

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, November 22, 2021, at 6:00 p.m. at Town Hall, 160 Midland Avenue and electronically via Zoom.

I. CALL TO ORDER

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

Chris Collins, Chair
Kathy Phillips
Lauronda Teeple
Shawn Slome
Rick Earley
Chas Fitzgerald, via Zoom

Absent:

Pam Norton, Vice Chair

Staff:

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

The meeting was called to order at 6:03 p.m. and duly constituted and opened for business with a quorum of six (6) members.

II. ADOPTION OF AGENDA

Lauronda Teeple made a motion to adopt the agenda as presented. The motion was seconded by Kathy Phillips and approved by a vote of 6-0.

III. ADOPTION OF MINUTES

There were no minutes for approval.

IV. OLD BUSINESS

1. Proposed Text Amendment – Mobile Food Vendors and Mobile Food Courts

Anna Stearns said that there were no substantive changes and that the amended ordinance is more organized and has more concise language. Chas Fitzgerald asked about a potential conflict between Item G and Item J in 5.2.4 regarding parking in the setbacks and it was stated that Item D in the revised version attempts to clarify the parking and requires a ten-foot clearance from buildings and structures. Mr. Fitzgerald also asked that consistent language be used throughout the proposed ordinance so any reference to food truck or cart will be known as food vendor. Staff will determine if the use of a mobile food vendor will be permanent or accessory. Chris Collins made a motion to recommend the proposed text amendment for mobile food vendors and mobile food vendor courts to the Town Council with the following amendments:

Section 1.2.3 to add a definition of mobile food vendor

Chapter 5 as written by staff

Table of Uses to allow in any district that allows restaurants; and

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that the proposed amendment is consistent with the comprehensive plan and is reasonable in the public interest because it helps promote goals in section 4.6 and 2.6 of the comprehensive plan and principals. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0.

V. NEW BUSINESS

1. Housekeeping Items

Jessica Trotman said that since boards and commissions are starting to meet in-person again it is a good time to review basic rules and procedures. Ms. Trotman talked about ideas that board members have and how they can go about getting them on the agenda. One way is to get Town Council direction and this will be mainly on larger issues. Another way is for board members to talk directly to Council members and get on their agenda but all items need to go through a formal process before being placed on the agenda. Ms. Trotman advised members that they are not to interpret the ordinance if asked questions out in public but rather direct citizens to the ordinance or to call staff. Shawn Slome asked about the process for the UDO and Ms. Trotman explained that if a new regulation is suggested by a board member, then that will be sent to Council for their direction and the Town Attorney for legal advice before it would be sent to the consultant to include. All other ideas or suggestions need to be sent to Ms. Trotman and she will send them to the consultant who will work on creating a document that will be used to gather additional board input and citizen input and then will have a draft document available for a whole look. The UDO is not intended to be a total re-write and rezoning of districts but rather is intended to be a general modernization that will include better readability and be an actionable document. Town Attorney Ron Sneed said that the contradictory tree ordinance bills (one would allow a municipality to have a tree ordinance and the other would allow a tree ordinance but only after state approval) is still in committee and have not moved since May. The other bill that would redefine single-family dwellings up to a quadraplex is also still in committee but can carry over to the next term since there is no money involved. Mr. Sneed just wants the board to be aware that while neither of these have moved from committee, they also have not gone away. Mr. Sneed spoke about the alley off of Broadway that a portion of was withdrawn from dedication by a private property owner. Mr. Sneed explained that alleys are created by the recording a plat and that the plat is an offer to the public in two ways: 1. A local body (meaning the municipality) and 2. All property owners adjoining the alley. The plat with the alley on Broadway was recorded in 1928 and at that time was just an offer. An offer cannot be withdrawn for fifteen years after the recording and at that time someone can ask that the alley be closed or it can be withdrawn from dedication. If a company is the one who recorded a plat and the company no longer exists, then an individual property owner can withdraw the dedication. If an individual is the one who recorded the plat, then all heirs have to be found and give approval. Mr. Sneed spoke about several rumors that are in the community that might hint to the Town having taken over the alley and there is not substantial or definitive evidence to prove that any of those would have meant that the Town had taken over the alley and that it would be up to a jury to decide that. Mr. Sneed advised board members that if they are asked about the alley that they respond that it is a private property matter and the Town cannot enforce private property rights. Ms. Trotman also stated that Town staff did not bless anything and this involved private property with a private property owner and a private document. Mr. Sneed then spoke about email communications and advised board members to be aware that a chain of emails can constitute an open meeting. Mr. Sneed said the best practice is if a board wants to send something out to the

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whole board, then send it to staff and then staff can send it out. Ms. Trotman also suggested these for any articles or documents and that it is important that all board members have access to the same information and items can be included in the agenda packet as well.

2. December Meeting

A rezoning application has been submitted for the next Planning Board meeting, however, the date for that meeting is December 27th and the Town will be closed for the Christmas holiday. Jennifer Tipton suggested moving the meeting to December 20th but said that January 3rd could also be an alternate date. The consensus is to move the meeting to December 20th. Ms. Tipton also noted that boards and commissions will remain in a hybrid version of meetings (in-person and virtually) until further notice.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

None.

VIII. COMMUNICATION FROM STAFF

Jessica Trotman said we are slowly progressing with the UDO and that interviews with stakeholders will be coming up. All board members are considered stakeholders; however, they will meet in small groups of three rather than individually. All interviews will be done by Zoom and there will be a list of questions. The interviews are expected to happen for six to eight hours for two days. Ms. Trotman is going to try and get a copy of the interview questions so that any board member who cannot attend one of the interviews can still answer the questions.

VX. ADJOURNMENT

Chris Collins made a motion to adjourn at 6:58 p.m. The motion was approved by consensus with a vote of 6-0.

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin