



TOWN OF BLACK MOUNTAIN

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

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

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for November 27, 2023
Date: November 17, 2023

The **Town of Black Mountain Planning Board** will meet on **Monday, November 27, 2023, 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 23, 2023;
3. Proposed Text Amendment for Tattoo Parlors; and
4. Final comments for UDO Draft.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@tobm.org.

CC: Jessica Trotman, Planning Director
Russell Cate, Planner 1/Zoning Administrator
Brian Gulden, Town Attorney



PUBLIC NOTICE
AVISO PÚBLICO

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING
REUNIÓN ORDINARIA

Monday, November 27, 2023, at 6:00 p.m.
Lunes 27 de Noviembre de 2023, a las 6:00 p.m.

The Black Mountain Planning Board will meet for their regular monthly meeting on **Monday, November 27, 2023, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Planificación de Black Mountain se reunirá para su reunión mensual regular el **lunes 27 de Noviembre de 2023 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, N. C.

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

Jennifer Tipton
Senior Admin

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La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 10/31/2023

www.townofblackmountain.org



**Planning Board Regular Meeting
November 27, 2023**

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 October 23, 2023 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS

- Text Amendment Request – Tattoo Parlors
- Final Comments for UDO Draft

VI. PUBLIC COMMENT

VII. COMMUNICATION FROM PLANNING BOARD

VIII. COMMUNICATION FROM STAFF

IX. ADJOURNMENT

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, October 23, 2023, at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

I. CALL TO ORDER

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

Chris Collins, Chair
Joe Laudenslayer
Rick Earley
Lauronda Teeple
Chas Fitzgerald

Absent:

Pam Norton, Vice Chair
Kathy Phillips

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of five (5) members.

II. ADOPTION OF AGENDA

Chris Collins made a motion to adopt the agenda as presented. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

There was one amendment to the August 28th minutes to change the word or to and in condition number four on page four. Chas Fitzgerald made a motion to adopt the minutes of August 28th as amended. The motion was seconded by Lauronda Teeple and approved by a vote of 5-0.

Chas Fitzgerald made a motion to adopt the minutes of September 5, 2023, as written. The motion was seconded by Joe Laudenslayer and approved by a vote of 4-0, with Chris Collins abstaining.

IV. NEW BUSINESS

1. UDO Draft Review and Comments

The full draft of the UDO has been posted online and staff has held four community meetings and online commenting is available until mid-November. Jessica Trotman said that text amendments will be expected as staff tests out new sections and how they work as well as regulations and requirements coming out of Raleigh. The UDO is a living, evolving document and will continue to be drafted to meet the needs of the community. Ms. Trotman said to plan on having some changes come through soon regarding code enforcement procedures. The amendments will be to help straighten out the process for code enforcement. Staff did change the appendices to the standards and details manual. Out of the four community meetings, six people attended and mainly asked questions. No one provided any comments. Ms. Trotman feels that because this is just a polishing up of the development regulations and filling in some of the

Planning Board Regular Meeting
October 23, 2023

blanks, people are quite as concerned as if the project were being started from scratch. Ms. Trotman also pointed out that a lot of the touch points were done at the beginning with data gathering and stakeholder interviews.

The tentative schedule for the adoption of the UDO is go through final comments and come to a consensus at the November Planning Board meeting, have a joint session with Town Council in December and make a recommendation, call for the public hearing in January, and hold the public hearing in February. The timeline is subject to change based on the number of comments received and schedules.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

The board asked about several buildings around Town that have a potential for redevelopment.

VIII. COMMUNICATION FROM STAFF

None.

VX. ADJOURNMENT

With no further business, the meeting was adjourned at 6:34 p.m.

Prepared by:

Chris Collins, Chair

Jennifer Tipton, Senior Admin

**Town of Black Mountain Staff Report
Planning Board**

Case No: #TA-23-01

Hearing Date: November 27, 2023

Case Name: 710 Laurel Ave.

Procedure: Zoning Text Amendment Application

Section of Zoning Regulations: Section 5.13 – Tattoo Parlor/Body Piercing Studio

Applicant:

Richard Lamos

701 Padgettown Rd.

Black Mountain, NC 28711

Request:

The applicant is seeking to revise Section 5.13 by making the following changes (the revision consists of added text, which is in **bold**):

No such business of either classification shall be located within 500 feet of a church; a public or private elementary or secondary school, child day care or nursery school **(except in HB-8, where the distance for a tattoo parlor from a secondary school is 250 feet)**; a public park; a residentially zoned or residentially used property **(except in HB-8, where the distance for a tattoo parlor is 100 feet)**; or any establishment with an on-premises ABC license **(except in HB-8, where the distance for a tattoo parlor is 100 feet)**, as measured in a straight line from property line to property line.

Town Staff:

Jennifer Tipton, Clerk to Planning Board

Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is seeking to reduce the distance requirement for tattoo parlors in the Highway Business (HB-8) zoning district for secondary schools (from 500 feet to 250 feet), residentially zoned or residentially used property (from 500 feet to 100 feet), and establishments with an on-premises ABC license (from 500 feet to 100 feet).

II. PROCESS – REQUIRED TOWN APPROVAL

In addition to the Town Council amending the text of the zoning ordinance, the applicant – who has stated a goal of renting a retail space – will need to apply for and receive an Occupancy Permit.

III. ZONING

Ordinance # O-14-08 amended Appendix A (Land Use Code) to add **Tattoo Parlor/Body Piercing Studio** as a conditional use in the Highway Business (HB-8), Central Business (CB), and Heavy Industrial (HI-0) zoning districts (“conditional use” has subsequently been changed to “additional requirements”). The ordinance was read, approved and adopted on August 11, 2014.

The ordinance added the following to Section 1.2.3 (Definitions):

TATTOO PARLOR/BODY PIERCING STUDIO: An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

The ordinance added the following to Chapter 5 (Additional Requirements):

Tattoo Parlor/Body Piercing Studio

- A. No such business of either classification shall be located within 500 feet of any other such business of either classification, as measured in a straight line from property line to property line.
- B. No such business of either classification shall be located within 500 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premises ABC license, as measured in a straight line from property line to property line.
- C. Ear piercing, as a principal or accessory use, shall not be subject to this classification and these provisions.
- D. Tattoo and/or body piercing operations shall not be considered as customary home occupations.
- E. Any person engaging in tattooing or body piercing shall have completed an OSHA approved blood-borne pathogen course and each tattoo/body piercing studio shall have an exposure control plan that is updated annually.
- F. Any person engaging in tattooing shall register with the Buncombe County Health Department and receive a valid tattooing permit. Permits must be renewed on an annual basis.
- G. All tattooing locations shall have a required inspection completed by the Buncombe County Health Department to ensure compliance. Inspections are conducted on an annual basis.

IV. NOTIFICATION

Notice of the text amendment application is not required until the public hearing.

V. ANALYSIS

Staff's analysis is that a reduction in the separation requirement for tattoo parlors from secondary schools, residentially zoned or residentially used property, and establishments with an on-premises ABC license would likely increase the number of locations at which tattoo parlors can operate.

The Town of Woodfin and the Town of Weaverville are small/medium-size municipalities also located in Buncombe County. The following summarizes their regulations alongside those of Black Mountain:

	Black Mountain	Woodfin	Weaverville
Permitted?	Yes ("Additional Requirements") in HB-8, CB, HI-0.	The words tattoo, parlor, piercing, studio are not in code. Not listed in Table of Uses. "Any use not listed is not allowed unless the planning director determines that the use is similar to a listed use."	Yes: ("Permitted") in C-2, I-1.
Restriction	No location within 500' of: • Any other parlor/studio • Church • School, day care • Park • Residential zone or use • On-premises ABC license	n/a	None. The use is <i>Permitted</i> as opposed to one of the other options: <i>Permitted with Standards</i> , or <i>Conditional District required</i> .

Section 1.5.4 of the Town of Black Mountain Land Use Code states that any citizen of Black Mountain may request an amendment to the text of the code or the official zoning map by submitting an application to the Planning & Development Department. Applications received at least two weeks prior to the Planning Board meeting shall be heard at that meeting. The Planning Board shall, within 30 days, submit a recommendation to the Town Council with a statement describing whether the proposed amendment is consistent with the comprehensive plan and other officially adopted plans as applicable. A comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan or other officially adopted plans shall not preclude consideration or approval of the proposed amendment by the town council. If the planning board fails to act within the required 30-day period, the town council may act on the amendment without the planning board report.

Section 1.5.4 further explains that before enacting an amendment, the Town Council shall first hold a public hearing, following required hearing notice protocol. Per State Statute, in adopting or rejecting any zoning amendment, the Town Council shall adopt a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan.

Section 1.6.1 of the Town of Black Mountain Land Use Code states that no building shall be used or occupied, or re-used or reoccupied, for commercial, institutional or industrial purposes, and no new residential construction shall be occupied until a certificate of compliance and occupancy, or "C.O." is obtained from the building inspector or his/her designee, stating that the building, any building and/or site improvements, or the proposed use complies with the provisions of these development regulations.

Town staff have determined that the applicant's request to amend the zoning text is in accordance with Section 1.5.4.

TEXT AMENDMENT APPLICATION www.townofblackmountain.org**APPLICANT INFORMATION**

Applicant Name Richard Lamos		
Applicant Address (Number, Street, City, State, ZIP) 701 Padgettown Rd, Black Mountain, NC, 28711		
Home Phone	Cell Phone 828-231-9723	Email Address richard@blisstattoo.org

TEXT AMENDMENT LOCATION AND REQUEST

I request a text amendment for the following provision(s) of the ordinance:

Chapter: 5 Section: 13 Title: Tattoo parlor/
Body piercing studio

Current Text:

No tattoo parlor shall be located within 500 ft. of: A. 3. School
A. 5. Residentially zoned or residentially used property
A. 6. Any establishment with an on premises ABC license

Requested Amendment:

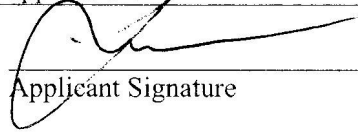
For areas zoned HB-8, state that the tattoo shop must be at least 100 ft. from a residence,
100 ft. from a location with an ABC license, and 250 ft. from a secondary school.

Reason for Requested Amendment:

I have owned a tattoo shop in Asheville for 11 years, Bliss Tattoo. I live in Black Mountain, I own property here. I would like to move my tattoo shop to Black Mountain to have my business closer to home. There is an available space for lease at 601 State St., the landlord there is happy to have me move in. I have also talked with some of the business neighbors there and they said they would love to have a tattoo shop there as well.

CERTIFICATION

I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I acknowledge that attendance at the Planning Board meeting is mandatory for the review of this application.

 Applicant Signature	11/7/2023 Date
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OFFICE USE ONLY

Date Received:	Fee: \$200.00 Cash: ☐ Check: ☐ # Credit: ☐
Vote: ___ to ___ For ☐ Against ☐	Planning Board Meeting Date:
Vote: ___ to ___ For ☐ Against ☐	Board of Aldermen Meeting Date:

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