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, Zoning Administrator
Re: Agenda Packet for September 24, 2018
Date: September 18, 2018

The **Town of Black Mountain Planning Board** will meet on **Monday, September 24, 2018 at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

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

1. The proposed agenda;
2. Draft minutes from August 27, 2018;
3. Right-of-Way Closure Request for First Street (off of Blue Ridge Assembly Drive);
4. Text Amendment – Definitions;
5. Text Amendment – Floodway;
6. Text Amendment – Home Occupations; and
7. Text Amendment – Historic District Overlay.

Please let Jennifer Tipton know if you are **unable** to attend this meeting. jennifer.tipton@townofblackmountain.org or (828) 419-9373.

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) 419-9373 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Sneed, Town Attorney
Ron Moore, Interim Town Manager

PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING

Monday, September 24, 2018 at 6:00 p.m.

The Black Mountain Planning Board will meet for their monthly meeting on **Monday, September 24, 2018 at 6:00 p.m**. at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to continue to consider a right-of-way closure request for First Street (off of Blue Ridge Assembly Drive) and consider text amendments for definitions, floodways, home occupations and the Historic District Overlay.

The meeting is open to the public.

Jennifer Tipton
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton at (828) 669-2030 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 09/11/18

www.townofblackmountain.org

Planning Board Regular Meeting
September 24, 2018

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 August 27, 2018 as written [or as amended]

IV. **OLD BUSINESS**

1. Right-of-Way Closure Request for First Street (off of Blue Ridge Assembly Dr)
- Staff Report
- Vote to amend scope of closure **or** vote to recommend/not recommend to Board of Aldermen

V. **NEW BUSINESS**

1. Text Amendment Proposal– Definitions
- Staff Report
- Adoption of Statement of Consistency
- Vote to recommend/not recommend to Board of Aldermen

2. Text Amendment – Flood Regulations
- Staff Report
- Adoption of Statement of Consistency
- Vote to recommend/not recommend to Board of Aldermen

3. Text Amendment – Home Occupations
- Staff Report
- Adoption of Statement of Consistency
- Vote to recommend/not recommend to Board of Aldermen

4. Text Amendment – Historic District

- Staff Report
- Adoption of Statement of Consistency
- Vote to recommend/not recommend to Board of Aldermen

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

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: July 30, 2018

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

RE: First Street Right-of-Way Closure Request

Please find pertinent information attached.

Summary

Andrew and Kirsten Bobilya and Charles and Katherine Clegg are requesting to close a portion of a right-of-way known as First Street off of Blue Ridge Assembly Drive. The requested portion is approximately 274 feet long. The Bobilya's and the Clegg's are looking to put in a shared 12' driveway and will allow for any utility easements that may be needed by any other property owners that abut the right-of-way.

The petition has been signed by Andrew Bobilya, Kirsten Bobilya, Charles Clegg and Katherine Clegg.

Definitions

The land use code 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 of 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 BMPs, 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, notices

to abutting property owners shall be given as required by NCGS. If the request is generated from town staff or a board or commission, the fee shall not apply.

Andrew Bobilya submitted a petition for street closing request on June 8, 2018. The petition was signed by Andrew and Kirsten Bobilya, owners of 32 Blue Ridge Assembly Drive and an abutting vacant property and Charles and Katherine Clegg, owners of 38 Blue Ridge Assembly Drive and two abutting vacant properties. Andrew Bobilya submitted check #2059 for the amount 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 proposes 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.) and information on possible future uses from any of the town's adopted plans, 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 right-of-way closure is approximately 274' in length.
Currently there are no uses in the right-of-way and is a wooded area.
The right-of-way does not contain any utility lines.

3. The planning board will review the request and make a 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 areas of right-of-way in addition to the petition, or not accept the petition and leave the right-of-way as an offering.

Staff recommends that the planning board recommend the right-of-way for closure.

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

The requested right-of-way 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. Right-of-way is not necessary for current or future utilities.

There are currently no utilities in the right-of-way but the Bobilya's and the Clegg's have indicated that they will grant any utility easements that might be necessary, however, most of the lots have utility access from either Blue Ridge Assembly Drive or Laurel Lane.

c. Right-of-way in its current condition poses a hazard to public health, safety or welfare.

The right-of-way does not pose a threat to public health, safety or welfare.

d. Right-of-way is along a drainage that is part of a stormwater management plan.

There are no stormwater systems on this right-of-way nor is it along any drainage system.

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

The right-of-way is not a current corridor for a roadway or a greenway and is not identified on the Greenway Master Plan or the Pedestrian Master Plan for future roadways or greenways. The existing houses have access from Blue Ridge Assembly Drive and the intent is to install a 12' shared driveway for the vacant lots in the back. The properties at the back of the right-of-way have access from Laurel Lane.

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

The owners of 32 Blue Ridge Assembly Drive with the abutting vacant lot and the owners of 38 Blue Ridge Assembly Drive with two abutting vacant lots have signed the petition. These are the owners that abut the portion of the right-of-way that is requested to be closed.

5. The planning board may also make a recommendation to amend the scope or length of the right-of-way closure petition if the board determines that there are compelling reasons to do so. In these cases, the board may direct staff to contact additional abutting property owners to get their input before making a determination.

As the property owners at the back of the right-of-way have been contacted and have given their input, staff does not feel or find that there are any compelling reasons to amend the scope of the petition. The petitioner has requested the portion be closed that is property touches and he cannot ask for more than that. Staff does not feel that property value is a determining factor in recommending a road closure and the other properties have reasonable means of ingress and egress from Laurel Lane.

6. Planning board recommendation is forwarded to the 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 before the Board of Aldermen.

7. Area for closure is posted 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 will take care of this portion.

8. Board of aldermen holds a 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.

Andrew Bobilya
Kirsten DeWitt-Bobilya
32 Blue Ridge Assembly Drive
Black Mountain, NC 28711

July 7, 2018

Dear Black Mountain Planning Board:

We respectfully submit this letter for your consideration as you review our right-of-way closure request for unopened access between our property (32 Blue Ridge Assembly Drive) and the Clegg properties to the south (aka Montreat Cottage Rentals). We have asked Andrew's brother and our general contractor, Dana Bobilya, to represent us at the upcoming July 23, 2018 Planning Board meeting while we are in Michigan with our daughters helping at their summer camp. Below is a brief explanation which will hopefully describe our intent with regard to the road closure request.

We have lived in the same home in Black Mountain for the past fourteen years and always kept our eye out for a property that would allow us to build a 1,800-2,000 square foot home that more adequately meets our family's needs while also giving us the option of having a second home for either of our sets of parents to move into as they age. We recently purchased the property at 32 Blue Ridge Assembly Drive which has an adjoining lot immediately behind it (to the East). The Clegg family owns the neighboring property that adjoins the unopened ROW and they have given their full support of our request. We are now asking that the town "close" the unopened road right-of-way so that we may create a "private drive" rather than a public thoroughfare that would only access our properties. We plan to construct a private driveway to access our lot and build a single-family home where we will reside while also maintaining ownership of the existing home at 32 Blue Ridge Assembly Drive.

Thank you for considering our request. Should you have any questions, please convey them to Dana at the July board meeting and/or contact us at 828-545-1506.

Sincerely,

Andrew J. Bobilya
Kirsten DeWitt-Bobilya

TOWN OF BLACK MOUNTAIN, NORTH CAROLINA

PETITION FOR STREET CLOSING REQUEST

We, the undersigned property owners of property located abutting a private street or alleyway known as First Street,

located off of Blue Ridge Assembly Drive,

do hereby petition the Black Mountain Board of Aldermen to permanently close said street or alleyway.

	NAME/SIGNATURE	PROPERTY/MAILING ADDRESS
1.	Andrew J. Bobilya / Kristen Dewitt Bobilya Andrew J. Bobilya / Kristen Dewitt Bobilya	32 Blue Ridge Assembly Dr. Black Mtn NC 28711
2.	Charles N Clegg / Charles N Clegg Katherine U. Clegg / Katherine U. Clegg	"Montreat Cottage Rentals" 38 Blue Ridge Assy DR
3.	Charles N. Clegg / Charles N. Clegg Katherine U. Clegg / Katherine U. Clegg	"Charles N. & Katherine U. Clegg" 38 Blue Ridge Assy DR - MAILING ADDRESS - Charles N. Clegg PO Box 185 Montreat NC 28757
4.		
5.		
6.		
7.		
8.		

Date Request Received at Town Hall: 6/6/18 *by:* Jennifer Upton

Pd $300.00
Check # 2059
6/6/18

Adopted 12/11/84
Revised 7/02

Town of Black Mountain
North Carolina

Date: August 6, 2018

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:

First Street Right of Way (Between 32 Blue Ridge Assembly Drive and 38 Blue Ridge Assembly Dr. all the way to Penley's land.)

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

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

NAME	ADDRESS
See previous submission on June 6, '18 for Bobilya and Clegg Signatures	
Max Penley	15 Laurel Lane

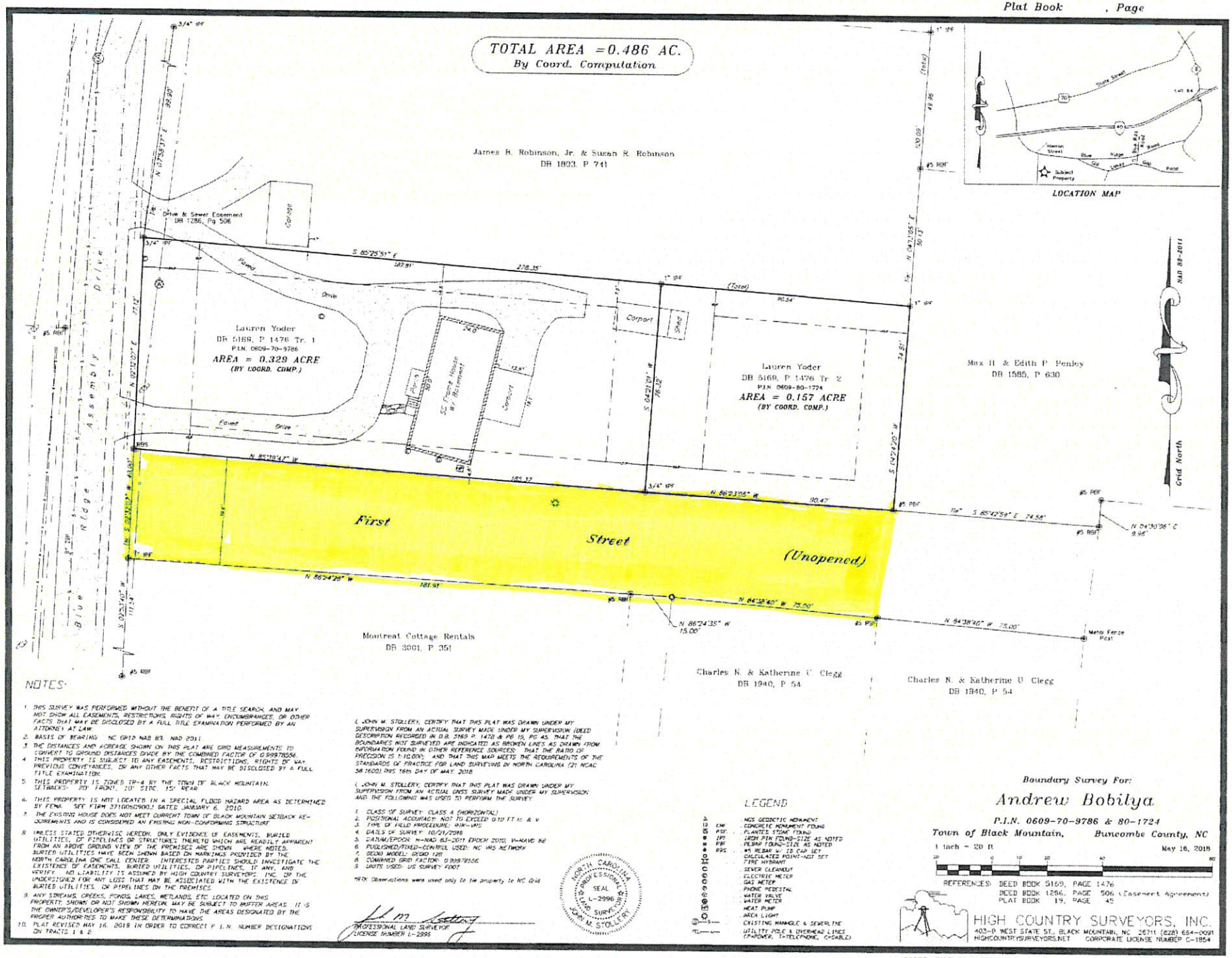
WHEREFORE, your petitioners respectfully request the Board of Aldermen of the Town of Black Mountain to adopt a resolution ordering the closing of the above described street or alley.

Witness our signatures the day and year first above written.

House 828-669-4385

NAME	ADDRESS	PHONE #
→ Max H. Penley	15 Laurel Ln.	828-231-1049
→ Mark D. Penley	11 laurel lane	828-669-2091

Plat Book , Page



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.
2. BASIS OF BEARING: NC GRID NAD 83, NAD 2011.
3. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS TO CONVERT TO GROUND DISTANCES DIVIDE BY THE COMBINED FACTOR OF 0.9997856.
4. THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, PREVIOUS CONVEYANCES, OR ANY OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION.
5. THIS PROPERTY IS ZONED TR-4 BY THE TOWN OF BLACK MOUNTAIN. SETBACKS: 20' FRONT, 10' SIDE, 15' REAR.
6. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 3710850900J DATED JANUARY 6, 2010.
7. THE EXISTING HOUSE DOES NOT MEET CURRENT TOWN OF BLACK MOUNTAIN SETBACK REQUIREMENTS AND IS CONSIDERED AN EXISTING NON-CONFORMING STRUCTURE.
8. UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES OR STRUCTURES THERETO WHICH ARE READILY APPARENT FROM AN ABOVE GROUND VIEW OF THE PREMISES ARE SHOWN. WHERE NOTED, BURIED UTILITIES HAVE BEEN SHOWN BASED ON MARKINGS PROVIDED BY THE NORTH CAROLINA ONE CALL CENTER. 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. OR THE UNDERSIGNED FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE EXISTENCE OF BURIED UTILITIES, OR PIPELINES ON THE PREMISES.
9. 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 MAKE THE AREAS DESIGNATED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.
10. PLAT REVISED MAY 16, 2018 IN ORDER TO CORRECT P.I.N. NUMBER DESIGNATIONS ON TRACTS 1 & 2.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 5169, P. 1476 & PB 15, PG 45; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS BROKEN LINES AS DRAWN FROM INFORMATION FOUND IN OTHER REFERENCE SOURCES; THAT THE RATIO OF PRECISION IS 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) THIS 18th DAY OF MAY, 2018.

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. & V.
3. TYPE OF FIELD PROCEDURE: RTK-VRS
4. DATES OF SURVEY: 10/21/2016
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: 0.9997856
9. UNITS USED: US SURVEY FOOT

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

NORTH CAROLINA PROFESSIONAL LAND SURVEYOR SEAL L-2996 JOHN M. STOLLERY

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-2996

LEGEND

- MGS GEODETIC MONUMENT
- CM CONCRETE MONUMENT FOUND
- PCF PLANTED STONE FOUND
- IPF IRON PIN FOUND-SIZE AS NOTED
- PBF PK NAIL FOUND-SIZE AS NOTED
- RBF #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
- UTILITY POLE & OVERHEAD LINES (GARDNER, TELEPHONE, CABLE)

Boundary Survey For:

Andrew Bobilya

P.I.N. 0609-70-9786 & 80-1724

Town of Black Mountain, Buncombe County, NC

1 inch = 20 ft

May 16, 2018

REFERENCES: DEED BOOK 5169, PAGE 1476
DEED BOOK 1286, PAGE 506 (Easement Agreement)
PLAT BOOK 19, PAGE 45

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 2016-254.crd

DRAWING NO. 2018-059

Buncombe County

June 19, 2018

1:1,128

0 0.0075 0.015 0.03 mi

0 0.015 0.03 0.06 km

www.bmfire.org
spencer.elliott@townofblackmountain

Fire Prevention & Inspections Office

Black Mountain Fire Department
106 Montreat Road
Black Mountain, NC 28711
828.419.9333

6/27/2018

Jennifer,

After careful review of the proposed right-of-way closure off of Blue Ridge Assembly Drive, I have determined that fire department access code application does not apply to this right-of-way. My understanding is that there will only be one additional house built. The NC Fire Code only applies to subdivisions. A simple driveway would suffice for access. While we believe it to be helpful for fire department access considerations be addressed, there is no code that applies to a single house. We thank you and the Planning Board for inclusion on this proposal.

Regards,

Spencer Elliott

Spencer Elliott
Fire Inspector/Safety Officer
Black Mountain Fire Department

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

July 13, 2018

Karen Groves
1927 Stonegate Court
Baton Rouge, LA 70815

Dear Ms. Groves,

This correspondence is to notify you that two property owners have petitioned the Town of Black Mountain to close a portion of the right-of-way, known as First Street, which abuts your property.

A map has been enclosed to show the portion of the right-of-way that the property owners are requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, July 23, 2018 at 6:00 p.m. in the Board Room of Town Hall at 160 Midland Avenue.

If you have questions you may contact me at (828) 419-9373 or jennifer.tipton@townofblackmountain.org.

Respectfully,

Jennifer Tipton, CZO
Zoning Administrator

Enclosure (1)

Town of Black Mountain
Building, Planning and Zoning
160 Midland Avenue • Black Mountain • North Carolina • 28711
Phone: 828-419-9300 • Fax: 828-669-2030 • TDD: 1-800-735-2962

July 13, 2018

Max and Edith Penley
15 Laurel Lane
Black Mountain, NC 28711

Dear Mr. and Mrs. Penley,

This correspondence is to notify you that two property owners have petitioned the Town of Black Mountain to close a portion of the right-of-way, known as First Street, which abuts your property.

A map has been enclosed to show the portion of the right-of-way that the property owners are requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, July 23, 2018 at 6:00 p.m. in the Board Room of Town Hall at 160 Midland Avenue.

If you have questions you may contact me at (828) 419-9373 or jennifer.tipton@townofblackmountain.org.

Respectfully,

Jennifer Tipton, CZO
Zoning Administrator

Enclosure (1)

To Black Mountain Planning Board

Regarding Andrew Bobilia's request to close the unopened street that adjoins his property on the south, we wish to let you know that we are against closing this unopened street.

First, the closing of the street is not necessary for Andrew and his wife to build a new home on the back of the two lots they presently own. When you adjust for all the four set backs, he has enough room to build the 2000 square foot house that he discussed with me. There is even more room available to build an even bigger home if they so desired.

Second, it is not necessary to close the street for him to access where he wishes to build, behind the existing home where he presently resides. As Ron Sneed said, "He can build a drive to back lot on the unopen ed street without the consent of the town. He just has to clear the brush and trees."

Third, by closing the street he denies access to two other property owners at the rear of the 40foot right of way, as well as closing off access to the 15 foot unopened alley way that connects to our property. This cuts off the potential to possibly sell of lots on this acre of land in the future if our children so desired or if whomever owns the land wishes to develop.

Fourth, closing street should not be done unless it is the only option left. While serving on the town board, I did vote to close a few street but voted more often to leave them unopened. It is impossible for us to know the future, so it is best to be cautious, because once access is denied through closing of the street, it'll almost never be reopened.

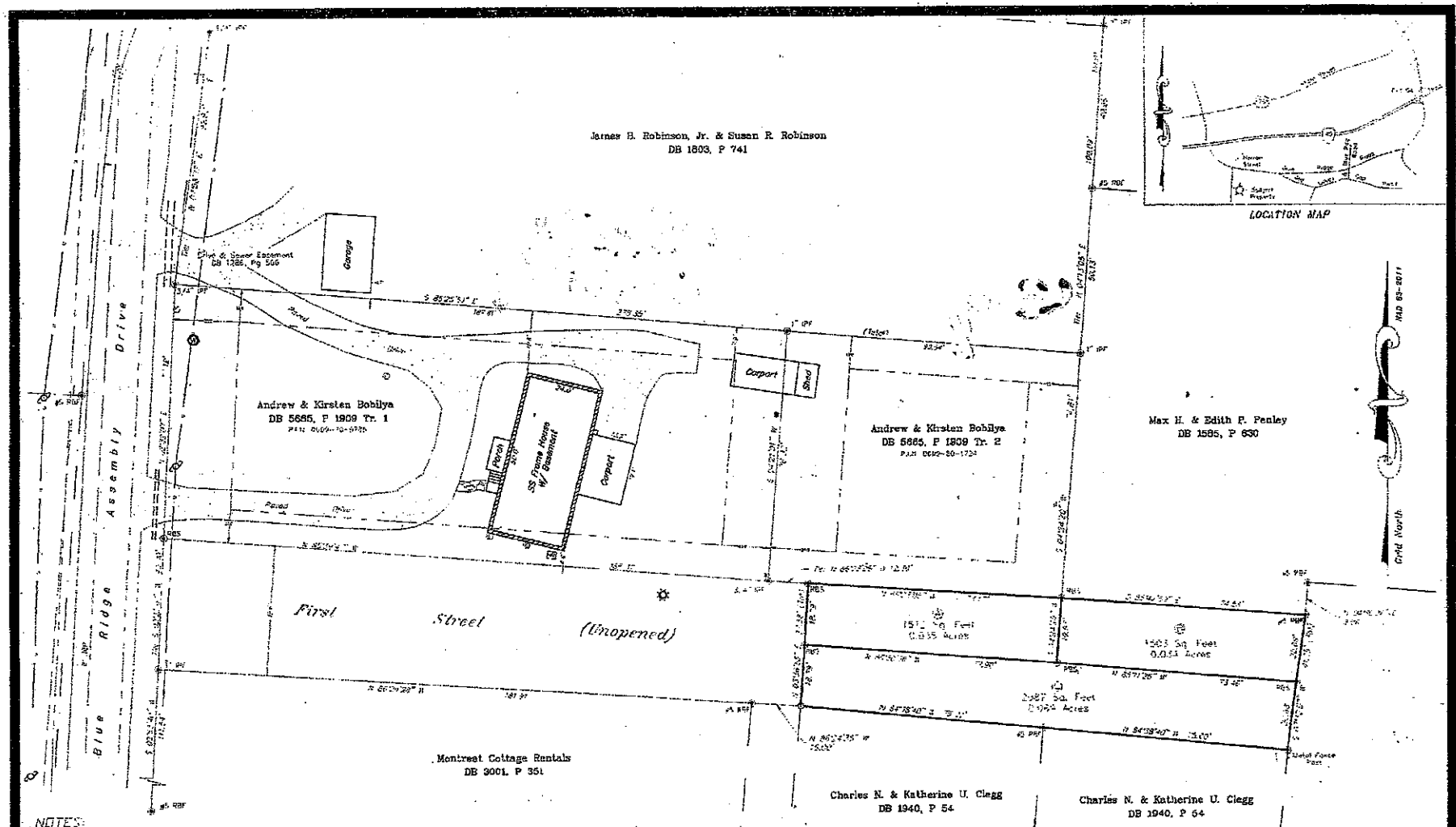
Last, Andrew says he needs this extra land to be able to move the lot line. He owns both pieces of property and so he could easily enlarge the use of his yard for the new house by just putting up a fence closer to the existing house which he plans to rent out. In all fairness, he has no need. All he has is wants! He wants you to close the road so that he can take title and possession of half of the unopened street, a little over 1/8 of an acre, valued at more than $25,000.00!

We hope you will not close the road and just let Andrew clear a drive to the back lot and build his future home if he so desires-you and the town are not keeping him from doing that!!

Sincerely yours,

Carol Eubank and Michael Sobol

Plat Book , Page



NOTES:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND MAY NOT SHOW ALL EASEMENTS, RESERVATIONS, RIGHTS OF WAY, ENCUMBRANCES, OR OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION PERFORMED BY AN ATTORNEY AT LAW.
2. BASIS OF BEARING: NC GRID NAD 83 (NA2011).
3. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS. TO CONVERT TO GROUND DISTANCE, MULTIPLY BY THE COMBINED FACTOR OF 0.99987556.
4. THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, PREVIOUS CONVEYANCES, OR ANY OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION.
5. THIS PROPERTY IS ZONED TO BE IN THE TOWN OF BLACK MOUNTAIN. SETBACKS: 20' FRONT, 10' SIDE, 15' REAR.
6. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 3710059400J DATED JANUARY 6, 2010.
7. THE EXISTING HOUSE RIDES NOT MEET CURRENT TOWN OF BLACK MOUNTAIN SETBACK REQUIREMENTS AND IS CONSIDERED AN EXISTING NON-CONFORMING STRUCTURE.
8. UNLESS STATED OTHERWISE (IF ANY), ONLY EVIDENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES OR STRUCTURES THERETO WHICH ARE READILY APPARENT FROM AN ABOVE GROUND VIEW OF THE PREMISES ARE SHOWN. WHERE NOTED, BURIED UTILITIES HAVE BEEN SHOWN BASED ON MARKINGS PROVIDED BY THE NORTH CAROLINA 811 CALL CENTER. THEREFORE PARTIES SHOULD INDEPENDENTLY VERIFY THE EXISTENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES. "811 ONE CALL" IS NOT A GUARANTY. NO LIABILITY IS ASSUMED BY HIGH COUNTRY SURVEYORS, INC. OR THE UNDERSIGNED FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE EXISTENCE OF BURIED UTILITIES, OR PIPELINES, ON THE PREMISES.
9. ANY STREAMS, CREEKS, POND, 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 SUCH DETERMINATIONS.

I, JOHN M. STROLLER, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DB 5685 P. 1809 & PB 19, PG 25; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS BROKEN LINES AS DRAWN FROM INFORMATION FOUND IN OTHER REFERENCED SOURCES); THAT THE RATIO OF PRECISION IS 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600); THIS 19th DAY OF SEPTEMBER, 2018

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

1. CLASS OF SURVEY: CLASS A (SUBURBAN)
2. HORIZONTAL ACCURACY: NOT TO EXCEED 1' IN 10,000'
3. TYPE OF FIELD PROCEDURE: TRADITIONAL
4. CLOSE OF SURVEY: 10,621' / 0.00
5. DATUM/EPOCH: NAD 83 (NA2011) EPOCH 2010.0 VERTICAL: NAVD 88
6. PUBLISHED/FIXED CONTROL USED: NC VRS NETWORK
7. GEOID MODEL: GEOID 12B
8. COMBINED GRID FACTOR: 0.99987556
9. UNITS: U.S. SURVEY FOOT

All observations were used prior to the property to NC Grid.

PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-2696

NORTH CAROLINA PROFESSIONAL SEAL L-2696 JOHN M. STROLLER

LEGEND

⊙	NGS GEODETIC MONUMENT
CM	CONCRETE MONUMENT FOUND
PIPE	PLANTED STEEL PIPE
⊙ IPF	IRON PIN FOUND-SIZE AS NOTED
⊙ PKF	PEDAX FOUND-SIZE AS NOTED
⊙ RBF	#5 REBAR W/ ID CAP SET
⊙ PKS	CALCULATED POINT-NOT SET
	FIRE HYDRANT
	SEWER CLEANOUT
	ELECTRIC METER
	GAS METER
	WATER METER
	MAIL BOX
	AREA LIGHT
	EXISTING MANHOLE & DESCRIPTION
	UTILITY POLE & OVERHEAD LINES (POWER, TELEPHONE, CABLE)

Proposed Road Closure Tracts For

Andrew & Kirsten Bobilya
Charles & Katherine Clegg
And
Max & Edith Penley

P.I.N. 0609-76-9786, 80-1724 80-1516, 80-1585 & 80-2796
Town of Black Mountain, Buncombe County, NC
1 inch = 20 ft
September 11, 2018

REFERENCES: DEED BOOK 5685, PAGE 1476
DEED BOOK 1286, PAGE 506 "Easement to convey"
PLAT BOOK 19 PAGE 25

HIGH COUNTRY SURVEYORS, INC.
405-B WEST STATE ST. BLACK MOUNTAIN, NC 28711 (828) 669-9091
MONUMENTATION • VRS NET • CONDOMINIUM SURVEYS • TOPOGRAPHIC SURVEYS

DRAWING FILE: 2018-264.dwg DRAWING No. 2018-136

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

MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: September 24, 2018

RE: Text Amendment – Definitions

Please find pertinent information attached.

Summary:
The Planning Department receives calls regarding overgrown grass and weeds on parcels that have nothing on them. The current nuisance ordinance addresses vacant lots but the question has recently come up about undeveloped lots that are still in their natural state. The proposed amendment is to help clarify between a vacant lot and an undeveloped lot. The definitions proposed were taken from the Planner's Dictionary, however, there are three alternate definitions for each that are attached for review.

Proposed Amendment:

that have been permitted or should be permitted

Land, vacant: A lot or parcel of land on which no improvements have been constructed.

Undeveloped land: Land in its natural state.

Alternate Definitions for Vacant Land:

Vacant lot: A neglected parcel of property that has no buildings on it.

Vacant lot: An unused area of land in an urban area (not built, not a farm, not a park).

Vacant lot: A parcel of land that currently has no buildings (or improvements) on it.

Alternate Definitions for Undeveloped Land:

Undeveloped land: An area that lacks the infrastructure, services and buildings that are often characterized as urban development.

Undeveloped land: Land remaining in its natural state, not disturbed.

Undeveloped land: Land that has not been built on or used.

Attachments:

Text Amendment Application
Consistency Statement

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

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Planning Staff Date: 9/11/18

Address: 160 Midland Avenue

Phone: 419-9300 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 1 Section: 1.2.3 Title: Definitions

Current Text: see attached

Requested Amendment: see attached

Reason for Requested Amendment: There is confusion about what constitutes vacant land versus undeveloped land in regards to complaints & code enforcement. Having a definition for each would make it easier to determine if a lot is just vacant or still in its natural state.

Applicant Signature | Applicant Printed Name | Date

****

FOR OFFICE USE ONLY

Date Received: 9/11/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: ____ Check: ____ Credit: ____

Planning Board Meeting Date: 9/24/18 Vote: 6 to 1 For ☑ Against ☐

Board of Aldermen Call for Public Hearing Date: 9/10/18

Board of Aldermen Meeting Date: 10/8/18 Vote: ____ to ____ For ☐ Against ☐

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: The Board of Aldermen for the Town of Black Mountain

From: The Planning Board for the Town of Black Mountain

Date: September 24, 2018

Subject: Zoning Text Amendment

Description: Add definitions for vacant lot and undeveloped lot

Address: N/A

The Planning Board hereby adopts and recommends to the Board of Aldermen 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: definition clears confusion of what constitutes vacant land and undeveloped land in regards to complaints and code enforcement

Why is it reasonable and in the public interest: adds clarity and adds opportunity for enforcement

____ 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
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

MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: September 24, 2018

RE: Text Amendment – Floodway & Non-Encroachment Areas

Please find pertinent information attached.

Summary:
In the Zoning Ordinance prior to 2010, provisions were in place regarding people leaving debris and discarded items to accumulate in special flood hazard areas and streams and creeks. When the ordinance was updated in 2010, this language was inadvertently omitted leaving little recourse for enforcement for debris and discarded items that remained after flood events or that people just neglected to clean up. The proposed amendment reestablishes the previous language from the pre-2010 ordinance.

Proposed Amendment:

Section F – Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas that are located within the special flood hazard areas established in article 3, section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in article 5, sections A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
   (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the bae flood based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain permit; or
   (b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.
(2) If article 5, section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met;
   (a) The anchoring and the elevation standards of article 5 section B(3); and such engineering to be certified.
   (b) The no encroachment standard of article 5, section F(1).
(4) No vegetative debris such as wood piles, downed trees or branches which could cause blockage of culverts or bridges or which could otherwise create a hazard during a flood event shall be permitted to accumulate within the ~~Special Flood Hazard Area.~~ floodway areas
(5) No discarded items such as abandoned vehicles, white goods, tires, or other trash shall be allowed to accumulate within the ~~Special Flood Hazard Area.~~ or stored floodway areas miscellaneous debris

Attachments:

Text Amendment Application
Consistency Statement

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

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Planning Staff Date: 9/11/18

Address: 160 Midland Avenue, Black Mtn, NC 28711

Phone: 419-9300 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 2 Section: 2.3 Article 5(F) Title: Floodway & non-encroachment areas

Current Text: see attached

Requested Amendment: see attached

Reason for Requested Amendment: Prior to the 2010 amendment of the Land Use Code, provisions were in place about items in the creeks & streams. It appears this language was inadvertently omitted during the update so this is adding the language back to the ordinance.

Applicant Signature | Applicant Printed Name | Date

****

FOR OFFICE USE ONLY

Date Received: 9/11/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: _____ Check: _____ Credit: _____

Planning Board Meeting Date: 9/24/18 Vote: 7 to 0 For ☑ Against ☐

Board of Aldermen Call for Public Hearing Date: 10/8/18

Board of Aldermen Meeting Date: _____ Vote: ____ to ____ For ☐ Against ☐

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: The Board of Aldermen for the Town of Black Mountain

From: The Planning Board for the Town of Black Mountain

Date: September 24, 2018

Subject: Zoning Text Amendment

Description: Add language to flood prevention regarding accumulations in streams

Address: N/A

The Planning Board hereby adopts and recommends to the Board of Aldermen 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: due to recent flooding and heavy rain events it is important to maintain capacity in the floodway and special flood hazard areas

Why is it reasonable and in the public interest: maintains public safety and the public good

____ 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:

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Building, Planning and Zoning
160 Midland Avenue • Black Mountain • North Carolina • 28711
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MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: September 24, 2018

RE: Text Amendment – Home Occupations

Please find pertinent information attached.

Summary:
Currently there are home occupations that are not registered with the town and staff does not know about them until a complaint is filed. The proposed amendment would require home occupations to complete a home occupation application that would allow for a zoning district review to make sure the use was permitted and that all other regulations of the home occupation ordinance were being followed. The application will also help the town keep track of the home occupations and assist in answering questions and complaints about home occupations.

Proposed Amendment:

Section 5.12.1

A. Home occupations are permitted in all districts except in HI-0 where residential uses are considered a nonconforming use. However, within the HI-0 district, a home occupation may be integrated into a pre-existing residential structure in compliance with this chapter.
B. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling or the immediate neighborhood.
C. The intent of these regulations is to allow for home occupations throughout Black Mountain while minimizing the impact on neighbors and maintaining the same levels of noise, traffic, parking and other characteristics of the surrounding residential properties.
D. In no case shall any nonresidential use or home occupation consist of operations or conditions resulting in noise, odors, smoke, glare, dust, gases, excessive traffic, electrical or other radiation, or other characteristics of a type or to an extent which create a nuisance or hazard to adjacent or neighboring residential properties.
E. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure that meets the requirements of the building inspector.
F. No display of stock in trade which is sold on the premises shall be visible from outside the building. Catalog and internet products may be received and shipped from the premises to fulfill orders as long as goods, products or commodities are stored within the home or an accessory structure customarily found in a residential district.
G. There shall be no outdoor storage or visible evidence of equipment or material used in home occupation, unless the equipment or materials are of a type and quantity that could reasonably be associated with the principal residential use.
H. In residential districts, business identification or advertising signs are only permitted if they are attached to the primary or secondary structure and shall not exceed four square feet. All other signage must conform to the town sign and district regulations.
I. Off-street parking needed to accommodate the home occupation shall be provided onsite but shall not exceed four spaces.
J. In residential districts, delivery vehicles serving the home occupation shall be restricted to the hours of 9:00 a.m. to 5:00 p.m.
K. Adult day care homes and child care homes shall provide care to no more than five unrelated persons and shall require an annual certificate of occupancy or safety inspection to ensure adequate structure and fire safety as well as documentation certifying compliance with all state and federal standards.
L. No one who resides outside of the residence may work in the home.

M. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
N. A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling, not to exceed 500 square feet.
O. Home occupations shall complete a home occupation application that includes zoning verification.

Attachments:

Text Amendment Application
Consistency Statement

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

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Planning Staff Date: 9/11/18

Address: 160 Midland Avenue. Black Mtn. NC 28711

Phone: 419-9300 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 5 Section: 5.12 Title: Home Occupations

Current Text: See attached

Requested Amendment: See attached

Reason for Requested Amendment: Currently, most home occupations are not accounted for. A home occupation application will allow planning staff to determine zoning, where located and that the home occupation meets all requirements.

Applicant Signature | Applicant Printed Name | Date

****

FOR OFFICE USE ONLY

Date Received: 9/11/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: _____ Check: _____ Credit: _____

Planning Board Meeting Date: 9/24/18 Vote: 6 to 1 For ☑ Against ☐

Board of Aldermen Call for Public Hearing Date: 10/8/18

Board of Aldermen Meeting Date: _____ Vote: ____ to ____ For ☐ Against ☐

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: The Board of Aldermen for the Town of Black Mountain

From: The Planning Board for the Town of Black Mountain

Date: September 24, 2018

Subject: Zoning Text Amendment

Description: Add requirement for home occupation application

Address: N/A

The Planning Board hereby adopts and recommends to the Board of Aldermen 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: supports home based businesses and is appropriate to get concurrence from town staff as they make their initial application

Why is it reasonable and in the public interest: supports home based businesses and is appropriate to get concurrence from town staff as they make their initial application

____ 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:

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MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: September 24, 2018

RE: Text Amendment – Historic District Overlay

Please find pertinent information attached.

Summary:
The Historic District Overlay chapter has inconsistent language between the historic and conservation districts so the proposed amendment cleans up the language making everything consistent. The proposed amendment also adds notice requirements for public hearings that match all other notice requirements for all other public hearings. Currently the conservation district has a mandatory review but a voluntary compliance that the ordinance speaks to but the ordinance does not speak to review and compliance for the historic district. The proposed amendment removes the conservation district review altogether and sets up procedures for historic district review and compliance.

Proposed Amendment:

Section 4.7.3 Historic district ~~and historic conservation district~~ overlay.

4.7.3.1 Intent.

The historical heritage of our town is one of our most valued and important assets. The ~~conservation and~~ preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the town. The purpose of establishing local ~~conservation districts,~~ historic districts and landmarks is to encourage the restoration, preservation, ***and*** rehabilitation ~~and conversation~~ of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets. In addition, the preservation of the historic districts and landmarks provides for the education, pleasure and enrichment of the residents of Black Mountain and the state as a whole.

4.7.3.2 Historic district~~, conservation district~~ and landmark establishment.

A. Historic districts~~, conservation districts~~ and landmarks are established through the application of an overlay district which are zoning districts that are applied only in conjunction with other zoning districts, and may grant additional use or development requirements upon the underlying zoning controlling the use and development of a lot to ensure the compatibly and appropriateness of exterior design within the historic district or for the landmark.
B. Overlay districts can be applied to any zoning districts and the boundaries of such overlay shall be shown on the official zoning map of the Town of Black Mountain. (i.e. "HD" overlay also referred to as "historic district".) An overlay district can be initiated as an amendment by board of aldermen, planning board, historic preservation commission, or a property owner.

4.7.3.3 Designation of historic districts.

The board of aldermen may adopt, amend, reject or repeal ordinances designating historic districts when adoption or amendment is pursuant to the following procedure:

A. An investigation and report describing the historical, architectural, or archaeological significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared; and
B. The North Carolina Department of Cultural Resources, acting through the state historic preservation officer or his or her designee, shall make an analysis of and recommendations concerning such report and description of proposed boundaries Failure of the department to submit its written analysis and recommendations to the board of aldermen within 30 calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the town of any responsibility for awaiting such analysis, and the board of aldermen may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
C. Historic districts shall consist of areas, which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting, materials, feeling, and association. The area, buildings, structures, sites, or objects shall be significant elements of cultural, social, economic, political, or architectural history of the town or of the archaeological history or prehistory of the town. The ~~conservation~~ ***preservation*** of such a district will provide for the education, pleasure and enhancement of the quality of life of all residents of the town.
D. The board of aldermen shall designate the boundaries of an historic district in accordance with the procedures set forth in the town code of ordinances, amendments of the Black Mountain Zoning Ordinance and G.S. 160A-384.
E. Following the board of aldermen designation and approval an historic district, the area so designated shall be labeled "HD" on the official zoning map.
F. With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the town, the investigative studies and reports shall be prepared by the historic preservation commission and shall be referred to the planning board for its review and comment. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions as stated above.

4.7.3.4 Designation of conservation district.

The board of aldermen may adopt, amend, reject, or repeal ordinances designating conservation districts when adoption or amendment is pursuant to the following procedure:

A. The board of aldermen shall designate the boundaries of a conservation district in accordance with the procedures set forth in chapter 1.5, amendments chapter and G.S. 160A-384.
B. Following the board of aldermen designation and approval of a conservation district, the area so designated shall be labeled "CD" on the official zoning map.

Section 4.7.3.5 Designation of landmarks.

The board of aldermen may adopt, amend, reject, or repeal ordinances designating historic landmarks that meet the following criteria, when those ordinances contain the following elements and when adoption or amendment is pursuant to the following procedure:

A. Criteria for designation. No building, structure, site, area, or object shall be recommended for designation as an historic landmark unless it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological, and for cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.
B. Elements of ordinances designating historic landmarks. Ordinances designating historic landmarks shall contain the following elements, which shall:
    1. Describe each property designated in the ordinance, including the approximate area of the property so designated.
    2. List the name or names of the owner or owners of the property.
    3. Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance.
    4. Describe the nature of the commission's jurisdiction over the interior, if any, and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed.
    5. Require, for each building, structure, site, area, or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to demolition.
    6. Recite any other information the board of aldermen deems necessary within the authority conferred by the general statutes.
C. Procedure for adopting or amending historic landmark ordinances. Ordinances designating historic landmarks shall be adopted and amended according to the following procedure:
    1. The historic preservation commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural, archaeological and/or cultural significance of each building, structure, site, area, or object proposed designation. Applications prepared by owners will be judged by the same criteria as those prepared by the commission. Such reports shall contain the following information:
        - The name of the property to be considered for designation – both common and historic names, if they can be determined.
        - The name and address of the current property owner.
        - The location of the property proposed to be designated historic, including the street address and tax map and parcel numbers.
        - The date of construction and of any later alterations, if any.
        - An assessment of the significance of the site or structure.
        - An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report shall contain a description of those features.
        - An historical discussion of the site or structure within its type, period, and locality.

- Black and white photographs and color slides that clearly depict the property proposed to be designated, including views of all facades, pertinent details and siting.
- A map showing the location of the property, including any outbuildings and appurtenant features.
- A clear description of the boundaries.

2. The commission shall forward its recommendation to the board of aldermen The commission shall refer the report to the state department of cultural resources, division of archives and history.
3. The department of cultural resources, acting through the state historic preservation officer or his or her designee, may make an analysis of and recommendations in connection with any proposed designation within 30 calendar days after a written request for such analysis has been received by the department, the commission and the board of aldermen shall be relieved of any responsibility to consider such comments.
4. The historic preservation commission and the board of aldermen shall each hold a public hearing on the proposed ordinance. Notice of the hearings shall be published at least once in a newspaper generally circulated within the town Written notice of the hearings shall be mailed by the preservation commission to all owners of property proposed for landmark status and the owners of all properties that abut the proposed landmark property whose identity and current mailing address can be ascertained by the exercise of reasonable diligence All such notices shall be published or mailed not less than ten nor more than 25 days prior to the date set for the public hearing. The mailed notices in this subsection are for the convenience of property owners and occupants and any defect of their omission therein shall not impair the validity of the public hearing or any action following therefrom.
5. Following the public hearings, the board of aldermen may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
6. Upon adoption of the ordinance or any amendments thereto, the owners and occupants of each designated historic property shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and each amendment thereto shall be filed by the historic preservation commission in the office of the county register of deeds. Each historic property designated as an historic landmark in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the historic preservation commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and of each amendment thereto shall be kept on file in the town clerk's office and shall be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the ~~county~~ ***town*** building inspector.
7. Upon adoption of the ordinance or any amendments thereto, it shall be the duty of the historic preservation commission to give notice thereof to the county tax assessor. The designation and any recorded restrictions upon the property limiting

its use for preservation purposes shall be considered by the assessor in appraising for tax purposes. The fact that a building, structure, site, area, or object has been designated an historic landmark shall be clearly indicated on all tax maps maintained by the county for such period as the designation remains in effect.

4.7.3.6 Jurisdiction of historic preservation commission.

There is hereby established a commission, which shall be known as the Black Mountain Historic Preservation Commission and is further described in title III, section 30.70 through section 30.72 [chapter 2, article III, division 7] of the Black Mountain Code of Ordinances. Its jurisdiction shall include the Town of Black Mountain and any extraterritorial jurisdiction area of the town as shown on the official zoning map and atlas of the town.

4.7.3.7 Rules of procedure, design guidelines and meetings.

A. The historic preservation commission shall develop and adopt rules of procedure, which shall govern the conduct of its business in accordance with the provisions of this ordinance. Such rules of procedure shall also include as an appendix "The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" and the "Historic District Guidelines" including photographs, illustrations, descriptions and other similar material interpreting the criteria for determine appropriateness. The design guidelines shall be placed on filed in the Black Mountain town offices and made available to the general public during the regular town office business hours.
B. The historic preservation commission may review and propose changes to the design guidelines and forward any such recommendations for changes to the board of aldermen for their approval.
C. Specific provisions shall be made in the commission's rules of procedure for commission meetings following the filing of a proposal on which the commission is required to pass. Such specific provisions shall be made in order that a proposal be brought before the commission:
    1. Within a reasonable time;
    2. In a manner which is conducive to commission consideration; and
    3. In a manner which will facilitate commission action.
D. The commission shall meet at regularly scheduled times and at such other times as the commission may determine or at the call of its chairman as provided for in its rules of procedure.

4.7.3.8 Powers and duties.

A. The powers of the historic preservation commission shall be to:
    1. Receive applications for certificates of appropriateness. The commission shall review such application according to the criteria to determine appropriateness, provided in the historic district guidelines, and the guidelines of the Secretary of the Interior, and shall approve, approve with conditions, or disapprove such application.

2. Recommend to the board of aldermen districts or areas to be designated by ordinance as historic overlay districts, conservation districts, and recommend individual structures, buildings, sites, areas, or objects to be designated by ordinance as an historic landmark.
3. Recommend to the board of aldermen that designation of any areas as an historic overlay district or part thereof be revoked or removed for cause and recommend that designation of individual structures, buildings, sites, areas, or objects as historic landmarks be removed for cause.

B. The Black Mountain Historic Preservation Commission shall exercise such other powers and perform such other duties as are required elsewhere by the ordinance creating the historic preservation commission, the Black Mountain Zoning Ordinance or the General Statutes of North Carolina or as assigned by the Black Mountain Board of Aldermen.

4.7.3.9 Certificates of Appropriateness required.

A. From and after the designation of a landmark or an historic district, no exterior portion of any building or other structure (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on a landmark, or within the historic district, until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic preservation commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.

B. For purposes of this ordinance, "exterior features" shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. Exterior features may also include historic signs, color and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.

C. The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Black Mountain and all public utility companies shall be required to obtain a certificate of appropriateness for landmarks and in the historic district prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the Town of Black Mountain or public utility companies or for construction, alteration, moving or demolition within the historic district or of designated landmarks.

D. Examples of specific items which fall under ordinary maintenance or repair that will not require a certificate of appropriateness are:

1. Underground utilities, except where archaeological finds or sites are uncovered;
2. Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
3. Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;
4. Deletion or replacement of poles of standard material and height, not to exceed 37 feet;
5. Addition or delete of fire hydrants;
6. Routine replacement of street signs;
7. Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;
8. Addition of equipment on existing lines or poles;
9. Replacement of existing overhead lines, poles or ground-mountain installation.

4.7.3.10 Application for certificate of appropriateness.

A. Applications for a certificate of appropriateness shall be obtained from, and when completed, filed with the planning director or his or her designee. The application shall be filed two weeks prior to the next regularly scheduled meeting of the commission. Sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction shall accompany each application. The names and mailing addresses of property owners filing and/or subject to the application, and the addresses of property within 100 feet on all sides of the property, which is subject to the application, must also be filed. No application which does not include the aforementioned information will be accepted. ***It is the responsibility of the property owner to ascertain if the project will require a certificate of appropriateness.***

B. It shall be the policy of the commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that an applicant may request a meeting with staff and an individual commission member prior to going to the full historic commission in order to advise them informally at an early state in the development process concerning the commission's guidelines, the nature of the area where the proposed project will take place, and other relevant factors. The staff members and individual commission member, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any staff member or commission member at such an informal meeting shall not be considered official or binding upon the commission.

4.7.3.11 Criteria to determine appropriateness.

A. No certificate of appropriateness shall be granted unless the commission finds that the application complies with the principles and guidelines as adopted in the historic district design guidelines. It is the intent of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings,

structures, appurtenant fixtures in the district or of landmarks shall be congruous with the special character of the district or landmark.

B. The following review criteria, in addition to the principles and design guidelines and the guidelines of the secretary of the interior, shall be considered, where relevant, to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the designated landmark or district:
    1. Lot coverage, defined as the distance between adjacent buildings.
    2. Setback, defined as the distance from the lot lines to the building.
    3. Building height.
    4. Spacing of buildings, defined as the distance between adjacent buildings.
    5. Proportion, shape, positioning, locating, pattern sizes and style of all elements of fenestration and entry doors.
    6. Surface materials and textures.
    7. Roof shapes, forms and materials.
    8. Use of regional or local architectural traditions.
    9. General form and proportion of buildings and structures and the relationship of additions to the main structure.
    10. Expression of architectural detailing.
    11. Orientation of the building to the street.
    12. Scale, determined by the size of the units of construction and architectural details in relation to the human scale, and also by the relationship of the building mass to adjoining open space and nearby buildings and structures; maintenance of pedestrian scale.
    13. Proportion of width to height of the total building façade.
    14. Archaeological sites and resources associated with standing structures.
    15. Effect of trees and other landscape elements.
    16. Major landscaping which would impact known archaeological sites.
    17. Style, material, size and location of all outdoor advertising signs.
    18. Appurtenant features and fixtures, such as lighting.
    19. Structural condition and soundness.
    20. Walls – Physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses or combinations of these.
    21. Ground cover or paving.
    22. Significant landscape, archaeological and natural features.
C. The Secretary of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building" shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for certificate of appropriateness.
D. The commission shall adopt principles and guidelines interpreting these criteria for new construction, alterations, moving and demolition of landmarks or properties in the historic district.

4.7.3.12 Demolition.

A. An application for a certificate of appropriateness authorizing the relocation, demolition, removal or destruction of a designated landmark or a building, structure or site within

historic district may not be denied except as provided in section 4.7.3.12(C) below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The commission shall reduce the period of delay if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site If the commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

B. If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the board of aldermen, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to 180 days or until the board of aldermen takes a final action on the designation, whichever comes first.
C. The board of aldermen may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.
D. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

4.7.3.13 Land use, interior arrangement, maintenance, emergency repairs not considered.

A. Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.
B. The commission may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof.
C. Except as provided in paragraph D, below, the commission shall have no jurisdiction over interior arrangement and shall take no action except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of a landmark or of the district.
D. Notwithstanding paragraph C, above, the jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owner designated landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds and

indexed accordingly to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

E. The ordinary maintenance or repair of any exterior architectural feature of a landmark, or in the historic district (HD) which does not involve a change in design, material, or outer appearance thereof, shall not be prevent by the requirements pertaining to the designated landmark or historic district.

F. Nothing in this article shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the commission or the ordinary repair of streets, sidewalks, pavement markings, street signs, or traffic signs.

G. The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the town building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the landmark, or the historic district.

4.7.3.14 Hearing procedures.

A. The historic preservation commission shall receive applications for certificates of appropriateness. The commission shall review such application according to the review criteria, the historic district guidelines and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and shall approve or disapprove such application as provided in paragraph F of this section.

B. Prior to issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent to the applicant and to owners of property (i.e. lots, parcels or tracts of land) within ~~100~~ ***200*** feet of the property for which an application for a certificate of appropriateness has been applied for.

C. Applications for certificates of appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed approved and a certificate shall be issued.

D. Prior to the issuance or denial of a certificate of appropriateness that applicant and other property owners likely to materially affected by the application shall be given an opportunity to be heard. All meeting of the commission shall be open to the public in accordance with the North Carolina Open Meetings law, G.S. ch. 143, and art. 33C.

E. In cases where the commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness. ***Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date of the public hearing and during the same time the town shall post a notice of the public hearing on the site of the subject property or on an adjacent public street or highway right-of-way. Notice shall also be provided by first-class mail to all property owners within 200 feet of the property boundary of the subject property.***

F. The historic preservation commission's final action on an application for a certificate of appropriateness shall be by the passage of a motion to take one of the following actions:
    1. Approve the application for a certificate of appropriateness as proposed;
    2. Approve the application for a certificate of appropriateness subject to specific conditions and/or modifications of the proposal presented in the application for a certificate of appropriateness;
    3. Disapprove the application for a certificate of appropriateness as proposed or modified.
G. An appeal of the commission's action in granting or denying any certificate may be taken to the zoning board of adjustment (a) by an aggrieved party, (b) shall be taken within 30 days of the written decision and (c) shall be in the nature of certiorari.
H. Written notice of the intent to appeal to the board of adjustment from the historic commission must be sent to the town clerk postmarked within 30 days following the riling of the written decision with the town clerk. The superior court of Buncombe County shall hear appeals of the board of adjustment. In the case of properties owned by the State of North Carolina or its agencies, appeals may be taken to the North Carolina Historical Commission which shall render its decision within 30 days from the date of the appeal by the state is received by the historical commission. The decision of the North Carolina Historical Commission shall be final and binding upon both the state and the commission.

4.7.3.15 Major and minor works.

A. Major works – Major work projects involve a change in the appearance of a building or landscape, and are more substantial in nature than minor works projects.
B. Minor works – A certificate of appropriateness application when determined to involve a minor work, may be reviewed and approved by the minor works committee or in some cases by staff as outlined in the design guidelines. The minor works committee consists of the historic preservation chairman and vice-chairman and the planning director and his or her designee.
    1. Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property in the historic district.
    2. An application may receive a certificate of appropriateness from staff or the committee if it falls under the list of minor works provided in the historic preservation commission rules of procedure or the design guidelines. If the staff or committee does not issue a certificate of appropriateness, the applicant will be advised to make a formal application to the historic preservation commission. No application may be denied without formal action by the historic preservation commission. All minor works applications approved by the planning director or his/her designee shall be forwarded to the commission for their information in time for its next scheduled meeting.

4.7.3.16 Certificate issuance; expiration; enforcement.

A. Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a certificate of appropriateness by the historic preservation commission. The application and the duly approved minutes of the commission shall constitute the written documentation of such issuance. Following the meeting a certificate shall be mailed to the property for which a certificate has been issued. The certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a historic preservation commission meeting shall be approved before the end of the next meeting.
B. A certificate of appropriateness shall be valid for a period of six months from the date of issuance for the purpose of obtaining a zoning permit or other permit for constructing or altering structures. A certificate of appropriateness shall expire six months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six months, the permit shall immediately expire.
C. Compliance with certificates of appropriateness shall be enforced by the planning director and his or her designee. Failure to comply with a certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
D. In case any building, structure, site, area or object designated as a landmark or located within the historic district is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the commission or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to a building or structure.

4.7.3.17 Conditions for certain approvals.

A. In the event that the commission, in considering an application for a certificate of appropriateness, shall find that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the zoning board of adjustment authorizes such a special exception and not use other than that permitted in the district in which such is located is made of said property. Such conditions as may be attached to the historic preservation commission approval and those conditions as may be set by the zoning board of adjustment shall be included in any certificate of appropriateness related thereto.
B. If the commission finds that an application for a certificate of appropriateness concerning any porches, steps, posts, fences, walls or other items extending over, on or within public rights-of-way to be necessary for the authentic restoration, reconstruction or maintenance thereof, and will not impede or block pedestrian traffic or constitute hazard to public

safety, such findings shall be transmitted to board of aldermen for its consideration in authorizing or denying such encroachments into rights-of-way.

C. If the board of aldermen authorizes such encroachments, any items, restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the Town of Black Mountain harmless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof. The lowest point of any such item projecting over any sidewalk shall be at least nine feet above the sidewalk immediately below.

4.7.3.18 ~~Conservation~~ ***Historic*** district review required.

A. From and after the designation of a downtown ~~conservation~~ ***historic*** district, no project involving a major work (as defined in the "Black Mountain HIstoric District Guidelines") shall be erected, altered, restored, moved or demolished within the downtown ~~conservation~~ ***historic*** district, until after an application for a certificate of appropriateness has been submitted to and reviewed by the historic preservation commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures.

~~B. The conservation district review procedure is established as an education program and as a means to further the goals of the town's historic preservation efforts. The purpose of the review procedure is to advise and educate rather than to regulate. The review process is this section is mandatory, however compliance with the recommendations contained in the review is voluntary.~~

C. Application for a ~~conservation~~ ***historic*** district review shall be obtained from, and when completed, filed with the planning director or his or her designee. The application shall be filed two weeks prior to the next regularly scheduled meeting of the commission. Sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction shall accompany each application.

D. Projects shall be reviewed and certificates of appropriateness shall be issued consistent with the principles and guidelines adopted by the commission for review of changes. It is the intent of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, or appurtenant fixtures shall be congruous with the special character of the district.

E. Applications for a ~~conservation~~ ***historic*** district review shall be reviewed and a certificate of appropriateness issued within 30 days from the date that the application is received by the town.

Attachments:

Text Amendment Application
Consistency Statement

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

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Planning Staff Date: 9/11/18

Address: 160 Midland Ave. Black Mtn. NC 28711

Phone: 419-9300 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 4 Section: 4.7.3 Title: Historic District Overlay

Current Text: see attached

Requested Amendment: see attached

Reason for Requested Amendment: This amendment removes conservation district as it is only for educational purposes and fixes the language to be consistent. The amendment also removes the mandatory review for the conservation district as compliance is only voluntary.

Applicant Signature | Applicant Printed Name | Date

****

FOR OFFICE USE ONLY

Date Received: 9/11/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: _____ Check: _____ Credit: _____

Planning Board Meeting Date: 9/24/18 Vote: ____ to ____ For ☐ Against ☐

Board of Aldermen Call for Public Hearing Date: _____

Board of Aldermen Meeting Date: _____ Vote: ____ to ____ For ☐ Against ☐