

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: October 12, 2009

SUBJECT: Grant of encroachment on air-rights above a public right-of-way

AGENDA INFORMATION

Agenda Location: New Business
Item Number: 6-C
Department: Planning and Development Services
Contact: Ron Sneed/Elizabeth Teague
Presenter: Ron Sneed

BRIEF SUMMARY: Cheshire Village, LLC, requests an encroachment over a public right-of-way for an existing building that hangs over the right-of-way of East Market Street by 1.4 feet. This balcony is part of a structure that was built several years ago which is being converted to a commercial condominium. The attorney for Cheshire Village, LLC, determined that the encroachment needs to be officially granted from the Town to Cheshire Village, LLC prior to conversion to a condominium. The building overhang does not interfere with pedestrian, automobile traffic or other uses of the right-of-way and will be at least 10 feet above the ground. Execution by the Town of a non-warranty deed will establish the parameters and limitations under which this encroachment is granted.

MOTIONS FOR CONSIDERATION: Convey to Cheshire Village, LLC, the right to the use of the airspace above East Market Street for the building that overhangs into that space by 1.4 feet.

FUNDING SOURCE: n/a

ATTACHMENTS: Non-Warranty Deed and Map

MANAGER'S COMMENTS AND RECOMMENDATIONS: This is a non-warranty deed that would apply to this property only. However, granting such use of airspace could be understood as setting precedent for future decisions over public rights-of-way by the Board of Aldermen, particularly as regards decisions over air rights.