avenue and South Occoneechee. Closing this right of way will allow me and my neighbors take better care of our properties and ease the way for planning any improvements such as fences or shrub and tree planting. Thank you for the work you do

Sally Broughton - We live at 313 S Oconeechee Ave, Black Mountain, NC and support the closure of the alley (utility right away). When we bought this house in 2017, it raised some concern for us to have this nebulous alley on the plat map, and perhaps even more so, because there was no evidence of any current utility access there. We are NOT interested in selling, but if it remains officially open, there would be always be some question for potential buyers in the future. Also, it's land that we could, in confidence, put to use as part of our yard, and willingly maintain, since no other entity is going to maintain it.

> ***Council Member Archie Pertiller moved to close the public hearing. The motion was approved by a vote of 5-0.***
>
> ***Council Member Archie Pertiller moved to approve Resolution #R-21-05 for the right-of-way closure. The motion was approved by a vote of 5-0.***

10. COMMUNICATION FROM STAFF

Town Attorney – Ron Sneed mention a few bills currently before state legislature, and will have a legislative update for the Town council at the May 10, 2021 regular session meeting.

Town Manager – Josh Harrold informed the Town Council that staff plans to submit requests for funding through federal earmarks. The application will be sent through Rep. Cawthorn's office.

11. COMMUNICATION FROM MAYOR AND TOWN COUNCIL

Mayor Harris informed the public that there would be several upcoming special call meetings to discuss the stormwater utility, the comprehensive plan, and 160D updates. Those special call meetings will be held after May's regular session meeting.

12. ADJOURNMENT

There being no further business Mayor Larry B. Harris adjourned the meeting at 7:48 p.m.

ATTEST:

______________________________	______________________________
Savannah M. Parrish Town Clerk	Larry B. Harris, Mayor
	______________________________
	Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: May 10, 2021

SUBJECT: Budget Amendment – Fire Department Donations

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5B
Department:	Finance
Contact:	Tammy Holland, Finance Director
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: The fire department received donations throughout the year in the amount of $3,632.00. A budget amendment is needed to increase the revenue budget within the Fire Department Donation Line and to increase the expenditure budget within the Fire Department to appropriate the amount of the donations to enable staff to use the donation as the donors specified. This money will go toward the purchase of additional equipment prior to the end of the budget year.

MOTION FOR CONSIDERATION: To approve or deny the budget amendment

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: **04/26/21**

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-10-3410-300	**Donations to Fire Dept**		**$3,632.00**
10-10-5300-160	**M&R Equipment**	**$3,632.00**	
Total:		**$3,632.00**	**$3,632.00**

REASON FOR BUDGET AMENDMENT

Donation Revenue Received . Funds not budgeted must be recoginized and budgeted in order for staff to budget for and use received funds within an expenditure line. Budget amendment is needed to increase the fire depart donation revenue budget and to increase expenditure budget within the fire department expense line. To enable staff to use the donations as the donors requested

Entered by:

Department Head signature: Lanny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: May 10, 2021

SUBJECT: Duke Energy Grant Budget Amendment

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5C
Department:	Finance
Contact:	Tammy Holland, Finance Director
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: Duke Energy Grant-Grant received from Duke Energy for the Watershed Restoration Project. Budget Amendment is needed to recognize funds received to enable staff to appropriate funds in capital outlay expenditure line.

MOTION FOR CONSIDERATION: To approve or deny the budget amendment

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: **04/26/21**

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
63-00-3700-960	**Duke Energy Grant**	**$0.00**	**$50,000.00**
63-00-4200-730	**Capital Outlay**	**$50,000.00**	
Total:		**$50,000.00**	**$50,000.00**

REASON FOR BUDGET AMENDMENT

Grant Revenue Received from Duke Energy. Budget amendment is needed to increase the revenue budget within the Watershed Restoration Capital Project and to increase expenditure budget within the capital outlay expense line. To enable staff to use the funds received but not budgeted.

Entered by:

Department Head signature: Tammy Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Budget Amendment - Police Department Revenue

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5D
Department:	Finance
Contact:	Tammy Holland, Finance Director
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: Police Department Revenue- Police department received insurance proceeds for the replacement value of 5 vehicles totaled during the year. Department also received funding for bullet proof vests. Budget Amendment is needed to recognize funds received to enable staff to appropriate funds in expenditure lines to transfer funds budgeted within the general fund in FY20-21 into Fund45

MOTION FOR CONSIDERATION: To approve or deny the budget amendments

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: 04/28/21

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-00-3840-800	Insurance Proceeds		$72,136.44
10-00-3815-800	Misc Revenue		$500.00
10-10-5100-730	Capital Outlay	$67,784.53	
10-10-5100-170	M&R Auto	$4,351.91	
10-10-5100-360	Uniforms	$500.00	
Total:		$72,636.44	$72,636.44

REASON FOR BUDGET AMENDMENT

Recognize funds received from the insurance company forPD vehicles totaled and reimbursment by the state for bullet proof vests. These funds are restricted for fire department use. Increase of revenue and expense accounts to allow police department to use funds as needed.

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Budget Amendment - Tomahawk Dam Repair

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5E
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: Tomahawk Dam Repair- transfer budgeted funds allocated for dam repair into a capital project fund due to repair being a multi-year project. Fund 60 was created to track revenue and expenses spanning multiple years.

MOTION FOR CONSIDERATION: To approve or deny the budget amendment

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: **04/28/21**

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-10-5400-730	**CAPITAL OUTLAY**		**$78,886.65**
10-00-5000-581	**TRANSFER TO TOMAHAWK DAM REPAIR**	**$78,886.65**	
60-00-0000-900	**TRANSFER FROM GENERAL FUND**		**$78,886.65**
60-00-5400-730	**CAPITAL OUTLAY**	**$78,886.65**	
Total:		**$157,773.30**	**$157,773.30**

REASON FOR BUDGET AMENDMENT

Transfer budgeted funds for tomahawk dam repair into a capital project fund due to Project being multi-year.

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: May 10, 2021

SUBJECT: Budget Amendment - Fire Department Special Revenue Fund

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5F
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: Fire Department Special Revenue Fund- The fire department receives special revenue during the year for fire tax, buncombe county sales tax distribution, and state insurance distributions. Fund 42 was created to restrict these revenues for fire department expenses. Budget amendment to recognize funds received from state insurance proceeds. Increase revenue and expense account to allow the fire department to use the funds as needed.

MOTION FOR CONSIDERATION: To approve or deny the budget amendment,

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: **04/27/21**

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
42-00-0000-402	**State Insurance Distribution**		**$20,133.00**
42-00-5300-530	**Supplies and Materials**	**$20,133.00**	
Total:		**$20,133.00**	**$20,133.00**

REASON FOR BUDGET AMENDMENT

Recognize funds received from the state. These funds are restricted for fire department use. Fund 42 has been created to track these special revenues and expenses. Increase of revenue and expense accounts to allow fire department to use funds as needed.

Entered by:

Department Head signature: Danny Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: May 10, 2021

SUBJECT: Budget Amendment – Powell Bill

AGENDA INFORMATION

Agenda Location: **CONSENT AGENDA**
Item Number: 5B
Department: Finance
Contact: Tammy Holland, Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: Powell Bill- The town receives state funds that are restricted under G.S. 136-41.1 and G.S. 136-41.2. These statues require funds to be expended by said cities and towns primarily for the resurfacing of streets within the corporate limits of the municipality but may also be used for the purposes of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes, or for the planning, construction and maintenance of bikeways, greenways, or sidewalks. Fund 45 was created to restrict these revenues and expenses. Budget amendment to transfer funds budgeted within the general fund in FY20-21 into Fund45

MOTION FOR CONSIDERATION: To approve or deny the budget amendment.

ATTACHMENTS: BUDGET AMENDMENTS

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

BUDGET AMENDMENT REQUEST FORM

DATE: 04/28/21

BUDGET NUMBER

Fund-Function-Dept-Account Number	Account Desc	DEBIT	CREDIT
10-00-5000-545	**TRANSFER TO POWELL FUND**		
10-20-5700-040	**PROFESSIONAL SERVICES**		**$40,000.00**
10-20-5700-330	**DEPARTMENT SUPPLIES**		**$41,000.00**
10-20-3325-300	**POWELL BILL REVENUE**	**$235,000.00**	
10-00-3905-900	**APPROPRIATED FUND BALANCE**		**$154,000.00**
45-20-3325-300	**POWELL BILL REVENUE**		**$235,000.00**
45-20-5700-040	**PROFESSIONAL SERVICES**	**$40,000.00**	
45-20-5700-330	**SUPPLIES AND MATERIALS**	**$195,000.00**	
Total:		**$470,000.00**	**$470,000.00**

REASON FOR BUDGET AMENDMENT

Fund 45 created to track restricted revenue and expenses assoicated with the state powell bill program. Budget amendment needed to transfer existing general fund budget to the new special revenue fund.

Entered by:

Department Head signature: Tammy Holland

Budget Adjustments must be approved by the Department Head before being submitted to Finance

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Call for Public Hearing for Text Amendments to Comply with Chapter 160D
#O-21-05

AGENDA INFORMATION

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

BRIEF SUMMARY: The North Carolina General Assembly passed S.L.2020-25(S. 720), known as Chapter 160D, and it became effective on June 19, 2020. Chapter 160D consolidates, reorganizes, and modernizes the state's planning and development regulation statutes and repeals the existing statutes that are collected and merged into this new chapter of the General Statutes. Due to Covid-19, the state allowed extra time for the amendments to be made to local ordinances and are now mandatory by July 1, 2021. The amendments address all mandatory changes made by Chapter 160D and also address some sentence structure and readability. The Planning Board made a recommendation to move the forward the amendments to the Town Council as presented at their May 24, 2021 meeting by a vote of 6-0.

MOTION FOR CONSIDERATION: To call for a public hearing for text amendments to comply with Chapter 160D to be held on Monday, June 14, 2021, 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-21-05***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, June 14, 2021, or as soon thereafter as possible.

<u>LEGAL NOTICE</u>

BLACK MOUNTAIN TOWN COUNCIL

<u>PUBLIC HEARING</u>

Monday, June 14, 2021, at 6:00 p.m.

The Black Mountain Town Council will meet on **<u>Monday, June 14, 2021, at 6:00 p.m</u>**. 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 comply with Chapter 160D.

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 05/13/2021
Published in the Black Mountain News 05/20/2021 and 05/27/2021

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Call for Public Hearing for Elevate Black Mountain

AGENDA INFORMATION

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

BRIEF SUMMARY: In 2019, The Town of Black Mountain contracted with Clarion and Associates and Chipley consulting to undertake an update to the 2014 Comprehensive Plan. There were one-on-one interviews and public meetings before Covid-19 put a halt to public gatherings. In mid-2020, the Town continued progress on the update with online meetings and surveys. The plan has been through a public comment period and the Planning Board recommended the plan be forwarded to the Town Council for adoption at their February 22, 2021 meeting with a vote of 6-0.

MOTION FOR CONSIDERATION: To call for a public hearing for Elevate Black Mountain to be held on Monday, June 14, 2021, 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: Elevate Black Mountain Plan

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, June 14, 2021, or as soon thereafter as possible.

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, June 14, 2021, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, June 14, 2021, 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 Elevate Black Mountain (comprehensive plan update).

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 05/13/2021
Published in the Black Mountain News 05/20/2021 and 05/27/2021

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street and Central Avenue

#R-21-08

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5J
Department:	Planning & Development
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: Several property owners have submitted a petition to close a portion of the right-of-way parallel and between W. College Street, Goldmont Street, and Central Avenue. The requested portion runs North to South for W. College St./Goldmont St. Alley between 132 W. College Street and 34 Goldmont Street and runs East to West for Central Avenue . The requested closure is approximately 150 feet in the length and 15 feet wide for the portion between W. College Street and Goldmont Street and approximately 350 feet in length and 50 feet wide for the Central Avenue portion. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. The Planning Board did not recommend the closure of either right-of-way with a vote 5 of 0, with one member abstaining, at the April 26, 2021 meeting.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION: To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between W. College Street, Goldmont Street, and Central Avenue to be held on Monday, July 12, 2021 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: ***Resolution of Intent #R-21-08***, Map

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

LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, July 12, 2021 at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, July 12, 2021 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 a right-of-way closure parallel and between W. College Street, Goldmont Street, and Central Avenue.

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 savannah.parrish@townofblackmountain.org.

Posted to the Town Bulletin Board 06/03/2021
Published in the Black Mountain News 06/03/2021, 06/10/2021, 06/17/2021, 06/24/2021

www.townofblackmountain.org

RESOLUTION #R-21-06

RESOLUTION TO CLOSE A PORTION OF AN UNOPENED, PLATTED RIGHT-OF-WAY PARALLEL AND BETWEEN W. COLLEGE STREET AND GOLDMONT STREET

WHEREAS, the Town of Black Mountain Planning Board has initiated a petition to close that unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street; and

WHEREAS, the Planning Board for the Town of Black Mountain did recommend that the street be closed; and

WHEREAS, the Town of Black Mountain has the authority to close dedicated streets within its jurisdiction on its own motion pursuant to N.C.G.S. 160A-299; and

WHEREAS, the unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street to be closed is more particularly described as follows:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEING all of that fifteen-foot wide alley located in that portion of Block G as shown on a plat of the Methodist Colony Company recorded in Plat Book 198 at Page 20, Buncombe County Registry, bounded on the North by Chicago Avenue, on the East by Goldmont Street, on the South by Central Avenue, and on the West by West College Street, said alley having as its eastern boundary the following described line:

BEGINNING at a point located in the northeastern corner of Lot 95, Block G, as laid down and shown on that Plat recorded in Plat Book 198 at Page 20, Buncombe County Registry, and running thence along and with the eastern boundary of Lots 95 thru 106, Block G, as shown on said plat, South 2° 30’ West 600 feet to a point in the northern boundary of Lot 82, Block G, as shown on said plat; thence continuing South through said Lot 82 along and with the southeastern boundary of those properties described in Deed Book 1135 at Page 755, Deed Book 5555 at Page 1786, and Deed Book 1181 at Page 605, Buncombe County Registry, to a point in the northern margin of Central Avenue as laid down and shown on said Plat

WHEREAS, the Town Council of the Town of Black Mountain considered the above referenced request at its regular meeting at 6:00 p.m. on the 8th day of March, 2021 and for good cause shown, the Town Council declared its intent to close the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street; and

WHEREAS, a copy of the resolution adopted by the Town Council at their March 8, 2021 meeting was published in the Black Mountain News for four (4) consecutive weeks; and

WHEREAS, notice of the adoption of the resolution of intent and the public hearing on the closing of the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street was posted at two prominent places along said street no later than April 9, 2021; and

WHEREAS, a public hearing was held to receive public comment at the regular meeting of the Town Council in the Board meeting room in the Town Hall Building on Monday, May 10, 2021 at 6:00 p.m.; and

WHEREAS, it appears to the satisfaction of the Town Council that closing the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street is not contrary to the Town, and that no individual owning property in the vicinity of said unopened, platted portion of right-of-way W. College Street and Goldmont Street would be hereby deprived of reasonable means of ingress or egress; but

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that:

1. Pursuant to the North Carolina General Statute Section 160A-299, that unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street described shall be permanently closed to public use.

2. The closing is subject to the retention by the Town of easements for any existing water, sewer, or other existing utility lines.

3. Pursuant to North Carolina General Statute Section 160A-299, a certified copy of this resolution and order shall be filed in the Office of the Register of Deeds for Buncombe County, North Carolina, if and at such time as the contingencies set out above are met.

I move the adoption of the foregoing resolution:

____
Council Member

READ, APPROVED AND ADOPTED, this the 12th day of April, 2021.

ATTEST:

____
Larry Harris, Mayor

____
Savannah Parrish, Town Clerk

____
Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Call for Public Hearing to Create a Stormwater Utility Ordinance

#O-21-06

AGENDA INFORMATION

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

BRIEF SUMMARY: The stormwater utility ordinance is being created to comply with the NPDES permit.

MOTION FOR CONSIDERATION: To call for a public hearing to create a stormwater utility ordinance to be held on Monday, June 14, 2021, 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-21-06***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, June 14, 2021, or as soon thereafter as possible.

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, June 14, 2021, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, June 14, 2021, 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 the stormwater utility ordinance.

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 05/13/2021
Published in the Black Mountain News 05/20/2021 and 05/27/2021

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Call for Public Hearing to Create a Stormwater Utility Fund

AGENDA INFORMATION

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

BRIEF SUMMARY: The stormwater utility fund is to hold the funds generated from the stormwater utility and will be used for stormwater projects and other items related to the NPDES permit.

MOTION FOR CONSIDERATION: To call for a public hearing to create a stormwater utility fund to be held on Monday, June 14, 2021, 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:

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, June 14, 2021, or as soon thereafter as possible.

LEGAL NOTICE

BLACK MOUNTAIN TOWN COUNCIL

PUBLIC HEARING

Monday, June 14, 2021, at 6:00 p.m.

The Black Mountain Town Council will meet on **Monday, June 14, 2021, 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 the stormwater utility fund.

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 05/13/2021
Published in the Black Mountain News 05/20/2021 and 05/27/2021

www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Resolution to Provide Matching Funds for Ninth Street Bridge Replacement ***#R-21-07***

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5M
Department:	Planning & Development
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The Town has applied for a 2020 STBG Grant in the amount of $680,000 to provide funding for the Ninth Street Bridge replacement. As a condition of the grant, the Town is required to provide a twenty-percent match, which comes to $136,000.00.

MOTION FOR CONSIDERATION: To approve ***Resolution #R-21-07*** to provide matching funds in the amount of $136,000 for the Ninth Street Bridge replacement.

FUNDING SOURCE: N/A

ATTACHMENTS: ***Resolution #R-21-07***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Resolution #R-21-07*** as presented.

RESOLUTION #R-21-07

RESOLUTION TO PROVIDE MATCHING FUNDS FOR NINTH STREET BRIDGE REPLACEMENT

WHEREAS, the Town Council for the Town of Black Mountain has applied for a 2020 STBG grant in the amount of $680,000 which is to provide funding for construction and replacement of the bridge on Ninth Street; and

WHEREAS, as a condition of such grant the local jurisdiction must provide matching funds in the amount of $136,000, which is twenty-percent of the total request of the grant application; and

WHEREAS, the Town Council wishes to assure the availability of such matching funds needed for the success of the project.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA THAT the Town Council will appropriate from general revenues, its fund balance, contributed funds received from supporting agencies and organizations, or in any combination thereof, in the amount required to satisfy the matching funds requirement condition of the grant.

I move the adoption of the foregoing resolution:

____
Council Member

READ, APPROVED AND ADOPTED, by a vote of **_____** to **_____** this 10th day of May, 2021.

____
Larry Harris, Mayor

ATTEST:

______________________________	__________________________________
Savannah Parrish, Town Clerk	Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: May 10 , 2021

SUBJECT: Consideration of 2021 Audit Contract

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	5N
Department:	Finance
Contact:	Tammy Holland, Finance Director
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY:

The Town is required to have the financial records audited annually by and independent certified public accountant certified by the Local Government Commission in accordance with General Statue 159-34. Attached is the Local Government Commission's required contract form for the audit of the Town's financial records for the fiscal year ending June 30, 2021. The attached audit contract, from Mauldin & Jenkins, PLLC, is for a total fee of $22,500

MOTION FOR CONSIDERATION:

Motion to approve contract for audit services for the fiscal year ending June 30, 2021

ATTACHMENTS:

Audit Contract Fiscal Year 2021
Audit Engagement Letter

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

CONTRACT TO AUDIT ACCOUNTS

The	Governing Board Town Council
of	Primary Government Unit (or charter holder) Town of Black Mountain
and	Discretely Presented Component Unit (DPCU) (if applicable)

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name Mauldin & Jenkins, PLLC
	Auditor Address 508 Hampton Street, 1st Floor, Columbia, SC 29201

Hereinafter referred to as Auditor

	Fiscal Year Ending	Audit Report Due Date
for	06/30/21	10/31/21

Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).

2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified*). The Auditor shall file a copy of that report with the Secretary of the LGC.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit- related work in the State of North Carolina. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.)[G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved 'with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.

10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).

11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools or hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 28 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools or hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and Governmental Auditing Standards, 2018 Revision (as applicable). Financial statement preparation assistance shall be deemed a “significant threat” requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later. T**he auditor shall present the audited financial statements including any compliance reports to the government unit’s governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor’s presentation to the government unit’s governing body or audit committee shall include:

a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;

b) the status of the prior year audit findings;

c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and

d) notification to the governing body that the governing body shall develop a “Response to the Auditor’s Findings, Recommendations, and Fiscal Matters,” if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.

30. Applicable to charter school contracts only: No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

31. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).

32. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit

33. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

34. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Governmental Auditing Standards,2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will be not be approved.

Financial statements were prepared by: ☑ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:	***Title and Unit / Company:***	***Email Address:***
Tammy Holland	Finance Director, Town of Black M	tammy.holland@townofblackmounta

OR Not Applicable ☐ *(Identification of SKE Individual not applicable for GAAS-only audit or audits with FYEs prior to June 30, 2020.)*

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the billings for the last annual audit of the unit submitted to the Secretary of the LGC. Should the 75% cap provided below conflict with the cap calculated by LGC Staff based on the billings on file with the LGC, the LGC calculation prevails. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

Primary Government Unit	Town of Black Mountain
Audit Fee	**$** 22,500.00
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	**$**
Writing Financial Statements	**$**
All Other Non-Attest Services	**$**
75% Cap for Interim Invoice Approval ***(not applicable to hospital contracts)***	**$** 16,125.00

DPCU FEES (if applicable)

Discretely Presented Component Unit	
Audit Fee	**$**
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	**$**
Writing Financial Statements	**$**
All Other Non-Attest Services	**$**
75% Cap for Interim Invoice Approval ***(not applicable to hospital contracts)***	**$**

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Mauldin & Jenkins, PLLC	
Authorized Firm Representative (typed or printed)* Timothy M. Lyons	Signature*
Date* 04/20/21	Email Address* tlyons@mjcpa.com

GOVERNMENTAL UNIT

Governmental Unit* Town of Black Mountain	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	
Mayor/Chairperson (typed or printed)* Mayor Larry Harris	Signature*
Date	Email Address larryat85@gmail.com

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer* (typed or printed) Tammy Holland	Signature*
Date of Pre-Audit Certificate*	Email Address* tammy.holland@townofblackmountain.org

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or “NA”)	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all required signatures prior to submission.

PRINT

April 19, 2021

Honorable Mayor and Members of the
Town Council
Town of Black Mountain, North Carolina
160 Midland Ave.
Black Mountain, North Carolina 28711

Attn: Tammy Holland, Finance Director and Josh Harrold, Town Manager

We are pleased to confirm our understanding of the services we are to provide the Town of Black Mountain, North Carolina (the Town) for the year ended June 30, 2021. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the Town of Black Mountain, North Carolina as of and for the year then ended. These statements will include the budgetary comparison information for the General Fund. We will obtain and place reliance on the report of other auditors for the Town of Black Mountain ABC Board, a discretely presented component unit of the Town. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the Town's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis (MD&A).
2. Schedule of Changes in the Town's Total Pension Liability and Related Ratios - LEOSSA.
3. Schedule of Town's Proportionate Share of the Net Pension Liability - LGERS.
4. Schedule of Town Contributions – LEOSSA.
5. Schedule of Town Contributions – LGERS.

508 HAMPTON STREET, 1ST FLOOR • COLUMBIA, SC 29201 • 803-799-5810 • FAX 803-799-5554 • www.mjcpa.com

6. Schedule of Town's Proportionate Share of the Net OPEB Liability.
7. Schedule of Town's Contributions – OPEB Plan.

We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1. Combining and individual fund statements.
2. Schedule of Ad Valorem Taxes Receivable.
3. Analysis of Current Tax Levy

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, we have no responsibility for determining whether such other information is properly stated, and our auditor's report will not provide an opinion or any assurance on that information:

1. Introductory section
2. Statistical section

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of the Town of Black Mountain, North Carolina and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the Town's financial statements. Our report will be addressed to the Members of the Town Council for the Town of Black Mountain, North Carolina. We will make reference to other auditor's report on the Town of Black Mountain ABC Board in our report on your financial statements. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states that the purpose of the report is solely to describe the scope of testing of internal control over financial reporting and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control over financial reporting or on compliance, and that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance. The paragraph will also state that the report is not suitable for any other purpose.

If during our audit we become aware that the Town is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein.

Management is responsible for designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. You are also responsible for coordinating our access to information relevant to the preparation and fair presentation of the financial statements of component units which may include discussions with component unit management and their auditors.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes): and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

With regard to an exempt offering document with which Mauldin & Jenkins is not involved, you agree to clearly indicate in the exempt offering document that Mauldin & Jenkins is not involved with the contents of such offering document.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. You agree to oversee the nonaudit services by designating an individual, preferably from senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Audit Procedures—General
An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

We plan to obtain and place reliance on the report of other auditors for the Town of Black Mountain ABC Board, a discretely presented component unit of the Town, assuming that our communications with the other auditors and review of their audit report and the financial statements of the Town of Black Mountain ABC Board provide sufficient and appropriate audit evidence on which to base our overall opinion on the aggregate discretely presented component unit.

Audit Procedures—Internal Control
Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards.*

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance
As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Black Mountain, North Carolina's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Other Services
We will also assist in preparing the financial statements and related notes of the Town in conformity with U.S. generally accepted accounting principles based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform these services in accordance with applicable professional standards. The other services are limited to the financial statements and related notes services previously defined. We, in our sole professional judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Audit Administration, Fees, and Other
We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the Town of Black Mountain, North Carolina; however, management is responsible for distribution of the reports and financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Mauldin & Jenkins and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Mauldin & Jenkins personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by a regulatory body. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately July 1, 2021 and to issue our reports no later than October 31, 2021. Tim M. Lyons is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be $22,500 for the year ended June 30, 2021. Our hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered as work progresses and are payable upon presentation. The above fees are based on anticipated cooperation from your personnel (including complete and timely receipt by us of the information on the respective client participation listings to be prepared annually) and the assumption that unexpected circumstances (including scope changes) will not be encountered during the audit. If significant additional time is necessary, we will discuss it with management and arrive at a new fee estimate before we incur the additional costs.

As a result of our prior or future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

We appreciate the opportunity to be of service to the Town of Black Mountain, North Carolina and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

MAULDIN & JENKINS, LLC

Tim Lyons

RESPONSE:

This letter correctly sets forth the understanding of the Town of Black Mountain, North Carolina.

By: ____

Title: ____

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2020

SUBJECT: Accept Conditioned Financial Contribution from Black Mountain Greenways Trails Committee

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8A
Department:	Planning and Development Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

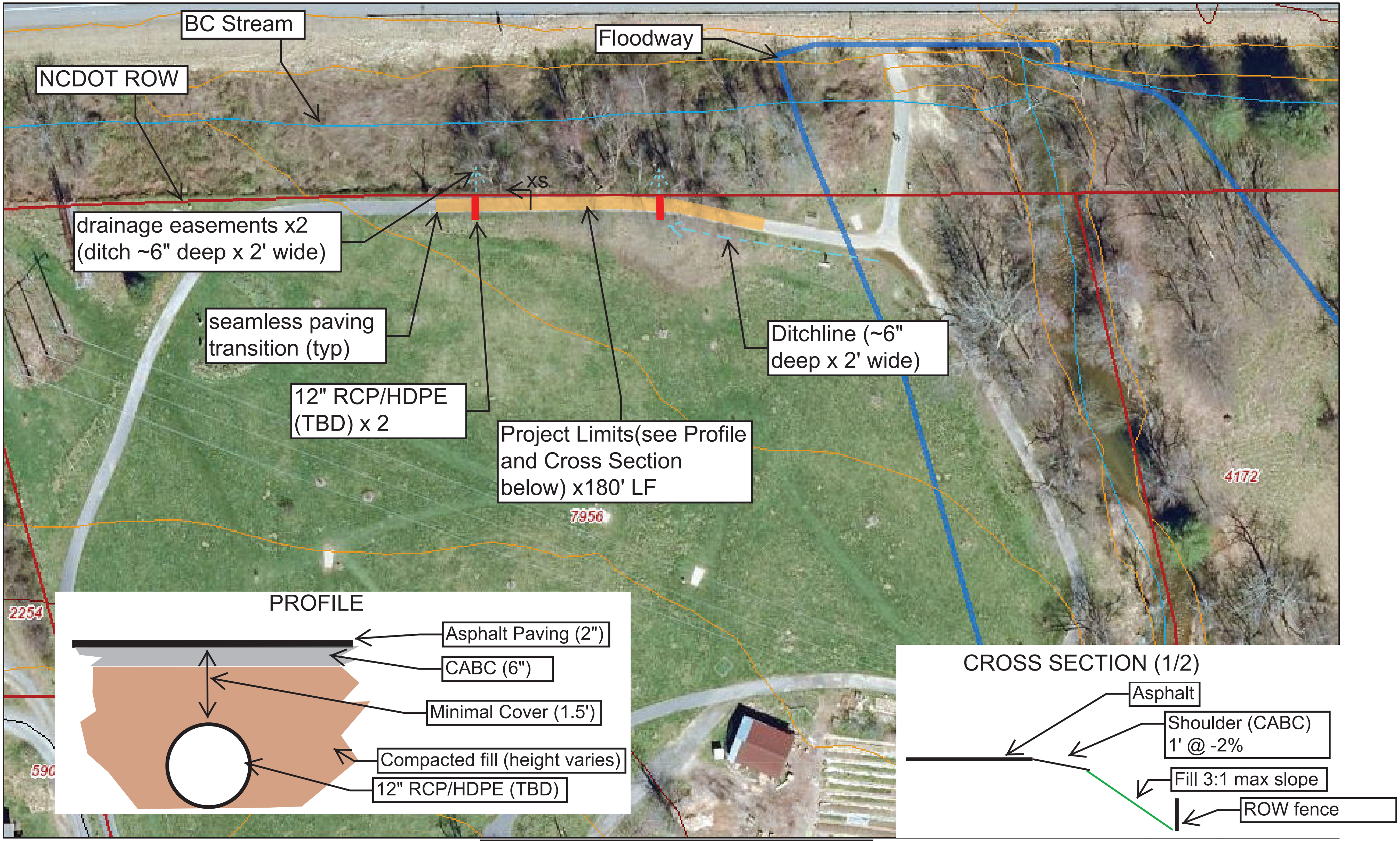
BRIEF SUMMARY: The newly formed Greenway Committee would like to donate money to the town for the specific use of making drainage improvements to the greenway near the Community Garden. The funding is being made available through previous funding raising efforts in the name of the town Greenway system. The Greenway Commission voted unanimously to accept the funding and project.

FUNDING SOURCE: Black Mountain Greenway and Trails Committee

ATTACHMENTS: Site plan

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented

Veterans Park Greenway Drainage Improvements



April 16, 2021

Note: Plan, Cross Section, Quantities, and Specifications provided for reference planning purposes only.
Base Information from Buncombe County GIS, and shall not be construed as survey grade data.

TAKEOFFS (approximate based on 8' wide path):
Total Surface Area: 1,440 Square feet
Compacted Fill: 100 CY
CABC: 27 CY
Asphalt: 9 CY
12" HDPE/RCP: 2 X 10'
Concrete Headwall: 4
Seeding (native or match Town Spec): 2,000 SF

1:1,128

0 0.0075 0.015 0.03 mi

0 0.015 0.03 0.06 km

Veterans Park Greenway Drainage Improvements Cost Estimate
April 30 2021

	Takoff	Unit	TL* qty	Unit Cost	Cost	Notes
Earthwork (Fill)*	100	CY	6.25	$ 125.00	$ 781.25	**material only
HDPE (20'x12")	2	EA		$ 175.00	$ 350.00	**material only. Proposed 2 pipes, potentially cut to fit
Headwall	4	EA		$ 350.00	$ 1,400.00	material only
Seeding	2000	SF		$ 0.25	$ 500.00	material only
SUB-TOTAL					$ 3,031.25	
x factor (3x)/contengency					**$ 9,093.75**	3x multiplier for install
CABC (base course)	587	SY		$ 14.00	$ 8,218.00	**8" delivered/compacted
Total					**$ 17,311.75**	

*Tandom Load = 16 CY
** preliminary costs provided by Blk Mtn Public Works 04-29-21.
Note: estimate is for planning purposes only and shall not be considered bid installation cost

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Town Council/Boards and Commissions Appointment Policy

AGENDA INFORMATION

Agenda Location: **NEW BUSINESS**
Item Number: 8B
Department: Administration
Contact: Josh Harrold, Town Manager
Presenter: Josh Harrold, Town Manager

SUMMARY: Over the past few months there has been discussion among the Council to have a policy in place that would guide all appointments to vacant seats on the Town Council as well as having a more formal process for filling vacancies on Boards and Commissions. Staff has reviewed other policies from other jurisdictions as this policy was being drafted.

MOTION FOR CONSIDERATION: To approve/deny the policy.

FUNDING SOURCE: n/a

ATTACHMENTS: Draft of Policy

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt/deny as presented.

2021

COMMITTEE MEMBERSHIP RECRUITING AND APPOINTMENT POLICY

Purpose

The purpose of this policy is to outline the process for recruiting and appointing membership to the Town of Black Mountain's appointed Boards, Committees, and Commissions, hereinafter referred to simply as "Committees". This policy will also clarify the process by which Council Members are appointed to fill vacant seats on the Town Council.

Recruitment and Application Process

Current committee members, Town Council, and Town staff are all encouraged to actively recruit applicants they believe meet the qualifications for a committee and would be a good fit for the diversity and dynamics of that team.

Citizens may serve only two consecutive terms on Boards, Committees, or Commissions unless this limitation is waived by the Town Council.

1. Initial Review. Upon receipt of an application, the Town Clerk or their designee will conduct an initial administrative review of the application, comparing with:

    • Any ordinance requirements for qualifications;
    • The current composition of the applicable committee's membership for diversity of backgrounds and residence locations with a goal of fair representation of the town's jurisdiction.

2. Scheduling. The Clerk will include the application along with a summary of that analysis to the applicable committee(s) for consideration at its next regularly scheduled meeting. The Clerk will notify the applicant of the meeting date and time, and that he/she needs to be present for the meeting.

3. Committee Review.

    A. New Applicants. The committee should conduct any new applicant review at the end of its business for that meeting. The committee can then review the application and engage the applicant for any clarification of the application, his/her qualifications or interest in the committee, any feedback about the meeting, and so forth to establish whether the committee feels the applicant would serve well and impartially on the committee.

B. Reappointments. No later than its regularly scheduled June meeting each year, each committee shall review the status of any members whose terms expire July 31 of that year. For any such members wishing to be reappointed, the committee shall confirm eligibility of those members and make a recommendation for or against reappointment to the Town Council.

4. Recommendation. The committee will discuss and send any recommendations about appointments to the Town Council for its next regularly scheduled meeting. It can also continue the discussion if further information or time to make a decision is needed. If continued, a recommendation shall be made by no later than at the committee's next regularly scheduled meeting.

5. Final Review. The Clerk will include the application, summary, and committee's recommendation to the Town Council for consideration at its next available regularly scheduled meeting. Appointments to all committees will be made by a majority vote of the Town Council.

Appointments or reappointments to terms expiring each year shall be made at the regularly scheduled July Town Council meeting to become effective July 31. Appointments to fill the remainder of any unexpired term vacancies shall be considered as openings occur throughout the year.

Applications not selected will be kept on file according to the Records Retention and Disposition Schedule and may be considered when vacancies arise during the year.

Orientation
After being appointed to a committee, the new member shall meet with the staff liaison and/or committee chair for introduction and orientation to the committee.

Requirements
The Town Council may remove a member from a committee for any reason, including but not limited to failure to comply with the provisions of the ordinance, this policy, or established rules of procedure for that committee.

FILLING VACANCIES ON THE TOWN COUNCIL

General Statues
North Carolina General Statute 160A-63. Vacancies. A vacancy that occurs in an elective office of a city shall be filled by appointment of the city council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term. If the number of vacancies on the council is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies. If the number of vacancies on the council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any

remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more. In cities whose elections are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party. (R.C., c. 111, ss. 9, 10; Code, ss. 3793, 3794; Rev., ss. 2921, 2931; C.S., ss. 2629, 2631; 1971, c. 698, s. 1; 1973, c. 426, s. 11; c. 827, s. 1; 1983, c. 827, s. 1.)

Application Process

To be considered for nomination, citizens must submit an application. The Town of Black Mountain shall request letters of interest and completed applications from all eligible persons wishing to be considered for appointment to fill a vacancy. Applicants must be 21 years old, a resident of Black Mountain and registered as a qualified voter. A copy of the Instructions to Applicants may be obtained at the Office of the Town Clerk. Upon receipt of an application, the Town Clerk or their designee will conduct an initial administrative review of the application. The Clerk will provide the application and letter of interest of each qualified applicant to the Town Council for consideration.

Applications are public records and will be kept on file according to the Records Retention and Disposition Schedule.

Nomination-and-Ballot Method

Vacancies on the Black Mountain Town Council shall be filled using the nomination-and-ballot method. In an open meeting, the council will nominate citizens to fill the vacancy. Each council member shall receive a ballot and will write the name of the applicant they wish to nominate. The ballots will be counted by the Town Clerk. The Mayor will then call for a motion to nominate the applicant with the majority of the vote. If no one receives a majority, then those who receive the fewest votes shall be eliminated from consideration, so that the voting is between the front-runners.

Orientation

After being appointed to the Town Council, the new council member shall meet with the Town Manager for introduction and orientation to the council.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Carver Center Playground Renovations

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8C
Department:	Administration
Contact:	Josh Harrold, Town Manager
Presenter:	Josh Harrold, Town Manager

SUMMARY: The Black Mountain Montessori School, located at the Carver Center, would like to renovate the existing playground on the east side of the building. The Montessori School is asking for the Town to provide some labor to assist in the project. Since the property is owned by the Town, the school needs approval before moving forward.

MOTION FOR CONSIDERATION: To approve/deny request to renovate the playground.

FUNDING SOURCE: n/a

ATTACHMENTS: Schematic drawing of new playground.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt/deny as presented.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Personnel Policy Update

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8D
Department:	Administration
Contact:	Josh Harrold, Town Manager
Presenter:	Josh Harrold, Town Manager

SUMMARY: The Town of Black Mountain is part of the NC Blue Cross Blue Shield State Health Plan. As such, we are required to adhere to any changes required by the State Health Plan. Beginning this year, employees hired after January 1, 2021 are not eligible for continuation of their health insurance benefits after providing that the retiree has 15 years of service with the Town immediately preceding retirement.

MOTION FOR CONSIDERATION: To approve amendment to the Personnel Policy

FUNDING SOURCE: n/a

ATTACHMENTS: Personnel Policy updated language

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Article X. Insurance/Retirement Benefits

Section 7. Retiree Health Insurance Benefits

Any employee hired before January 1, 2021 who, upon retirement, qualifies for a monthly retirement benefit in accordance with the provisions of the North Carolina Local Government Employees' Retirement System (NCLGERS) may be eligible for a continuation of their individual health insurance coverage under the Town's group health insurance plan. As a participant in the State Health Plan, former Town employees who now qualify as NCLGERS retirees become eligible for a continuation of health insurance coverage under the guidelines of that Plan. Unless contradicted by the guidelines of the State Health Plan, a NCLGERS retiree from the Town of Black Mountain is eligible for continuation of their health insurance benefits after providing that the retiree has fifteen (15) years of service with the Town immediately preceding retirement. In the event that State Health Plan guidelines for retiree qualification are contradictory to those set forth by this policy, the guidelines of the State Health Plan shall dictate eligibility. The cost of the insurance is paid entirely by the Town for the retiree only and is provided until the expiration of the benefit as prescribed by the guidelines of the State Health Plan. The qualifying employee may also elect to continue dependent coverage under the provisions of the State Health Plan by paying the full amount prescribed by the Plan for the elected dependent coverage. Cost for dependent coverage is deducted directly from the retiree's benefit check by the State Health Plan prior to the monthly remittance.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: May 10, 2021

SUBJECT: Fire Department Career Ladder

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	8E
Department:	Administration
Contact:	Josh Harrold, Town Manager
Presenter:	Josh Harrold, Town Manager

SUMMARY: Staff would like to incorporate a career ladder at the Fire Department. The career ladder will allow current staff to move up based on qualifications. The new career ladder will add Driver Operator to our classification chart as well as add duties and requirements to the Senior Firefighter position. For the current budget this would cost $1,308.75. The total amount for next year's budget would be $17,013.80 which includes the remainder of the $3,000 per position the Town Council agreed to in September 2020 for advanced certifications obtained by the employees.

MOTION FOR CONSIDERATION: To approve the career ladder

FUNDING SOURCE: General Fund

ATTACHMENTS: n/a

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Public Hearing for Voluntary Annexation for 201 and 207 Old toll Road
#O-21-03

AGENDA INFORMATION

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

BRIEF SUMMARY: Brownie and Elizabeth Newman have purchased 201 and 207 Old Toll Road (PIN #'s: 0619-87-6495.00000 and 0619-87-7613.00000). The properties are located outside of city limits and the Newman's would like to place additional structures on the properties and will need additional water from the Town so they are seeking voluntary annexation of these two parcels. The Planning Board heard this request at their November 23, 2020, meeting and all seven members felt that the property is comparable in size to adjacent parcels and would be a good fit to add into the Town.

MOTION FOR CONSIDERATION:

1. To open the public hearing for the proposed voluntary annexation for 201 and 207 Old Toll Road (PIN #'s: 0619-87-6495.00000 and 0619-87-7613.00000).

2. To close the public hearing.

3. To adopt ***Ordinance #O-21-03*** as presented.

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance #O-21-03***, Voluntary Annexation Packet

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Ordinance #O-21-03*** as presented.

LYING & BEING IN BLACK MOUNTAIN TOWNSHIP, BUNCOMBE COUNTY, NORTH CAROLINA; BEING THE 3.443 ACRE TRACT OF PLAT BOOK 213 PAGE 41, BEING THE PROPERTY DESCRIBED IN DEED BOOK 5982 PAGE 1073, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING 1" IRON PIPE, BENT WITH NAIL AT BASE, SAID IRON PIPE HAVING NC GRID COORDINATES OF N: 697,349.35', E: 1,018,816.40' (NAD 83/11), AND BEING A COMMON CORNER OF THE J. RICHARD HUDSON, ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 2161 PAGE 355;
THENCE ALONG AND WITH THE HUDSON PROPERTY N 82°25'44" W, 134.82' TO A CAPPED EXISTING IRON PIPE, THE NORTH EAST CORNER OF THE PROGRESS ENERGY OF THE CAROLINAS PROPERTY (FORMERLY KNOWN AS CAROLINA POWER & LIGHT COMPANY) AS DESCRIBED IN DEED BOOK 1006 PAGE 413; THENCE ALONG AND WITH THE PROGRESS ENERGY OF THE CAROLINAS PROPERTY N 82°25'44" W, 255.24' TO AN EXISTING IRON PIPE IN THE EASTERN LINE OF THE STEPHEN SCOTT HAMMOND PROPERTY AS DESCRIBED IN DEED BOOK 5970 PAGE 811, AND BEING THE SOUTH EAST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED. THENCE ALONG AND WITH A LINE OVERLAPPING WITH THE HAMMOND PROPERTY N 82°25'44" W, 5.57' TO A POINT, THE SOUTH WEST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED;
THENCE ALONG AND WITH A LINE OVERLAPPING WITH THE HAMMOND PROPERTY N 04°18'16" E, 15.78' TO A POINT, THE NORTH WEST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED, AND SOUTH EAST CORNER OF THE JAMES DAVID HUTCHINS PROPERTY AS DESCRIBED IN DEED BOOK 3952 PAGE 694, SAID POINT LYING N 87°47'49" W 5.48' FROM AN ANGLE IRON AT A LOCUST POST; THENCE ALONG AND WITH THE HUTCHINS PROPERTY N 04°18'16" E, 134.11' TO A POINT AT THE SOUTHERN MARGIN OF THE PLATTED RIGHT OF WAY SHOWN AS "BROOK AVENUE" PER PLAT BOOK 12 PAGE 27, AND NORTH EAST CORNER OF SAID HUTCHINS PROPERTY, SAID POINT LYING S 84°16'04" E 5.60' FROM AN EXISTING ¾" IRON PIPE WITH PINCHED TOP; THENCE ALONG AND WITH THE EASTERN MARGIN OF SAID PLATTED RIGHT OF WAY N 04°18'16" E, 27.17' TO AN EXISTING ¾" IRON PIPE, SOUTH WEST CORNER OF THE HEATH O. TWEED PROPERTY AS DESCRIBED IN DEED BOOK 5590 PAGE 556; THENCE ALONG AND WITH THE TWEED PROPERTY THE FOLLOWING TWO CALLS: S 82°58'15" E, 130.05' TO AN EXISTING #5 IRON REBAR, SAID IRON REBAR LYING S 00°38'39" W 8.00' FROM AN EXISTING ¾" IRON PIPE; THENCE N 04°15'11" E, 184.31' TO AN EXISTING #5 IRON REBAR WITH ½" IRON PIPE WITNESS IN THE SOUTHERN LINE OF THE WILLIAM C. HONEYCUTT, JR. ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 1249 PAGE 459 & DEED BOOK 765 PAGE 475; THENCE ALONG AND WITH THE HONEYCUTT PROPERTY S 82°58'48" E, 385.32' TO AN EXISTING 1" IRON PIPE IN THE WEST LINE OF THE ALBERT R. & JESSICA D. ADKINS PROPERTY AS DESCRIBED IN DEED BOOK 1820 PAGE 229; THENCE ALONG AND WITH THE ADKINS PROPERTY S 00°18'03" E, 110.18' TO AN EXISTING #5 IRON REBAR WITH ID CAP "NIELSON & WATTS", NORTH WEST CORNER OF THE GLENDA WHITSON BORNER PROPERTY AS DESCRIBED IN DEED BOOK 4366 PAGE 408; THENCE ALONG AND WITH THE BORNER PROPERTY THE FOLLOWING THREE CALLS S 52°53'50" W, 149.93' TO AN EXISTING #5 IRON REBAR WITH ID CAP "NIELSON & WATTS" IN BETWEEN TWO CHAIN LINK FENCES; THENCE S 32°49'22" E, 85.98' TO AN EXISTING #5 IRON REBAR WITH ID CAP "NIELSON & WATTS"; THENCE S 32°49'22" E, 14.02' TO A POINT IN OLD TOLL ROAD (SR 2527); THENCE ALONG A LINE WITHIN OLD TOLL ROAD (SR 2527) S 18°47'06" W, 102.66' TO A POINT IN THE NORTH LINE OF THE J. RICHARD HUDSON ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 2161 PAGE 355; THENCE ALONG AND WITH THE HUDSON PROPERTY THE FOLLOWING TWO CALLS N 56°14'37" W, 29.53' TO AN EXISTING ¾" IRON PIPE; THENCE N 56°14'37" W, 28.71' TO AN EXISTING 1" IRON PIPE, BENT WITH NAIL SET AT BASE, THE POINT AND PLACE OF BEGINNING, HAVING AN AREA OF 3.443 ACRES.

THE FOREGOING DESCRIPTION IS BASED UPON A SURVEY BY JOHN WESLEY COLE, NC PLS #L-4561 OF COLE SURVEYING & DESIGN, PA, ENTITLED “TOWN OF BLACK MOUNTAIN VOLUNTARY ANNEXATION OF THE PROPERTY OF BROWNIE W. & ELIZABETH D. NEWMAN”, REVISION DATE 2/17/2021, HAVING PROJECT #20-147.

ALL BEARINGS ARE REFERENCED TO NC GRID NORTH (NAD 83/11), AND ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US SURVEY FEET.

VOLUNTARY ANNEXATION PETITION FORM

To: The Town of Black Mountain Board of Aldermen

Date: 2-2-2021

We, the undersigned, being all of the owners of the real property described herein, respectfully request that the area described herein be annexed to the Town of Black Mountain pursuant to the provisions of G.S. 160A-31.

The area to be annexed is ☑ **contiguous** ☐ **non-contiguous** to the existing Town Limits and the boundaries of such territory are as indicated on the attached map and description.

Parcel Identification Number(s): 0619 8776 1300000 and 0619876495 00000

Current County Zoning District: Buncombe County R-1

Town Zoning District designation requested: UR-8

Buncombe County property tax valuation: $187,100 and $81,300

Do you declare vested rights*? ☐ yes ☑ no

*We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate "yes" and attach proof.)

Are you requesting water service from the Town of Black Mountain? ☑ yes ☐ no

Number of existing residential dwelling units: 1 Number of commercial units: 1

A legal description of the area, complete copy of the last deed of record for each parcel of property to be annexed, and copies of the draft annexation plat prepared by a registered land surveyor are attached. We have also provided the following for your additional information: Please feel free to attach any additional information you feel may help the Board of Aldermen in determining the appropriateness of annexing this parcel into the Town of Black Mountain.

Property Owner(s): Address: Signature: Date:

All property owners must sign this petition including husband and wife if jointly owned. Add other sheets as needed.

Brownie and Elizabeth Newman

285 Montford Ave., Asheville NC 28801

Brownie Newman 2-2-2021

Elizabeth Newman 2-2-2021

Please Return Completed Applications to the Town of Black Mountain Planning and Development Department, 160 Midland Avenue, Black Mountain, NC 28711, (828) 419-9300.

NOTES

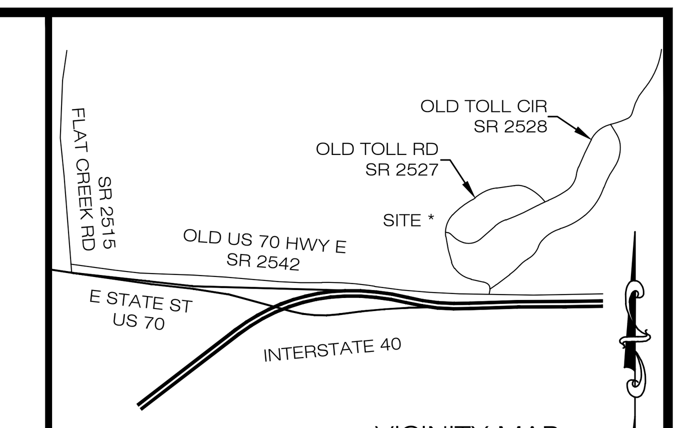
1. THE PROPERTY OR PROPERTIES DISPLAYED WERE SURVEYED WITHOUT THE BENEFIT OF A TITLE SEARCH AND MAY NOT SHOW ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, ENCUMBRANCES, ETC. (WRITTEN OR UNWRITTEN) THAT WOULD BE REVEALED BY A CURRENT AND THOROUGH EXAMINATION OF TITLE BY A NC LICENSED ATTORNEY-AT-LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, ZONING, TITLE, OR GUARANTEE THAT THE SUBJECT IS FREE FROM ENCUMBRANCES.
2. ADJOINING PROPERTY OWNER INFORMATION TAKEN FROM THE BUNCOMBE COUNTY GIS WEBSITE AND DEEDS AND PLATS OF RECORD AS NOTED.
3. AREA SHOWN HEREON WAS COMPUTED BY THE COORDINATE METHOD.
4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US FEET UNLESS OTHERWISE NOTED.
5. THIS PROPERTY IS ZONED R-1 BY BUNCOMBE COUNTY HAVING SETBACKS AS FOLLOWS: 10' FRONT, 7' SIDE, & 15' REAR (WITH PUBLIC SEWER) (SETBACKS NOT PLOTTED) **PLEASE REFER TO THE BUNCOMBE COUNTY ZONING ORDINANCE FOR ALL REGULATIONS APPLICABLE TO THE SUBJECT PROPERTY.*
6. BY GRAPHICAL LOCATION, PROPERTY IS SHOWN AS LYING OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN PER FEMA FIRM MAP NO. 3710061900J, EFFECTIVE DATE 1/6/2010.
7. THIS SURVEY IS SUBJECT TO ANY AND ALL UNDERGROUND UTILITIES THAT MAY EXIST. UNDERGROUND UTILITIES SHOWN HEREON ARE BASED SOLELY ON ABOVE GROUND STRUCTURES AND APPURTENANCES. THIS SURVEYOR MAKES NO CERTIFICATION TO THE EXISTENCE/NON-EXISTENCE OF UNDERGROUND UTILITIES, STORAGE FACILITIES, OR OTHER UNDERGROUND STRUCTURES AND LINES. DIAL 811 BEFORE DIGGING.
8. ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER/DEVELOPER'S RESPONSIBILITY TO HAVE THE AREAS DESIGNATED BY PROFESSIONALS AUTHORIZED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.
9. NOTED TAX PARCEL LINES PER BUNCOMBE COUNTY GIS ARE APPROXIMATE, NOT SURVEYED. NO DEED OF RECORD FOUND OR PROVIDED FOR NOTED TAX PARCEL LINES.
10. REVISION 2/17/21 UPDATES OWNERSHIP INFORMATION FOR SUBJECT & ADJOINING PROPERTIES, AND PREPARES ANNOTATION OF PLAT FOR VOLUNTARY ANNEXATION BY THE TOWN OF BLACK MOUNTAIN. NO ADDITIONAL FIELD LOCATIONS PERFORMED THIS SURVEY, REVISION IS ANNOTATIVE ONLY.

LINE	BEARING	DISTANCE
L1	S 87°47'49" E	5.48'
L2	S 04°00'12" W	16.30'
L3	N 39°56'47" E	6.10'
L4	N 84°16'04" W	5.60'
L5	S 84°03'25" E	1.71'

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	133.76'	53.56'	N 21°19'24" E	53.20'
C2	15.50'	24.95'	N 04°45'19" W	22.35'
C3	15.50'	24.35'	N 84°07'24" E	21.92'
C4	122.50'	90.42'	N 60°16'06" E	88.38'
C5	77.50'	57.20'	S 60°16'06" W	55.91'
C6	77.50'	38.99'	S 24°42'34" W	38.58'

THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

1. CLASS OF SURVEY: CLASS A (HORIZONTAL)
2. POSITIONAL ACCURACY: 0.04' (H) & 0.02' (V) @ 95% CONFIDENCE
3. TYPE OF GPS FIELD PROCEDURE: RTK (VRS)
4. DATES OF SURVEY: 9/8/2020
5. DATUM/EPOCH: NAD 83 (NSRS 2011) EPOCH 2010.00 (H) & NAVD 88 (V)
6. PUBLISHED/FIXED-CONTROL USED: VRS NETWORK
7. GEOID MODEL: GEOID 18
8. COMBINED GRID FACTOR(S): 0.9997791 (@ LOCALIZED POINT)
9. UNITS: US SURVEY FOOT



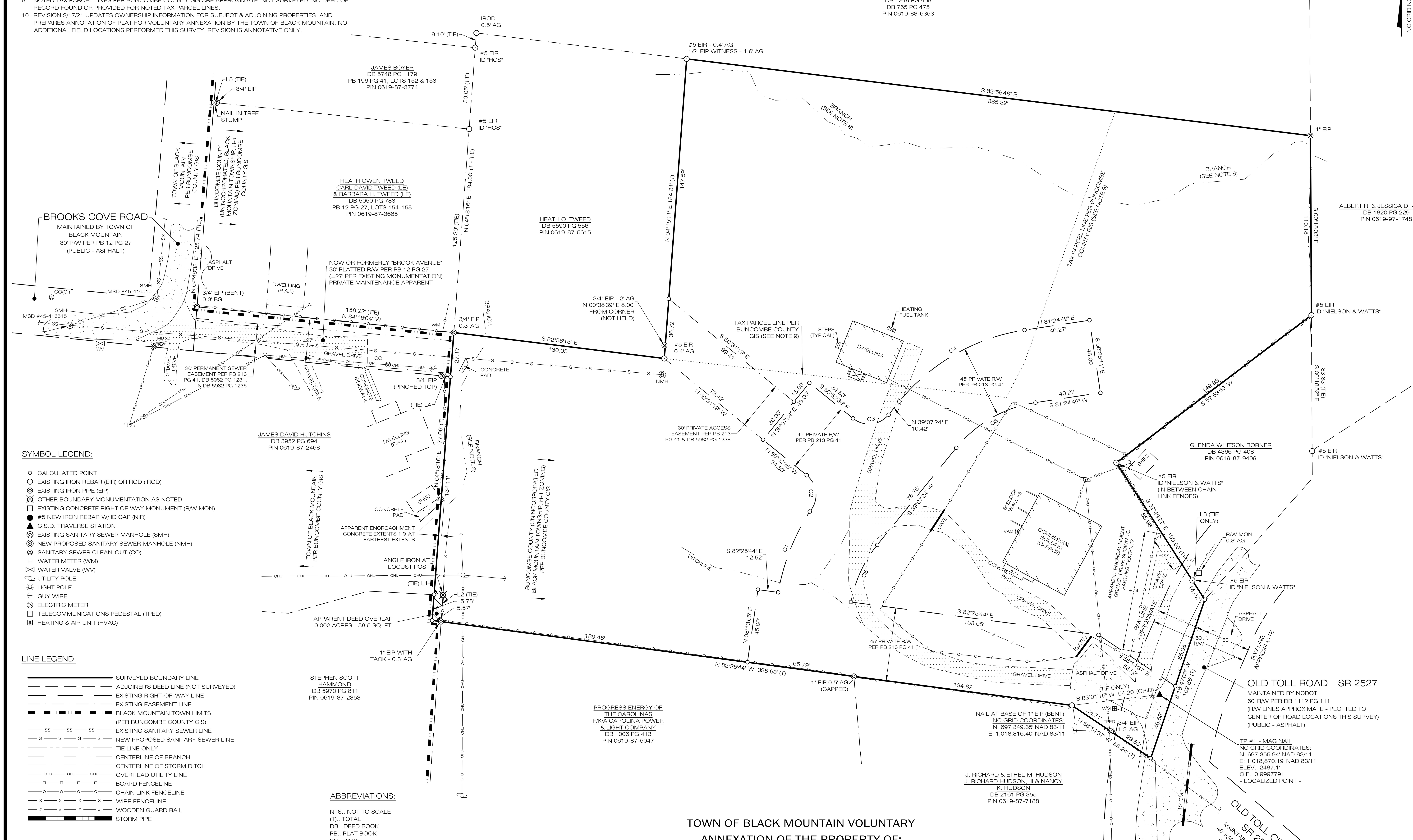
VICINITY MAP
(N.T.S.)

AREA OF SURVEY
3.443 ACRES
BEING
DB 5982 PG 1073
PB 213 PG 41
PIN 0619-87-6495 & 0619-87-7613

REFERENCES:

DB 5982 PG 1073
DB 1475 PG 264
DB 1112 PG 111

PB 12 PG 27
PB 196 PG 41
PB 213 PG 41



SYMBOL LEGEND:

- CALCULATED POINT
- EXISTING IRON REBAR (EIR) OR ROD (IROD)
- EXISTING IRON PIPE (EIP)
- OTHER BOUNDARY MONUMENTATION AS NOTED
- EXISTING CONCRETE RIGHT OF WAY MONUMENT (R/W MON)
- #5 NEW IRON REBAR W/ ID CAP (NIR)
- C.S.D. TRAVERSE STATION
- EXISTING SANITARY SEWER MANHOLE (SMH)
- NEW PROPOSED SANITARY SEWER MANHOLE (NMH)
- SANITARY SEWER CLEAN-OUT (CO)
- WATER METER (WM)
- WATER VALVE (WV)
- UTILITY POLE
- LIGHT POLE
- GUY WIRE
- ELECTRIC METER
- TELECOMMUNICATIONS PEDESTAL (TPED)
- HEATING & AIR UNIT (HVAC)

LINE LEGEND:

- SURVEYED BOUNDARY LINE
- ADJOINER'S DEED LINE (NOT SURVEYED)
- EXISTING RIGHT-OF-WAY LINE
- EXISTING EASEMENT LINE
- BLACK MOUNTAIN TOWN LIMITS (PER BUNCOMBE COUNTY GIS)
- EXISTING SANITARY SEWER LINE
- NEW PROPOSED SANITARY SEWER LINE
- TIE LINE ONLY
- CENTERLINE OF BRANCH
- CENTERLINE OF STORM DITCH
- OVERHEAD UTILITY LINE
- BOARD FENCELINE
- CHAIN LINK FENCELINE
- WIRE FENCELINE
- WOODEN GUARD RAIL
- STORM PIPE

ABBREVIATIONS:

NTS...NOT TO SCALE
(T)...TOTAL
DB...DEED BOOK
PB...PLAT BOOK
PG...PAGE
PIN...PARCEL IDENTIFICATION NUMBER
NAD...NORTH AMERICAN DATUM
NAVD...NORTH AMERICAN VERTICAL DATUM
NSRS...NATIONAL SPATIAL REFERENCE SYSTEM
AG...ABOVE GRADE
BG...BELOW GRADE
R/W...RIGHT OF WAY
P.A.I...PER AERIAL IMAGERY (LOCATION APPROXIMATE)
ID...SURVEYOR'S IDENTIFICATION CAP
HCS...HIGH COUNTRY SURVEYORS
LE...LIFE ESTATE
M.S.D...METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY

COLE SURVEYING & DESIGN, PA
549 ELK PARK DRIVE, SUITE 707
ASHEVILLE, NC 28804
PHONE: 828-251-7025
NC FIRM #C-3106 | SC COA #4052

TOWN OF BLACK MOUNTAIN VOLUNTARY
ANNEXATION OF THE PROPERTY OF:

BROWNIE W. & ELIZABETH D. NEWMAN

ANNEXATION FILE # XXXX

BLACK MOUNTAIN TOWNSHIP, BUNCOMBE COUNTY, NC

EXEMPT FROM THE BUNCOMBE COUNTY LAND DEVELOPMENT AND SUBDIVISION ORDINANCE.

DATE ____________ COUNTY PLANNER ____________

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, ______________________, REVIEW OFFICER OF BUNCOMBE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

____
REVIEW OFFICER

____
DATE

PRELIMINARY: NOT FOR RECORDATION, SALES OR CONVEYANCES

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, JOHN WESLEY COLE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 5982 PAGE 1073); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK N/A, PAGE N/A; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL ON THIS DATE ____________.

I ALSO HEREBY CERTIFY THAT THIS SURVEY IS OF THE FOLLOWING CATEGORIES AS DESCRIBED IN G.S. 47-30(f)(11)(d): THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

PRELIMINARY

____
JOHN WESLEY COLE, P.L.S. L-4561

DATE OF PLAT: 9/16/2020	REVISIONS			
DATE OF SURVEY: 9/8/20 - 9/14/20	NO.	DATE	DESC.	BY
PROJECT NO.: 20-147	1.	2/17/21	VOLUNTARY ANNEXATION	ADW
FIELD WORK: CH/BM				
DRAWN BY: ADW				
SCALE: 1" = 30'				
PIN: 0619-87-6495 & 0619-87-7613				

ORDINANCE #0-21-03

AN ORDINANCE ANNEXING THAT PROPERTY OF BROWNIE AND ELIZABETH NEWMAN AS SHOWN ON THAT PLAT RECORDED IN PLAT BOOK 0213 AT PAGE 0041 INTO THE TOWN OF BLACK MOUNTAIN

WHEREAS, Brownie and Elizabeth Newman have requested that the Town of Black Mountain annex that property owned by Brownie and Elizabeth Newman and described as that 1.443 acre tract of land shown on that plat recorded in Plat Book 0213 at Page 0041, Buncombe County Registry; and

WHEREAS, Brownie and Elizabeth Newman own all of the property proposed to be annexed and submitted an application in their name and signed by them, so that such application and petition is signed by or on behalf of all the property owners as required by N.C.G.S. 160A-31 et seq.; and

WHEREAS, The Town Clerk has investigated the annexation petition and has certified that she found as a fact that the petition was signed by all owners of the property lying within the area to be annexed; and

WHEREAS, Brownie and Elizabeth Newman have asserted no vested rights that they wish to retain after annexation; and

WHEREAS, a public hearing was held by the Town Council of the Town of Black Mountain after proper notice was given to the public and the parties; and

WHEREAS, the Town of Black Mountain will benefit from annexation of the proposed area to be annexed in that its annexation will allow the Town to regulate development and ensure a use of such property that is beneficial to the area where it is located and not be detrimental to the properties surrounding it.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Black Mountain, North Carolina, that the property described as being all of that 1.443 acre parcel of land shown on that plat record in Plat Book 0213 at Page 0041, Buncombe County Registry, is hereby annexed and made a part of the corporate limits of the Town of Black Mountain, North Carolina.

This ordinance shall become effective on the 10th day of May, if confirmed by the Town Council at its regular meeting in May, 2021. In the absence of a majority vote of the Council to confirm this ordinance at that meeting, it shall become void and have no force or effect.

I move the adoption of the foregoing ordinance.

____

Council Member

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 10th day of May, 2021.

____
Larry Harris, Mayor

ATTEST:

____
Savannah Parrish, Town Clerk

Approved as to form:

____
Ronald Sneed, Town Attorney

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Public Hearing for Rezoning of 201 and 207 Old Toll Road

#Z-O-21-01

AGENDA INFORMATION

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

BRIEF SUMMARY: Brownie and Elizabeth Newman have purchased 201 and 207 Old Toll Road (PIN #'s: 0619-87-6495.00000 and 0619-87-7613.00000). The properties are located outside of city limits and the Newman's would like to place additional structures on the properties and will need additional water from the Town so they are seeking voluntary annexation of the two parcels. The Newman's would like the Town zoning designation of UR-8 (urban residential) if the property is annexed. The Planning Board heard this request at the regular meeting on March 22, 2021 and voted 7-0 to recommend the UR-8 zoning designation as the property is reasonably sized compared to adjacent parcels, will not have a negative impact to neighbors, is consistent with the comprehensive plan, and the uses in the proposed district are comparable to the uses surrounding the parcels.

MOTION FOR CONSIDERATION:

1. To open the public hearing to rezone 201 and 207 Old Toll Road from R-1 to UR-8.

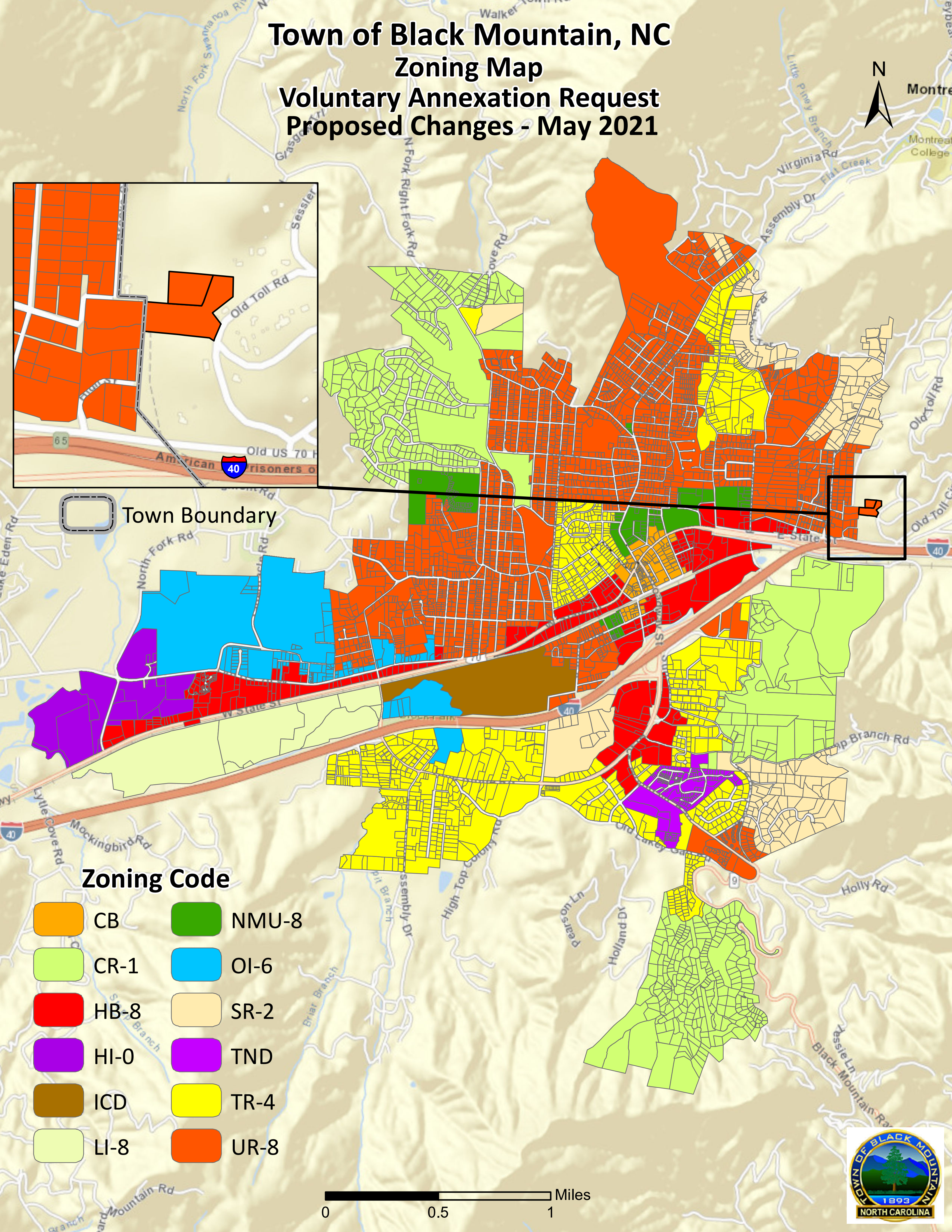
2. To close the public hearing.

3. To adopt ***Zoning Ordinance #Z-O-21-01*** (statement of consistency included) to rezone 201 and 207 Old Toll Road from R-1 to UR-8.

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance #Z-O-21-01***, Rezoning Application, Rezoning Map, Aerial Map

MANAGER'S COMMENTS AND RECOMMENDATIONS: To adopt ***Zoning Ordinance #Z-O-21-01*** to rezone the properties as presented.


Town of Black Mountain, NC
Zoning Map
Voluntary Annexation Request
Proposed Changes - May 2021
N
Town Boundary
Zoning Code
CB
CR-1
HB-8
HI-0
ICD
LI-8
NMU-8
OI-6
SR-2
TND
TR-4
UR-8
0
0.5
1
Miles
TOWN OF BLACK MOUNTAIN
1893
NORTH CAROLINA
Old Toll Rd
Old US 70 H
Virginia Rd
Assembly Dr
Flat Creek
Little Piney Branch
N Fork Right Fork Rd
North Fork Swannanoa Riv
Walker
Montreat College
North Fork Rd
W State St
E State St
Mockingbird Rd
Lytle Cove Rd
High Top Colony Rd
Holland Dr
Pearson Ln
Holly Rd
Black Mountain Rd
Jessie Ln
Sessler
65
40
70
9

ORDINANCE NO. #Z-O-21-01

AN ORDINANCE AMENDING THE ZONING MAP FOR PROPERTY LOCATED AT 201 AND 207 OLD TOLL 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 TOWN COUNCIL 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 0619-87-6495 and PIN 0619-87-7613, recorded in Deed Book 0213, Page 0041 and currently owned by Brownie and Elizabeth Newman, from R-1 to Urban Residential (UR-8). 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 10th day of May, 2021.

Savannah Parrish, Town Clerk

Larry Harris, Mayor

Approved as to form

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street ***#R-21-06***

AGENDA INFORMATION

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

BRIEF SUMMARY: The Planning Board has submitted a petition to close a larger area of the right-of-way between Goldmont Street and W. College Street. The requested portion runs from north Goldmont Street to the intersection of Ash Street and Central Avenue. The requested closure is approximately 900 feet in the length and 15 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. The Planning Board recommended the closure with a vote of 5-1 at the February 22, 2021 meeting.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Resolution #R-21-06*** to Close Unopened, Platte Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street.

2. To close the public hearing.

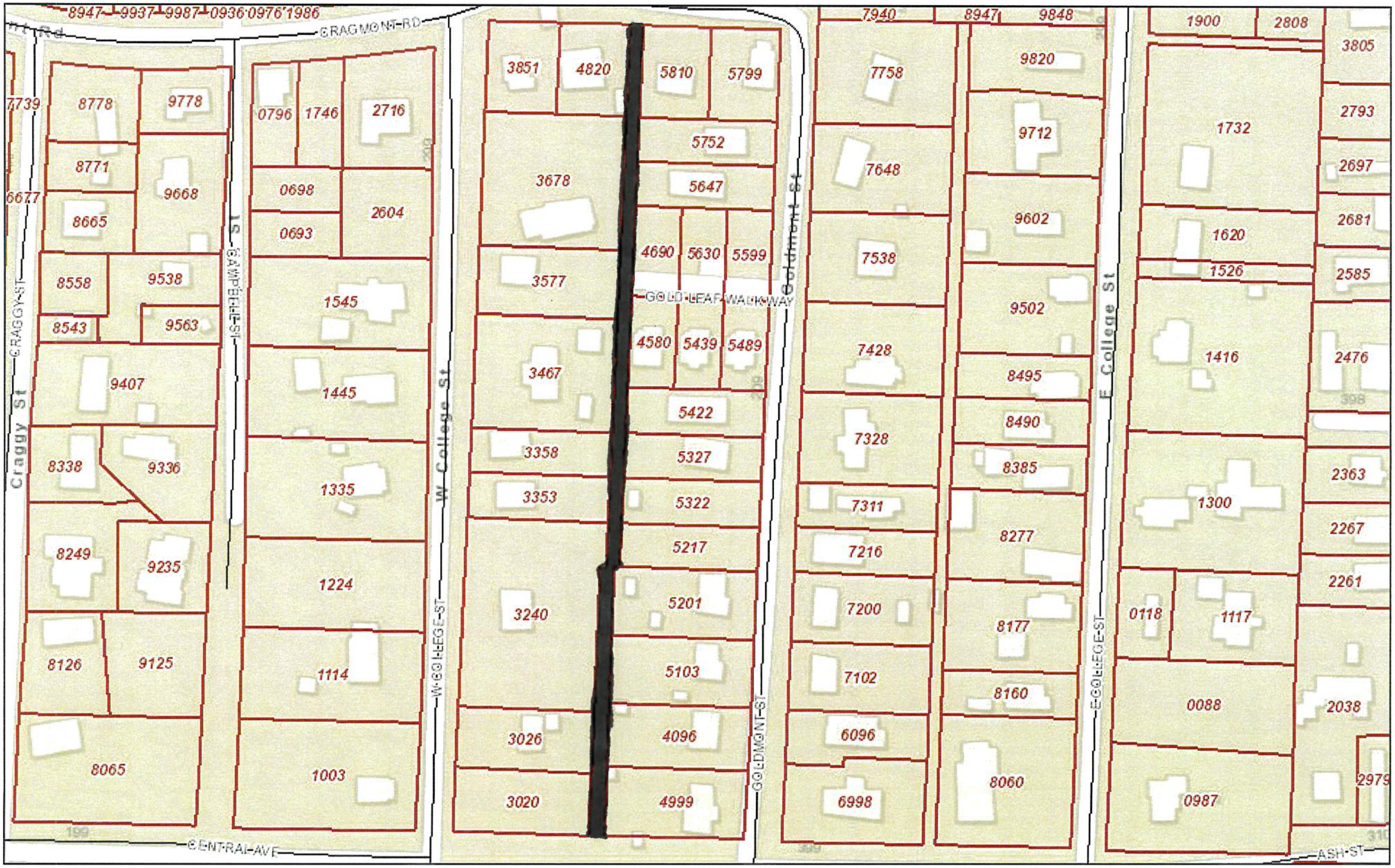
3. To approve ***Resolution #R-21-06*** for the right-of-way closure.

FUNDING SOURCE: N/A

ATTACHMENTS: ***Resolution #R-21-06,*** Map

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Resolution #R-21-06*** as presented.

Buncombe County



February 10, 2021

1:2,257

0 0.0175 0.035 0.07 mi

0 0.03 0.06 0.12 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

RESOLUTION #R-21-06

RESOLUTION TO CLOSE A PORTION OF AN UNOPENED, PLATTED RIGHT-OF-WAY PARALLEL AND BETWEEN W. COLLEGE STREET AND GOLDMONT STREET

WHEREAS, the Town of Black Mountain Planning Board has initiated a petition to close that unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street; and

WHEREAS, the Planning Board for the Town of Black Mountain did recommend that the street be closed; and

WHEREAS, the Town of Black Mountain has the authority to close dedicated streets within its jurisdiction on its own motion pursuant to N.C.G.S. 160A-299; and

WHEREAS, the unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street to be closed is more particularly described as follows:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEING all of that fifteen-foot wide alley located in that portion of Block G as shown on a plat of the Methodist Colony Company recorded in Plat Book 198 at Page 20, Buncombe County Registry, bounded on the North by Chicago Avenue, on the East by Goldmont Street, on the South by Central Avenue, and on the West by West College Street, said alley having as its eastern boundary the following described line:

BEGINNING at a point located in the northeastern corner of Lot 95, Block G, as laid down and shown on that Plat recorded in Plat Book 198 at Page 20, Buncombe County Registry, and running thence along and with the eastern boundary of Lots 95 thru 106, Block G, as shown on said plat, South 2° 30’ West 600 feet to a point in the northern boundary of Lot 82, Block G, as shown on said plat; thence continuing South through said Lot 82 along and with the southeastern boundary of those properties described in Deed Book 1135 at Page 755, Deed Book 5555 at Page 1786, and Deed Book 1181 at Page 605, Buncombe County Registry, to a point in the northern margin of Central Avenue as laid down and shown on said Plat

WHEREAS, the Town Council of the Town of Black Mountain considered the above referenced request at its regular meeting at 6:00 p.m. on the 8th day of March, 2021 and for good cause shown, the Town Council declared its intent to close the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street; and

WHEREAS, a copy of the resolution adopted by the Town Council at their March 8, 2021 meeting was published in the Black Mountain News for four (4) consecutive weeks; and

WHEREAS, notice of the adoption of the resolution of intent and the public hearing on the closing of the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street was posted at two prominent places along said street no later than April 9, 2021; and

WHEREAS, a public hearing was held to receive public comment at the regular meeting of the Town Council in the Board meeting room in the Town Hall Building on Monday, May 10, 2021 at 6:00 p.m.; and

WHEREAS, it appears to the satisfaction of the Town Council that closing the described unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street is not contrary to the Town, and that no individual owning property in the vicinity of said unopened, platted portion of right-of-way W. College Street and Goldmont Street would be hereby deprived of reasonable means of ingress or egress; but

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that:

1. Pursuant to the North Carolina General Statute Section 160A-299, that unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street described shall be permanently closed to public use.

2. The closing is subject to the retention by the Town of easements for any existing water, sewer, or other existing utility lines.

3. Pursuant to North Carolina General Statute Section 160A-299, a certified copy of this resolution and order shall be filed in the Office of the Register of Deeds for Buncombe County, North Carolina, if and at such time as the contingencies set out above are met.

I move the adoption of the foregoing resolution:

____
Council Member

READ, APPROVED AND ADOPTED, this the 12th day of April, 2021.

ATTEST:

____
Larry Harris, Mayor

____
Savannah Parrish, Town Clerk

____
Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN TOWN COUNCIL
REQUEST FOR COUNCIL ACTION
Meeting Date: May 10, 2021

SUBJECT: Public Hearing for Text Amendments to Open Space Requirements in Major Subdivisions ***#O-21-04***

AGENDA INFORMATION

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

BRIEF SUMMARY: The proposed amendment increases the amount of open space requirements for major subdivisions. The amendment changes the requirement from five percent to fifteen percent and addresses feedback from citizens about providing more greenspace and open space for developments. The Planning Board voted 7-0 to recommended the amendment at their March 22, 2021 meeting and determined that the amendment is consistent with the comprehensive plan because it calls for more open and greenspace and is reasonable and in the public interest because it incorporates concerns from citizens to have more greenspace in developments.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Ordinance #O-21-04*** for amendments to open space requirements in major subdivisions.

2. To close the public hearing.

3. To adopt ***Ordinance #O-21-04*** (statement of consistency included) as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance # O-21-04***

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve ***Ordinance #O-21-04*** as presented.

ORDINANCE #0-21-04

AN ORDINANCE TO AMEND CHAPTER 3, SECTION 3.5.6, OPEN SPACE REQUIREMENTS (MAJOR SUBDIVISIONS ONLY), OF THE TOWN OF BLACK MOUNTAIN LAND USE CODE

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 Town Council 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 amendments are consistent with the comprehensive plan and reasonable in the public interest because it incorporates concerns from citizens and requires more open and green space for subdivisions;

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Town Council find that the land use code text amendment is reasonable and in the public interest because of the following findings:

- Incorporates feedback from citizens to require more open and green space for subdivisions

WHEREAS, the Town Council find that this amendment is consistent with the Town of Black Mountain Comprehensive Plan 2014 update in the following ways:

- Vision Statement 4: Recreation, Parks, and Open Space – requires more open and green space for subdivisions which can be used for passive recreational areas

WHEREAS, after notice duly given, a public hearing was held on May 10, 2021, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 3, Section 3.5.6, of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

Chapter 3

Section 3.5.6 – Open space requirements (major subdivisions only).

A. All major subdivisions must dedicate the equivalent of ~~five~~ **15** percent of the total land area of the original parcel or combination of parcels used in the subdivision as dedicated, common open space.
B. Designation of easements to the town for parks or greenways according to the town's pedestrian plan, greenway master plan or recreation and parks plan may qualify for the dedicated open space requirements but must be approved by the planning board.
C. Land designated as open space on a final plat shall be dedicated to a neighborhood association or other entity, or shall be considered to be offered for dedication to the town. The town may accept control of the open space through:
    1. Express action by the ~~board of aldermen~~ **town council**;
    2. Approval of the final plat with areas specifically dedicated to the Town of Black Mountain for the purpose of open space, park and/or greenway development as accepted by the ~~board of aldermen~~ **town council**; or
    3. Conveyance of fee simple marketable title (unencumbered financially and environmentally) to the property to the town at the time of final plat recordation, subject to approval by the ~~board of aldermen~~ **town council**.
    4. Until such time as the dedication has been accepted, land so offered may be used for open space purposes and be maintained by the underlying or abutting property owner or similarly by an owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.
D. Requirements concerning land dedicated to the town for recreational purposes. The ~~board of aldermen~~ **town council** must approve property dedications being offered to the town for parks and greenways facilities at the time of final plat approval. The ~~board of aldermen~~ **town council** may request review by the recreation and parks commission before making their determination. Dedications should meet the following criteria:
    1. Unity. Dedicated area shall form a single parcel of land, except where the ~~board of aldermen~~ **town council** determines that two or more parcels or a linear easement across multiple parcels would be in the best interest of the public given the type and distribution of space needed to serve the development. In such cases, the ~~board~~ **council** may require that such parcels be connected by a dedicated strip of land or **access easement** be at least 20 feet in width ~~or that an easement for access be grated~~.
    2. Usability. At least on-half of the total land dedicated shall be located outside of areas of special flood hazard, alluvial soils, lakes or other water bodies, and at least 75 percent of the total land dedicated shall be located outside of wetlands. Land dedicated only for greenways need not follow the requirements of this subsection.
    3. Shape. Dedicated land shall be sufficiently shaped and proportional to be usable for proposed recreational facilities and activities, such as greenways, athletic fields, playground area, tennis courts, swimming pools, etc.
    4. Access. Public access to dedicated land shall be provided by adjoining street frontage or by a dedicated public easement which connects the dedicated land to a public street or right-of-way, or from adjacent property, as determined by the ~~board of aldermen~~ **town council**.
    5. Greenway dedications shall be a minimum of 15 feet in width.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 10th day of May, 2021.

____
Larry Harris, Mayor

ATTEST:

____
Savannah Parrish, Town Clerk