# 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 March 25, 2024
Date: March 15, 2024

The **Town of Black Mountain Planning Board** will meet on **Monday, March 25, 2024, 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 February 26, 2024;

3. Rezoning Request – 65 Fortune Street – Givens Highland Farms: and

4. Crypto mining information.

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

# PUBLIC NOTICE
# AVISO PÚBLICO

## BLACK MOUNTAIN PLANNING BOARD

## REGULAR MEETING
## REUNIÓN ORDINARIA

**Monday, March 25, 2024, at 6:00 p.m.**
**Lunes 25 de Marzo de 2024, a las 6:00 p.m.**

The Black Mountain Planning Board will meet for their regular monthly meeting on **Monday, March 25, 2024, 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 25 de Marzo de 2024 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

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) 419-9371 or by email at Jennifer.tipton@tobm.org.
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 03/01/2024*

www.townofblackmountain.org

**Planning Board Regular Meeting**
**March 25, 2024**

**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 February 26, 2024, as written [or as amended]

**IV. OLD BUSINESS**

**V. NEW BUSINESS**
- Rezoning Request – 65 Fortune Street – Givens Highland Farms
- Crypto mining information

**VI. COMMUNICATION FROM PLANNING BOARD**

**VII. COMMUNICATION FROM STAFF**

**VIII. ADJOURNMENT**

**TOWN OF BLACK MOUNTAIN**
**PLANNING BOARD**

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The Black Mountain Planning Board held its regular meeting on Monday, February 26, 2024, 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
Kathy Phillips

Absent:

Pam Norton, Vice Chair
Chas Fitzgerald

Staff:

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

The meeting was called to order at 6:04 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 Rick Earley and approved by a vote of 5-0.

## III. ADOPTION OF MINUTES

Lauronda Teeple made a motion to adopt the minutes of January 18, 2024, as written. The motion was seconded by Kathy Phillips and approved by a vote of 5-0.

## IV. NEW BUSINESS

**1. <u>Annexation and Rezoning Request for 99999 Frances Avenue – Givens Highland Farms</u>**

Jim Boyer, Director of Facility Services for Givens Highland Farms, explained that they have purchased a 5.36-acre parcel just to the north of the existing campus. This parcel is contiguous to the current campus on two sides. The intent for this parcel is to provide additional housing, similar to the duplexes and quadplexes that are just south of this property. The project would be known as Meadowmont Phase IV. The plan is to gate the Frances Avenue side and have all traffic come in and out of the main campus entrance on Tabernacle Road. The main campus is currently served by Asheville water and this parcel will be connected to that line. The board feels that this annexation request makes sense and is good for both the applicant and the Town.

The existing campus is zoned OI-6, office and institutional, and the applicant is seeking the same zoning designation for the requested annexed property. Chris Collins made a motion to recommend the zoning district of OI-6 based on the following reasonable findings of fact:

a. The overall size of the tract of land proposed for rezoning is reasonable compared to the size of the zoning district in which the subject property is located.
b. The proposed rezoning is consistent with the comprehensive plan.
c. The impact to the adjacent property owners and the surrounding community is reasonable and the benefit of the rezoning outweighs any potential inconvenience or harm to the community.
d. The allowed uses within the proposed zoning district are similar and comparable to the permitted uses currently zoned.

The motion was seconded by Rick Earley and approved by a vote of 5-0.

## V. OLD BUSINESS

None.

## VI. PUBLIC COMMENT

None.

## VII. COMMUNICATION FROM PLANNING BOARD – Verbatim

Chris Collins: Any communication from the Planning Board tonight?

Kathy Phillips: I have, I would like to ask, I don't know if you got my email.

CC: I did, yeah.

KP: About crypto mining that we should talk about doing something before since everyone else in the ?? surrounding counties are. ?? Buncombe County's moratorium.

Rick Earley: What did you say about what?

KP: Crypto mining.

RE: Crypto mining.

KP: I'll send you a copy of the email. There's a lot.

RE: You sent me a copy?

KP: I will.

RE: Oh, you will.

KP: You should know that because they have a moratorium. Did it come to you? Did you guys hear about it?

CC: I haven't worked directly with it. It's not something I've engaged with too heavily.

KP: Oh. It is apparently there is big brew ha-ha, a large brew ha-ha, because the volume of computers, computing that's necessary to do this cryptocurrency is huge which takes huge amounts of cooling and huge amounts of power and cooling and people in the neighborhood where they first put it in, Murphy or Waynseboro, Waynesboro had, they have all had, It sounds like a jet airplane that never turns off twenty-four, seven in their neighborhood. And so.

RE. Because of the fans to cool it, is that you're talking about?

KP: Yes, ? the cooling for all that computing power. So, there's like, well Buncombe County last May put a mora, a one-year moratorium because it's such a problem, which will be up in May. Fletcher is a, this is a a, Fletcher they defined the use back in June and as of now it's not allowed in Fletcher. Maggie Valley's talking about, Macon County, Jackson County, Buncombe County, Henderson County, they put a 60-day moratorium on them and I don't know what's happened, Haywood County's working on an ordinance, Cherokee County's working on an ordinance and since Buncombe, I don't know what's going on with Buncombe County's but we only have control of the town and I don't think we need those in the town. I mean it sounds like.

RE: Crypto mining.

KP: Crypto currency mining.

CC: Interesting

KP: It takes huge amounts of.

RE: I don't read enough apparently.

Lauronda Teeple: The servers and stuff it takes to deal with computing and or mining is a lot of energy and cooling and stuff.

KP: Yeah, and I don't understand why it takes huge amounts of computer power and banks and banks and banks of them which means lots and lots of cooling. But the noise and the pollution, the noise to the neighbors, they're all up in arms. And I've been reading about this but I'm like, well I don't know what Buncombe County's even thinking about

LT: It hadn't occurred to me that there could be people that do that here.

CC: For a permanent solution, yeah.

KP: We have property that someone could. As soon as Buncombe County's moratorium is up in May, we're, we're close up in Western North Carolina. We're the only one not doing it, I would not want to be reactive, I would rather be proactive about it.

RE: Will the County not do it, is that what you meant?

KP: Well, some of these are towns. Maggie Valley is and some of these, Fletcher, some of the towns are discussing it.

LT: Defining it.

KP: Sylva, I think, had a big problem, cause there was one in Sylva.

RE: So, they're like cell towers, you go find a place to stick a cell tower to rent a place, is it the same thing here? There's no infrastructure required it's just a place to put.

KP: It's a big warehouse.

CC: Yeah.

KP: It's just a big warehouse.

LT: Yeah you'd have to have a structure ??.

KP: Yeah.

CC: They basically just string together, as far as I know, and I have very limited knowledge of it, they stream together processing power, which is.

LT: Like you see in the movies that the spies break in and ??

KP: Banks.

LT: I was going to say those banks, bunches and bunches.

Overlapping talking.

KP: Which takes a lot of cooling apparently. I cannot imagine how something that sounds like a jet airplane in the neighborhood that never turns off.

CC: I think, I've been thinking about this since I read your email and I think that we would, so if the town were to look at a moratorium that'd be a council action, right? Not probably something we would do and of course we could.

KP: It's a recommendation yeah.

CC: I'm not familiar enough with it to know how people are dealing with it from land use and zoning perspective but, so I guess what I'm kind of saying is I'm not familiar with a lot of it or the tools we would use and whatever so I feel like taking action like tonight would be like probably not right.

KP: No we just, I think we need to talk about it to find out.

LT: ??

KP: These others have put or have already put some ordinances into place. You don't need to reinvent the wheel. Let's see how, we would recommend to the Town Council that if we can't get all the information out to issue a moratorium for 60 days until we can kind of thing just to keep, just in case someone's out there.

CC:

KP: I'd hate to have someone out there.

RE: Is there anymore in the state, anywhere, besides Murphy?

KP: Oh, all of these counties, they're all trying to stop them. Yes, there are a couple. I'll send you the email.

RE: Okay. Yeah.

KP: Cause I was reading through em and yes.

RE: I didn't know if they were trying to stop them before they started or if they.

KP: I think that there's two places that have them there.

RE: Okay.

KP: There's a little video from one of the neighbors going my house now sounds like an airplane that never shuts off and, you know, now I can't sell my house, now I can't enjoy my yard.

LT: Yeah.

KP: I hadn't ever heard of it. I ran across that, well that's, I don't know reading some news thing.

CC: Yeah, sure.

LT: ??

KP: I know that we can't, we can't do anything except recommend to the Town Council that something ?? think about it, do something about it. What kind of recommendation should we make.

CC: There's where, I guess I don't feel like, and this is me not paying attention to it, probably mostly, don't feel like, and I don't know where y'all are, but I don't feel like I know enough to really.

KP: To say we should this.

CC: To do anything yeah.

KP: Yeah.

LT: Yeah.

CC: But I'd be interested in learning more about like the land use implications of it and I've not seen, either not paid attention or haven't seen the Town does a moratorium on something in the eleven years I've been here.

Jessica Trotman: I'd be curious to know like how big does a site typically need to be because already even if you were, like not under moratorium conditions, there would be an industrial use. It wouldn't be in an neighborhood. It would be somewhere where you have asphalt factories and whatnot. We have very few parcels in town that are large enough to hold any kind of, that are available, for any sizable production of anything. So I just wonder, it's not, so you know my brain is asking like okay so if there's a possibility, there's a probability and there's like level of you know of risk and stuff, so it's not that I would be like anti having a rule or anything like that, it's a question of like what is, is there a sense of urgency or not and things like that and coming up with one because I don't know. You can tell me that one could fit in this room and I would be like oh well then that is concerning. Or you might say it has to be three acres and I'd be like, well that's a bit harder to do.

KP: I don't think it took that much space. I'll have to go back and read that because it was a, I only think it was a couple acre.

RE: Why don't you come back next month with a report for us?

Overlapping talking.

KP: Well I'm going to be gone for most of the month so.

RE: Oh, there you go.

KP: But if Buncombe County has a moratorium and they've had an entire year almost to make their decision, so we wouldn't need to do anything if Buncombe County fixes the problem for the County. We may not even.

LT: They may already have all the information ??

KP: And they probably already, and I've seen that their staff's been doing this work for the year.

JT: What I'm going to right now is I'm going to email my buddy Nate.

KP: There you go.

JT: Dear Nate.

Overlapping talking.

LT: Tell us the story about this.

KP: Yeah, what's happened. So, Fletcher already has it in their Planning Board to define the use last year and as of now it's not allowed in the Town of Fletcher. They went ahead and they did it last year, so I kind of, when I read this, I thought we're kind of behind the eight ball.

CC: So I guess I have a quick question for staff and this is a hard question but if somebody came and said I want to do crypto mining right now, what zoning district can I go in, how would y'all handle that.

LT: Yeah.

CC: Would you match it to one of the current land uses?

JT: By law I would have to. I would have to say what is the most like thing and if I couldn't find it there, I'd have to go pull out a Merriam-Webster's dictionary and match it there and go from there. So it would end up in an industrial district.

CC: So that's going to preclude our residential districts.

JT: Absolutely.

CC: So there's that. I'm trying to determine the sensitivity ??

LT: That's a certain safeguard there, yeah.

KP: Yeah and I don't know whether, I've got to go back and read whether that neighborhood, it was in the county so you don't have ??

LT: They didn't have that protection or something.

CC: Yeah.

KP: Maybe they didn't have the protection that yeah.

Jennifer Tipton: Well if you prefer we can bring you some information next month.

CC: I think that that'd be good if you all have the bandwidth just to kind of look at how places are zoning for that ??

JT: I'm hoping he just sends me his staff report.

CC: Right, it's already got the staff doing something.

LT: That would be perfect. Awesome.

CC: Easy, easy.

KP: Well that was one of those and then we talked about tattoo parlors and you had said should we be limiting any particular business like that. You had wondered about that. Is that something for the UDO we need to think about?

CC: I feel like, and Jessica you may have alluded to this, that it's our discussion is reflected in the current draft of the UDO.

JT: We took that consensus conversation and have added that to the UDO.

LT: Okay, great. Cool.

KP: Where are we on the UDO?

JT: We are waiting for the attorney to finish reading by mid-March for a joint meeting.

LT: Okay.

JT: We were also waiting for him to read it over Thanksgiving so I'm just going to see ??

Overlapping talking.

KP: Well if you started at the beginning it is long, especially when they're trying to decide the legalities of all the things we want.

JT: Yeah.

KP: Yeah, a few hundred pages.

JT: It should be done soon.

CC: So hopefully the tattoo parlor things in there, so it should be good.

KP: Yes. The other one was the marijuana dispensaries and I know a while back there was someone living in town who has investments in other states and as soon as the state, we will have one in downtown Black Mountain, as money talks, and do you want to be reactive, like we have a vape store and then oh my God everyone yelled and everything and now we don't have anymore and you got an Airbnb on Cherry Street and oh my God we don't want them anymore. So there's one of each and we're going to have that here.

Joe Laudenslayer: I thought Timmy, down on the corner of Cherry Street, I thought he was our connection for marijuana.

KP: ??

JS: Oh is this a different ??

Overlapping talking.

KP: This is a large corporate level. This is not a Joe-blow, Timmy on the corner. This is somebody with money and investors in other states who just if you want, like you know, you want the vape store to turn into a marijuana dispensary, or you know, you want the pottery store to turn into, which, I thought, it's a long conversation and when things are coming down the legal pipel do we then want to start this long conversation, cause it's not just zoning, I'm thinking is , isn't there a lot of money, is there a way the Town can tax it, you know? Fees or something, I don't ??

JT: See all of this will come to us from the state and I don't think I can put anything on the table of permitted uses that isn't already legal.

KP: No, you can't put it on the table, it is, if we do the draft so that we've done some discussions before.

CC: Have something in our back pocket?

KP: Yeah, as you see it we don't have to scramble and go ??

JT: What I worry, Kathy, is we're going to waste our time because the state is going to likely tell us what the guardrails are. If and when this happens, we are going to have such a heads up, it is going to be a battle in Raleigh for so long before we ever know. It's not like we are going to wake up one day and they're going to be like, surprise, weed's legal now. It is going to, we're just going to have such a long conversation.

CC: A lot of times, what I've seen them do, is they'll do the legalization but then the actual plan for distribution and how that works is months and months down the road from then.

LT: So there's a time limit.

JT: Oh yeah.

LT: It's not an overnight

CC: I think even in Cherokee it was like passed it at this point and then six months later we'll figure out distribution.

KP: Oh and they had even longer than that because they started grown it, they weren't buying it, so they had a year to grow their own before they even began to dispense it.

JT: It is a long process.

KP: But they were supposed to start selling it to the public, not just the reservation, but I don't ??

LT: That's been happening in this past week from what I understand.

KP: Has it?

LT: Conversations about, yeah that ?? together waiting for the approval process, yeah, for non-native or public.

CC: I don't know, I feel like they could be like we're going to send it through the ABC stores.

JT: And if it ends up an entire structure like they do at ABC, and the taxing, they might, there are going to a hundred structures for that. It could be entirely from the state or they could say four percent from the state and up to three percent local, split it this way, to these different reasons, you know purposes, there's just no real, there's just no telling.

KP: Yeah, I didn't want us to lose out on tax dollars. And you know the community, I was just kind of amazed how many people complained about the vape store across from, across from the school, and that just, you know, wait until the dispensaries come.

CC: I'll just be disappointed it's not like something good to eat or ?? It's a really good thought.

KP: It's something for us to be thinking about because, as you said, when it comes, once you can sell it to the general public and people from our area or just driving up to Cherokee I think the time will come ??

CC: One of these days probably.

KP: Yeah, I don't think it'll be too long. But it's a thought to think about, what do you want your town to look like.

JS: Speaking of how we want our town to look, is there any word on the Circle K?

JT: No.

KP: Where's the Circle K?

JT: Not happening.

JS: Oh it's not happening?

JT: Well we just haven't heard anything.

JS: Okay.

KP: Oh, so where was it?

JS: The bank, SunTrust bank.

KP: A Circle K?

JS: Gas station.

KP: Not happening, thank you Jessica.

CC: Or no update, we'll say.

LT: What's ever come of?

JT: Let's not have a project round robin.

Overlapping talking.

CC: So any more communication from Planning Board?

KP: That was all I could think of.

CC: That's good.

## VIII. COMMUNICATION FROM STAFF

None.

## VX. ADJOURNMENT

With no further discussion, the meeting was adjourned at 6:42 p.m.

Prepared by:

_____
Chris Collins, Chair

_____
Jennifer Tipton, Senior Admin

**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

# STAFF REPORT

Planning Board Meeting Date: March 25, 2024

## GENERAL INFORMATION

| | |
|---|---|
| **APPLICANT:** | Givens Highland Farms, LLC |
| **HEARING TYPE:** | Rezoning Request |
| **REQUEST:** | UR-8 (Urban Residential) to OI-6 (Office and Institutional) |
| **CONDITIONS:** | N/A |
| **LOCATION:** | 65 Fortune St. |
| **PARCEL ID NUMBER(S):** | 0609-64-3906-00000 |
| **PUBLIC NOTIFICATION:** | The notification for this public meeting was 200 feet (Chapter 1, Section 1.5.4 F of the Land Use Code requires notification of the owner of that parcel of land and the owners of all parcels within 200' of the property boundary of the proposed amendment). 36 notices were mailed to those property owners in the mailing area. |
| **TRACT SIZE:** | 1.65 acres |
| **TOPOGRAPHY:** | 6.17% slope |
| **VEGETATION:** | Residential-type landscaping and plants |

## SITE DATA

| | |
|---|---|
| **EXISTING USE** | Manufactured home site (unit is vacant) |

## SUMMARY OF DISTRICT PURPOSES

| | |
|---|---|
| UR-8 (Urban Residential) | Purpose: The mixed residential district is established to provide a variety of housing types, promote density in the more urbanized and developable areas or town, and structure the orderly development of residential neighborhoods. |
| OI-6 (Office and Institutional) | Purpose: The office and institutional district is established to provide transition between residential and commercial districts; to accommodate a mixture of residential, office, and institutional uses in conditions of good health and safety; to accommodate planned developments that are institutional in nature and which may have multiple buildings and uses within one property; and to protect property values of residential, institutional and professional uses within the district in a way that is mutually beneficial. |

## ZONING DISTRICT STANDARDS

**District Summary**

| | **Existing** | **Requested** |
|---|---|---|
| **Zoning District Designation:** | UR-8 | OI-6 |
| **Max. Density:** | 8 units per acre | 6 units per acre |
| **Front Setback:** | 20’<br>15’ for steep hillside | 30’ for residential;<br>40’ for non-residential |
| **Side Setback:** | 10’ | 10’ for residential;<br>30’ for non-residential |
| **Rear Setback:** | 15’ | 20’ for residential;<br>30’ for non-residential;<br>40’ for non-residential abutting residential district |
| **Min. Lot Size:** | 5,000 sf;<br>1/8 acre for major subdivision and non-residential | 1/6 acre |
| **Max. Height:** | 35’ | 35’ |
| **Min. Width:** | 15’;<br>40’ (including 15’ at street) for non-residential | 60’;<br>100’ for non-residential |
| **Min. Depth:** | None | 100’ |
| **Permitted Uses:** | • Shared Housing/Community Living Facilities | • Shared Housing/Community Living Facilities |

| | | |
|---|---|---|
| | • Single-Family Residences<br>• Two-Family Residences (Duplex)<br>• Government Facilities<br>• Places of Worship<br>• Public Utilities<br>• Accessory Structures<br>• Camps, summer<br>• Bed and Breakfast Homes<br>• Home Occupations | • Single-Family Residences<br>• Two-Family Residences (Duplex)<br>• Government Facilities<br>• Group Home<br>• Institution<br>• Places of Worship<br>• Educational Facilities<br>• Public Utilities<br>• Accessory Structures<br>• Camps, summer<br>• Breweries/Distilleries/ Wineries/Cideries<br>• Art Studios and Galleries<br>• Bar<br>• Bed and Breakfast Homes<br>• Health and Fitness Facilities<br>• Home Occupations<br>• Laundromat<br>• Medical Offices and Clinics<br>• Mobile Food Vendors<br>• Mobile Food Vendor Courts<br>• Professional Offices and Services<br>• Restaurant Brew Pub/ Tavern<br>• Restaurants and Taverns (walk-up, drive-thru, sit down)<br>• Retail (up to 2,500 sf)<br>• Taxi and Transportation Services |
| **Additional Requirements:** | • Manufactured Homes on Individual Lots<br>• Secondary Dwellings<br>• Boarding House | • Boarding House<br>• Family Care Homes<br>• Congregate Care Facilities<br>• Nursing Care |

| | | |
|---|---|---|
| | • Family Care Homes<br>• Agriculture<br>• Bed and Breakfast Inns<br>• Day Care Centers<br>• Garden Markets | • Agriculture<br>• RV, Camper Hook-Up<br>• Bed and Breakfast Inns<br>• Day Care Centers<br>• Garden Markets<br>• Neighborhood Fueling Facility |
| **Special Uses:** | • Conservation Subdivision<br>• Cottage Housing Development<br>• Planned Unit Development – Residential<br>• Manufactured Home Parks<br>• Multi-family Residential – all levels | • Conservation Subdivision<br>• Cottage Housing Development<br>• Planning Unit Development-Commercial<br>• Planned Unit Development – Residential<br>• Multi-family Residential – all levels<br>• Campgrounds |
| **Exclusions:** | • All uses not specifically enumerated | • All uses not specifically enumerated |

## SPECIAL INFORMATION

| | |
|---|---|
| **Overlay Districts** | |
| Historic District Overlay | N/A |
| Flood Damage Prevention Overlay | N/A |
| US 70 Corridor Overlay | N/A |
| Fire District Overlay | N/A |
| Pedestrian Master Plan Overlay | N/A |
| Wellhead Protection Overlay | N/A |
| **Environmental** | |
| Floodplain | N/A |
| Floodway | N/A |
| Stream | USGS 'blue line stream' in far southeast corner (see Buncombe GIS image below) |
| **Utilities** | |
| Water | The currently-vacant manufacture home on the parcel has water service |
| Sewer | N/A |
| **Landscaping** | |
| There are no landscaping requirements. | |
| **Transportation** | |
| Street Classification | Fortune Street west of North Blue Ridge Road is a private street |
| Site Access | Access if via Fortune Street |
| Traffic Counts | N/A |
| Sidewalks | There are no sidewalks on Fortune Street west of North Blue Ridge Road |
| Transit in Vicinity | None |
| Traffic Impact Analysis (TIA) | Not required by Land Use Code |
| Street Connectivity | N/A |
| Other | N/A |

## IMPACT/POLICY ANALYSIS

The applicant states that the reason for the rezoning request is "to be consistent with zoning on the existing Givens Highland Farms Campus." The west of the parcel borders the Givens Highland Farms campus, which is zoned OI-6. With rezoning to OI-6, the parcel would be bordered on the north, east and south by parcels zoned UR-8. The UR-8 and OI-6 zoning districts permit the same types of residential uses, but the OI-6 zoning district permits a wider range of non-residential uses.

Buncombe County GIS with *Stream & River* layer turned on (2023 imagery):

# REZONING WORKSHEET

PIN #: 0609-64-3906-00000

Current Zoning District: UR-8 Requested Zoning District: OI-6

The rezoning was granted based on the following reasonable findings of fact:

1. The overall size of the tract of land proposed for rezoning ( ) is / ( ) is not reasonable compared to the size of the zoning district in which the subject property is located.

2. The proposed rezoning ( ) is / ( ) is not consistent with the comprehensive plan or elements thereof.

3. The impact to the adjacent property owners and the surrounding community ( ) is / ( ) is not reasonable, and the benefits of the rezoning shall outweigh any potential inconveniences or harm to the community.

4. The allowed uses with the proposed zoning district ( ) are / ( ) are not similar or comparable to the permitted uses as currently zoned.

# REZONING APPLICATION www.townofblackmountain.org

## APPLICANT INFORMATION

Applicant Name
Givens Highland Farms, LLC

Applicant Address (Number, Street, City, State, ZIP)
200 Tabernacle Rd, Black Mountain, NC 28711

| Home Phone | Cell Phone | Email Address |
|---|---|---|
| 828-669-6473 | 828-779-1776 | jboyer@givenshighlandfarms.org |

## MAP AMENDMENT LOCATION AND REQUEST

**I request a rezoning for the following parcel(s):**

**Property Address:** 65 Fortune St, Black Mountain **PIN #:** 0609-64-3906

**Current Zoning Classification:** UR-8 **Requested Zoning Classification:** OI-6

**Current Land Use:** MFG HOME SITE (vacant) **Size of Parcel:** 1.65 acres

Reason for Requested Rezoning:
to be consistent with zoning on the existing Givens Highland Farms campus

## PROPERTY OWNER INFORMATION (If different from applicant)

Property Owner Name
Givens Highland Farms, LLC

Property Owner Address (Number, Street, City, State, ZIP
200 Tabernacle Rd, Black Mountain, NC 28711

| Phone Number | Email Address |
|---|---|
| 828-669-6473 | jboyer@givenshighlandfarms.org |

## 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.

| Petitioner Signature | Date |
|---|---|
| | 3/14/2024 |

## OFFICE USE ONLY

| Date Received: | Fee: $600.00<br>Cash: ☐ Check: ☐ #_____ Credit: ☑ |
|---|---|
| Vote: ____ to ____ For ☐ Against ☐ | Planning Board Meeting Date: |
| Vote: ____ to ____ For ☐ Against ☐ | Board of Aldermen Meeting Date; |

## OWNER'S AFFIDAVIT

The person(s) listed below does hereby appear before a Notary Public and swear or affirm that they are the legal owners of the property located at:

65 Fortune St, Black Mountain, NC 28711

PIN #: 0609-64-3906

The person(s) listed below does hereby give authorization and permission to:

Jim Boyer (Name of Representative/Agent) of Givens Highland Farms, LLC (Name or Organization)

to submit to the Town of Black Mountain the following rezoning request for the above referenced property.

The persons listed below also consent to all conditions and/or stipulations that may be imposed or adopted by the Town of Black Mountain, as part of the petition/application approval.

| Owner's Name (Print) | Owner's Signature | Date |
|---|---|---|
| Kenneth Kramer, Executive Director | | 3/14/2024 |
| | | |
| | | |

STATE OF NORTH CAROLINA
Buncombe COUNTY

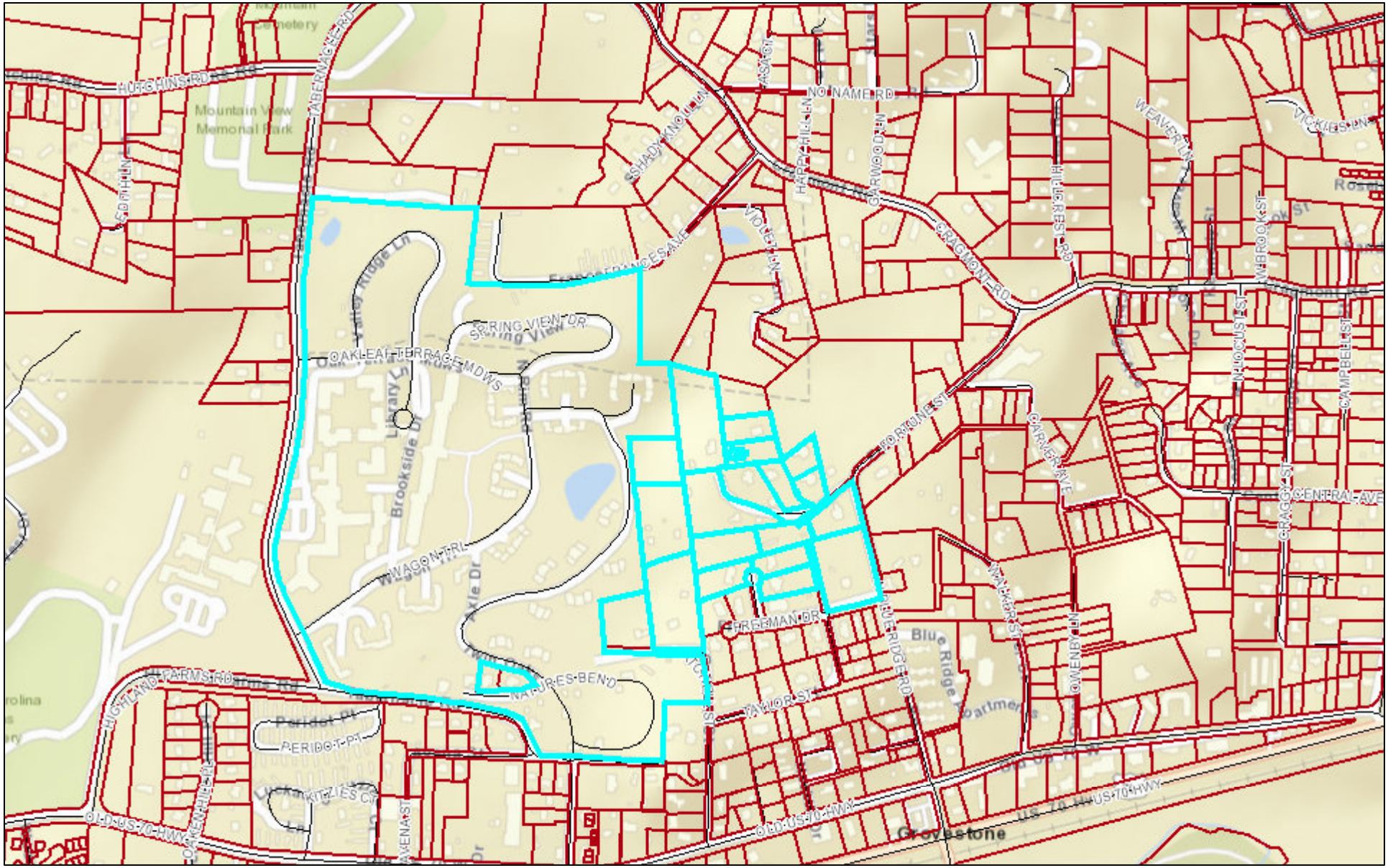
On the 14 day of March, 2024, the person(s) listed above personally appeared before me, who executed the foregoing document, and each acknowledged that he/she executed the same and being sworn by me, made oath that the statements in the foregoing document are true.

Lori Michelle Gasperson (SEAL)
Notary Public
Lori Michelle Gasperson
Printed Name

My Commission Expires: April 30, 2024

Lori Michelle Gasperson NOTARY PUBLIC Buncombe County, NC

# Buncombe County




March 13, 2024

1:9,028

0 0.075 0.15 0.3 mi

0 0.1 0.2 0.4 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

| Owner | Address |
|---|---|
| GIVENS ESTATES INC | 2360 SWEETEN CREEK RD |
| GIVENS HIGHLAND FARMS LLC | 2360 SWEETEN CREEK RD |
| IRA E & ALICE W SMITH | 1 WAGON TRL |
| CAMPBELL & CAROL B CAUTHEN JR | 6 WAGON TRL |
| AURTHUR H FRICKE TRUSTEE | 7 WAGON TRL |
| ATOSSA F KRAMER | 11 WAGON TRL |
| JOHN M & BETTY K WALKER III | 13 WAGON TRL |
| ROBER F & MARY J FINNEGAN | 16 WAGON TRL |
| JOAN BROWN | 17 WAGON TRL |
| JAMES & GERI INGRAM | 34 WAGON TRL |
| FRELICK FAMILY TRUST | 35 WAGON TRL |
| JERDEE LIVING TRUST | 38 WAGON TRL |
| EDWARD M & SUE B SMITH | 45 WAGON TRL |
| JAMES F & CAREY M ELAM JR | 52 WAGON TRL |
| HARRO BUNDESEN | 54 WAGON TRL |
| EDWARDS FAMILY TRUST | 55 WAGON TRL |
| CAROLYN R ZIELINSKI TRUSTEE | 57 WAGON TRL |
| SARA P HILL | 58 WAGON TRL |
| JAMES K & CARYL M HEID | 59 WAGON TRL |
| G ALLAN & JEAN L BROWN | 75 WAGON TRL |
| JAMES T & PEGGY L ELLIS | 76 WAGON TRL |
| GIVENS HIGHLAND FARMS LLC | 200 TABERANCLE RD |
| WINFIELD SCOTT BRIANS & JACOB ANDREW BRIANS | 106 WALNUT ST |
| LARRY L & CYNTHIA A MAYBERRY | 5 BURNETTE DR |
| BRENDA J THORNBURG | 49 FORTUNE ST |
| GIVENS HIGHLAND FARMS LLC | 200 TABERANCLE RD |
| KEOUGH FAMILY REVOCABLE LIVING TRUST | 6 BURNETTE DR |
| HAZEL W SOLES | 4 BURNETTE DR |
| BRENDA J THORNBURG | 49 FORTUNE ST |
| CRYSTAL A & DAVID HAUSER | 100 TAYLOR ST |
| WALLCE TIMOTHY & ARLENE K NELSON | 125 N BLUE RIDGE RD |
| JULIA C BURR & JESSICA M KLARP | 71 FORTUNE ST |
| CAROLYN S DRIVER | 53B FORTUNE ST |
| SHARON K SAPP | 53A FORTUNE ST |
| FORTUNE COMMONS TOWNHOMES ASSOCIATION | 53A FORTUNE ST |
| STEVEN BENNETT BROWN | PO BOX 121 |
| WILLIAM B & ANGELA P SARTOR JR | 30 LOCUST ST |
| BRENDA J THORNBURG | 49 FORTUNE ST |
| BERNARD L SPIELMAN & DELORES SPIELMAN JR | PO BOX 1021 |
| JAMES SAMUEL & LINDA F HOBSON JR | 48 FORTUNE ST |

| City | State | Zip | PIN # |
|---|---|---|---|
| ASHEVILLE | NC | 28803 | 60954997500000 |
| ASHEVILLE | NC | 28803 | 60955114600000 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C001 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0006 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0007 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0011 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0013 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0016 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0017 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0034 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0035 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0038 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C0045 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1052 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1154 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1155 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1157 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1158 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1259 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1675 |
| BLACK MOUNTAIN | NC | 28711 | 0609551146C1676 |
| BLACK MOUNTAIN | NC | 28711 | 60955925100000 |
| BLACK MOUNTAIN | NC | 28711 | 60964051800000 |
| BLACK MOUNTAIN | NC | 28711 | 60964263900000 |
| BLACK MOUNTAIN | NC | 28711 | 60964285200000 |
| BLACK MOUNTAIN | NC | 28711 | 60964390600000 |
| BLACK MOUNTAIN | NC | 28711 | 60964479600000 |
| BLACK MOUNTAIN | NC | 28711 | 60964561600000 |
| BLACK MOUNTAIN | NC | 28711 | 60964581600000 |
| BLACK MOUNTAIN | NC | 28711 | 60964777100000 |
| BLACK MOUNTAIN | NC | 28711 | 60964793500000 |
| BLACK MOUNTAIN | NC | 28711 | 60965134900000 |
| BLACK MOUNTAIN | NC | 28711 | 60965229300000 |
| BLACK MOUNTAIN | NC | 28711 | 60965322300000 |
| BLACK MOUNTAIN | NC | 28711 | 60965328300000 |
| SWANNANOA | NC | 28778 | 60965337400000 |
| BLACK MOUNTAIN | NC | 28711 | 60965404300000 |
| BLACK MOUNTAIN | NC | 28711 | 60965500900000 |
| BLACK MOUNTAIN | NC | 28711 | 60965603800000 |
| BLACK MOUNTAIN | NC | 28711 | 60906562000000 |

# Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina, 28711
Phone: 828-419-9300 ♦ Fax: 828-669-2030 ♦ TDD: 1-800-735-5962

## NOTICE OF REZONING REQUEST
## PUBLIC MEETING ONLY

**(REGARDING NEIGHBORS WITHIN 200 FEET OF PROPERTY)**

DATE: **03/15/2024**

TO: **Property Owner**

FROM: **TOWN OF BLACK MOUNTAIN**
**ZONING ADMINISTRATOR**

APPLICANT NAME: **Givens Highland Farms, LLC**

PROPERTY ADDRESS: **65 Fortune Street**

PIN #: **0609-64-3906.00000**

CURRENT ZONING CLASSIFICATION: **UR-8 (urban residential)**

REQUESTED ZONING CLASSIFICATION: **OI-6 (office and institutional)**

CURRENT LAND USE: **vacant land**

SIZE OF PARCEL: **1.649 acres**

REASON FOR REQEUSTED REZONING:

**To be consistent with zoning on the existing Givens Highland Farms campus.**

***A public meeting of the Planning Board on this matter will be held Monday, March 25, 2024, @ 6:00 in the Board Room of Town Hall, 160 Midland Avenue.***

This is your notification for this request specified under 1.5.4 of the Land Use Code for the Town of Black Mountain. Section 1.5.4 (G) and (I) indicate that notice be provided to all property owners within 200 feet of the site's property lines.

**Note: <u>This is not a public hearing</u>.** This is a meeting for the Planning Board to make a recommendation to the Town Council at which time the public hearing will be held.

# Cryptocurrency Mining – Issue Overview

On 4/18/2023, the City Council of the **City of Marion** voted unanimously to adopt a one-year moratorium on cryptocurrency mining operations. The ordinance references NCGS 160D-107(e) in permitting the adoption of a temporary moratorium on development approvals of reasonable duration. The ordinance explains that "an emergency exists relative to impacts from cryptocurrency mining operations and that the City therefore has an obligation to take action to protect public health, safety, and general welfare in its municipal jurisdiction." The ordinance specifies:

- Section 1. The Marion City Council recognizes a cryptocurrency mining operation as any land use activity, in whole or in-part, that utilizes specialized computer equipment for the purpose of mining one or more blockchain-based cryptocurrencies.
- Section 2. The Marion City Council does hereby adopt a temporary moratorium on the development and operation of cryptocurrency mining with its jurisdictional boundary.
- Section 3. The Marion City Council reserves the right to terminate or extend the temporary moratorium pursuant to NCGS 160D-107(e).
- Section 4. This ordinance shall become effective immediately upon adoption and remain in effect for one (1) year from the effective date, thus, to expire on April 17, 2024.

In a blog published in *Coates' Canons NC Local Government Law* on 2/23/2023 and written by Adam Lovelady of the UNC School of Government is the question **"Can we hit the pause button on development?"** The blog explains that one option for local governments is the adoption of a temporary moratorium on development permits long enough to adopt new plans or rules, per NCGS 160D-107. The blog explains that NCGS permits local governments to "adopt temporary moratoria on any development approval required by law." The permission is limited to specific procedures that must be followed by the local government:

- Statement of the problems or conditions necessitating the moratorium and what courses of action alternative to a moratorium were considered. Also, an explanation of why the alternatives were deemed inadequate.
- Statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions.
- Date for the termination of the moratorium and an explanation of why that duration is reasonably necessary.
- Statement of the actions, including a schedule for the actions, to be taken by the local government during the duration of the moratorium to address the problems or conditions.

**Section 1.5 (Amendments)** of the Land Use Code explains that "development regulations and the zoning map may from time to time be amended, supplemented, changed, modified or repealed by the town council" (Sec. 1.5.1 (A)). The planning board and town council must base text or map amendments on "public necessity, convenience, general welfare, or good zoning practices," and on determining that such amendment action "is consistent with the town comprehensive plan or other adopted plans" (Sec. 1.5.2).

In the "purpose and intent" section of the **Light Industrial (LI-8)** zoning district is an explanation that the district exists in part to allow uses that confine their "noise, odor, dust and

glare" "within an enclosed building" (Sec. 4.7.9). In the "purpose and intent" section of the **Heavy Industrial (HI-0)** zoning district is an explanation that the district exists in part to allow uses that confine the impact of their 'noise, odor, dust and glare' only to other industrial uses" (Sec. 4.7.10).

**Article IV (Noise)** of the Chapter 20 (Environment) of the Code of Ordinances explains that "it shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing noise in the town. Every use, activity and process shall be so operated that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment or nuisance to any person" (Sec. 20-171).

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Strengthening the Town's current regulations to prepare for a possible commercial permit application from a cryptocurrency mining operation as opposed to a moratorium would seem to be prudent given that:

> NCGS 160D-107 requires that courses of action separate from a moratorium must be considered, with the local government pursuing a moratorium only after stating why the alterative courses of action were deemed inadequate;
>
> the Town's industrial districts already limit "noise, odor, dust and glare" from ever impacting locations outside the operation's building or zoning district; and,
>
> the Town's noise ordinance already makes it unlawful for the creation or continuation of "any unreasonably loud, disturbing noise."