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 November 26, 2018
Date: November 14, 2018

The **Town of Black Mountain Planning Board** will meet on **Monday, November 26, 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 October 22, 2018;

3. Proposed text amendments for notification requirements to several sections; and

4. Proposed text amendments for right-of-way closure procedures.

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
Josh Harrold, Town Manager

PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING

Monday, November 26, 2018 at 6:00 p.m.

The Black Mountain Planning Board will meet for their monthly meeting on **Monday, at 6:00 p.m**. at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to consider text amendments to right-of-way closing procedures and consider text amendments to various sections for noticing requirements.

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 11/12/18

www.townofblackmountain.org

Planning Board Regular Meeting
November 26, 2018

PROPOSED AGENDA

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

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

III. ADOPTION OF MINUTES
- **Motion:** To adopt the minutes of October 22, 2018 as written [or as amended]

IV. OLD BUSINESS

None

V. NEW BUSINESS
- **Proposed Text Amendments for Noticing Requirements**
- **Proposed Text Amendment for Right-of-Way Closing Procedures**

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VII. 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

MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: November 26, 2018

RE: Text Amendment – Noticing Requirements

Please find pertinent information attached.

Summary:
Several sections in the code have different requirements for noticing public hearings and notifying neighbors. Staff feels that it is important to keep everything consistent and have the same policy for everything that requires notifications. The proposed amendments make all noticing requirements consistent including noticing neighbors, notices to the newspaper, notice to the Town website and placing notice on the property.

Proposed Amendment:

Chapter 1 – Structure and Administration
Section 1.5 – Amendments
Section 1.5.4 – Procedure for map or text amendments.

H. Public hearing required. Before enacting an amendment to this code or official zoning map, the alder***men*** shall first hold a public hearing. Staff shall place notification of the public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation with***in*** the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meet notice shall include time and place of hearing.

1. Posting of property. When a zoning map amendment is proposed, ~~the board of aldermen~~ ***staff*** shall prominently post a notice of the public hearing on the site of the proposed rezoning or on an adjacent street or highway right-of-way. When multiple parcel are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the town shall post enough notices in strategically visible locations so to provide reasonable notice to interested persons. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed ***zoning map*** amendment and the date of the public hearing If the zoning map amendment affects more than 50 properties, owned by a total of at least 50 different property owners, ~~the board of alderman~~ ***staff*** may publish a notice of the hearing, provided that each advertisement shall not be less than one-half of a newspaper page in size as long as property owners residing outside the newspaper circulation area are still notified by mail. ***Notice shall also be posted on the town website indicating the date and time of the hearing.***

Chapter 1 – Structure and Administration
Section 1.9 – Development Agreements
Section 1.9.3 – Procedure.

C. The board of aldermen shall review the planning board's and staff's reports and set a public hearing.

Change days - add verbage & numbers

add newspaper notifications to variances in Chapter 1

D. ***Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published not less than ten days no more than 25 days before the date fixed for the hearing.In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include time and place of hearing.***

1. ***Posting of property. When a development agreement is proposed, staff shall prominently post a notice of the public hearing on the site of the proposed development agreement or on an adjacent public street or highway right-of-way. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed development agreement and the date of the public hearing. Notice shall also be posted on the town website indicating the date and time of the hearing.***

agreement

E. The board of aldermen shall consider a development for adoption only after a public hearing.

F. Development agreements shall be accompanied by a master plan and the provisions of the development agreement as specifically enumerated and adopted and shall govern the development of the land in accordance with the master plan.

* recorded @ register of deeds w/in 14 days of adoption by board of aldermen

Chapter 2 – Building Regulations
Section 2.3 – Flood Damage Prevention Ordinance
Article 4 - Administration
Section E – Variance procedures.

(1) The zoning board of adjustment as established by the Town of Black Mountain, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) Before approving a variance request, the zoning board of adjustment shall first hold a public hearing. Staff shall prominently post a notice of the public hearing on the site of the variance request or on an adjacent street or highway right-of-way not less than ten days nor more than 25 days before the date fixed for the hearing. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the variance request and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

add newspaper notifications

Chapter 3 - Subdivisions
Section 3.3 – Subdivision Types and Review Procedures
Section 3.3.3 – Major subdivision.

Step 3: Planning board review and approval of preliminary plat.

A. After reviewing the plat and making a recommendation, the subdivision administrator shall place the item on the agenda of the next regularly scheduled planning board meeting.

B. The property shall be posted ten to ~~14~~ (25) days prior to the planning board meeting and notice made in local paper and town website to inform the public that the property is under consideration for a major subdivision and said posting shall include the date of the planning board meeting to review the preliminary plat.

Chapter 4 – Zoning District Requirements
Section 4.6 – Zoning Regulations by District
Section 4.6.11 – TND traditional neighborhood district
Section 4.6.11.2 – Master plan required.

E.

5. ***Before approving a master plan and subsequent rezoning, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

Chapter 4 – Zoning District Requirements
Section 4.6 – Zoning Regulations by District
Section 4.6.12 – ICD institutional campus development
Section 4.6.12.4 – Plan review procedure and required steps.

F. ***Before approving a master plan and subsequent rezoning, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

Chapter 4 – Zoning District Requirements
Section 4.7 – Overlay Districts
Section 4.7.1 – Wellhead Protection Overlay
Section 4.7.1.7 – Plan submission and approval.

C.

3. ***Before approving an operating and monitoring plan, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed area or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed area and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

Chapter 4 – Zoning District Requirements
Section 4.7 – Overlay Districts
Section 4.7.3 – Historic district and historic conservation district
Section 4.7.3.14 – Hearing procedures.

E. In cases where the commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness. ***Before approving a certificate of appropriateness, the historic preservation commission shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed certificate of appropriateness or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed

certificate of appropriateness and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

Chapter 6 – Conditional Use Permits
Section 6.3 – Application and Approval Procedures
Section 6.3.2 – Public hearing

A. Before passing judgement on a conditional use permit, the zoning board of adjustment shall hold the public hearing.

~~B. The town staff shall provide notice to all property owners within 200 feet of the site's property lines a minimum of ten days prior to the hearing that includes:~~

~~1. A description of the proposed conditional use;~~

~~2. The density of the development being proposed in terms of units per acre; and~~

~~3. The time, date and location of the conditional use permit public hearing.~~

Notification of the public hearing shall be placed in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included Meeting notice shall include the time and place of hearing.

C. In addition, the town shall cause notice to be posted on the property to be developed and on the town's website providing information concerning the conditional use request and the date and time of the public hearing on the issue. This notice shall be posted ~~a minimum of~~ ***not less than*** ten days ***nor more than 25 days*** prior to the public hearing.

~~D. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks with the first publication being not less than ten days prior to the public hearing.~~

The town staff shall provide notice to all property owners within 200 feet of the site's property lines not less than ten days nor more than 25 days prior to the hearing that includes:

1. ***A description of the proposed conditional use;***
2. ***The density of the development being proposed in terms of units per acre; and***
3. ***The time, date and location of the conditional use permit public hearing.***

Chapter 7 – Special Use Permits
Section 7.2 - Procedures
Section 7.2.1.1 – Major special use permits

Step 5. Public Notice

A. Before passing judgement on a special use permit, the zoning board of adjustment shall hold the public hearing. ~~At least ten days' notice~~ ***Not less than ten days and no more than 25 days' notice*** of the time and place of the hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks and posted on the town's website.
B. The town staff shall***, within the same period of time that the required legal notice of the hearing is published,*** provide notice to all property owners within 200 feet of the site's property lines that includes:
    1. A description of the proposed conditional use;
    2. The density of the development being proposed in terms of units per acre; and
    3. The time, date and location of the special use permit public hearing.
C. In addition, the town shall cause notice to be posted on the property to be developed ***or on an adjacent public street or highway right-of-way***, providing information concerning the special use request and the date and time of the public hearing on the issue. This notice shall be posted during the same period of time that the required legal notice of the hearing is published in the newspaper.

Chapter 7 – Special Use Permits
Section 7.2 - Procedures
Section 7.2.1.2 – Minor special use permits

Step 4. Public notice

D. Before passing judgement on a special use permit, the zoning board of adjustment shall hold the public hearing. ~~At least ten days' notice~~ ***Not less than ten days and no more than 25 days' notice*** of the time and place of the hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks and posted on the town's website.
E. The town staff shall***, within the same period of time that the required legal notice of the hearing is published,*** provide notice to all property owners within 200 feet of the site's property lines that includes:
    4. A description of the proposed conditional use;
    5. The density of the development being proposed in terms of units per acre; and
    6. The time, date and location of the special use permit public hearing.
F. In addition, the town shall cause notice to be posted on the property to be developed ***or on an adjacent public street or highway right-of-way***, providing information concerning the special use request and the date and time of the public hearing on the issue. This notice shall be posted during the same period of time that the required legal notice of the hearing is published in the newspaper.

Attachments:

Text Amendment Application
Consistency Statement Worksheet

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: November 26, 2018

Subject: Zoning Text Amendment

Description: Amend various sections to have consistent noticing requirements

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: ✓ use from recording

How consistent with plan: makes uniform regulations for all processes creates uniformity in the code

Why is it reasonable and in the public interest: allows more notification to potentially impacted citizens - makes equitable across the board

_____ 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:

_____

_____

_____

Motion made by: Lisa Milton

Passed by vote of 6 to 0

11/20/18

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: Town of Black Mountain Date: 11/13/18

Address: 160 Midland Avenue

Phone: 419-9373 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: various Section: various Title: Noticing Requirements

Current Text: see attached

Requested Amendment: See attached

Reason for Requested Amendment: to make all noticing requirements consistent across the Land Use Code

Jennifer Tipton — Applicant Signature
Jennifer Tipton — Applicant Printed Name
11/13/18 — Date

****

FOR OFFICE USE ONLY

Date Received: 11/13/18 Received by: Jennifer Tipton

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

Planning Board Meeting Date: 11/26/18 Vote: 6 to 0 For ☑ Against ☐ as amended

Board of Aldermen Call for Public Hearing Date: 12/10/18

Board of Aldermen Meeting Date: 1/14/19 Vote: ____ to ____ For ☐ Against ☐

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Building, Planning and Zoning
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MEMORANDUM

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

Date: November 26, 2018

RE: Text Amendment – Right-of-Way Closures

Please find pertinent information attached.

Summary:
The process for considering rights-of-way closures is not consistent with other sections in the code. The proposed amendment provides a distinct buffer in which to notify people at the Planning Board level, requires comments from the Fire Department, requires action within a certain time frame (similar to text amendments) and provides for more detailed noticing requirements for the public hearing process. Staff feels that by providing a distinct buffer this will allow more people to be notified of the proposed closure coming before the Planning Board and the Board of Aldermen.

Proposed Amendment:

Section 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.
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 NCGS ***160A-299***. If the request is generated from town staff or a board or commission, the fee shall not apply.
    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 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.
    3. ***Notice of the request and pursuant review by the Planning Board shall be sent to all property owners within 200 feet of the requested right-of-way closure.***
    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.
    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) Right-of-way identified is not part of adopted town plans.
        (b) Right-of-way is not necessary for current or future utilities.

(c) Right-of-way in its current condition poses a hazard to public health, safety or welfare.
(d) Right-of-way is along a drainage that is part of a stormwater management plan.
(e) Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.
(f) Abutting property owners have signed the petition in favor of the closure.

if not approved within 30 days of NO action move on

Complimentary application

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.~~
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.
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 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 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 property owners within 200 feet of the requested right-of-way closure. Notice shall also be posted to the town website indicating the date and time of the hearing.**
8. Board of aldermen holds ~~a~~ ***the*** public hearing and accepts or rejects the petition for closure.

Attachments:

Text Amendment Application
Consistency Statement Worksheet

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: Town of Black Mountain Date: 11/13/18

Address: 160 Midland Ave

Phone: 419-9373 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 3 Section: 3.6 Title: Dedication and Closures of Rights-of-way or Easements to the Town

Current Text: see attached

Requested Amendment: see attached

Reason for Requested Amendment: to make process consistent with all other noticing requirements & public hearing requirements

Jennifer Tipton — Applicant Signature
Jennifer Tipton — Applicant Printed Name
11/13/18 — Date

****

FOR OFFICE USE ONLY

Date Received: 11/13/18 Received by: Jennifer Tipton

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

Planning Board Meeting Date: 11/20/18 Vote: 6 to 0 For ☑ Lisa Against ☐

Board of Aldermen Call for Public Hearing Date: 12/10/18 as amended

Board of Aldermen Meeting Date: 1/14/19 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: November 26, 2018

Subject: Zoning Text Amendment

Description: Amend right-of-way closures to have consistent noticing requirements

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: makes ordinance consistent with other sections of the Land Use Code

Why is it reasonable and in the public interest: makes the process equitable & fair

____ 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: