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 Department
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for September 27, 2021
Date: September 17, 2021

The **Town of Black Mountain Planning Board** will meet on **Monday, September 27, 2021, at 6:00 p.m.** electronically via Zoom.

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

1. The proposed agenda;

2. Draft minutes from August 23, 2021;

3. Proposed Text Amendment – Sign Definitions;

4. Proposed Text Amendment – Sign Ordinance;

5. Proposed Text Amendment – Food Trucks; and

4. Cherry Street Preliminary Plat.

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

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, September 27, 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/83281389269

   Meeting ID: 832 8138 9269

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 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: 832 8138 9269 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 09/01/2021
www.townofblackmountain.org

AVISO PÚBLICO

JUNTA DE PLANIFICACIÓN DE BLACK MOUNTAIN

Con el fin de mantener la seguridad de los residentes de la Ciudad, el personal y la Junta de Planificación, la reunión ordinaria de la Junta de Planificación programada para el **lunes 27 de septiembre de 2021, a las 6:00 p.m.** se llevará a cabo electrónicamente utilizando el software Zoom en lugar de su reunión en persona. El Ayuntamiento de Black Mountain no estará abierto para esta reunión.

Hay tres formas en que el público puede participar en la reunión:

1. **Únase a la reunion a través de Zoom en su computadora o dispositivo inteligente.**
   *Las transmisiones de video ciudadanas no estarán habilitadas. No hay contraseña.

   https://us02web.zoom.us/j/83281389269

   ID de reunión: 832 8138 9269

Si no ha utilizado Zoom antes en una computadora o dispositivo inteligente, le recomienda descargar la aplicación desde su sitio web en Zoom.us/download y probarla antes de la reunión. No hay ningún costo asociado con el software o asistir a la reunión y hay opciones de número gratuito para marcar para escuchar solo en vivo.

2. **Únase a la reunión por teléfono (solo escuchar).**

   Simplemente llame **al número gratuito 1-877-853-5247** o **al número gratuito 1-888-788-0099.**

   ID de reunión: 832 8138 9269 seguido del signo de libra (#)

3. **Envié un correo electrónico o llame a sus comentarios o preguntas antes de la reunión.**

   Llame en comentarios antes de la reunión: Secretario de la Junta de Planificación al 828-419-9371

   Envíes es comentarios por correo electrónico a:
   jennifer.tipton@townofblackmountain.org

Jennifer Tipton
Administrador senior

La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o

un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@townofblackmountain.org.

Publicado en el Tablón de Anuncios municipal 09/01/2021
www.townofblackmountain.org

Planning Board Regular Meeting
September 27, 2021

PROPOSED AGENDA

I. CALL TO ORDER
- **Welcome**
- **Determination of Quorom**

II. ADOPTION OF AGENDA
- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES
- **Motion:** To adopt the minutes of August 23, 2021, as written [or as amended]

IV. OLD BUSINESS
- Proposed Text Amendment – Sign Definitions
- Proposed Text Amendment – Sign Ordinance
- Proposed Text Amendment – Food Trucks

V. NEW BUSINESS
- Preliminary Plat – Cherry Street

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, August 23, 2021, at 6:00 p.m. electronically via Zoom.

I. CALL TO ORDER

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

Chris Collins, Chair
Pam Norton, Vice Chair
Chas Fitzgerald
Kathy Phillips
Shawn Slome
Rick Earley

Absent:

Lauronda Teeple

Staff:

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

The meeting was called to order at 6:04 p.m. and duly constituted and opened for business with a quorum of six (6) regular members.

II. ADOPTION OF AGENDA

Chris Collins made a motion to adopt the agenda as presented. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

III. ADOPTION OF MINUTES

Shawn Slome made a motion to adopt the minutes of July 26, 2021, as written. The motion was approved by a vote of 5-0 with Chris Collins abstaining.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Election of Officers

Kathy Phillips nominated Chris Collins for Chair. The motion was seconded by Rick Earley and approved by a vote of 5-0 with Chris Collins abstaining.

Chris Collins nominated Pam Norton for Vice-Chair. The motion was seconded by Rick Earley and approved by a vote of 6-0.

2. Proposed Text Amendment – Food Trucks

Jessica Trotman explained that staff has brought forth a proposed ordinance for food trucks to have some regulations that will help with safety issues. The Town wants to encourage food trucks while also being respectful of the brick and mortar restaurants. The proposed ordinance

requires that food trucks be permitted, have written permission from the owner of the property, provide confirmation or certification from the Health Department, have a limit of 120 days, cannot be left unattended, cannot have any illicit discharge, cannot leave garbage on the site, must be ten feet away from any structure, and must be fifty feet away from any operational restaurant. Restrooms are not required for food trucks. While food trucks are already required to have commissary kitchens and have specific health and safety requirements through the Health Department, the Town does not have any authority to enforce those requirements. Allowing food trucks as a permanent use will have different questions that will need to be asked and could result in a separate set of regulations. Kathy Phillips said that she did not support the limit of 120 days or the distance of fifty feet from any operational restaurant. Ms. Phillips said that food trucks are attractive to the Town and we do not want to discourage them. Ms. Trotman said that we want to remain cognizant of the expectations of the district and make sure that we are not allowing something that would not otherwise be allowed. Concerns were expressed about the fifty foot distance and that most of the downtown area would be excluded from having food trucks. Ms. Trotman did say that food trucks are meant to be on private property with the permission of the owner and not on public property and are good for areas that don't already have food, such as a brewery. The board asked about allowing long-term or permanent food trucks and Ms. Trotman said that safety concerns would need to be looked at, such as traffic, combustible materials, distances, vehicle traffic, and pedestrians and that the threshold of requirements would have to increase to accommodate long-term or permanent food trucks. The board also asked if the requirements would apply to special events or if someone wanted to have a bake sale in a parking lot or if a Girl Scout wanted to sell cookies in a parking lot. Ms. Trotman explained that special events would be covered by the special event permit and that the regulations would only be for food trucks that are permitted by the Health Department. There will not be any new health regulations but regulations that can be enforced by Town Staff. The board asked that staff remove the 120 day requirement and the distance from operational restaurants and look at adding regulations for long-term or permanent food trucks. Staff will speak with the Fire Inspector on fire code regulations between permanent and temporary food trucks and will bring back that information to the board.

3. Proposed Text Amendment – Sign Ordinance

Jessica Trotman explained that the sign ordinance text amendments are in two sections, the definitions and the actual sign ordinance. The definitions are teased out as they will go in Section 1.2.3 with all of the other definitions. The definitions include premises, sign, and temporary sign. Other definitions may be added if needed.

The proposed sign ordinance will replace the existing sign ordinance in its entirety and will comply with the Supreme Court ruling of Reed v. Gilbert. The proposed ordinance prohibits content regulations and focuses on the location, manner, and time. The proposed ordinance is more modern and graphic than the existing ordinance. Anna Stearns told the board that when reading the proposed ordinance to focus on why we want to regulate signs. Ms. Stearns said that there needs to be a straight line from the regulation to the reason why the regulation was adopted. The Town looked at sign ordinances from Raleigh, Charlotte, Chapel Hill, Winston-Salem, and Buncombe County to help draft the proposed ordinance. While there are still some content-based signs (such as yard sale signs and campaign signs), the goal is to get way from commercial/industrial signs and have regulations based on the property, such as location, size,

and time. Chas Fitzgerald asked about removing string lights from being prohibited as a lot of restaurants use those for their outdoor dining area. Mr. Fitzgerald also asked about the size allowance for crown signs and feels that eight feet tall on a building seems excessive. Kathy Phillips asked about the digital signs and if they would be grandfathered in. Ms. Stearns explained that grandfathering what is existing is the cleanest method and then whatever is new or replaced would have to comply with the new requirements. Chris Collins asked that the requirement for keeping signs out of the right-of-way be kept and that staff still be allowed to remove temporary signs. Mr. Collins also questioned the spacing for ground signs. Amortization, where non-conforming, pre-existing signs would have to comply with new regulations after a certain amount of time, is possible but it is very complicated and with the passing of 160D, the town is now liable for attorney's fees for the opposing party. Ms. Stearns suggested having the ordinance be cut and dry and allow for grandfathering until such time that a change for the sign is requested, such as a change in use or an update to the sign. There was a question about murals and it was explained that murals are not signs, however, sometimes signs can be murals. Murals and/or artwork in downtown is still subject to Historic review. Whether or not a sign is a mural or a mural is a sign will depend on the definition. Ms. Trotman recommended that the board read over the proposed ordinance and send any comments or questions to her before the next meeting. Staff will update the draft and bring back to the board at the next meeting.

4. Training with Town Attorney

Anna Stearns began the training by explaining the differences between legislative, quasi-judicial, and administrative decisions. Legislative decisions are policy making decisions by the Town Council and can have political ramifications. Examples include text amendments and development agreements. Quasi-judicial decisions involve a judicial process and ask if the applicant is entitled to what they are asking for. Examples include variances and special use permits. Administrative decisions are typically made by staff as they objectively apply the ordinance. State statutes require that the Town have a Planning Board if they have zoning regulations. Ms. Stearns went over the duties that are granted to the Planning Board by the statutes, including reviewing and commenting on proposed text and map amendments, written recommendations for adoption of regulations, and advise and comment whether proposals are consistent with the comprehensive plan and other adopted plans as applicable. Town Council may assign additional duties to the Planning Board. Ms. Stearns went over the sections in the Land Use Code that spell out the duties of the Planning Board. Ms. Stearns spoke about the open meetings law and particularly email communications and to not reply all when responding to an email. Ms. Stearns spoke about the differences between public hearings and public comments. Ms. Stearns spoke about the conflict of interest requirements and those are laid out in both the ordinance and in the Boards and Commissions Handbook. Ms. Stearns then spoke briefly about the comprehensive plan, zoning decisions, subdivisions and street closings. There two Legislative Board Workshops being offered by the UNC School of Government and most board members have already signed up for one of the sessions. These workshops will be led by Adam Lovelady and will provide some additional information for members. Ms. Stearns said that citizens may speak to applications and the applicant may take that feedback and change their application but members cannot point back to those comments to approve or disapprove an application. Ms. Stearns also spoke about the Code of Ethics policy and reminded everyone that they are to remain transparent. Ms. Stearns also spoke about the attendance requirements. Ms. Stearns reminded the board that they are representatives of the Town and must be an impartial

arbiter of the Town so that the public can have confidence in the board. The comprehensive plan is required to have zoning regulations and sets out the goals, policies, and programs to help guide the development of the town. Zoning decision comments and recommendations must be made in writing and the Town Council can always consider a zoning decision regardless of the board's recommendation. Street closings are a recommendation only but the final decision is a legislative decision. In order to close a street, it must not be contrary to the public interest and it must not deprive any owner of ingress or egress. The Town may reserve easements that are in the public interest, such as utility easements. Shawn Slome asked if the Town could do a comprehensive conversion to easements but retain the right for ingress and egress on the rights-of-way and alleys. Ms. Stearns said that is not possible as each closure is on a case by case basis and a document has to be recorded with a description of the area to be closed. At that time, the property is then added to the tax base while all rights-of-way and alleys that are not opened or closed remain untaxed. Ms. Stearns spoke again about emails and that it is possible for a couple of members to email each other but it cannot be enough members that it would constitute a quorum as then it would have to be noticed as a public meeting. Ms. Stearns advised members against discussing applications outside of the meetings and to come to the meetings ready to hear the applications. Ms. Stearns said that members are obligated to vote unless there is a conflict of interest and that if a member refuses to vote but does not have a conflict of interest then that vote is required to be in the affirmative. Ms. Stearns said that she is unsure if it is legal to broaden the financial conflict of interest for the Planning Board as they are only a recommending body. Ms. Stearns advised members that if they have any questions, to speak to staff first and then staff can email her or Ron Sneed if needed.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

Chas Fitzgerald made a motion to adjourn at 8:03 p.m. The motion was approved by consensus with a vote of 6-0.

Prepared by:

_____
Chris Collins, Chair

_____
Jennifer Tipton, Senior Admin

Mural: A graphic displayed on the exterior of a building, generally for the purposes of decoration or artistic expression, including but not limited to painting, fresco, or mosaic.

Premises: A building together with its immediate and adjacent grounds.

Sign: Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed and used for the purpose of attracting attention or communicating a readable, comprehensive, legible message. Signs may not contain obscenity as defined in N.C.G.S. Sec. 14-190.1 [2]

Temporary Sign: A sign with or without a structural frame, not permanently attached to a building, structure, or ground and intended for a limited period of display.

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: Black Mountain Planning Board

From: Planning Staff

Date: September 27, 2021

Subject: Proposed Text Amendment

Description: Update sign ordinance definitions

Address: N/A

The Planning Board hereby adopts and recommends to the Town Council the following statements:

_____ The zoning amendment **is approved and is consistent with the Town's comprehensive plan** and **is reasonable and in the public interest** because:

How consistent with plan: _____
_____

Why is it reasonable and in the public interest: _____
_____

_____ The zoning amendment **is rejected because it is inconsistent with the Town's comprehensive plan** and/or **is not reasonable and in the public interest** because:

How inconsistent with the plan: _____
_____

Why is it not reasonable and in the public interest: _____
_____

_____ In addition to approving this zoning amendment, this approval is **also deemed an amendment to the Town's comprehensive plan**. The change in conditions taken into account amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest are as follows:

_____
_____
_____

CHAPTER NINE - Signs.

9.1. Intent.

Signs are a necessary and beneficial use of property that contributes to our community's economic vitality and appearance. Reasonable sign regulations are necessary to protect public property and community aesthetics, encourage economic activity, and contribute to the overall appeal of the community. It is the intent of this section to regulate the use, size, layout, style, typography, legibility, and arrangement of signs to ensure that signs are compatible with their surroundings, appropriate to identify individual properties, occupants, and/or the community, and facilitate the safe and orderly flow of pedestrian and vehicular traffic. Specifically, this section is intended to:

(a) Promote the public health, safety, and welfare of residents and visitors;

(b) Provide an environment which fosters growth and development of a vibrant business community;

(c) Protect commercial and industrial districts from visual clutter;

(d) Protect property values;

(e) Eliminate distractions which are hazardous to motorists and pedestrians;

(f) Protect and enhance the natural beauty, cultural attributes, distinctive character, and visual environment of the Town of Black Mountain;

(g) Protect the public's ability to identify establishments and premises in an orderly, readable and safe manner;

(h) Protect the public's investment in public buildings, streets, roads, highways, and open spaces; and

(i) Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

9.2. Applicability.

A. No sign visible from the public right-of-way, whether exterior to or interior to a structure, shall be erected, displayed, or substantially altered on any lot zoned or used for non-residential use, except in accord with the provisions of this Chapter and until a zoning compliance permit has been issued for the sign.

B. Pursuant to N.C.G.S. 160D-908, fence wraps displaying signage affixed to perimeter fencing at a construction site are exemption from the requirements of this chapter for up to 24 months or until the certificate of occupancy is issued for the final portion of construction, whichever is shorter. This exemption will not apply to fence wrap that displays advertising other than by a person or company directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

C. Recognizing that certain signs and messages are required to be displayed by federal or state law or regulation, and further recognizing the many benefits of certain commonly occurring signage that promote local economic activity, civic events and political discourse, many of which are of a temporary nature, the following types of signage are allowed in any district without need for obtaining a permit, provided that the specific requirements listed below, if any, are met:

1. Any sign required by law, including emergency, safety, warning or traffic signs or any sign installed by, at the direction of, or with the approval of a governmental authority.

2. Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises on which the sign is located, provided that:

    a. the sign is not illuminated and does not exceed 2 square feet in area per display surface, and

    b. no more than 2 such signs are displayed on the zoning lot.

3. Local, state, or national flags, including flags of foreign nations having diplomatic relations with the United States.
4. Signs erected and maintained by public agencies and governmental bodies.
5. Historical markers erected or placed by a historical nonprofit corporation or governmental authority.
6. Signs directing and guiding traffic and parking on private property on which the signs are located, provided that such signs:
    a. are not illuminated,
    b. bear no advertising, and
    c. do not exceed 4 square feet in area per display surface.
7. Construction site identification signs whose message is limited to the project or building name, identification of architects, engineers, contractors, lenders and other individuals or firms involved with the construction, the intended purpose of the building and the expected completion date, provided that such signs:
    a. may not exceed 4 square feet in area per display surface and 6 feet in height for single-family or duplex construction;
    b. may not exceed 32 square feet in area per display surface and 8 feet in height for multifamily or non-residential construction;
    c. such signs shall not be illuminated;
    d. no more than one (1) such sign shall be allowed per construction site;
    e. no such sign shall be erected prior to issuance of a building permit for the site; and
    f. such sign must be removed within seven (7) days of the issuance of a certificate of occupancy.
8. Real estate signs advertising the sale, rental, or lease of the premises, provided that such signs:
    a. Do not exceed 1 sign per street frontage and 4 square feet in area per display surface for property zoned residential; and
    b. Do not exceed 1 sign per street frontage and 16 square feet per display surface for property zoned non-residential or located within an approved planned development; and
    c. such signs shall not be illuminated.
9. Residential property management sign permanently affixed to the building façade, which includes contact information for the management company, provided that such signs:
    a. Do not exceed 1 sign per building façade and 4 square feet in area per display surface; and
    b. Are attached to a residential structure with seven (7) or fewer dwelling units.
10. Temporary political signs, provided that such signs:
    a. Do not exceed four (4) square feet in area per display surface;
    b. Are located on private property or within a public right of way;
    c. When placed within a public right-of-way, must comply with the following additional requirements:
        i. May not be placed more than 30 days before the beginning of early voting pursuant to N.C. Gen. Stat. § 163-227.2;

ii. The candidate must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where the sign would be placed;

iii. No sign is permitted within the right-of-way of a fully controlled access highway;

iv. No sign may obscure motorist visibility at an intersection;

v. No sign may be greater than 42 inches in height above the edge of the pavement of the road;

vi. No sign may be large than 18 by 24 inches;

vii. No sign may obscure or replace another sign.

d. Are removed within ten (10) days following the primary or general election, as applicable;

11. Signs announcing yard or garage sales, provided that such signs:

    a. Do not exceed one (1) sign per site of the sale;

    b. Do not exceed four (4) square feet in area per display surface; and

    c. Are removed within 7 days of posting.

12. Announcements by public or nonprofit organizations of special events or activities of interest to the general public, provided such signs:

    a. Do not exceed one (1) sign per site of such events or activities; and

    b. Do not exceed 12 square feet in area per display surface; and

    c. Are removed within 14 days of posting.

13. Information kiosks or bulletin boards erected by or on behalf of a governmental body on public property or rights-of-way in the Town Business Districts for the display of handbills or posters of community interest, provided such kiosks or bulletin boards:

    a. Contain no more than 6 square feet in area per sign display surface and a maximum of 72 square feet per kiosk or bulletin board.

14. A sign held by or attached to a human, located in front of the business, during business hours, for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service or product. This may also include a person dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service or product.

15. Signs on registered, licensed vehicles that are parked in a manner that serves the purpose of advertising a business, is generally located in front of the business, and is parked in a standard size parking space.

16. Signs stating that a business (other than a home occupation) is open, provided that there is no more than one such sign per business establishment, any illumination is steady (does not blink or flash), and the sign does not exceed 2 square feet in display area.

9.3. Prohibited Signs.

The following types of signs are prohibited:

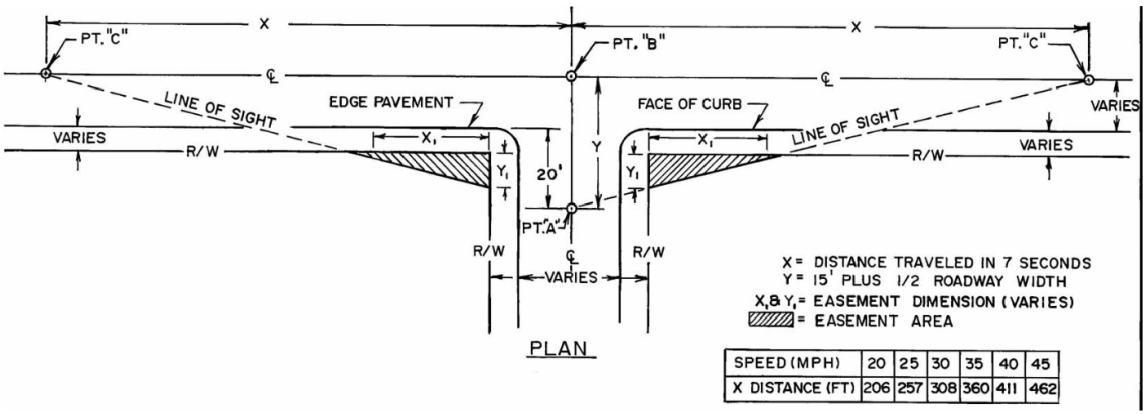
A. *Moving signs.* Animated, rotating, or other moving or apparently moving signs, including vehicular billboards.

B. *Wind signs.* Devices consisting of banners, streamers, pennants, wind-blown propellers, balloons, inflatable devices, strung light bulbs and similar installations.

C. *Digital changeable copy.* Digital changeable copy that scrolls, blinks, or flashes, including but not limited to LCD, LED and any similar technology, except as used to display time and temperature or gas price.

D. *Traffic safety precautions.* Notwithstanding any other provision in this Chapter, the following restrictions shall apply to signs in order to preserve the safety of pedestrian, bicycle, and vehicular movement:

1. No sign may make use of the words "STOP", "SLOW", "CAUTION", "DANGER", or any other word, phrase, symbol or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.
2. Except as used to display time and temperature, no sign may contain flashing lights.
3. No sign, or part of a sign, may be located within a sight distance area established below.
4. No sign may be erected so that by its location, color, nature or message it is likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights of an emergency or public safety vehicle.



SPEED (MPH)	20	25	30	35	40	45
X DISTANCE (FT)	206	257	308	360	411	462

9.4 General Standards.

A. *Location.* Except where expressly exempted in this Section, all signs must be located on the same lot as the permitted use and be clearly incidental, customary and commonly associated with the operation of the permitted use.

B. *Cessation or vacation of use.* When the use or establishment to which a sign is related ceases or is vacated, any sign, including all of its supports, frames and hardware, must be removed within 4 months of the cessation or vacating of the use or establishment unless the sign is used by a new use or establishment on the premises in conformance with all current regulations of this Chapter.

C. *Signs in the Right-of-Way.*

1. Signs must not encroach into the public right-of way unless expressly allowed in this Chapter.
2. Wall signs, awning signs, canopy signs, projecting signs, crown signs and shingle signs may encroach over the public sidewalk but must not encroach on or over any streets or alleys. All signs must be a minimum of 24 inches inside the curb line or edge of pavement, whichever is greater.
3. No sign may be attached, affixed, or painted on any utility pole, light fixture, tree, rock or other natural object within the right-of-way.

D *Unified sign plan.*

1. Where a zoning lot contains more than 3 principal uses or establishments, the provisions of this Section apply to the zoning lot as a whole, and the owners of the zoning lot are

responsible for allocating permitted signs and display surface area among the individual uses or establishments.

2. A unified sign plan is an overall plan for placement and design of multiple signs for a building or group of buildings on a zoning lot.
3. The unified sign plan submitted for a zoning lot must show all signs located or proposed on the zoning lot.
4. The unified sign plan must display harmony and consistency with regard to number and size of signs, placement of signs, materials and color, size and style of lettering, and type of sign illumination.
5. Unified Sign Plans are not required in Central Business or Mixed-Use Zoning Districts.

E. *Address on ground signs.* The street address number must be included on all ground signs. Numerals must be at least 9" in height. The area of the address is not included in any calculation of total sign area.

F. *Pre-existing, nonconforming signage.* Any sign in place prior to adoption of this Ordinance that does not comply with the standards of this Chapter for size, location, height or sign type is considered a pre-existing, nonconforming sign that may be continued, maintained, repaired, or replaced if damaged or destroyed, provided that the nonconformity is not in any way enlarged or intensified.

9.5. Permitted Signs

Sign Type	UR-8, TR-4, CR-1,SR-2,NMU-8	CB,HB-8,TND	HI-0,OI-6, LI-8, ICD	Sign Area Allocation (max)
	P*	P	P	Maximum 5% of the building facade up to and including the fourth floor, for all of these sign types combined. No individual sign shall exceed 250 sq. ft. in area
	P*	P	P	
	P*	P	P	
	P*	P	P	

	P*	P	P	Based on sign area
	—	P	P	Maximum 2.5% of the building facade (in addition to other building signs)
	—	P*	P	Based on sign area
	P*	P	P	
	P*	P	P	
	P	P**	P	

KEY: P = Sign type permitted P* = For allowed nonresidential uses only

P** = For residential identification sign only — = Not Permitted

A. *Wall sign.*

Description
A wall sign is a sign attached to or painted on a wall or building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, including signs affixed to or otherwise displayed on or through a facade window.
Standards
1. No portion of a wall sign may extend above the roof line or above a parapet wall of a building with a flat roof. No portion may extend above the lower eave line of a building with a pitched roof. The sign must not cover windows or architectural details. 2. Wall sign area includes signs visible from the outside that are located inside the building within 5 feet of the window. 3. For a cinema or theater, may be constructed as a marquee that extends less than 10 feet from the building and is at least 10 feet above the sidewalk (or finished grade where there is no sidewalk). 4. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions				
		CB,HB-8,TND	UR-8, TR-4, CR-1,SR-2,NMU-8	HI-0,OI-6, LI-8, ICD
Ⓐ	Display surface, building identification (max)	16 SF	limited by 5.14.7	40 SF
Ⓑ	Display surface, each establishment (max)	—	—	15 SF
Ⓒ	Projection from building facade (max)	12"	12"	12"
Ⓓ	Raceway (max % of letter height)	35%	35%	35%
Ⓔ	Height (max)	54'	54'	54'
Ⓕ	% of each window area (max)	15%	15%	15%
Number of Signs				
1. In the UR-8, TR-4, CR-1, SR-2, NMU-8 Districts, maximum 1 wall sign per street frontage.				

2.In all other districts, maximum of 3 wall signs per individual establishment per street frontage. Window signage shall not be counted towards the maximum number of wall signs.

B. *Awning Sign.*

Description
A sign where graphics or symbols are painted, sewn, or otherwise adhered to the awning material as an integrated part of the awning itself.
Standards
1. Sign must not extend outside the awning. 2. Signs are permitted on the sloping face of the awning. 3. Not allowed above the ground story. 4. May only be externally illuminated in accordance with Sec. 9.9.9.

Dimensions		
Ⓐ	Display surface (max)	Limited by 5.14.7
Ⓑ	Width (max % of awning width/depth)	75%
Ⓒ	Height of message (max. on front or side; no limit on height on sloping valance)	12"
Ⓓ	Clearance height above sidewalk (min)	10'
Number of Signs		
1. A maximum of 1 sign per front, side, or sloping valance.		
2. Awning sign may be on either: a) the front, side; or b) sloping valance.		

C. *Canopy Sign.*

Description
A sign placed at the front edge of a canopy so that the display surface is parallel to the plane of the front building facade or parallel to the plane of the canopy.
Standards
1. Must not extend outside the overall length or width of the canopy, however, may extend above or below the canopy, provided the clear height is met. 2. Raceways are permitted for signs extending below or above the canopy. Otherwise, raceways are not permitted and the sign must be flush with the canopy face. 3. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions		
Ⓐ	Width (max % of canopy width)	75%
Ⓑ	Height of text and graphics (max)	2'
Ⓒ	Depth (max)	1'
Ⓓ	Raceway (max % of letter height)	35%
Ⓔ	Clear height above sidewalk, canopy and sign (min)	10'
Number of Signs		
1. A maximum of 1 sign is permitted per canopy.		

D. *Projecting Sign.*

Description
A sign applied to or mounted to the wall or surface of a building or structure, with a display surface that projects 12 inches or more from the outside wall of the building or structure.
Standards
1. May be erected on a building corner when the building corner adjoins the intersection of two streets. Allocation allowed per section 5.14.7, of sign area from both frontages may be used for a corner projecting sign, provided it does not exceed the allowed height and width. 2. No portion may extend above the roof line or above a parapet wall of a building with a flat roof. No portion may extend above the lower eave line of a building with a pitched roof. 3. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions		
Ⓐ	Height (max)	
	Mounted below 2nd floor	4'
	Mounted between 2nd and 3rd floor	8'
	Mounted between 3rd and 4th floor	12'
Ⓑ	Distance from building facade (max)	2'
Ⓒ	Projection width (max)	4'
Ⓓ	Depth (max)	12"
Ⓔ	Clearance height above sidewalk (min)	10'
Number of Signs		

1. Maximum 1 projecting sign per individual establishment per street frontage.
2. Must be located at least 25 feet from any other projecting sign or shingle sign.
3. Not allowed on a zoning lot with a commercial center or ground sign, unless signs are located on different street frontages.

E. *Shingle Sign.*

Description
A small projecting sign that hangs from a bracket or support and is located over or near a building entrance.
Standards
1. Must be located within 5 feet of an accessible building entrance. 2. Hanging bracket must be an integral part of design. 3. Must be located below the window sills of the 2nd story on a multi-story building or below the roof line on a 1-story building. 4. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions		
Ⓐ	Display surface (max)	9 SF
Ⓑ	Height (max)	3'
Ⓒ	Spacing from building facade (min/max)	6"/12"
Ⓓ	Projection width (max)	3'
Ⓔ	Depth (max)	6"
Ⓕ	Clear height above sidewalk (min)	10'
Number of Signs		
1. Maximum of 1 shingle sign or projecting sign per individual establishment per street frontage. 2. A shingle sign must be located at least 25 feet from any other shingle sign or projecting sign.		

F. *Crown Sign.*

Description
A wall sign extending not more than 3 feet from the building facade located on the upper horizontal band of a building at least 55 feet and 4 stories in height.
Standards
1. Only permitted on buildings at least 55 feet and 4 stories in height. 2. Must not be placed below the start of highest floor or extend above the roof line. 3. Must not cover windows or architectural details. 4. May only be internally illuminated in accordance with Sec. 9.9.9.

Dimensions		
Ⓐ	Display surface (max)	250 SF
Ⓑ	Height (max)	8'
Ⓒ	Projection - measured from building facade (max)	3'
Ⓓ	Width (max % of facade width)	75%
Ⓔ	Raceway (max % of letter height)	25%
Number of Signs		
1. No more than 1 sign per building facade and no more than 2 signs per building. 2. No more than 1 tenant or building may be identified on the sign per building facade.		

G. *Development Identification Sign.*

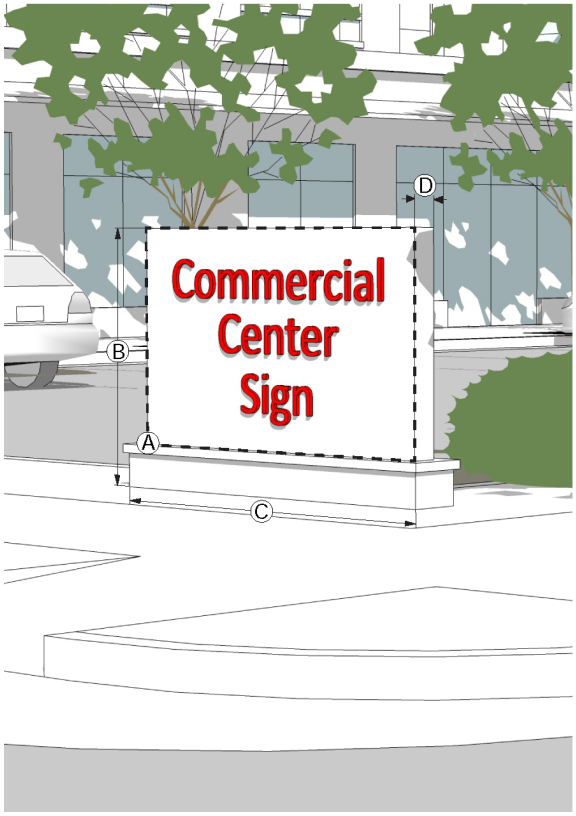
Description
A permanently affixed sign which is wholly independent of a building for support attached along its entire width to a continuous pedestal that is used to identify entry to a development.
General Provisions
1. Signs taller than 6 feet must be set back at least 10 feet from the front property line and 15 feet from a side property line. 2. Must not conflict with any clear sight triangle. 3. Must be constructed of brick, stone, wood, metal or glass. 4. May contain the name and logo of the development and one anchor tenant. 5. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions				
		CB,HB-8,TND	UR-8, TR-4, CR-1,SR-2,NMU-8	HI-0,OI-6, LI-8, ICD
Ⓐ	Sign area (max, single side only)	16 SF	20 SF	40 SF
Ⓑ	Sign area (max each, if two sides)	8 SF	—	20 SF
Ⓒ	Sign area (max, for development with a cinema, single side only)	—	—	80 SF
Ⓓ	Height (max)	6'	6'	8'
Number of Signs				
1.In all other districts, 2 development identification signs are allowed per primary entrance, one on each side.				

H. *Commercial Center Sign.*

Description
A commercial center sign is a free-standing sign attached to a contiguous structural base or planter box permanently affixed to the ground. Commercial center signs do not include free-standing signs supported by poles.
Standards
1. Allowed for commercial centers, defined as a center with a minimum of 4 retail business tenants and 8,000 SF of retail business floor area. 2. The Commercial Center must have 100 feet of street frontage minimum. Street frontage for a zoning lot includes frontage on streets that are part of an approved master land use plan or special use permit and have speed limits of 35 mph or greater. 3. Sign must be located at least 250 feet from any other Commercial Center Ground Sign. 4. Minimum 9" letter height for all text. 5. The display surface area of the sign must be divided into individual tenant name panels. The panels within the display area may be of 2 different sizes and must be of a similar shape. 6. May be externally or internally illuminated in accordance with Sec. 9.9.9. Illumination of the sign is not permitted during non-business hours.
Dimensional Deviations
1. A dimensional deviation of 12 inches or less may be applied to the Commercial Center Sign dimensional standards, provided the resulting sign does not exceed the maximum height and maximum display area standards. 2. For signs located at the edge of the right-of-way, the overall height of the base of a sign located along a roadway with a speed limit of 45 mph may be increased by 1 inch for every 2 feet the sign is set back from the edge of the closest travel lane. The overall height of

the sign may not be increased beyond the maximum height limit by more than 3 feet.



Dimensions			
		CB,HB-8,TND, HI-0,OI-6, LI-8, ICD	
		Street up to 35 MPH	Street 35 MPH +
Ⓐ	Sign structure plus display surface (max)	120 SF	144 SF
Ⓑ	Display surface only (max)	50 SF	72 SF
Ⓒ	Height (max)	12'	14'
Ⓓ	Width (max)	10'	10'
Ⓔ	Thickness (max)	12"	12"
Number of Signs			

1. Maximum 1 commercial center sign per street frontage per Commercial Center.

I. *Ground Sign.*

Description
A ground sign is a free-standing sign attached to a contiguous structural base or planter box the same width or greater than the message portion of the sign, permanently affixed to the ground. Ground signs do not include free-standing signs supported by poles.
Standards
1. The commercial developments must have a minimum 100 feet of street frontage to qualify for a ground sign (for smaller lots, see Cantilevered Ground Sign). Lot must be accessible by automobile and contain off-street parking for the principal use. 2. Buildings housing principal uses must be located at least 20 feet back from abutting right-of-way. 3. Sign must be set back at least 10 feet from the front property line and 15 feet from a side property line. 4. Sign must be located at least 150 feet from any other Ground Sign. 5. Minimum 9" letter height for all text. 6. May be externally or internally illuminated in accordance with Sec. 9.9.9.

Dimensions				
	UR-8, TR-4, CR-1,SR-2,NMU-8		CB	All Other Districts
Ⓐ	Display surface (max)*	16 SF	8 SF	15 to 30 SF**
Ⓑ	Height (max)	6'	8'	8'
Ⓒ	Width (max)	10'	10'	10'
Ⓓ	Thickness (max)	12"	12"	12"

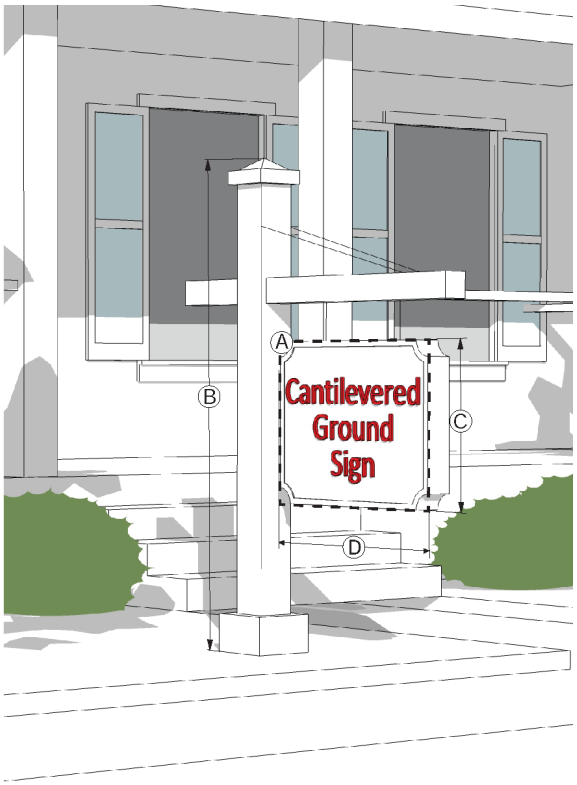
* Area associated with the text of a building name or address is exempt from maximum display surface calculation.
* Display surface max. is per display area.

Number of Signs

1. In the UR-8, TR-4, CR-1,SR-2,NMU-8 Districts, maximum 1 ground sign per lot.
2. In all other districts, maximum 1 ground sign per street frontage.
3. No ground sign is permitted on the same zoning lot with a projecting sign, unless signs are located on different street frontages.

J. *Cantilevered Ground Sign.*

Description
A permanently affixed sign which is wholly independent of a building for support where the primary support is supplied by a post and the sign hangs from a bracket or support.
Standards
1. No minimum street frontage required. 2. Buildings housing principal uses must be located at least 20 feet back from abutting right-of-way. 3. Must be set back at least 5 feet from the front lot line and 5 feet from a side lot line. 4. Hanging bracket must be an integral part of design. 5. Sign must be located at least 25 feet from any other ground sign. 6. May be externally or internally illuminated in accordance with Sec. 9.9.9.



Dimensions		
Ⓐ	Display surface (max)	9 SF
Ⓑ	Support height (max)	10'
Ⓒ	Sign height (max)	6'
Ⓓ	Display surface height, width (max)	3'
Number of Signs		
1. 1 cantilevered ground sign per street frontage. 2. No cantilevered ground sign permitted on same zoning lot as a projecting sign.		

9.6. Specialty Sign Types.

A *Sidewalk Sign.* A sidewalk sign is a movable sign not secured or attached to the ground or surface upon which it is located. This sign type is typically an A-frame or spring-mounted sign.

1. A sidewalk sign is permitted in the Central Business District and Highway Business.

2. A sidewalk sign must be no more than 42" tall and 36" wide. The sign face must be no more than 6 square feet in area.
3. There may be no more than 1 sidewalk sign per tenant, generally located adjacent to the primary facade in front of the business.
4. A sidewalk sign must not obstruct vehicular, bicycle or pedestrian traffic, and must comply with ADA clearance and accessibility requirements.
5. The sign must be removed and placed indoors at the close of each business day.
6. No illumination is permitted.

B. *Parking Lot Identification Banners.*

a. Each parking lot identification banner must not exceed 4 square feet in display area, and must be limited to the name of the building or development.
b. One or two banners may be approved for display from each street light.
c. The colors, shape, materials, appearance and duration of display for such banners must be approved by the Town Manager.

C. *Gas Stations.*

1. *Pumps.* Signs located on the top of gas pumps (pump toppers) must comply with the following standards:
   a. Gas stations may install one pump topper per pump.
   b. Pump toppers are limited to a maximum of 6 square feet per side and no more than 2 sides per pump.
   c. The base of the pump must be a neutral color, and must not contain any signage.
   d. No internal illumination of the pump or pump topper is allowed.
2. *Canopies.* Gas station canopy signs must comply with the following standards:
   a. The sign must be an integral component of the pump canopy (composed of lettering mounted, painted or otherwise affixed to the pump canopy, and not located on the top or bottom of the canopy).

b. The features, materials, colors and designs used in the pump canopy must be similar to the principal structure. Such features are considered similar where the materials and colors of the canopy are the same as the predominant materials and colors of the principal structure.

c. Each canopy sign may not exceed 4 square feet of display area. The maximum letter height or trademark height must not exceed 18 inches.

d. Additional canopy sign area may be permitted by transferring building sign display area. If building sign display area is transferred, one canopy sign is permitted on each side of a canopy, up to a maximum of three sides.

e. The canopy must not encroach upon any publicly dedicated rights-of-way.

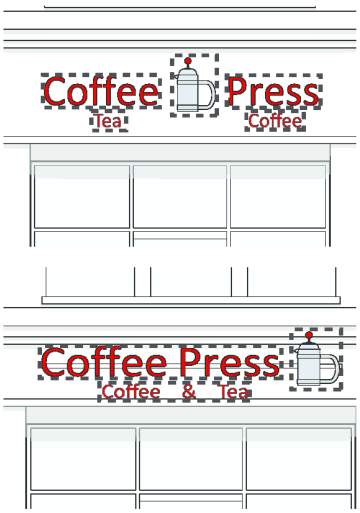
f. No internal canopy illumination is permitted.

3. *Digital Gas Price Display.* Gas prices may be displayed as digital (electronic) changeable copy.

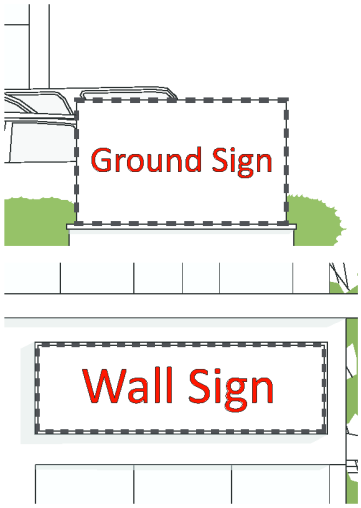
9.7. Sign Measurements.

A. *Computation of Sign Area.* The area of all signs is determined as follows:

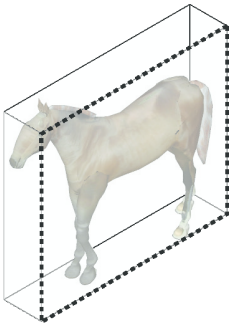
1. For wall signs, awning signs, canopy signs and crown signs consisting of freestanding letters or logos, sign area is calculated as the total area of the rectangle, circle or square that fully encloses all the letters or logo.



2. For signs on a background, the entire area of the background is calculated as sign area, including any material or color forming the sign face and the background used to differentiate the sign from the structure on which it is mounted. Display surface includes the face of the structure that the message is affixed to. Display surface does not include any structural members not bearing advertisement.



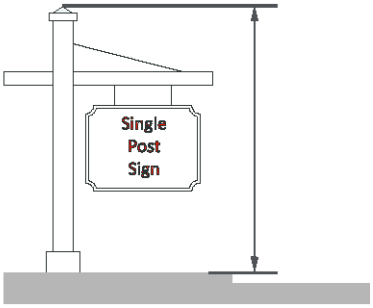
3. The sign area of a three-dimensional sign is calculated as total area of the smallest rectangle, circle or square that fully encloses the largest profile of the three-dimensional sign.



4. The area for a sign with more than one face is calculated by adding the area of all sign faces that are 45 degrees or greater; where the sign face angle is less than 45 degrees only the area of the largest sign face is computed as part of the sign area.

B. *Measurement of Sign Height.*

1. The total height of a sign is measured from the highest point of the sign or supporting structure to the top of the abutting sidewalk (or the crown of the adjacent roadway where no sidewalk exists).



C. *Measurement of Sign Height: Commercial Center Sign.*

1. The height of a Commercial Center Sign is measured from the mean natural grade.
2. Mean natural grade is measured along a line parallel to the street frontage for a distance of 100 feet on either side of the base of the sign, and along a line perpendicular to the street starting at the right-of-way for a distance equal to the width of the proposed sign.
3. Where the proposed location of the sign is below the natural grade of the adjacent street frontage, the overall height of the base of the sign may be increased by up to 10 feet in order to achieve the maximum permitted height, as measured from the natural grade of the adjacent street frontage.
4. Landscaping around the base of a sign must be shown on a landscape plan. The landscaping must buffer and screen that portion of the base of the sign located below the natural grade of the adjacent street frontage.
5. The design of the base of the sign must complement the features and frame of the sign.
6. In those situations where compliance with Federal Emergency Management Agency (FEMA) floodplain regulations prohibits the installation of a contiguous structural base, the Town Manager may approve an alternate base design. Landscaping and screening must be incorporated into the alternate base design.

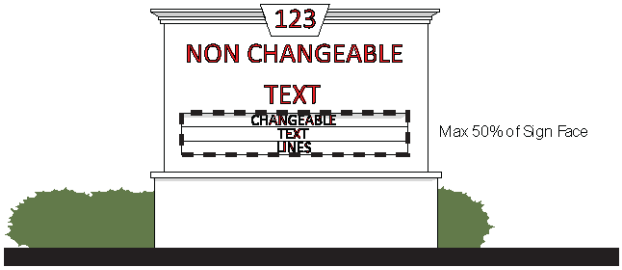
D. *Sign Setback.* Signs required to be set back are typically measured from the property line. However, in instances where the property line is adjacent to a drainage area or other right-of-way that may reasonably be anticipated to exist in the future, the Town Manager may allow the sign to be placed at the property line without any setback.

E. *Sign Maintenance.* All signs must be maintained in good condition and present a neat and orderly appearance. Failure by the owner or tenant to remove poorly maintained signs may result in enforcement action by the Town. The Town Manager may cause to be removed (after due notice) any sign which shows gross neglect, becomes dilapidated, or if the ground area around it is not well maintained.

9.8. Changeable Copy.

A. *Defined.* A sign or portion of a sign that has a readerboard for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects (not consisting of an illumination device) that may be changed or re-arranged manually or mechanically without altering the face or the surface of the sign.

1. Manual changeable copy is allowed in conjunction with a permitted commercial center sign, ground sign or marquee wall sign only.
2. The manual changeable copy portion of the sign may be no greater than 50% of the total sign area on each display face.



3. No electronic or digital changeable copy is allowed, except for digital time and temperature signs and gas price signs at gas stations.

9.9. Sign Illumination.

A. *Prohibited Light Sources.* The following light sources are not permitted:

1. Blinking, flashing, chasing or scrolling.
2. Bare bulb illumination that exceed 0.3 foot candles at the property line.
3. Colored lights used in any manner so as to be confused with or construed as traffic control devices.
4. Direct reflected light that creates a hazard to operators of motor vehicles.

B. *Brightness.* The light from any illuminated sign must not be of an intensity or brightness that will interfere with the comfort, convenience and general welfare of residents or occupants of adjacent properties. Brightness must not exceed Town maximum foot-candle standards.

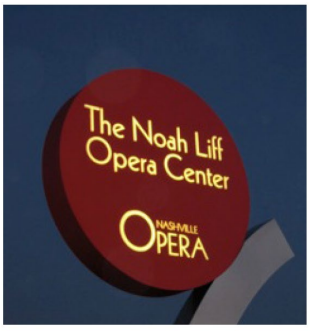
C. *Internal Illumination.*

1. Internal illumination is not allowed in the CR-1, NMU, SR-2, UR-8, TR-4 Districts.
2. Channel letters may be internally lit, halo lit or back-lit.
3. For internally illuminated signs, the background must be opaque or a substantially darker color than the sign message.
4. Light emitting diodes (LED)'s are permitted as a light source only where the LED is behind an acrylic, metal or similar sign face and returns in such a manner that the LED modules are not visible from the exterior of the sign.
5. Internal illumination for shingle and cantilever signs is limited to the text, letter or logo. The background may not be internally or externally illuminated.
6. The letter or message of internally illuminated signs must consist of non-reflective materials.

External light sources

Internally lit channel letters

Back lit channel letters



Internally lit cabinet signs with darker background

D. *External Illumination.*

(1) Lighting directed toward a sign must be shielded so that it illuminates only the face of the sign and does not shine directly onto public right-of-way or adjacent properties.

(2) Flood lights or spotlights near the top of a sign must be focused downward onto the sign. Floodlights or spotlights must be aimed such that the entire beam falls within the intended area of the sign to be lit.

E. *Raceways and Transformers.*

(1) If a raceway is necessary, it must not extend in width or height beyond the area of the sign.

(2) Raceways must be finished to match the background wall or canopy, or integrated into the overall design of the sign.

(3) Visible transformers are not permitted.

5.14.13 Guidelines for Administrative Adjustment of Signage Regulations.

Intent: The intent of permitting the administrative adjustment of the Sign Ordinance standards is to provide for flexibility that is compatible with the Town of Black Mountains character; to acknowledge the artistic creativity of sign makers, business owners, and individuals; to create visual harmony between the sign, structure, and site where the sign is located; and to enhance retail areas consistent with the Elevate Black Mountain Comprehensive Plan and subsequent small area plans, development agreements, and form-based district codes.

A. *Adjustment Applications:* Adjustment applications shall be made on forms available from the Planning and Development Services office. An application shall consist of a completed application form; any necessary supporting documentation such as plot plans, building elevations, photographs or other information; and an application fee.

B. *Review:* Adjustment applications shall be reviewed by the Director of Planning and Development Services and Planning staff. Applications are available for public review and comment.

C. *Approval Criteria:* The standards in this chapter may be adjusted administratively when the Director of Planning and Development Services determines all the following criteria are met:

1. The intent of the Sign Ordinance is better achieved with the administrative adjustment than by other alternatives allowed by this section;
2. Sufficient reason is shown for the adjustment in order to address exceptional or extraordinary circumstances or conditions applicable to the property (including topographical issues), or intended use of the property, that are not contemplated or provided for by this chapter;
3. The modification is compatible with the scale, character, and design of the building in which the use is located;
4. The modification is compatible with the scale, character, design and lighting of the adjacent neighborhood or focus area;
5. The modification is consistent with the purpose of this chapter and would not adversely affect the neighborhood in which the business is located; and
6. The modification is within the standards identified in the table below.

Allowable Administrative Adjustments
(up to the limits set forth in the table for the type of standard). If the modification exceeds these standards, the applicant may seek a variance from the Board of Adjustment

	Standard	Standard Sign Type	Allowable Max. Administrative Adjustment (up to)
a	Distance from building facade	Wall, Projecting, Shingle Crown	10%
b	Sign, height, display, area or dimensions	All	10%
c	Sign display area for building greater than 4 stories	Wall	10%
d	Height above sidewalk	Wall, Awning, Canopy, Projecting, Shingle	5%
e	Raceway - % of letter height	Wall, Canopy, Crown	5%
f	Sign depth	Awning, Canopy, Projecting, Shingle	10%
g	Distance from façade, entrances	Projecting, Shingle	20%
h	Distance between signs	Projecting, Shingle, Ground	20%

(Ord. No. 2007-02-26/O-3a, §§ 7, 8; Ord. No. 2007-02-26/O-5, §§ 11—13; Ord. No. 2011-04-25/O-3, §§ 1, 2; Ord. No. 2016-06-27/O-11 , § I; Ord. No. 2016-12-05/O-5 , § I; Ord. No. 2020-10-28/O-10 , § 15; Ord. No. 2020-11-04/O-1 , § 1)

Footnotes:

--- (**2**) ---

* http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_14/gs_14-190.1.html

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: Black Mountain Planning Board

From: Planning Staff

Date: September 27, 2021

Subject: Proposed Text Amendment

Description: Update sign ordinance to comply with Reed v. Gilbert

Address: N/A

The Planning Board hereby adopts and recommends to the Town Council the following statements:

_____ The zoning amendment **is approved and is consistent with the Town's comprehensive plan** and **is reasonable and in the public interest** because:

How consistent with plan: _____
_____

Why is it reasonable and in the public interest: _____
_____

_____ The zoning amendment **is rejected because it is inconsistent with the Town's comprehensive plan** and/or **is not reasonable and in the public interest** because:

How inconsistent with the plan: _____
_____

Why is it not reasonable and in the public interest: _____
_____

_____ In addition to approving this zoning amendment, this approval is **also deemed an amendment to the Town's comprehensive plan**. The change in conditions taken into account amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest are as follows:

_____
_____
_____

Ordinance No. _____

AN ORDINANCE TO REGULATE MOBILE FOOD VENDORS

OPERATING IN THE TOWN OF BLACK MOUNTAIN

BE IT HEREBY ORDAINED by the Board of Aldermen that Land Use Code of the Town of Black Mountain is hereby amended as follows:

Section 1: Section 1.2 of Chapter 1 of the Land Use Code is hereby amended by inserting the following definition:

Mobile food vendor: means a person who sells prepared food from a vehicle or cart that is not permanently affixed to the site of sale and can be readily transported to and from that site.

Add temporary mobile food vendor 1-179 days

Add permanent mobile food vendor 180+ days.

Section 2: Chapter 5 of the Land Use Code is hereby amended by inserting the following new section 5.24:

5.24 Mobile Food Vendors

A. It shall be unlawful for any mobile food vendor to sell or offer for sale any food or beverage without first obtaining a permit pursuant to this section.

1. A permit application shall be obtained from the planning and development office.
2. The application must be complete and must include:
    a) written documentation of the property owners' permission to operate on the site;
    b) confirmation that the property owners or sponsoring adjacent business(es) will make their restroom facilities available for mobile food vendor staff.
    c) a copy of a valid Health Department Permit.
3. Permission to utilize public parking or sidewalk areas must be approved by the Town Manager and at the request of a sponsoring business owner adjacent to the proposed location.

B. Once approved, the permit issued pursuant to this section is valid only for the location listed on the permit. Vendors who serve at multiple locations must obtain individual permits for each site.

C. Mobile food vendors may operate in any commercial, industrial, mixed-use or business district for a period of not more than one hundred twenty (120) days in any calendar year.

D. A mobile food vendor must present written documentation of the property owners' permission and a copy of its Health Department Permit at the time of application.

E. No mobile food vendor shall:

1. Leave a mobile food unit or pushcart unattended, or store, park or leave a mobile food unit or pushcart overnight within any public right-of-way or public property.
2. Leave any location without removing and disposing of all trash or refuse.
3. Pour waste products (including hot water or drainage from coolers) down a storm drain.
4. No accessory structures
5. No accessory buildings
6. **Not allowed less than five feet from driveways, sidewalks, utility boxes, handicap ramps, building entrances or exits, or emergency call boxes.**
7. **Not allowed within 10 feet of any fire hydrant or fire escape.**
8. **No portion of the vendor sales area may occupy any required parking spaces for the principal use of the lot.**
9. ~~Operate within fifty (50) feet of an existing restaurant during the restaurant's business hours.~~

F. Each mobile food vendor must obtain and display an approved mobile food service permit from the Buncombe County Health Department.

G. Signage associated with the operation of a mobile food vendor must comply with the requirements of the sign ordinance (Chapter 9 of this code).

H. Exhaust outlets shall be located not less than ten (10) feet from any structure or building.

I. Each mobile food vendor is subject to safety inspection by the fire department.

Only one food truck per parcel allowed, outside of special event permits.

This ordinance doesn't apply to food trucks related to a special event permit.

They are only allowed in CB, NMU8, HB8, LID and HD – amend the table of permitted uses

You will have to add temporary and permanent ones. Do we want them to be allowed in the same districts or should we allow temporary in NMU8 but not permanent ones?

Remaining questions to answer and add: for those staying 180+ days do we allow them to set up outdoor seating? If so what are those rules? If they have seating, do we require parking spaces?

Temporary mobile food vendors – probably should not count as an accessory structure to the primary use of the parcel. Should permanent ones?

By permitted this as a use we are saying it can existing on a parcel that doesn't have anything else on it.

Application needs to include a site plan and identified ingress, egress, and cuing.

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: Black Mountain Planning Board

From: Planning Staff

Date: September 27, 2021

Subject: Proposed Text Amendment

Description: Add provisions and rules for food trucks

Address: N/A

The Planning Board hereby adopts and recommends to the Town Council the following statements:

_____ The zoning amendment **is approved and is consistent with the Town's comprehensive plan** and **is reasonable and in the public interest** because:

How consistent with plan: _____
_____

Why is it reasonable and in the public interest: _____
_____

_____ The zoning amendment **is rejected because it is inconsistent with the Town's comprehensive plan** and/or **is not reasonable and in the public interest** because:

How inconsistent with the plan: _____
_____

Why is it not reasonable and in the public interest: _____
_____

_____ In addition to approving this zoning amendment, this approval is **also deemed an amendment to the Town's comprehensive plan**. The change in conditions taken into account amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest are as follows:

_____
_____
_____

TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES

Information	Preliminary Plat		Final Plat	
Title Block Containing:				
• Property title, PIN #, subdivision name or designation	X	[X]	X	[ ]
• Name of owner of record	X	[X]	X	[ ]
• Location (township, county, state)	X	[X]	X	[ ]
• Date(s) of survey and plat preparation	X	[X]	X	[ ]
• Name, address, registration number and seal of surveyor	X	[X]	X	[ ]
Drawn Streets:				
• Proposed streets and their linear feet	X	[X]	X	[ ]
• Connecting streets and platted streets on adjoining properties	X	[X]	X	[ ]
• Rights-of-way, location and dimensions	X	[X]	X	[ ]
• Approximate or final grades	X	[X]		[ ]
• Street Names	X	[X]	X	[ ]
Information and Location of Utilities:				
• Utility and other easements of record	X	[X]	X	[ ]
• Transmission lines	X	[X]		[ ]
• Natural gas lines	X	[X]		[ ]
• Sanitary sewers, location and size	X	[X]		[ ]
• Water lines, location and size	X	[X]		[ ]
• Stormwater facilities, either in place or proposed	X	[X]	X	[ ]
• Plans for individual water supply and sewerage disposal	X	[X]	X	[ ]
Site Features:				
• North Point	X	[X]	X	[ ]
• Graphic Scale	X	[X]	X	[ ]
• Vicinity Map	X	[X]		[ ]
• Existing buildings or other structures, railroads, bridges	X	[X]		[ ]
• Existing property lines to be subdivided or recombined	X	[X]	X	[ ]
• Exact lot lines, bearings, distances and lot/block nos.	X	[X]	X	[ ]
• Minimum building setback lines	X	[X]	X	[ ]
• Topography at 5' intervals, elevations, and slope calculations	X	[X]		[ ]
• Zoning classification of tract and adjoining property	X	[X]		[ ]
• Natural features	X	[X]		[ ]
• Exact location of floodplain, flood fringe, and floodway	X	[X]	X	[ ]
Site Calculations:				
• Acreage in total tract to be subdivided	X	[X]	X	[ ]
• Total number of lots	X	[X]	X	[ ]
• Area of each lot in square feet	X	[X]		[ ]

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

TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES

MAJOR SUBDIVISION APPLICATION

Application Date: 08/30/2021 Zoning District: CB N S E W (C)

Owner Name: Barry B. Ricketts

Subdivision Name: _____

Property Location/Street: 128 Cherry St., 132 Cherry St., 204 Sutton Ave. Black Mountain

PIN #: 0619-35-2633/3526/2554 Deed Book/Page: Various Deeds

Total Site Area: 0.608 Acres ~~square feet~~ 26,497 sq ft ~~acres~~

Max. Allowable Lot Density Standard: No min. or max

Max # of Lots Allowable: _____ Proposed # of Lots: 8

Min. Allowable Lot Area: No min. Lot Area Proposed Min. Lot Area: 0.011 Acres

Average Lot Area: 0.076 Acres

Min. Allowable Lot Width: N/A Proposed Min. Lot Width: 15.88'

Min. Open Space Area: N/A Proposed Open Space Area: N/A

Proposed Open Space Use: N/A

Proposed Future Development Site Area: N/A

Proposed Impervious Surface Area: N/A

Proposed Impervious Surface Coverage (isa/site area x 100): N/A %

Site Area within Area of Special Flood Hazard Area: N/A within Floodway: N/A

Slope of Site: 8.9%

Names of Access Street(s) and Number of Access Points along Each:

Name of Access or Adjacent Street	Right-of-Way Width (ft)	Pavement Width (ft)	No. of Lanes	Traffic Volume	Est. Traffic Generated
Cherry St	50	34.4'	1		
Sutton Ave	unknown	26.5	2		

Town of Black Mountain
160 Midland Avenue, Black Mountain, NC 28711
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www.townofblackmountain.org

TOWN OF BLACK MOUNTAIN PLANNING AND DEVELOPMENT SERVICES

Owner Name: Barry B. Ricketts Phone: _____

Address: PO Box 6 City: Black Mountain State: NC Zip: 28711

Email Address: _____ Mobile #: 828 775-3980

Developer: N/A Phone: _____

Address: _____ City: _____ State: ____ Zip: _____

Email Address: _____ Mobile #: _____

Engineer/Consultant: N/A Phone: _____

Address: _____ City: _____ State: ____ Zip: _____

Email Address: _____ Mobile #: _____

Registered Surveyor: John M. Stollery Phone: 828 664-0091

Address: 403-B W. State St City: Black Mountain State: NC Zip: 28711

Email Address: John@Highcountrysurveyors.net Mobile #: _____

As owner, developer, agent, or engineer of this property, it is requested that the proposed subdivision, as described within this application, be given approval by the Town of Black Mountain Planning Board in accordance with the Town of Black Mountain Subdivision Ordinances. I, DONALD BLANKENSHIP, hereby certify that I have legal authority to submit this application for subdivision and I enclose the required application materials listed herein.

Signature _____ Date 08/30/2021

FOR OFFICE USE ONLY

Plat Review Fees: _____ Date Paid: _____ Payment: _____

Project Number: _____ Entry by: _____ Date: _____

Plat Approval Date: _____ Plat Book/Page: _____

Subdivision Administrator _____ Date _____

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

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

OWNER AFFIDAVIT

THE UNDERSIGNED, being first duly sworn, deposes and says:

1. That he/she is the owner of that real property located at 128 Cherry, 132 Cherry 204 Sutton Ave, in the Town of Black Mountain, which property is shown on the tax maps for Buncombe County as PIN# 0619-35-2633/3526/2554.

2. That as the owner of the described property he:

_____ Is applying for subdivision approval.

X Is authorizing High Country Surveyors inc to apply for subdivision approval.

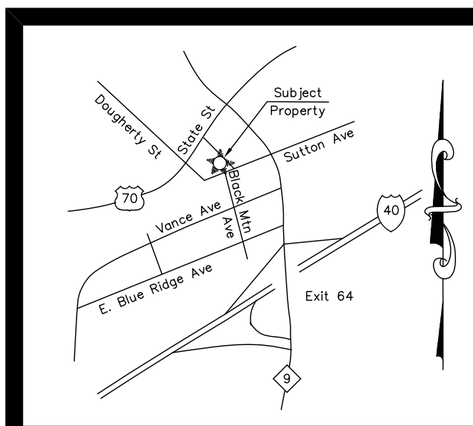
This the 30TH day of AUGUST, ~~2018.~~ 2021

Property Owner (individual)

OR

Property Owner (entity)

By: _____



LOCATION MAP

LEGEND

- . . NGS GEODETIC MONUMENT
- CMF. . . CONCRETE MONUMENT FOUND
- PSF. . . PLANTED STONE FOUND
- IPF . . IRON PIN FOUND-SIZE AS NOTED
- RBF . . REBAR FOUND-SIZE AS NOTED
- RBS . . #5 REBAR W/ ID CAP SET
- . . . CALCULATED POINT-NOT SET
- . . . FIRE HYDRANT
- . . . SEWER CLEANOUT
- . . . ELECTRIC METER
- . . . GAS METER
- . . . PHONE PEDESTAL
- . . . WATER VALVE
- . . . WATER METER
- . . . HEAT PUMP
- . . . AREA LIGHT
- . . . EXISTING MANHOLE & SEWERLINE
- FOC . . . UNDERGROUND FIBER OPTIC CABLE
- W . . . UNDERGROUND WATER LINE
- U . . . UTILITY POLE & OVERHEAD LINES (P=POWER, T=TELEPHONE, C=CABLE)
- . CHAIN LINK FENCE LINE
- . WOOD BOARD FENCE LINE

REGISTERED THIS THE 30th DAY OF AUGUST, 2021
AT . M. RECORDED IN BOOK , PAGE

DREW REISINGER REGISTER OF DEEDS

BY: DEPUTY/ASSISTANT

PRELIMINARY PLAT
NOT FOR RECORDATION, CONVEYANCES, OR SALES

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTIONS RECORDED IN D.B. 1472, P. 659 D.B. 1283, P. 171, D.B 1472, P. 659.) THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY MARKED AS BROKEN LINES DRAWN FROM RECORD DESCRIPTIONS AS SHOWN FOR ADJOINERS; THAT THE RATIO OF PRECISION IS NOT LESS THAN 1:10000, THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.WITNESS MY ORIGINAL SIGNATURE, LICENSE NO. AND SEAL THIS 30th DAY OF AUGUST, 2021.

I, JOHN M. STOLLERY, CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GNSS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING WAS USED TO PERFORM THE SURVEY.

1. CLASS OF SURVEY: CLASS A (HORIZONTAL)
2. POSITIONAL ACCURACY: NOT TO EXCEED 0.10 FT H.
3. TYPE OF FIELD PROCEDURE: RTK-VRS
4. DATES OF SURVEY: 07/08/2021.
5. DATUM/EPOCH: H-NAD 83-2011 EPOCH 2010, V-NAVD 88
6. PUBLISHED/FIXED-CONTROL USED: NC VRS NETWORK
7. GEOID MODEL: GEOID 12B
8. COMBINED GRID FACTOR: 0.99977667.
9. UNITS USED: US SURVEY FOOT

*RTK Observations were used only to tie property to NC Grid.

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-2996

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

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

08/30/2021 DATE _____ REVIEW OFFICER

THE PLAT IS APPROVED BY THE ZONING ADMINISTRATOR OF THE TOWN OF BLACK MOUNTAIN.

08/30/2021 DATE _____ ZONING ADMINISTRATOR

LINE	BEARING	DISTANCE
L1	N 58°58'11" W	10.69'
L2	N 67°21'52" E	11.47'
L3	S 18°56'21" E	28.56'
L4	S 22°44'35" E	15.97'
L5	N 69°04'42" E	1.16'
L6	N 23°49'48" W	14.00'
L7	N 65°16'41" E	12.05'
L8	S 65°16'41" W	18.00'
L9	N 70°16'34" E	15.47'
L10	N 66°19'59" E	33.32'
L11	N 67°52'00" E	30.84'

Amy S. Pate
D.B. 5925, P. 1854
(Prev. D.B. 1025, P. 277 Tr. 1 "Residence Lot")
P.B. 168, P. 171 "PARCEL B"
Zoned CB

D.B. 1282, P. 169 Tr. 3
(Prev. D.B. 876, P. 575
Unrecorded Plat by Nilsson Engineering dated 03.19.1979 (Map File 79-013)

Tract A
All of P.I.N. 0619-35-2720
6532 Sq. Feet
0.150 Acres

Tract B
Portion of P.I.N. 0619-35-2633
2538 Sq. Feet
0.058 Acres

Tract C
Portion of P.I.N. 0619-35-2633
Portion of P.I.N. 0619-35-2554
7310 Sq. Feet
0.168 Acres

Tract D
Portion of P.I.N. 0619-35-2633
Portion of P.I.N. 0619-35-2554
2683 Sq. Feet
0.061 Acres

Tract E
Portion of P.I.N. 0619-35-2633
Portion of P.I.N. 0619-35-2554
2537 Sq. Feet
0.058 Acres

Tract F
Portion of P.I.N. 0619-35-2554
3351 Sq. Feet
0.077 Acres

Tract G
Portion of P.I.N. 0619-35-3526
464 Sq. Feet
0.011 Acres

Tract H
Portion of P.I.N. 0619-35-3526
1082 Sq. Feet
0.025 Acres

Town of Black Mountain
D.B. 997, P. 133
D.B. 824, P. 528
Zoned CB
Unrecorded Plat by Nilsson & Watts Assoc. revised 05.19.1994 (Map File 84-122)

The Swannanoa Valley Historical & Preservation Assoc.
D.B. 2344, P. 337
Zoned CB

Town of Black Mountain
D.B. 1323, P. 461
Zoned CB

D. F. Harvey Inc.
D.B. 2438, P. 14
Zoned CB

D.B. 1283, P. 171 Tr. 1
D.B. 1283, P. 171 Tr. 2
D.B. 523, P. 90
Unrecorded Plat by Nilsson Engineering dated 03.25.1978 (Map File 78-019)

D.B. 1282, P. 169 Tr. 5
Unrecorded Plat by Nilsson Engineering - 10.14.1980 (Map File 80-064)

D.B. 1282, P. 169 Tr. 4
Unrecorded Plat by Nilsson Engineering - 10.14.1980 (Map File 80-064)

D.B. 1472, P. 659

MNF NAD 83 (2011) COORDS.
N=695537.37
E=1013355.61
C. FACT. = 0.99978434

N.G.S "FIRST UNION"
NAD 83 (2011) COORDS.
N=695432.73
E= 1013705.46
C. FACT. = 0.99978448

Tie only: S 66°14'46" W 47.17'
Tie: N 34°15'20" W 69.26'
Tie: L8
Grid Tie: S 73°20'55" E 365.17'

TOTAL AREA = 0.608 AC.
By Coord. Computation

NOTES

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, ENCUMBRANCES, OR OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION PERFORMED BY AN ATTORNEY AT LAW. THIS SURVEY SHALL NOT BE CONSIDERED A CERTIFICATION OF OWNERSHIP, ZONING, TITLE, OR GUARANTEE THAT THE PROPERTY IS FREE FROM ENCUMBRANCES.
2. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS TO CONVERT TO GROUND DISTANCES AND ACREAGE, DIVIDE BY THE COMBINED FACTOR OF 0.99978434.
3. UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF EASEMENTS, BURIED UTILITIES, PIPELINES, OR STRUCTURES THERETO WHICH ARE READILY APPARENT FROM A CASUAL ABOVE GROUND VIEW OF PREMISES ARE SHOWN. INTERESTED PARTIES SHOULD INVESTIGATE THE EXISTENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES,IF ANY, AND VERIFY. NO LIABILITY IS ASSUMED BY HIGH COUNTRY SURVEYORS, INC. FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE EXISTENCE OF ANY EASEMENT, BURIED UTILITY,OR PIPELINE ON THE PREMISES.
4. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 3710061900J DATED 01.06.2010.
5. UNDERGROUND SEWERLINE INFORMATION IS TAKEN FROM BUNCOMBE COUNTY MSD GIS INFORMATION, AND HAS NOT BEEN FIELD VERIFIED.
6. THIS PROPERTY IS ZONED CB BY THE TOWN OF BLACK MOUNTAIN. SETBACKS: 12' FRONT FROM CURB, 0' SIDE, 0' REAR. SEE THE BLACK MOUNTAIN ZONING ORDINANCE FOR MORE INFORMATION. INTERESTED PARTIES SHOULD INVESTIGATE ALL EXISTING RESTRICTIONS PRIOR TO DESIGN OR CONSTRUCTION. HIGH COUNTRY SURVEYORS, INC MAKES NO CLAIM TO THE EXISTANCE OF ANY RESTRICTIONS OR COVENANTS.
7. 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'S/DEVELOPER'S RESPONSIBILITY TO HAVE THE AREAS DESIGNATED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.

PRELIMINARY PLAT
NOT FOR RECORDATION, CONVEYANCES, OR SALES

Subdivision Survey for:

Barry B. Ricketts

P.I.N. 0619-35-2720 P.I.N. 0619-35-2633
P.I.N. 0619-35-2554 P.I.N. 0619-35-3526
Town of Black Mountain, Buncombe County, NC

P. O. Box 6
Black Mountain, NC 28711

1 inch = 20' ft.

August 30, 2021

20' 0 10' 20' 40' 80'

REFERENCES:
DEED BOOK 1472, PAGE 659
DEED BOOK 1283, PAGE 171
DEED BOOK 1284, PAGE 398
DEED BOOK 1282, PAGE 169
DEED BOOK 876, PAGE 575
DEED BOOK 523, PAGE 90

HIGH COUNTRY SURVEYORS, INC.
403-B WEST STATE ST., BLACK MOUNTAIN, NC 28711 (828) 664-0091
HIGHCOUNTRYSURVEYORS.NET CORPORATE LICENSE NUMBER C-1854

COORD. FILE 2021-125.crd

DRAWING NO. 2021-188