

TOWN OF BLACK MOUNTAIN PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, November 27, 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
Pam Norton, Vice Chair
Joe Laudenslayer
Rick Earley
Lauronda Teeple
Kathy Phillips
Chas Fitzgerald

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Russell Cate, Planner I/Zoning Administrator

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of seven (7) members.

II. ADOPTION OF AGENDA

Pam Norton made a motion to adopt the agenda as presented. The motion was seconded by Kathy Phillips and approved by a vote of 7-0.

III. ADOPTION OF MINUTES

Chas Fitzgerald noted a word missing in the first sentence of paragraph four on the second page. Chas Fitzgerald made a motion to adopt the minutes of October 23, 2023, as amended. The motion was seconded by Lauronda Teeple and approved by a vote of 7-0.

IV. NEW BUSINESS

1. Text Amendment Request for Tattoo Parlors

Richard Lamos, 701 Padgettown Road, owns a tattoo shop in Asheville but lives here in Black Mountain. He would like to move his business to the Town he lives in. The current rules are very restrictive and would make it almost impossible to allow a tattoo parlor in Town. A spot has become available for rent and Mr. Lamos is seeking a change in the measurement requirements from residentially zoned areas, public, private, or secondary schools, and establishments with an ABC license. The request is only for the HB-8 district and not the other districts that allow tattoo parlors. If the space is not available, Mr. Lamos will rescind the application.

Jessica Trotman reminded the board that this request is not site specific and is for the entire HB-8 zoning district. A variance is not allowed as it would be a use variance and those are illegal in North Carolina. Russell Cate went over the staff report for the text amendment request. The relevant ordinance section is Section 5.13 in the Land Use Code.

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The specific request is to modify the distance requirements in the HB-8 district so that the distance would change from 500 feet to a residentially zoned area or an establishment with an ABC license to 100 feet and from 500 feet to a public, private, or secondary school to 250 feet. Requirements for tattoo parlors were established in 2014 as a conditional use but are now considered additional requirements as the state has done away with conditional use permits with the adoption of 160D. There are additional requirements that would have to be met in addition to the distance requirements. Staff analysis shows that a reduction in the distance requirement would allow for more parcels to be used for tattoo parlors. Staff looked at Woodfin and Weaverville as they have comparable populations. Woodfin does not allow or define tattoo parlors and Weaverville allows them in the general commercial district and light industrial district. Buncombe County allows tattoo parlors as a permitted use with no additional requirements in five zoning districts: commercial service, employment, conference center, airport industry, and open use.

Chas Fitzgerald asked for the other districts in which tattoo parlors are allowed and that would be the central business district and the heavy industrial district. Mr. Fitzgerald asked about the distances from the requested site and Mr. Cate and Ms. Trotman said that staff would have to look at every parcel in HB-8 as the request is not and cannot be site specific. Mr. Fitzgerald asked if the applicant could provide that information. Mr. Lamos said he looked at Buncombe County GIS and based on the measurements he got, he asked for the minimum.

Chris Collins thinks the board should look at the distance requirements for heavy industrial as well. Buffering is typically done for noise pollution and light pollution. Mr. Lamos said that most of his clients are 30- to 40-year-old professionals. He has been tattooing for twenty-six years and values his profession and would not jeopardize it. Ms. Trotman said that her advice for the original text would have been to group uses with like uses, like the board is doing with HB-8 and HI-0 and would probably have been more generous with the distance requirements and that the Town allows uses that are more intensive than a tattoo parlor.

Any business that has violence or criminal issues becomes a legal matter and no longer is a planning matter and it is important to differentiate between those. Mr. Collins said he does not see the need for a buffer and the additional requirements are things that a tattoo parlor already has to do to open their business. Mr. Fitzgerald asked if the board could look at HB-8 and HI-0 in the UDO and not make a knee-jerk reaction. Ms. Trotman said that since there is an active application in place, action has to be taken on it as he is asking to amend the Land Use Code and not the UDO. Rick Earley said he is not thrilled about the drastic decrease in distance requirements and gives him pause to support that request. Kathy Phillips said she could see leaving it in the CB district but not the HB-8 district and maybe the heavy industrial district. Most of the areas affected are along the highway corridor along US 70 and NC 9 Hwy. Pam Norton asked if they could consider the applicant's request tonight and then look at removing the buffer completely in the UDO. Mr. Collins said it would be interesting to look at geospatial analysis as the

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conversation continues with the UDO. There is no precedent that will be set by this proposed text amendment.

Chris Collins made a motion to recommend the text amendment as proposed and look further at the remainder of the text with the UDO and is consistent with the comprehensive plan in that it opens up more land available for this use and promotes business diversity. The motion was seconded by Kathy Phillips and approved by a vote of 4-3, with Chas Fitzgerald, Rick Earley, and Joe Laudenslayer voting against the motion.

2. UDO Comments

Staff will determine a timeframe about a geospatial analysis for tattoo parlors. Planning Board comments are due by November 30th and so far, only two members have provided comments. The joint session with Council will now not take place until at least January. The idea is to have everyone's comments incorporated into a final draft and present that at the joint session and allow Planning Board to speak to the changes that they proposed and then make a recommendation of the draft for public hearing. The Town Attorney has said that he will be setting aside two weeks in early December to go through the UDO and provide comments. Members can email the comments, drop them off, or use the online tool.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

The board members said that they would like to have the attorney present at the meetings as they feel it is very helpful and they like having the opportunity to ask questions and receive clarification and Ms. Trotman said that she will pass that information along to the attorney.

Chas Fitzgerald reference an article from the Asheville Citizen-Times about short-term rental regulations and that it appears that the Town is going along the same track. The main point is that registration permits are not allowed but a zoning permit would be permissible.

VIII. COMMUNICATION FROM STAFF

Jennifer Tipton said that the December meeting is on December 25th. The board decided to tentatively set aside Monday, December 18th for a regular meeting, but cancel if there is no business.

VX. ADJOURNMENT

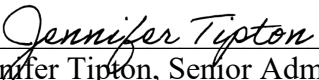
With no further business, the meeting was adjourned at 6:59.

Prepared by:

Chris Collins

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Chris Collins, Chair


Jennifer Tipton, Senior Admin