



TOWN OF BLACK MOUNTAIN

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

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

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for March 28, 2022
Date: March 18, 2022

The **Town of Black Mountain Planning Board** will meet on **Monday, March 28, 2022, at 6:00 p.m.** in Town Hall at 160 Midland Avenue and electronically via Zoom.

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

1. The proposed agenda;
2. Draft minutes from February 28, 2022;
3. Buckeye Street Road Closure Petition; and
4. Potential Tree Ordinance Discussion .

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.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@tobm.org.

CC: Jessica Trotman, Planning Director
Jake Hair, Planner 1/Zoning Administrator
Ron Sneed, Town Attorney



PUBLIC NOTICE **AVISO PÚBLICO**

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING **REUNIÓN ORDINARIA**

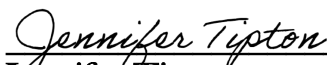
Monday, March 28, 2022, at 6:00 p.m.
Lunes 28 de marzo de 2022, a las 6:00 p.m.

The Black Mountain Planning Board will meet for their regular monthly meeting on **Monday, March 28, 2022, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Planificación de Black Mountain se reunirá para su reunión mensual regular el **lunes 28 de marzo de 2022 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, N. C.

The meeting is open to the public.
La reunión está abierta al público.

A Zoom link is available to citizens who cannot attend the meeting.
Un enlace de Zoom está disponible para los ciudadanos que no pueden asistir a la reunión.
<https://us02web.zoom.us/j/82634009043>



Jennifer Tipton
Senior Admin

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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@tobm.org.

Posted to the Town Bulletin Board 03/01/2022

www.townofblackmountain.org



**Planning Board Regular Meeting
March 28, 2022**

PROPOSED AGENDA

I. CALL TO ORDER

- Welcome
- Determination of Quorum

II. ADOPTION OF AGENDA

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

III. ADOPTION OF MINUTES

- **Motion:** To adopt the minutes of February 28, 2022 as written [or as amended]

IV. OLD BUSINESS

- Buckeye Street Road Closure Petition

V. NEW BUSINESS

- Potential Tree Ordinance Discussion

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, February 28, 2022, 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
Kathy Phillips
Shawn Slome
Rick Earley

Absent:

Lauronda Teeple
Chas Fitzgerald

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Jake Hair, Planner I/Zoning Administrator
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 five (5) members.

II. ADOPTION OF AGENDA

Kathy Phillips made a motion to adopt the agenda as presented. The motion was seconded by Rick Earley and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Rick Earley made a motion to approve the minutes of December 21, 2021. The motion was seconded by Shawn Slome and approved by a vote of 5-0.

IV. NEW BUSINESS

1. UDO Diagnostic Presentation – Kelli McCormick, Kendig Keast Collaborative

Kelli McCormick presented the diagnostic report for the UDO (Unified Development Ordinance). Mrs. McCormick spoke about the background of the project and that we are almost at the iterative drafting of the project. The UDO will be presented in two parts. Mrs. McCormick stressed that the UDO is not a property tax policy, it is not a mass rezoning, it is not a capital improvement program. The UDO will tackle weaknesses in organization and consistency, zoning classifications and uses, including conditional subdivisions, open space, landscaping, trees, flood plain development, stormwater and stream buffers, and short-term rentals and housing type issues. The UDO will also place items in the correct places. The UDO will have visual representation of unclear standards and show additional details. The UDO will look at consistency, be more user friendly, clarify day-to-day administration for staff, consolidate administrative duties, review charts, track total development review, and be more efficient. A UDO is not a comprehensive plan and is a set of laws, procedures, standards, and a zoning map that implements the policies identified in the comprehensive plan. A UDO should protect the

Planning Board Regular Meeting
February 28, 2022

public health, safety, and welfare, implement land use policies, and be flexible enough to allow property owners some freedom. The PARK analysis from the stakeholder interviews looked at items to preserve, add, remove, and keep out. *add items here* Some of the land use items that will be addressed will be nonresidential uses, prohibited uses, temporary uses, and special and conditional uses and zoning. Site development standards will include parking, landscaping, signs, buildings, floodplain management. Procedures will include clarity and efficiency, additional staff decision-making, infrastructure responsibility, open space requirements, character, and resiliency. The diagnostic assessment found that the UDO will align with the Elevate Black Mountain plan by incorporating the following:

- Promote
- Protect existing, stable neighborhoods
- Review mixed-use developments
- Conform with the State's building materials and restrictions
- Allow ADU's to promote gaining in place and housing affordability
- Zoning districts chart
- Improve use regulations
- Rely on use categories
- Definitions
- Use standards
- Home occupations
- Post-Covid
- Accessory uses
- Enhance site development standards
- Parking and parking reform
- Low-impact development
- Legal matters
- Standardize and streamline review procedures
- Procedural streamlining – increased administrative authority and review clarity
- Legislation and case law
- Create a more user-friendly code
- Provide user-friendly enhancements
- Re-organize permits and procedures

The conversion will start with an annotated outline looking at items from a citizen's perspective. Then the outline is looked at from a technical user's perspective. Comments will be provided on the side of the annotated page so that everyone can see all the comments without having to email. A website will be setup that will have meeting dates, information, drafts, and other items related to the UDO. Major subdivisions currently have pedestrian circulation requirements, and the UDO has the ability to address some other ways of providing walkability. Shawn Slome asked if available land and zoning of neighborhoods will be looked at with the addition of different housing types. Mrs. McCormick said that the housing types will be incorporated into the existing land and zoning, and it may be that lot sizes or setbacks might have to be changed but all of that will be looked at. The UDO will look at existing conditions.

2. Proposed Text Amendment – Mobile Food Vendors

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Jessica Trotman said that the first mobile food vendor text amendment was approved by the Town Council but shortly after, it was discovered that the text amendment was in conflict with the NC Administrative Code. The main thing is that you are either a vehicle or a building. Felissa Vasquez, Buncombe County Environmental Health, spoke about how food trucks are not allowed to be permanently hooked up to water and sewer but may have an electrical outlet. Mobile food vendors must leave and return to their commissary kitchen at the end of the day. Mobile food vendors cannot offer seating but they are able to park at a brewery or park that has seating but that must be in writing. Mobile food vendors are temporary uses and mobile food vendor courts are a principal use on a property that would allow for permanent facilities and seating and is a place to allow the mobile food vendors to come and set-up. Propane tanks must be checked by the agricultural division for safety purposes.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

Shawn Slome asked about the board disclosing a conflict of interest at each meeting. Ms. Stearns said that each board member has a responsibility to disclose a conflict of interest and the policy is covered in the Boards and Commissions Handbook. The requirement to disclose conflicts of interest is in Chapter 1, Section 1.4.3 of the Land Use Code and aligns with the new requirements from 160D. There are two types of conflict of interest: a direct financial impact or a close familial or business relationship. Board members are required be transparent and to be impartial when making decisions. Elected officials are only governed by the direct financial impact conflict of interest.

VIII. COMMUNICATION FROM STAFF

None.

VX. ADJOURNMENT

The meeting was adjourned at 7:53 p.m.

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin



Town of Black Mountain
Building, Planning and Zoning

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

Date: May 24, 2021

To: Black Mountain Planning Board

From: Planning Staff

RE: Part of Buckeye Street Alley Closure Request

Please find pertinent information attached.

Summary:

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

Definitions:

The land use defines the following terms:

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

Adjacent: Either abutting or being directly across a street.

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

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

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

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

Does not apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff will take care of this portion.

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

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

Town of Black Mountain
North Carolina

Date: APRIL 30, 20

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

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

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

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

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

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

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

Witness our signatures the day and year first above written.

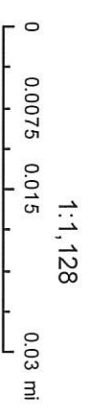
<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
<u>THOMAS WOODBURY</u>	<u>201 SWANNOA AVE</u>	<u>828-275-1950</u>

RECEIVED MAY 07 2021
CHECK # 5049
JT

Buncombe County



May 7, 2021



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

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PIN #</u>
Thomas R Woodbury	147 Buckner Road	Black Mountain	NC	28711	0619-05-7269
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711	0619-05-8675
John Miles; Julie E Miles	358 White Pine Dr	Fletcher	NC	28732	0619-15-1350
Joyner Family 117 Cragmont LLC	1823 Sharon Wood Ln	Rock Hill	SC	29732	0619-15-1420
Town of Black Mountain	160 Midland Ave	Black Mountain	NC	28711	0619-05-9132



**Town of Black Mountain
Planning & Development**

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

March 15, 2022

Dear Owner,

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

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

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, March 28, 2022, at 6:00 p.m. in-person at Town Hall, 160 Midland Avenue, and electronically via Zoom.

The details to access the meeting are below:

Join Zoom Meeting

<https://us02web.zoom.us/j/82634009043>

Meeting ID: 826 3400 9043

OR

888 788 0099 US Toll-free

877 853 5247 US Toll-free

Meeting ID: 826 3400 9043 and then press the pound sign (#)

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

Respectfully,

Jennifer Tipton
Senior Admin

Enclosure (1)

Building a Framework for a Tree Conservation Ordinance

These questions are intended to help Planning Board members begin to think about a tree conservation ordinance. This is not an exhaustive list, but should help foster thoughtful conversation as the Board develops the ordinance.

1. What is your primary goal in creating a tree conservation ordinance?
2. In which types of development or scenarios outside of development do you think a tree ordinance should be applicable?
3. Who do you propose have authority to approve these plans and/or permits? Are different positions required to review and consider different plans or permits?
4. What metrics do you propose the ordinance use for the purpose of conservation? Example: number of trees? Number of trees of a particular size? Canopy size?
5. What sort of flexibility should be included within the ordinance?
6. What exceptions should be included? (example: invasive species, dead trees, trees within a certain distance from a structure etc.)
7. What sort of tree conservation plan, documentation, and compliance do you wish to see required? Do these vary based on the type of development?
8. How do you propose open space requirements relate to a tree conservation ordinance?
9. How do you propose stream buffer requirements relate to a tree conservation ordinance?
10. How do you propose landscaping requirements relate to a tree conservation ordinance?
11. How do you propose buffer requirements relate to a tree conservation ordinance?
12. How do you propose handling unique situations where a tree conservation ordinance cannot be achieved as written?