



TOWN OF BLACK MOUNTAIN

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

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

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for May 24, 2021
Date: May 17, 2021

The **Town of Black Mountain Planning Board** will meet on **Monday, May 24, 2021, at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

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

1. The proposed agenda;
2. Draft minutes from April 26, 2021;
3. Resolution of Appreciation for Jesse Gardner;
4. Old Toll Road Sketch Plan Review;
5. W. College Street/Goldmont Street Right-of-Way Closure;
6. Buckeye Street Right-of-Way Closure; and
7. Conditional Zoning Proposed Text Amendments.

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

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

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

Anna Stearns



PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

In order to maintain the safety of Town residents, staff, and the Planning Board, the Planning Board regular meeting scheduled for **Monday, May 24, 2021, at 6:00 p.m. will be conducted electronically using Zoom software** in lieu of its in-person meeting. The Town of Black Mountain Town Hall will not be open for this meeting.

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

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

<https://us02web.zoom.us/j/84153988409>

Meeting ID: 841 5398 8409

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

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

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

Meeting ID: 841 5398 8409 followed by the Pound sign (#)

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

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

Email comments to: jennifer.tipton@townofblackmountain.org

Jennifer Tipton
Senior Admin

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Posted to the Town Bulletin Board 04/30/2021
www.townofblackmountain.org



**Planning Board Regular Meeting
May 24, 2021**

PROPOSED AGENDA

I. CALL TO ORDER

- Welcome
- Determination of Quorum

II. ADOPTION OF AGENDA

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

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of April 26, 2021 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Resolution of Appreciation – Jesse Gardner
- Old Toll Road Sketch Plan Review
- W. College Street/Goldmont Street Right-of-Way Closure
- Buckeye Street Right-of-Way Closure
- Conditional Zoning Proposed Text Amendments

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

**TOWN OF BLACK MOUNTAIN
PLANNING BOARD**

The Black Mountain Planning Board held its regular meeting on Monday, April 26, 2021, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

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

Chris Collins, Chair
Pam Norton, Vice Chair
Lauronda Teeple
Rick Earley
Chas Fitzgerald
Kathy Phillips

Staff:

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

The meeting was called to order at 6: 04 p.m. and duly constituted and opened for business with a quorum of five (5) regular members. Member Kathy Phillips arrived late to the meeting.

II. ADOPTION OF AGENDA

Chas Fitzgerald made a motion to adopt the agenda as presented. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Chris Collins made a motion to adopt the minutes of March 22, 2021 as written. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Brooks Cove Road Preliminary Plat

Jesse Gardner presented the preliminary plat for Brooks Cove Road. Mr. Gardner noted that there was a typo on the plat and it should say single-family and not multi-family for the proposed use. There are forty-seven lots, which comes out to about 2.8 units an acre. Mr. Gardner did say that an environmental assessment has been done and they have drilled for earthworks.

Chas Fitzgerald asked about the density number being rounded up but the number for open space being exact and Jessica Trotman explained that the Town currently does not have a density calculation in place. The creek will stay in its natural bed and will only be impacted where it needs to be crossed for a road. The stream buffer will be in place on lot twenty-four. Mr. Fitzgerald asked about a fire access turnaround for lots 42-47 and Mr. Gardner explained that they can have one hundred and fifty feet of road before a turnaround is required and they have exactly that and then the last three lots are served by a private driveway. Mr. Fitzgerald asked

Planning Board Regular Meeting
April 26, 2021

about looping the dead-end hiking trail on the east side of the property and Mr. Gardner said that the trail goes up to an overlook and they wanted to keep it long and gradual due to the terrain but they can look at the possibility of looping the trail.

Lauronda Teeple asked about open space and Mr. Gardner explained that the majority of the open space is shown on the bottom edge of the property, south of roads A and B. The gray areas are the stormwater BMP's. Ms. Teeple asked about the possibility of having an arborist come in and check to see if there are any noteworthy trees or flora before clearing the property. Ms. Teeple suggested this due to the amount of public comment received regarding the trees and preserving the natural vegetation. Mr. Gardner said that he feels that is part of the engineer's job to look at when walking the land and making a conscious effort of preserving what they can. They do flag the limits of disturbance and that will be closer to time of construction.

Rick Earley asked about the widening of Brooks Cove Road and if it would be widened all the way to the curve. Mr. Gardner said that they will be adding pavement to the parts of Brooks Cove Road that front their property only. Mr. Gardner said that they do not control the rest of the right-of-way and the right-of-way also varies as the road continues and that it presents legal issues and becomes more difficult if they try to widen areas that they do not control.

Chas Fitzgerald made a motion to approve the preliminary plat with the commitment of looping the trail. The motion was seconded by Rick Earley and approved by a vote of 6-0.

2. Central Avenue/W. College Street/Goldmont Street Right-of-Way Closure Request

Jake Hair said that Mary Griffin Dodd has petitioned the town to close the Central Avenue right-of-way and additional right-of-way between Goldmont Street and W. College Street. The right-of-way for Central Avenue measures approximately three hundred and fifty feet in length and approximately fifty feet wide and the right-of-way between W. College Street and Goldmont Street is approximately one hundred and fifty feet in length and approximately fifteen feet wide. There are no utilities in either right-of-way, neither is designated on any of the master plans for greenways or recreation, there are no drainage areas, and there are no stormwater areas within the rights-of-way.

Chas Fitzgerald expressed concerns over the Central Avenue right-of-way because it is greater than twenty feet and could potentially provide pedestrian access in the future. Chris Collins echoed Mr. Fitzgerald's concerns.

Mary Griffin Dodd, 132 W. College Street, said that all of the neighbors are in agreement of closing both rights-of-way and it currently has fences and is mostly wooded.

Rick Earley said he was also not in favor of giving up the Central Avenue right-of-way. Pam Norton asked if a greenway would really run beside the road and then just stop and said that she was in favor of closing the Central Avenue right-of-way.

Ms. Dodd said that closing the Central Avenue right-of-way would give peace and mind to the neighbors because people wouldn't be walking through there.

The board discussed that issue of pedestrian connection and that it is a long block with no pedestrian connection and it could provide a good connection in the future to the recreation facilities on Swannanoa Avenue.

Chris Collins made a motion to open public comment. The motion was seconded by Pam Norton and approved by a vote of 6-0.

Mike Crowe, 130 Brooks Cove Road, asked about the pavement width for Brooks Cove Road. Due to feedback issues, staff will contact Mr. Crowe regarding his question.

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April 26, 2021

Chris Collins made a motion to close public comment. The motion was seconded by Rick Earley and approved by a vote of 6-0.

Chris Collins made a motion to not recommend the closure of the Central Avenue right-of-way. The motion was seconded by Chas Fitzgerald and approved by a vote of 5-1 with Pam Norton voting against.

Chris Collins made a motion to not recommend the closure of the right-of-way between W. College Street and Goldmont Street. The motion was seconded by Chas Fitzgerald and approved by a vote of 5-0 with Pam Norton abstaining.

Chris Collins made a motion to initiate a petition to close the remainder of the right-of-way between W. College Street and Goldmont Street from the Central Avenue intersection south to US 70 Hwy. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

3. 160D Changes

Jessica Trotman began by saying that staff had worked on the amendments for several months and then sent the amendments to the Town Attorney for them to look at. Ann Stearns said that the purpose of 160D is to consolidate and clarify development regulations for cities and counties and the deadline for compliance is July 1. Ms. Stearns said that there are some changes that were made that are not mandatory but recommended by legal to conform to other law changes or to clarify language. Anna Stearns presented a PowerPoint presentation, which is hereby attached and made a part of these minutes, and the yellow pages are changes that are not related to 160D. Chris Collins made a motion to recommend approval of the suite of amendments presented to promote consistency with 160D as the zoning amendment is consistent with the comprehensive plan and is reasonable and in the public interest and is mandated by the State of North Carolina government that we become consistent with this and it is consistent with the comprehensive plan and reasonable and in the public interest as it aligns our code definitions between building and zoning and creates a scenario wherein our development regulations are more consistent and easier to apply. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman reported that the public comment period for the comprehensive plan has ended and the plan has been tweaked slightly based on the comments received. The Town received five or six written comments and about eight responses to the survey. Ms. Trotman said this is pretty typical when you have heavy community involvement during the first part of the process. The Town Council will be holding a special call meeting in May to have a presentation from the consultant on the plan before the public hearing in June.

VIII. ADJOURNMENT

Pam Norton made a motion to adjourn at 7:26 p.m. The motion was approved by consensus.

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin



Resolution of Appreciation For Jesse Gardner

WHEREAS, Mr. Jesse Gardner has faithfully and professionally served as a member of the Planning Board since June of 2016 until March of 2021; and

WHEREAS, his participation has assisted the Planning Board in making balanced decisions that influence our community; and

WHEREAS, he faithfully attended meetings and participated fully in the Planning Board's deliberations and discussions in order to ensure consideration for all members of the Black Mountain Community; and

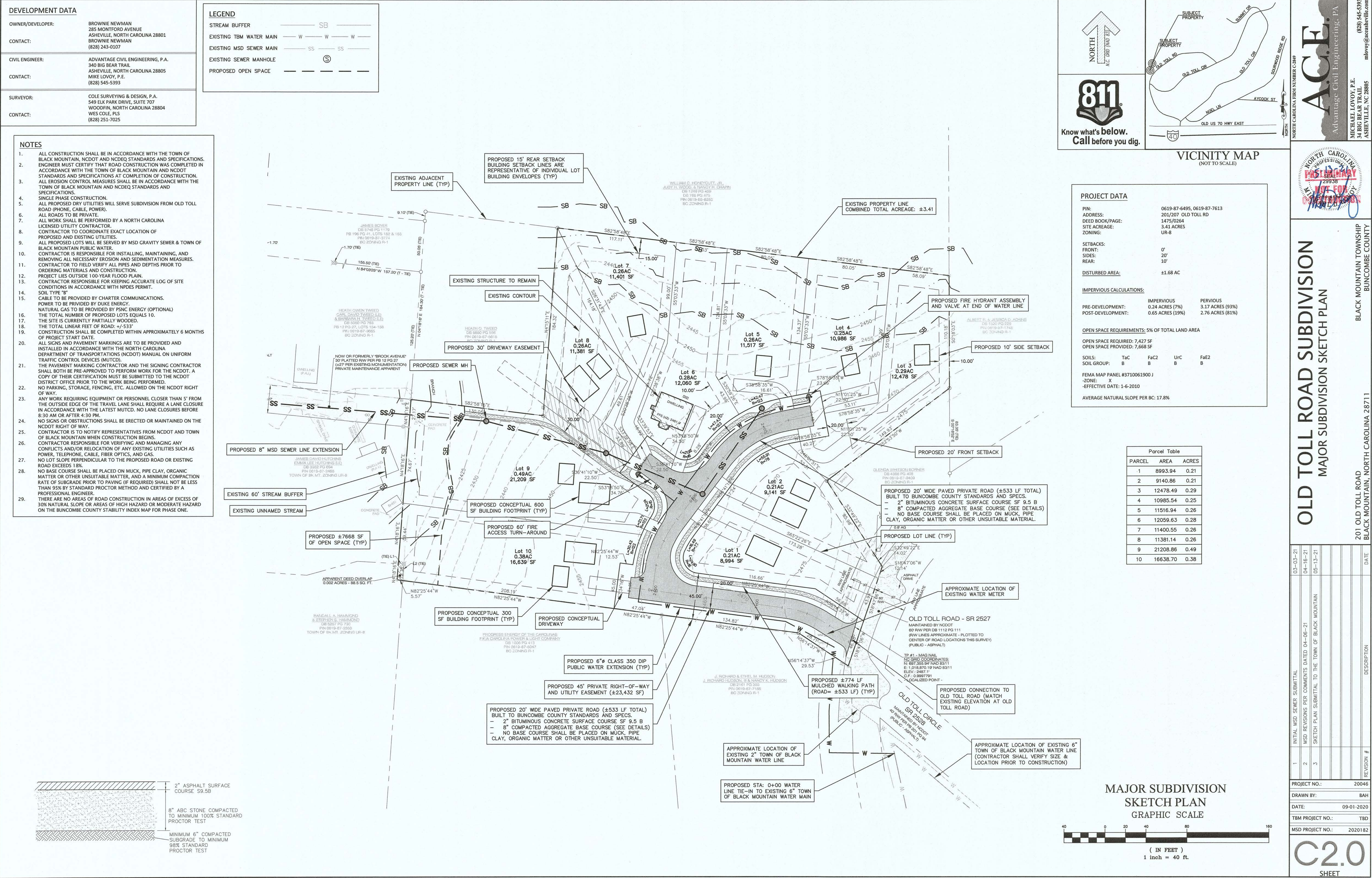
WHEREAS, he has demonstrated a high level of professional knowledge and civic responsibility as a member of the Planning Board;

BE IT THEREFORE RESOLVED BY THE PLANNING BOARD OF THE TOWN BLACK MOUNTAIN That we recognize and appreciate Jesse Gardner for his diligent and effective leadership and service to us and the citizens of Black Mountain.

This resolution was passed unanimously by the Planning Board on this the 24th day of May, 2021.

Chris Collins, Chair

Jennifer Tipton, Senior Admin



From: [Christopher Sloan](#)
To: bhowell@aceasheville.com
Subject: Water Availability
Date: Tuesday, May 11, 2021 9:33:18 AM

At the lot number 6495 on Old Toll Rd we the town have water availability up to Old Toll Cir, the customer will need to tap onto the 6in. Then run their line up to the property.

--

Chris Sloan

Operations Manager
Public Works Department

Town of Black Mountain
304 Black Mountain Ave
Black Mountain, NC 28711

Phone: 828-419-7203
Cell: 828-777-5532





Metropolitan Sewerage District

of Buncombe County, North Carolina

Allocation Approval

**This approval is not to be used to obtain a building permit
and is for gravity sewer extension only.**

Applicant:	BRAD HOWELL	Reviewed & Approved by: Kevin Johnson on 10/26/2020
Company:	ADVANTAGE CIVIL ENGINEERING, PA	
Mailing Address:	34 BIG BEAR TRAIL, ASHEVILLE, NC 28805	
Phone:	828-712-9904 (C)	
Project #:	2020182	
Project Name:	OLD TOLL ROAD SUBDIVISION	
Project Location:	OLD TOLL ROAD (201 & 207)	
PIN:	0619877613 0619876495	

MSD of Buncombe County has approved your request for **4,200 GPD**

The connection point (manhole #) will be

The project will consist of **(14) SINGLE FAMILY HOMES**

Your final approval is contingent upon compliance of the items below:

- A PUBLIC GRAVITY ONLY SEWER EXTENSION IS REQUIRED. Please submit plans for review and permitting. Permit to extend the sewer will not be issued until off-site easements have been recorded . Please contact Kevin Johnson at (828)-225-8289.
- Multiple off-site easements will be required. The first one is in an unmaintained road right of way. The second one is across a lot owned by Tweed between end of unmaintained right of way and lot 10. Easements must be a minimum of 20 feet wide and initially between the developer and property owner(s).
- The second homes on lots 1 - 4 may connect to the 4-inch private sewer service line of the primary residence if the municipality having jurisdiction approves the second houses as Accessory Dwelling Units (ADU).

Comments:

- *MSD Planning & Development staff must review and approve easement plat and agreement prior to recording.
- *After easements have been recorded, sewer service applications must be completed with facility/impact fees paid prior to issuance of building permits.
- *Easements to be conveyed to MSD at sewer closeout.

The North Carolina Department of Environmental Quality (NCDEQ) requires MSD to issue this approval based on line condition/capacity of the receiving sewer and remaining plant capacity.

This allocation approval will expire on **10/26/2021** if no construction has started.

If you have any questions, please contact MSD.

Kevin Johnson
MSD Planning and Development



Town of Black Mountain
Building, Planning and Zoning

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

Date: May 24, 2021

To: Black Mountain Planning Board

From: Planning Staff

RE: Southern Portion of West College and Goldmont Street Alley Closure Request

Please find pertinent information attached.

Summary:

The Planning board has filed a petition to close the Southern portion of the W. College St and Goldmont St alleyway that runs North and South between properties. The properties that abut the alleyway start at 32 W. College Street and end at 6 Goldmont Street.

Definitions:

The land use defines the following terms:

Abut: Having a common boundary or lot line not separated by a street, alley, railroad or other right-of-way (distinguished from adjacent which can include abutting property or those across a street).

Adjacent: Either abutting or being directly across a street.

Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Right-of-Way: 1) A strip of land acquired by purchase, reservation dedication, forced dedication, prescription, or condemnation and intended to be occupied by a roadway, greenway, sidewalk, railroad, utility, storm sewer, or other uses; and 2) the right of one to pass over the property of another.

3.6.2 Dedication and closures of rights-of-way or land to the town.

- A. Improvements within rights-of-way, open space or easements, such as utility lines, street paving, drainage facilities or stormwater BMP's, sidewalks or trails may be accepted for maintenance by the town upon approval by the town board of aldermen.

Does not apply.

- B. Property owners or other parties of interest may petition for the closure of a right-of-way offering through the planning department. The planning board, planning department, or other government or utility agency may also request the closure of a right-of-way. Rights-of-way closures shall follow these procedures:
 - 1. A right-of-way closure petition is filed with the planning department. Owners of property abutting the right-of-way or portion of the right-of-way requested for closure must sign the petition and pay a fee as established by the board of aldermen. If all owners of the abutting properties do not sign the petition, notice to abutting property owners shall be given as required by G.S. 160A-299. If the request is generated from town staff or a board or commission, the fee shall not apply.

Planning board filed the application.

*N.C.G.S. 160A-299 (a) states that when a city proposed to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, **a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records** and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley.*

2. The planning director or his/her designee will prepare a staff report that includes a map that shows the length of the right-of-way from terminus to terminus, an inventory of uses within the right-of-way (if any utilities, etc.), information on possible future uses from any of the town's adopted plans, and comments from the fire department and place the issue on the next planning board agenda, if the petition is filed two weeks before the date of the next meeting, or otherwise at the next meeting.
 - *The requested alleyway closure is approximately 850' in length and 20' wide per a survey recorded in Plat Book 0198, Page 0020(attached) and per Buncombe County GIS (map attached).*
 - *The alleyway currently contains trees and fences in the portion being requested to close.*
 - *The alleyway does not contain any sewer lines or water lines (maps of both are attached).*
3. Notice of the request and pursuant review of the planning board shall be sent to all abutting property owners, and the notice may be sent to owners of property adjoining any portion of the street affected by a partial right-of-way closure, at the discretion of the planning board or staff.

Notice was sent to all property owners abutting the alleyway on May 14, 2021 by first class mail. A copy of the notice and a list of property owners is attached.

4. The planning board will review the request and make recommendation to the board of aldermen to accept the petition for closure, to accept the right-of-way into town control or maintenance, to close any additional area of right-of-way in addition to the petition, or to not accept the petition and leave the right-of-way as an offering.

The request is for the last portion of the alleyway to be closed.

5. The planning board shall consider any or all of the following criteria in making their recommendation for closure of a right-of-way:
 - (a) Alleyway identified is not part of adopted town plans.

The requested alleyway closure is not identified in any of the following plans:

Bike Plan, Comprehensive Plan, Greenway Master Plan, Stormwater Master Plan, Recreation and Parks Master Plan, Pedestrian Plan, Wellhead Protection Plan, Hazard Mitigation Plan or Veteran's Park Master Plan.

- (b) Alleyway is not necessary for current or future utilities.

All utilities are located on Goldmont Street and W. College Street.

- (c) Alleyway in its current condition poses a hazard to public health, safety or welfare.

The alleyway does not pose any hazard to public health, safety or welfare.

- (d) Alleyway is along a drainage that is part of a stormwater management plan.

There are no drainage areas or stormwater plans or systems along or in the alleyway.

- (e) Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.

The alleyway is not identified on the Pedestrian Master Plan or Greenway Master Plan for any type of access.

- (f) Abutting property owners have signed the petition in favor of the closure.

All property owners have been notified by first class mail.

- (g) The planning board shall have 35 days from the date of the first regular meeting of the planning board held after receipt of the request within which to submit a recommendation to the board of aldermen. If the planning board fails to act within the 30-day period, it shall be deemed to support and recommend the requested closure and the petition shall proceed to the board of aldermen.

The planning board has amended the scope or length of the original alleyway closure petition.

6. Planning board recommendation is forwarded to board of aldermen who shall establish a date for a public hearing by adopting a resolution of intent to close. The town attorney shall prepare a description of the right-of-way in question for use in setting the public hearing.

If the planning board recommends the closure, then the next step would be a call for public hearing.

7. Staff shall place the resolution of intent stating the date of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for four successive calendar weeks. Staff shall prominently post the area for closure at two locations with a visible sign indicating the scope of the petition, the date for the public hearing and the phone number of the staff person to contact for information. Staff shall also provide notice by first class mail to all abutting property owners, and may, at the discretion and direction of the aldermen, mail such notice to all owners of property adjoining any portion or all of the street affected by a partial right-of-way closure. Notice shall also be posted to the town website indicating the date and time of the hearing.

Staff will take care of this portion.

8. Board of aldermen holds the public hearing and accepts or rejects the petition for closure.

The public hearing will be advertised and held at a regularly scheduled meeting of the Board of Aldermen.

Town of Black Mountain
North Carolina

Date: April 26, 2021

**TO THE TOWN COUNCIL OF THE
TOWN OF BLACK MOUNTAIN**

We, the undersigned, being (some) (all) of the owners of the property adjoining the street or alley described below, do hereby petition the Town Council of the Town of Black Mountain, to close the following described street or alley:

alley between W College St & Goldmont Street from
Central Ave/Ash St intersection south to US 70 Hwy

The undersigned petitioners do certify that the closing of the above described street or alley will not be contrary to the public interest and that no individual owning property in the vicinity of said street or alley, and if it is located in a subdivision, no individual owning property in said subdivision, will be deprived of reasonable means of ingress and egress to his/her property.

The following persons, in addition to the petitioners, own property adjoining the above described street or alley:

NAME

ADDRESS

see attached list

WHEREFORE, your petitioners respectfully request the Town Council of the Town of Black Mountain to adopt a resolution ordering the closing of the above described street or alley.

Witness our signatures the day and year first above written.

NAME

ADDRESS

PHONE #

Black Mountain Planning Board

vote of 6-0 @ April 26, 2021
mtg to initiate petition
for closure

Chris Collins

Rick Earley

Chas Fitzgerald

Kathy Phillips

Pam Norton

Lauranda Teeple

The following persons, in addition to the petitioners, own property adjoining the above described street or alley: W College Street/Goldmont Street alley from Central Avenue/Ash Street intersection south to US 70 Hwy

Simplified Properties LLC – 132 W College Street
Marick I LLC – 99999 W College Street
Marick I LLC – 128 W College Street
Thomas Chapel AME Zion Church – 124 W College Street
Jonathan & Kelly Stephenson – 120 W College Street
Sarah Dunnigan – 116 W College Street
Brittany Saunders & Leslie Saunders – 114 W College Street
Julia Overton & Alex Kahsar – 110 W College Street
Melanie Accinno & Randall Young – 99999 W College Street
Melanie Accinno & Randall Young – 106 W College Street
Luciana Revocable Living Trust – 102 W College Street
Christina Dooley – 6 Goldmont Street
K L McIntyre LLC – 10 Goldmont Street
Double Fault Investments LLC – 14 Goldmont Street
Wesley Davis – 18 Goldmont Street
Mark & Sharon Riley – 20 Goldmont Street
Alexey V Lyapin – 24 Goldmont Street
Robert & Janis Dickey – 28 Goldmont Street
Terry Dalton & Iris Rolls – 34 Goldmont Street

This map displays a residential area with the following details:

- Streets:**
 - Graggy St (top)
 - Central Ave (right side)
 - W College St (horizontal, with a blue line crossing it)
 - Goldmont St (horizontal)
 - Ash St (right side, vertical)
 - W Washington Ave (vertical, left side)
 - W College St (bottom horizontal)
 - St. Louis St (bottom left, diagonal)
- Property Lots and House Numbers:**
 - Top Section (Graggy St to W College St):**
 - 8808, 9807, 0897, 0786, 0685, 0575, 8586, 7577, 7477, 7366, 9486, 0355, 8242, 9222, 9271, 0212, 0292, 0180, 9089, 9018, 8037, 7057, 7006, 5290, 7241.
 - Middle Section (W College St to Goldmont St):**
 - 3818, 3813, 3709, 2696, 3521, 2551, 2484, 2379, 2374, 2279, 2264, 2153, 4880, 4675, 4564, 4455, 4348, 4340, 4230, 4121.
 - Bottom Section (Goldmont St to Ash St):**
 - 6871, 6752, 6688, 6671, 6624, 6551, 6440, 6239, 6128, 6113, 8853, 8741, 8538, 7394.
 - Bottom Right Section (Ash St to Railroad):**
 - 0817, 1810, 2823, 0654, 0449, 0339, 1440, 2595, 0228, 9037, 0160, 4275, 9480.

A horizontal scale bar with tick marks at 0, 0.0175, 0.035, and 0.07 mi. The text "1:2,257" is centered above the bar.

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

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Richard J P Reeves; Brenda C Reeves	88 Goldmont St	Black Mountain	NC	28711
Felicia Lindsey Borkay	400 S Oconeechee Ave	Black Mountain	NC	28711
David C Carmona; Emily Carmona	16 Mountain Farm Ln	Black Mountain	NC	28711
Michael Glass; Gretchen Leigh Glass	74 Goldmont St	Black Mountain	NC	28711
Charles H Brown Jr; Janet E Blanchard	304 Allen Mountain Dr	Black Mountain	NC	28711
Deese Family Trust	127 Fairway Dr	Black Mountain	NC	28711
James A Full; Courtney Cagney Halcomb	6 Gold Leaf Walk Way	Black Mountain	NC	28711
Christopher David Howe; Cole Baldwin Stanholtz	5 Gold Leaf Walk Way	Black Mountain	NC	28711
Mary W Blakeslee; Sheila Dianne Chandler	212 W College St	Black Mountain	NC	28711
Christian B Maloney; Toshalyn Maloney	PO Box 771	Black Mountain	NC	28711
Marick I LLC	102 Valley Vista Dr	Black Mountain	NC	28711
Henderson Family Revoc Living Trust	29 Madeline Ave	Asheville	NC	28806
Birt T Lytle; Wilma C Lytle	208 W College St	Black Mountain	NC	28711
Carolyn Jackson Myles	206 W College St	Black Mountain	NC	28711
Terry L Kilpatrick; Terri L Kilpatrick	54 Goldmont St	Black Mountain	NC	28711
Ruslana Hundley	90 Patton Cemetery Rd	Swannanoa	NC	28778
Laura Anne Davis	PO Box 336	Black Mountain	NC	28711
Charles V Ledford; Wanda Ledford	42 Goldmont St	Black Mountain	NC	28711
Simplified Properties LLC	132 W College St	Black Mountain	NC	28711
Terry D Dalton; Iris D Rolls	351 Avena Rd	Black Mountain	NC	28711
Thomas Chapel AME Zion Church	124 W College St	Black Mountain	NC	28711
Robert W E Dickey; Janis R Dickey	Cedar House	Kingsdale	Kirkwall	Orkney Scotland
Alexey V Lyapin	555 4th St. #843	San Francisco	CA	94107
Jonathan R Stephenson; Kelly G Stephenson	120 W College St	Black Mountain	NC	28711
Mark C Riley; Sharon D Riley	20 Goldmont St	Black Mountain	NC	28711
Sarah Dunnigan	29 Monticello Rd	Weaverville	NC	28787
Wesley Davis	18 Goldmont St	Black Mountain	NC	28711
Brittany Campbell Saunders; Leslie M Saunders	114 W College St	Black Mountain	NC	28711
Julia Overton; Alex Kahsar	110 W College St	Black Mountain	NC	28711
Double Fault Investments, LLC	210 Southbank Dr	Cary	NC	27518
Melanie M Accinno; Randall Young	106 W College St	Black Mountain	NC	28711

K L McIntyre LLC	57 Yow Dr	Swannanoa	NC	28778
Luciana Revocable Living Trust	207 Fox St	Morganton	NC	28655
Christina M Dooley	PO Box 9233	Asheville	NC	28815



**Town of Black Mountain
Planning & Development**

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

May 10, 2021

Dear Owner,

This correspondence is to notify you that the Planning Board has initiated a petition to close a portion of the right-of-way between Goldmont Street and W. College Street. The petition is to close the right-of-way from the Central Avenue/Ash Street Intersection south to the end of Goldmont Street at US 70 Hwy.

A map has been enclosed to show the portion of the right-of-way that the Planning Board is requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, May 24, 2021 at 6:00 p.m. electronically via Zoom.

The details to access the meeting are below:

Join Zoom Meeting

<https://us02web.zoom.us/j/84153988409>

Meeting ID: 841 5398 8409

OR

888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 841 5398 8409 and then press the pound sign (#)

If you have questions you may contact Jake Hair at (828) 419-9373 or
jake.hair@townofblackmountain.org.

Respectfully,

Jennifer Tipton
Senior Admin

Enclosure (1)



Town of Black Mountain
Building, Planning and Zoning

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

Date: May 24, 2021

To: Black Mountain Planning Board

From: Planning Staff

RE: Part of Buckeye Street Alley Closure Request

Please find pertinent information attached.

Summary:

Thomas Woodbury and Patricia Bane at 201 Swannanoa Ave have filed a petition to close a portion of the unopened alleyway that runs next to their property. The alleyway runs East to West between 201 Swannanoa Ave and the Town of Black Mountains sports park.

Definitions:

The land use defines the following terms:

Abut: Having a common boundary or lot line not separated by a street, alley, railroad or other right-of-way (distinguished from adjacent which can include abutting property or those across a street).

Adjacent: Either abutting or being directly across a street.

Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Right-of-Way: 1) A strip of land acquired by purchase, reservation dedication, forced dedication, prescription, or condemnation and intended to be occupied by a roadway, greenway, sidewalk, railroad, utility, storm sewer, or other uses; and 2) the right of one to pass over the property of another.

3.6.2 Dedication and closures of rights-of-way or land to the town.

- A. Improvements within rights-of-way, open space or easements, such as utility lines, street paving, drainage facilities or stormwater BMP's, sidewalks or trails may be accepted for maintenance by the town upon approval by the town board of aldermen.

Does not apply.

- B. Property owners or other parties of interest may petition for the closure of a right-of-way offering through the planning department. The planning board, planning department, or other government or utility agency may also request the closure of a right-of-way. Rights-of-way closures shall follow these procedures:
 - 1. A right-of-way closure petition is filed with the planning department. Owners of property abutting the right-of-way or portion of the right-of-way requested for closure must sign the petition and pay a fee as established by the board of aldermen. If all owners of the abutting properties do not sign the petition, notice to abutting property owners shall be given as required by G.S. 160A-299. If the request is generated from town staff or a board or commission, the fee shall not apply.

Thomas Woodbury submitted a petition for an alleyway closing request on May 7, 2021. The petition was signed by Thomas Woodbury at 201 Swannanoa Ave. Mr. Woodbury submitted his payment of \$300.00 for the petition. A copy of the petition is attached.

*N.C.G.S. 160A-299 (a) states that when a city proposed to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, **a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records** and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley.*

2. The planning director or his/her designee will prepare a staff report that includes a map that shows the length of the right-of-way from terminus to terminus, an inventory of uses within the right-of-way (if any utilities, etc.), information on possible future uses from any of the town's adopted plans, and comments from the fire department and place the issue on the next planning board agenda, if the petition is filed two weeks before the date of the next meeting, or otherwise at the next meeting.
 - *The requested alleyway closure is approximately 130' in length and 42' wide per a survey recorded in Plat Book 0154, Page 0193(attached) and per Buncombe County GIS (map attached).*
 - *The alleyway currently contains trees in the portion being requested to close.*
 - *The alleyway contains a 4" sewer line.*
3. Notice of the request and pursuant review of the planning board shall be sent to all abutting property owners, and the notice may be sent to owners of property adjoining any portion of the street affected by a partial right-of-way closure, at the discretion of the planning board or staff.

Notice was sent to all property owners abutting the alleyway on May 14, 2021 by first class mail. A copy of the notice and a list of property owners is attached.

4. The planning board will review the request and make recommendation to the board of aldermen to accept the petition for closure, to accept the right-of-way into town control or maintenance, to close any additional area of right-of-way in addition to the petition, or to not accept the petition and leave the right-of-way as an offering.

The request is only for a portion of the alleyway to be closed. The board has the option of closing the remainder of the alleyway, which would be done as a separate application.

5. The planning board shall consider any or all of the following criteria in making their recommendation for closure of a right-of-way:

- (a) Alleyway identified is not part of adopted town plans.

The requested alleyway closure is not identified in any of the following plans: Bike Plan, Comprehensive Plan, Greenway Master Plan, Stormwater Master Plan, Recreation and Parks Master Plan, Pedestrian Plan, Wellhead Protection Plan, Hazard Mitigation Plan or Veteran's Park Master Plan.

- (b) Alleyway is not necessary for current or future utilities.

There are no current plans for using this alleyway for future utilities.

- (c) Alleyway in its current condition poses a hazard to public health, safety or welfare.

The alleyway does not pose any hazard to public health, safety or welfare.

- (d) Alleyway is along a drainage that is part of a stormwater management plan.

There are no drainage areas or stormwater plans or systems along or in the alleyway.

- (e) Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.

The alleyway is not identified on the Pedestrian Master Plan or Greenway Master Plan for any type of access.

- (f) Abutting property owners have signed the petition in favor of the closure.

All of the property owners abutting the portion requested have signed the petition. All other property owners have been notified by first class mail.

- (g) The planning board shall have 35 days from the date of the first regular meeting of the planning board held after receipt of the request within which to submit a recommendation to the board of aldermen. If the planning board fails to act within the 30-day period, it shall be deemed to support and recommend the requested closure and the petition shall proceed to the board of aldermen.

The planning board may also amend the scope or length of the alleyway closure petition as a complimentary petition to the board of aldermen.

6. Planning board recommendation is forwarded to board of aldermen who shall establish a date for a public hearing by adopting a resolution of intent to close. The town attorney shall prepare a description of the right-of-way in question for use in setting the public hearing.

If the planning board recommends the closure, then the next step would be a call for public hearing.

7. Staff shall place the resolution of intent stating the date of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for four successive calendar weeks. Staff shall prominently post the area for closure at two locations with a visible sign indicating the scope of the petition, the date for the public hearing and the phone number of the staff person to contact for information. Staff shall also provide notice by first class mail to all abutting property owners, and may, at the discretion and direction of the aldermen, mail such notice to all owners of property adjoining any portion or all of the street affected by a partial right-of-way closure. Notice shall also be posted to the town website indicating the date and time of the hearing.

Staff will take care of this portion.

8. Board of aldermen holds the public hearing and accepts or rejects the petition for closure.

The public hearing will be advertised and held at a regularly scheduled meeting of the Board of Aldermen.

Town of Black Mountain
North Carolina

Date: APRIL 30, 20

**TO THE BOARD OF ALDERMEN OF THE
TOWN OF BLACK MOUNTAIN**

We, the undersigned, being (some) (all) of the owners of the property adjoining the street or alley described below, do hereby petition the Board of Aldermen of the Town of Black Mountain, to close the following described street or alley:

BUCKEY RD ST SWANNOA AVE INTERSECTION
RUNS ACROSS ST TO 201 SWANNOA AVE

The undersigned petitioners do certify that the closing of the above described street or alley will not be contrary to the public interest and that no individual owning property in the vicinity of said street or alley, and if it is located in a subdivision, no individual owning property in said subdivision, will be deprived of reasonable means of ingress and egress to his/her property.

The following persons, in addition to the petitioners, own property adjoining the above described street or alley:

<u>NAME</u>	<u>ADDRESS</u>
<u>THOMAS WOODBURY</u>	<u>201 SWANNOA AVE</u>
	<u>MAKING - 147 BUCKNER</u>
	<u>RD BLK Mtn - 28711</u>

WHEREFORE, your petitioners respectfully request the Board of Aldermen of the Town of Black Mountain to adopt a resolution ordering the closing of the above described street or alley.

Witness our signatures the day and year first above written.

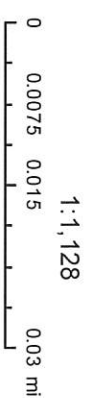
<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
<u>Thomas Woodbury</u>	<u>201 SWANNOA AVE</u>	<u>828-275-1950</u>

RECEIVED MAY 07 2021
check # 5049
JT

Buncombe County



May 7, 2021



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

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Thomas R Woodbury	200 1/2 Swannanoa Ave	Black Mountain	NC	28711
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711
John Miles; Julie E Miles	358 White Pine Dr	Fletcher	NC	28732
George C Joyner; Olive Joyner	2132 Viola Dr	Clearwater	FL	33764
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711

<u>PIN #</u>
0619-05-7250
0619-05-8675
0619-15-1350
0619-15-1349
0619-05-9132



**Town of Black Mountain
Planning & Development**

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

May 10, 2021

Dear Owner,

This correspondence is to notify you that a property owner has initiated a petition to close a portion of the unopened right-of-way of Buckeye Street. The petition is to close approximately 127' of the unopened right-of-way of Buckeye Street.

A map has been enclosed to show the portion of the unopened right-of-way that the petitioner is requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, May 24, 2021 at 6:00 p.m. electronically via Zoom.

The details to access the meeting are below:

Join Zoom Meeting

<https://us02web.zoom.us/j/84153988409>

Meeting ID: 841 5398 8409

OR

888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 841 5398 8409 and then press the pound sign (#)

If you have questions you may contact Jake Hair at (828) 419-9373 or
jake.hair@townofblackmountain.org.

Respectfully,

Jennifer Tipton
Senior Admin

Enclosure (1)

Proposed changes to the Town of Black Mountain Land Use Code to implement conditional zoning:

Section 1. Amend Section 1.4.6 – Technical review required, as follows:

- B. A pre-application consultation and technical review is required for:
1. Work impacting the exterior of any structure within the historic districts;
 2. Major and minor subdivisions;
 3. Special use permits;
 4. Conditional zoning;
 - 4.5. Any work within a flood hazard area as indicated on the FIRM maps;
 - 5.6. Projects within the ICD, OI-6 or CB districts; or
 - 6.7. Projects adjacent to US Highway 70 within the US70 overlay district.

Section 2. Add a new Section 1.5.5 entitled “Application for conditional zoning,” which shall read as follows:

1.5.5 – Application for conditional zoning

- A. *Timing and Submittal of Application.* All applications for conditional district rezoning shall be submitted to the planning and development department by the owner or any other person having a recognized interest in the land for which the development is proposed or their authorized agent. Application forms are available through the on-line portal and on the town's website.
- B. *Content of Application.* Every application for conditional district zoning shall include, at a minimum, the following:
1. A proposed site plan, which shall include:
 - a. the name and address of the owner;
 - b. total acreage of the subject parcel;
 - c. the proposed site layout, including street and lot arrangement; the general location, orientation and size of principal structures; designation of driveways, parking lots, open space, greenways, and stormwater management areas; the location, size and treatment of environmentally sensitive areas; and any existing or proposed easements, utility lines, water lines, or sewer lines;
 2. proposed total density and a summary of the total land area devoted to each type of general use of land;
 3. a full list of the proposed uses consistent in character with the underlying zoning district, whether permitted by right or conditionally;
 4. a proposed development schedule if the development is to proceed in phases;
 5. identification of any required variation from existing regulations of the underlying base zoning district; and
 6. a list of proposed conditions, if any;
 7. the names of all property owners and existing land uses within 200 feet of the boundary of the subject property.

C. *Application fee.* Application fees shall be established by the town council and the required fee must accompany the application. Application fees are nonrefundable except where the application is withdrawn prior to consideration by the planning board.

D. *Technical Review Required.* Every application for conditional district zoning shall conform to the technical review requirements set out in Section 1.4.6 of this Code.

E. *Planning Board review required.* Following the required technical review, the application shall be placed on the agenda for consideration at the next regularly scheduled planning board meeting.

F. *Planning board recommendation.* The planning board shall submit a recommendation to the town council with a statement describing the following:

1. whether the proposed conditional district is consistent with the comprehensive plan and other officially adopted plans, as applicable;
2. the uses to be permitted in the district;
3. any required variation from the regulations of the underlying base zoning district, if any;
4. recommended conditions, if any.

G. *Public hearing required.* Following consideration by the planning board, the application shall be forwarded to the Town Council for public hearing.

H. *Notice of hearing required.* Public notice of the public hearing shall be posted, advertised, and mailed as follows:

1. Staff shall prominently post a notice of the public hearing on the site of the proposed rezoning or on an adjacent street or highway right-of-way within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the town shall post enough notices in strategically visible locations so as to provide reasonable notice to interested persons.

2. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include time and place of hearing.

3. Staff shall mail a notice of the hearing to all property owners within 200 feet of the subject property by first class mail at the last addresses listed for such owners on the county tax records. The notice must be deposited in the mail at least ten but not more than 25 days prior to the date scheduled for the hearing. If this requirement would result in notices being sent to more than 50 different property owners, in lieu of mailed notice, staff may publish a notice of the hearing as an advertisement in a newspaper of general circulation within the Town of Black Mountain, provided that such advertisement shall not be less than one-half of a newspaper page in size and all property owners residing outside the newspaper circulation area must still be notified by mail.

I. *Approval.* The town council may approve or deny the application or may approve the application with reasonable and appropriate conditions attached. Any conditions to be attached must be consented to by the owner of the property in writing. The council shall adopt a brief statement describing whether its action to either approve or deny the proposed rezoning is consistent or inconsistent with the comprehensive plan or any other adopted plan. A certified copy of the ordinance bearing the signature of the property owner to

evidence the property owner's consent shall be recorded in the records of the Buncombe County Register of Deeds within thirty days of approval.

J. *Effect of approval.* Following approval, the applicant may proceed with development pursuant to the approved site plan. If the proposed development involves the subdivision of land, approval of the master plan and conditional zoning designation shall serve as preliminary plat approval for purposes of this Code.

1. *Final approval.* Approval of final plats conforming to the approved master plan shall be approved by the planning director without the need for additional review ordinarily required for subdivisions or special use permits. Appeals from the decision of the planning director to approve or deny a proposed change shall proceed according to Section 1.7 of this Code.

2. *Substantial changes.* Any substantial change to an approved plan shall be reviewed by the planning board and approved or denied by the Town council as a text amendment to the zoning ordinance. The following changes are considered substantial for purposes of this section:

- a. the addition or removal of land from the zone;
- b. The addition or relocation of a building or structure;
- c. Addition or relocation of streets, roads, or driveways not contemplated in the original plan;
- d. Modification of special performance criteria, design standards, or other conditions or requirements specified by the enacting ordinance;
- e. A change in land use or development type beyond that permitted in the enacting ordinance;
- f. An increase in the total number of residential dwelling units; or
- g. An increase of more than ten (10) percent in total floor area of any nonresidential structure.

3. *All other changes.* The planning director shall have the authority to review and either approve or deny any other proposed change to the approved plan of development. Appeals from the decision of the planning director to approve or deny a proposed change shall proceed according to Section 1.7 of this Code.

Section 3. Amend Section 1.9.2 – Site-specific vesting plans, as follows:

1.9.2 – Site-specific vesting plans

A. The following types of development approvals are site-specific vesting plans for purposes of this section:

1. Any development for which a special use permit is required;
2. Major and minor subdivisions;
3. **Conditional zoning designation.**

Section 4. Add a new Section 4.6.2 entitled “Conditional zoning district established,” and renumber subsequent sections, which new section shall read as follows:

4.6.2 - Conditional zoning districts established.

A. Conditional zoning districts are established to provide flexibility in the development of property while ensuring that proposed development is compatible with neighboring uses. Conditional districts allow for

uses or development of land not otherwise permitted in the underlying base district. Conditionally zoned property may be subject to additional conditions, standards and regulations to ensure that the development and use of the property are compatible with the surrounding uses and consistent with the Comprehensive Plan and other plans adopted by the town. Conditional zoning should not be used to relieve hardships that could be resolved by issuance of a variance.

B. *Conditional zoning districts.* The following conditional zoning districts are established:

1. Conservation residential conditional zoning district (CR-1 CZ)
2. Suburban residential conditional zoning district (SR-2 CZ)
3. Town residential conditional zoning district (TR-4 CZ)
4. Urban residential conditional zoning district (UR-8 CZ)
5. Office and institutional conditional zoning district (OI-6 CZ)
6. Neighborhood mixed use conditional zoning district (UR-8 CZ)
7. Central business conditional zoning district (CB CZ)
8. Highway business conditional zoning district (HB-8 CZ)
9. Light industrial conditional zoning district (LI-8 CZ)
10. Heavy industrial conditional zoning district (HI-0 CZ)

C. *General requirements.* The following provisions shall apply in the administration of conditional zoning.

1. No property shall be zoned as a conditional district except upon application of the owner or a duly authorized representative of the owner, pursuant to the procedure set out in Section 1.5.5.
2. A conditional district shall consist of land that will be planned and developed as a single development or as an approved series of development phases. The owner or owners of the property shall be legally capable of ensuring that development of the property will comply with all documents, plans, standards and conditions approved by the Town.
3. All standards and requirements of the corresponding general use zoning district shall be met, except to the extent that the conditions imposed by the conditional zoning may be more or less restrictive than the development standards.
4. Only those uses permitted in the underlying zoning district, whether by right or specially, shall be permitted in the conditional zoning district. Uses not otherwise permitted within the underlying zoning district shall not be permitted within the conditional district.
5. No variance or special use permit may be issued for developments on property subject to a conditional zoning ordinance.

D. *Conditions.*

1. Site-specific standards and conditions may be imposed within a conditional district, provided such standards or conditions are approved by the Town Council and consented to by the petitioner in writing.

2. Standards and conditions may be proposed by the petitioner, by town staff, by recommendation of the planning board, or by the Town Council.

3. Standards and conditions imposed shall be limited to those that address the conformance of the development and use of the site to Town ordinances and plans, or the impacts reasonably expected to be generated by the development or use of the site.

~~4.6.2.~~ 4.6.3. - Overlay districts established.

...

~~4.6.3~~ 4.6.4. - Other requirements.