



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 January 28, 2019
Date: January 7, 2019

The **Town of Black Mountain Planning Board** will meet on **Monday, January 28, 2019 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 November 26, 2018;
3. Right-of-Way Closure Request for a Portion of Campbell Street; and
4. Proposed Text Amendments for Duplex Definition.

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
Josh Harrold, Town Manager



PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING

Monday, January 28, 2019 at 6:00 p.m.

The Black Mountain Planning Board will meet for their monthly meeting on **Monday, January 28, 2019 at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to consider a right-of-way closure request for a portion of a road known as Campbell Street and to discuss a potential text amendment to the definition of duplex.

The meeting is open to the public.

Jennifer Tipton
Zoning Administrator

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Posted to the Town Bulletin Board 01/07/19

www.townofblackmountain.org



**Planning Board Regular Meeting
January 28, 2019**

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 November 26, 2018 as written [or as amended]

IV. OLD BUSINESS

- None

V. NEW BUSINESS

- Right-of-Way Closure Request for a Portion of Campbell Street
- Proposed Text Amendments to Duplex Definition

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

**TOWN OF BLACK MOUNTAIN
PLANNING BOARD**

The Black Mountain Planning Board held its regular meeting on Monday, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

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

Peter Vazquez, Chair
Pam Norton, Vice Chair
Jennifer Willet
Lisa Milton
Michael Raines
Scott Reed

Absent:

Jesse Gardner

Staff:

Jennifer Tipton, Zoning Administrator
Jessica Trotman, Planning Director

The meeting was called to order at 5:59 p.m. and duly constituted and opened for business with a quorum of six (6) regular members.

II. ADOPTION OF AGENDA

Pam Norton made a motion to adopt the agenda as presented. The motion passed by consensus with a vote of 6-0.

III. ADOPTION OF MINUTES

Michael Raines made a motion to adopt the minutes of October 22, 2018 as written. The motion was approved by consensus with a vote of 6-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Proposed Text Amendments for Noticing Requirements

Ms. Tipton presented the proposed text amendments for noticing requirements. The proposed text amendments will make all noticing requirements the same so that the process will be equitable and fair for all citizens. The board asked to have newspaper notifications added back to the variance noticing requirements and to add both text and numerical values to the days of advertising. Lisa Milton made a motion to approve the statement of consistency. The motion was approved by consensus with a vote of 6-0. Lisa Milton made a motion to recommend the proposed text amendments as amended. The motion passed by consensus with a vote of 6-0. A copy of the amended text amendments and statement of consistency are attached to these minutes.

2. Proposed Text Amendments for Right-of-Way Closing Procedures

Planning Board Regular Meeting
November 26, 2018

Ms. Tipton presented the proposed text amendments for right-of-way closure procedures. The proposed text amendments will make the noticing requirements the same as all other noticing requirements, will require Fire Department comments up front and will provide a provision for closure requests to move forward if no action is taken within thirty days. There was discussion about the board amending the scope of closure requests and it was decided to provide language that would allow the board to submit additional closure requests to the Board of Aldermen. Lisa Milton made a motion to approve the statement of consistency. The motion passed by consensus with a vote of 6-0. Lisa Milton made a motion to recommend the proposed text amendments as amended. The motion passed by consensus with a vote of 6-0. A copy of the amended text amendments and statement of consistency are attached to these minutes.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Ms. Tipton reminded the board about the NCDOT public meeting for the I-40 Interchange Project on Thursday, December 13, 2018 from 4:00 p.m. to 7:00 p.m. at Lakeview Center.

Ms. Trotman thanked the board for all of their hard work and reported that she had been bragging on them to other staff members.

VIII. ADJOURNMENT

Peter Vazquez made a motion to adjourn at 7:00 p.m. The motion passed by consensus with a vote of 6-0.

Prepared by:

Peter Vazquez, Chair

Jennifer Tipton, Zoning Administrator



**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: January 3, 2019

RE: Text Amendment – Duplex Definition

Please find pertinent information attached.

Summary:

The current definition of a duplex is not as strict as it could be in regards to the creation of a duplex. The current definition does not specify how a duplex should be attached so the proposed definition will clarify that a duplex is to be separated by either ground to ceiling or ceiling to floor.

Below are some potential definitions that have come from the Planner's Dictionary. All wording is subject to change.

Current Definition:

Duplex or two-family residence: A detached building which includes two individual dwelling units. A duplex may be held in single ownership or may be subdivided as a town home or condominium.

Potential Definitions:

A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

A structure on a single lot containing two apartment units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

2018 Residential Building Code

The residential building code states the following:

Dwelling units in two-family dwellings shall be separated from each other by wall and floor assemblies having not less than a 1-hour fire-resistance rating where tested in accordance with ASTM E119 or UL 23. Fire-resistance rated floor/ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend from the foundation to the underside of the roof sheathing.

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: January 28, 2019

Subject: Zoning Text Amendment

Description: Amend definition of duplex

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: _____

Why is it reasonable and in the public interest: _____

_____ 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

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Date: January 28, 2019

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

RE: Portion of Campbell Street Right-of-Way Closure Request

Please find pertinent information attached.

Summary

Josh and Katharine Scala, Eleanor McPhail and Thomas and Lillian Logan have filed a petition to close a portion of Campbell Street that abuts Central Avenue. The properties that abut the right-of-way are 204 Craggy Street, 113 W College Street and 99999 Craggy Street.

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 or those across a street.)

Adjacent: Either abutting or being directly across a street.

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

Right-of-way: 1) A The 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, notice 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.

Josh Scala submitted a petition for street closing request on January 3, 2019. The petition was signed by Josh and Katharine Scala, owner of 204 Craggy Street; Eleanor McPhail, owner of 99999 Craggy Street; and Thomas and Lillian Logan, owner of 113 W College Street. Josh Scala

submitted check #2607 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 120.15' in length per a survey recorded in Plat Book 181, Page 72 (attached).

Currently there are no uses in the right-of-way.

The right-of-way does not contain a sewer line or water line.

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.

All utilities are located on Craggy Street and W. College Street

- c. Right-of-way in its current condition pose 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 and is not identified on the Greenway Master Plan or the Pedestrian Plan for future corridors or roadways. All lots have access from either Craggy Street or W. College Street.

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

The owners of 204 Craggy Street, 113 W. College Street and 99999 Craggy Street 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.

Staff recommends Planning Board file a separate petition to close the remainder of the right-of-way. All property owners have been notified of the petition request and if the Planning Board chooses to close the remainder of the right-of-way, all property owners will be notified prior to the public hearing of the additional closure request.

- 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.

Town of Black Mountain
North Carolina

Date: Jan. 3, 2019

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

We, the undersigned, being ^{some} ~~(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:

The alley between W. College and Craggy Street.
Its called Cambell Street when it crosses
Central Ave. It runs North to South. It is 40 ft
Wide. PER PB 198 PG: 20. 120.15 ft long.

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

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

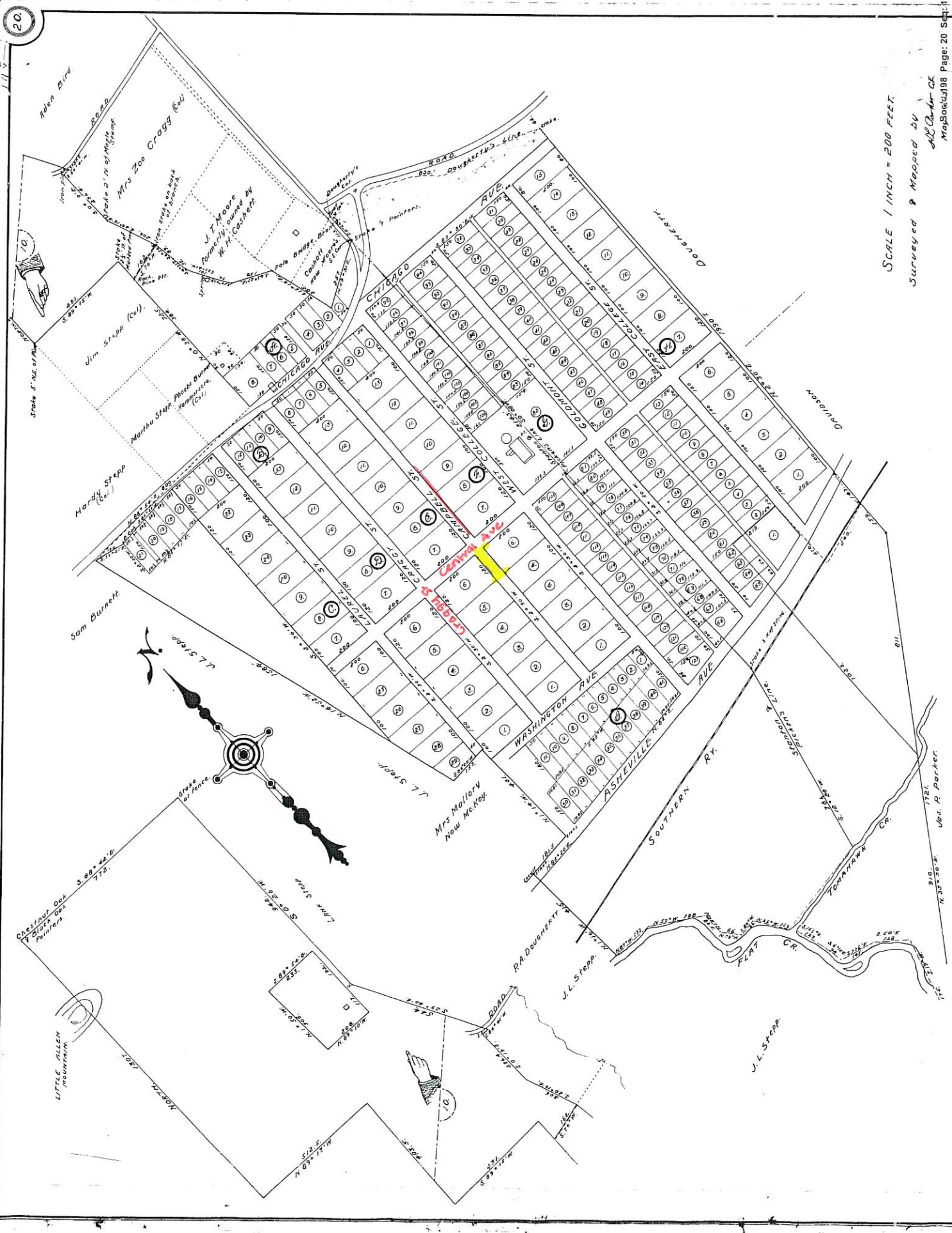
<u>NAME</u>	<u>ADDRESS</u>
<u>Kell</u>	<u>204 Craggy Street Black Mountain, NC 28711</u>
<u>Eleanor McNeil</u>	<u>204 Craggy St Black Mountain NC 28711</u>
<u>Thomas & Lillian Long</u>	<u>9432 Onion Patch Dr Burke, VA 22015</u>
	<u>113 West College St. Black Mtn, NC 28711</u>

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

Witness our signatures the day and year first above written.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>

pd. check # 2607
JT
1/3/19



SCALE 1 INCH = 200 FEET.

Surveyed & Measured by
J.L. Stepp
May 20, 1920

198/861



Kee
ADDING & SUBTRACTING

Campbell Street ROW Property Owners

Name	Address	City	State	Zip
Josh and Katharine Scala	204 Craggy Street	Black Mountain	NC	28711
Eleanor McPhail	9432 Onion Patch Drive	Burke	VA	22015
Dewayne Tillman	5811 Regents Park Rd	Kernersville	NC	27284
Charles and Lynn Freeman	2373 Riceville Road	Asheville	NC	28805
James Inabinett Heirs	PO Box 1714	Lincolnton	NC	28093
Buford and Carolyn Copeland	111 W College Street	Black Mountain	NC	28711
Malcolm Durham Et Al	9717 Anita Lane	Lanham	MD	20706
T W and Lillian Logan	113 W College Street	Black Mountain	NC	28711
Robert Charles Taylor	104 Washington Avenue	Black Mountain	NC	28711



Town of Black Mountain
Building, Planning and Zoning

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January 7, 2019

Name
Address
City, State, ZIP

Dear Owner,

This correspondence is to notify you that three property owners have petitioned the Town of Black Mountain to close a portion of the right-of-way of Campbell Street at the intersection of Campbell Street and Central Avenue.

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, January 28, 2019 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)

www.bmfire.org

spencer.elliott@townofblackmountain.org



Fire Prevention & Inspections Office

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

1/17/2019

Central Ave Right-of-way

Jennifer,

Upon review of the maps and making a site visit the fire department has no issues with the closure of this right-of-way south of Central Ave.

Spencer Elliott
Fire Inspector/Safety Officer
Black Mountain Fire Department