

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, September 27, 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
Lauronda Teeple
Chas Fitzgerald
Shawn Slome
Kathy Phillips
Rick Earley

Staff:

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

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of seven (7) regular members.

II. ADOPTION OF AGENDA

Chas Fitzgerald made a motion to adopt the agenda as presented. The motion was seconded by Shawn Slome and approved by a vote of 7-0.

III. ADOPTION OF MINUTES

Chas Fitzgerald made a motion to adopt the minutes of August 23, 2021, as written. The motion was seconded by Shawn Slome and approved by a vote of 7-0.

IV. OLD BUSINESS

1. Proposed Text Amendments – Sign Definitions

Jake Hair explained that the only change to the definitions was that he added a definition for murals to help clarify the difference between a sign and a mural. The board asked that language be added that a mural cannot contain commercial branding. The board decided to defer any decision on the proposed text amendments until after review of the sign ordinance to make sure that nothing else needs to be added to the definitions.

2. Proposed Text Amendments – Sign Ordinance

Jake Hair went through the changes that he had made from the last draft. Those changes include removing string light bulbs from prohibited signs, adding a section about removal of illegal signs, adding a section about grandfathering of existing signs, changing the size of crown signs from eight feet to six feet and changing the spacing of ground signs from one hundred and fifty feet to one hundred feet.

Chas Fitzgerald asked if a timeframe could be added to the grandfathering section so that existing signs would eventually have to come into compliance. Jessica Trotman explained that

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amortization is a legal question for the Town Attorney and that the timeframe for amortization cannot be arbitrary. Ms. Trotman said she will add this to her questions to ask the Town Attorney.

Mr. Fitzgerald recommended that crown signs be divided to say that letters cannot be larger than four feet in height and the overall height of the whole sign cannot be larger than six feet in height. Lauronda Teeple suggested adding sign elements into that size requirement because sometimes businesses have symbols or pictures in their name. Ms. Teeple suggested saying that any part of the identity of the sign be included, including title, icons, and any graphic elements. Staff will do a literature review of other jurisdictions and bring back some options to look at.

Mr. Fitzgerald asked about the spacing for ground signs and what if a lot is narrower and cannot meet the one-hundred-foot requirement. Mr. Hair explained that the cantilevered ground signs would be used in those cases. The board wants to make sure that there is consistent signage and Ms. Trotman suggested utilizing a ratio or percentage related to the lot width and the ground sign so that the scale would fit to the property, but the signage would be consistent. Ms. Trotman will work on this math and bring back to the board.

Mr. Fitzgerald spoke about allowing temporary banners for new businesses because they are necessary to educate the consumer that a new business has opened. The board agreed but does think that there needs to be a limited duration for the temporary banners. Pam Norton also spoke about being mindful of the pandemic and that people are having to wait longer on materials and items so the duration may need to be longer. One suggestion was to allow a temporary banner for sixty days or until the permanent signage was affixed, whichever time is longer. The board also spoke about having two types of temporary banners, those for new businesses and then true temporary banners, for example a now hiring banner, which would have a shorter time duration. These would be listed under the permitted sign section.

Kathy Phillips asked about having a size limit on state and local flags so that there are not giant flags flying around. Anna Stearns said that the allowance of state and local flags would not include confederate flags and that would need to be an enforcement call by staff. The board agreed that there need to be maintenance requirements for signs, including flags. Ms. Stearns suggested leaving the language as it is for now and then if the flags become a problem, then the ordinance can be amended. Ms. Stearns did state that there is plenty of case law on the ability for someone to display a flag. Lauronda Teeple also mentioned that mounting requirements and location of the sign factor into what size flag someone might could have. Staff will look at some other jurisdictions to see how they regulate these and will bring back some examples.

Ms. Phillips asked about home based business signs and it was explained that those requirements are under the home occupation ordinance section.

Chris Collins commended staff on the proposed ordinance and said that it was well organized and easy to follow.

The board decided to table both the sign ordinance and the sign definitions until staff comes back next month with examples of the requested items.

3. Proposed Text Amendments – Food Trucks

Jessica Trotman explained that the version of the proposed food truck ordinance sent out is a working version and she is working on creating some decisions to bring back for the board to decide on. Ms. Trotman will bring back another detailed version at the next meeting. Ms.

Trotman spoke about some of the questions that need to be answered such as what zoning districts will these be allowed in, are they allowed on properties without a primary structure, are

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they temporary or permanent and should there be a timeframe, and should they have accessory structures or should they count to the primary structures. Again, Ms. Trotman said that these were food for thought and she will bring back another version with specific decision points as well as the basics and the question is how do we address this use like we would any other. Food trucks are required to have commissary kitchens and they can be off-site or on-site. Ms. Trotman explained that the Town is not concerned with the rules from Buncombe County but are concerned about the use.

Jerry “Jay” Neumann, The Pizza Machine, said that he was invited to attend to tonight because of this topic and he has some concerns. He asked if he would be grandfathered in with his existing accessory structures. Ms. Trotman said that any existing food truck would be grandfathered in. His next question was in regards to his shipping container that he wants to turn into a bathroom and commissary kitchen and wants to make sure he will not have problems obtaining a permit to do that. Ms. Trotman said that she cannot give a definitive answer to that but the owner is the one who can pull them permit and then we have to ask what is it accessory to. Ms. Trotman explained that this is not pointed at any one business but is to help get away from crowd and clutter and that the board will have to decide on a limit to accessory structures. Accessory structures are already defined in the ordinance but shipping containers, or conex boxes, are not legally structures and have to be engineered. Ms. Trotman said the point of the proposed ordinance is to foster the orderly use of food trucks and while the ordinance has to answer the nitty-gritty questions, the application could be very general. The concern is a secondary situation to a property with an existing building and having multiple food trucks and what are the safety and traffic measures. The board asked Mr. Neumann to explain his plan and Anna Stearns made sure to note that any conversation at this meeting does not give any permission, blessing, or approval and that Mr. Neumann will need to speak with staff separately about his project and that it would need to be approved through a formal process.

Mr. Neumann explained that he would like to take the one shipping container and turn it into a bathroom and commissary kitchen. He would then like to add another shipping container for dry storage. He would also like to add two additional electrical meters to allow for two more food trucks that he would lease to with no specific time limits. He is cognizant of his neighbors and does not plan to have a breakfast food truck, a hamburger food truck, or a mussels food truck. The board asked Mr. Neumann to put his plans in writing and Ms. Trotman asked that he also include a map showing his lease lines. Ms. Trotman again explained that the shipping containers would have to be engineered no matter what the use and that the proposed ordinance is only dealing with mobile food vendors that are licensed by the DMV and have wheels.

Ms. Trotman said that if the board is wanting to look at structures that are not mobile then that is a separate definition with separate rules and becomes a whole other question.

The board suggested removing the requirement of one food truck per parcel and not calling them permanent but instead maybe calling them extended or semi-permanent or long-term or tier one and tier two. Ms. Trotman will put together more information and bring back to the next meeting.

V. NEW BUSINESS

1. Preliminary Plat for Cherry Street – Barry Ricketts

Don Blankenship, High Country Surveyors, explained that Barry Ricketts inherited the properties by will and the deeds are quite hold so Mr. Ricketts is trying to clean up the property lines to fit more with the existing buildings. There are currently five existing parcels that will be

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turned into eight parcels. Several board members expressed concern about lack of access to Tract B and Tract E and suggested that Tract A grant an access easement to Tract B in the rear and that Tract C grant an access easement to Tract E in the rear. Mr. Blankenship said that he will speak to his client about the easements and Anna Stearns clarified that the easements cannot be required or considered for approval of the plat. Some of the PIN numbers were not included on the application so the board asked that the application be corrected and resubmitted to Jake Hair. The Planning Board recommended approval of the preliminary plat with the condition that the application be corrected and resubmitted.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman announced that Kendigkeast Collaborative has been awarded the contract for the UDO. Ms. Trotman said that she had a two-hour phone call with the consultant to talk about the project and hopes to have the contract executed soon. Planning Board members will have opportunities to participate in the process at different levels and we hope to get started in the next four to six weeks.

VIII. ADJOURNMENT

Rick Earley made a motion to adjourn at 8:27 p.m. The motion was seconded by Chas Fitzgerald and approved by a vote of 7-0.

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin