MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for March 22, 2021
Date: March 15, 2021

The Town of Black Mountain Planning Board will meet on Monday, March 22, 2021, at 6:00 p.m. electronically via Zoom.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from February 22, 2021;
3. Old Toll Road Voluntary Annexation Petition and Rezoning Request; and
4. Text Amendment – Open Space Requirements for Major Subdivisions;

Please let Jennifer Tipton know if you are unable to attend this meeting. jennifer.tipton@townofblackmountain.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@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
    Jake Hair, Planner
    Ron Sneed, Town Attorney
    Anna Stearns
PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

In order to maintain the safety of Town residents, staff, and the Planning Board, the Planning Board regular meeting scheduled for **Monday, March 22, 2021, at 6:00 p.m. will be conducted electronically using Zoom software** in lieu of its in-person meeting. The Town of Black Mountain Town Hall will not be open for this meeting.

There are three ways the public can participate in the meeting:

1. **Join the meeting through Zoom on your computer or smart device.** *Citizen video feeds will not be enabled. There is no password.*

   [https://us02web.zoom.us/j/81081589195](https://us02web.zoom.us/j/81081589195)

   **Meeting ID:** 810 8158 9195

   If you have not used Zoom before on a computer or smart device, you are encouraged to download the application from their website at Zoom.us/download and try it out prior to the meeting. There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

2. **Join the meeting by telephone (listen only).**

   Simply call US Toll-free 1-877-853-5247 or US Toll-free 1-888-788-0099

   **Meeting ID:** 810 8158 9195 followed by the Pound sign (#)

3. **Email or call in your comments or questions prior to the meeting.**

   Call in comments prior to the meeting: Clerk to Planning Board at 828-419-9371

   Email comments to: jennifer.tipton@townofblackmountain.org

_________________________

Jennifer Tipton
Senior Admin

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**Posted to the Town Bulletin Board 03/01/2021**

www.townofblackmountain.org
Planning Board Regular Meeting  
March 22, 2021

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 February 22, 2021 as written [or as amended]

IV. OLD BUSINESS

V. NEW BUSINESS
   • Old Toll Road Voluntary Annexation Petition and Rezoning Request
   • Text Amendment – Open Space Requirements for Major Subdivisions

VI. COMMUNICATION FROM PLANNING BOARD

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT
The Black Mountain Planning Board held its regular meeting on Monday, February 22, 2021 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:
   Pam Norton, Vice Chair
   Jesse Gardner
   Lauronda Teeple
   Kathy Phillips
   Chas Fitzgerald
   Rick Earley
Absent:
   Chris Collins, Chair
Staff:
   Jennifer Tipton, Senior Admin
   Jessica Trotman, Planning Director
   Jake Hair, Planner
   Anna Stearns, Sneed Law

The meeting was called to order at 6:11 p.m. and duly constituted and opened for business with a quorum of six (6) members.

II. ADOPTION OF AGENDA
There was one change to the agenda to add the sketch plan review of Brooks Cove Road subdivision to item three under new business. Chas Fitzgerald made a motion to adopt the agenda as amended. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0.

III. ADOPTION OF MINUTES
Chas Fitzgerald made a motion to adopt the special call minutes from January 15, 2021, as written. The motion was seconded by Jesse Gardner and approved by a vote of 6-0.

Chas Fitzgerald made a motion to adopt the minutes from January 22, 2021, as written. The motion was seconded by Jesse Gardner and approved by a vote of 6-0.

IV. OLD BUSINESS
None.

V. NEW BUSINESS
1. Elevate Black Mountain Final Draft
Jessica Trotman said that the consultants have incorporated the Planning Board’s comments into the final draft and she is comfortable with the draft as it now is. Ms. Trotman said that she has given the draft to Chris Collins as the Chair for his comments but due to a death in the family, he has not had a chance to complete his review of the draft. Ms. Trotman said that she hopes that the board will make a broad recommendation to go to public comment. Ms. Trotman said that the plan will be revised one more time after public comment before it is sent to the Board of Aldermen for adoption. Ms. Trotman said that board members are welcome to continue to make
comments as individuals as the comments from the Planning Board are a consensus of the board. Chas Fitzgerald asked if there was a way to see the edits that have been made and Ms. Trotman said that she has been working off of a checklist format of items that the Planning Board voted on at their last meeting. Ms. Trotman did say that there were two instances where the Planning Board asked for the elimination of policies that were redundant and upon conversation with the consultant it was decided to better clarify those policies rather than eliminating them. Ms. Trotman said that there will be a video and survey to go along with the draft plan when it goes to public comment. Ms. Trotman reminded the board that not every comment will make it into the plan as all comments have to be weighed against what is legal, is it out of range for implementation, is it out of the scope of the plan, etc. Ms. Trotman said that she will address any of these comments in a memo so that all comments will be addressed one way or the other. Jesse Gardner said that he had sent comments in after the last meeting and would like to talk about them as a board to get consensus.

Mr. Gardner started with the Future Land Use Map (FLUM) and the area to the west of Grovestone Road that is outside of city limits but is part of the study area. Mr. Gardner said that he feels that the areas fronting Old US 70 Hwy and US 70 Hwy should be changed to commercial, the area of Charles D. Owen Middle School should be changed to institutional campus, and the residential area to the east of the middle school area should remain complete residential and the area to the west of the middle school area should be changed to complete residential. Ms. Trotman said that she is working with Buncombe County and their planning department as they undertake their comprehensive plan update process to look at opportunities to collaborate with Buncombe County. Mr. Gardner said that it made sense to then align more with County zoning in this area and that this is a high density area. Jesse Gardner made a motion to recommend that the area west of Grovestone Road that is outside of the city limits be changed to commercial for the areas fronting US 70 Hwy and Old US 70 Hwy, the area of Charles D. Owen Middle School be changed to institutional campus, and the area to the west of the middle school area be changed to complete residential. The motion was seconded by Chas Fitzgerald and approved by a vote of 5-1 with Pam Norton abstaining.

Mr. Gardner then moved to the area of N Blue Ridge Road and Old US 70 Hwy and said that there should be a link to the existing commercial area. Mr. Gardner also said the area of Oaken Hill Place should be changed to complete residential and the area of the Swannanoa Valley Medical Center on Old US 70 Hwy should be changed to commercial. Lauronda Teeple suggested neighborhood mixed use from the area of N. Blue Ridge Road to where Old US 70 ends at US 70 Hwy to the east. This would allow a transitional buffer but also would not limit someone to one use or another. The area is already walkable with sidewalks. Ms. Trotman said that the goal is to make US 70 Hwy walkable to Swannanoa with sidewalks and multi-modal transportation opportunities. Jesse Gardner made a motion to change the area from N. Blue Ridge Road to the area of where Old US 70 Hwy terminates at US 70 Hwy to mixed use one parcel deep, to change the area of Oaken Hill Place to complete residential, and to change the area of the Swannanoa Valley Medical Center on Old US 70 Hwy to commercial. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

Mr. Gardner then moved to the area of Cragmont Road, Mount Allen Heights, Carver Avenue, and Roselyn Way. Mr. Gardner said that the area already has sufficient utilities and topography...
and has the Carver Community Center and feels that the FLUM shows it being more pastoral than urban. The current zoning for the majority of the area is UR-8 with Tudor Croft being zoned NMU-8. Mr. Gardner said that he feels that if the area were to be rezoned based on the FLUM it would lose density. Mr. Gardner referenced Tudor Croft, the Roselyn Way townhomes, the Mountain Housing development, the Locust Springs Development, the Blue Ridge Apartments and said that the area has complete elements with sidewalks and established neighborhoods.

Jesse Gardner made a motion that the area north of the recently requested mixed-use area on Old US 70 Hwy to the town boundary north and Hilltop Road be changed to complete neighborhood. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

Mr. Gardner then moved to the area of Pearl Street, Avena Road, and Brandon Road. Ms. Trotman did remind the board that the FLUM reflects the tenor from the community and that in recent meetings, citizens in this area have expressed concern about density. Mr. Gardner said he is open to the area being changed to complete neighborhood but leave it as valley residential and just make a note about the complete neighborhood. Chas Fitzgerald asked if this area is predominately the African-American community and asked that the town make sure that they have all of the same development opportunities as everyone else. Ms. Trotman reminded the board that even if the area is changed to complete residential, they still have the opportunity to develop under the criteria of valley residential. Jesse Gardner made a motion to change the area of Pearl Street, Avena Road, and Brandon Road to complete neighborhood. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

Mr. Gardner then moved to the Hemphill property. Mr. Gardner said that he would like to see the area changed to downtown edge along with the BI-LO property. Ms. Trotman said that since the town has obtained the Hemphill property it is to be retained as a park. There is a sixteen acre parcel behind BI-LO owned by Black Mountain Ventures that would make a good mixed-use project. Chas Fitzgerald made a motion to change the town parcel on Hemphill Road to green and to change the Black Mountain Ventures parcels to downtown edge. The motion was seconded by Jesse Gardner and approved by a vote of 6-0.

Mr. Gardner then moved to the area of Cheshire. Mr. Gardner said that the area of Jacobs Cottages that backs up to Old Lakey Gap Road should be complete neighborhood, which is what the rest of Cheshire is shown as and feels that this was just an oversight. Jesse Gardner made a motion to change the area from Jane Jacobs Road to Old Lakey Gap Road to complete neighborhood. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

Mr. Gardner then went to the text section of the institutional area and asked that the number of stories be changed to one to four stories. Mr. Gardner said that there is a difference between industry and warehouse and institutional and that you are likely to see several stories in an institutional building rather than a warehouse that may only be one story but may be forty feet in height. Jesse Gardner made a motion to change the number of stories in the institutional area to one to four stories. The motion was seconded by Kathy Phillips and approved by a vote of 6-0.

Mr. Gardner then went to the text section of the core residential area and said that it should be changed to high density since valley residential is shown as medium density. There was discussion of if valley residential should be changed to moderate density. Lauronda Teeple made
a motion to change core residential from medium density to medium to high density. The motion was seconded by Jesse Gardner and approved by a vote of 6-0.

Rick Earley asked that Kathy Phillips be added to the acknowledgements and that Scott Reed be removed. Ms. Trotman said that she had already sent this change to the consultant.

Jesse Gardner made a motion to recommend approval of the FLUM to the Board of Aldermen and to release the FLUM for public comment with the revisions agreed upon by the Planning Board. The motion was seconded by Chas Fitzgerald and approved by a vote of 6-0.

Jesse Gardner made a motion to recommend approval of Elevate Black Mountain to the Board of Aldermen and to release for public comment with the minor modifications agreed upon by the Board of Aldermen. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0.

2. Goldmont Street/W College Street Right-of-Way Closure
Jake Hair briefly went over the staff report for the proposed right-of-way closure. The proposed closure area runs from north Goldmont Street to the intersection of Central Avenue and Ash Street. The right-of-way is approximately nine hundred feet in length and fifteen feet wide. The property would divide down the middle if the closure is granted and taxes would be assessed to property owners for that portion. Homeowners can choose to have their property resurveyed but it is not the responsibility of the town to have that done. Anna Stearns spoke about a section of the right-of-way that was never actually created in the original plat but at some point when the parcel was subdivided, a right-of-way was shown. This area is between 206 W. College Street and 99999 W. College Street. There would be additional steps for these property owners such as trust deeds and they could possibly talk to the tax department about closing up those parcel numbers. There would be no downside to closing the right-of-way and property owners do have the right to tell the tax department to not shift the lines. Chas Fitzgerald made a motion to recommend vacating the unimproved right-of-way from Goldmont at the north end to the Central Avenue/Ash Street intersection south. The motion was seconded by Kathy Phillips and approved by a vote of 5-1 with Jesse Gardner voting against.

3. Brooks Cove Road Subdivision Sketch Plan
Jesse Gardner presented his sketch plan for the Brooks Cove Road subdivision. The sketch plan shows the stream buffer requirement and Mr. Gardner said he will not be putting in buildings into the stream buffer but will need to install a culvert for the roads. The proposed roads also show several T-turnarounds which are for the fire turnarounds. The roads will be twenty feet wide with some type of curbing. The pink lines on the sketch plan are potential retaining walls. The parcel is sixteen acres and the current sketch plan shows forty-seven lots so the density comes out to just under three units per acre. There will be a homeowner’s association who will jointly own the common space. Mr. Gardner said he does plan to install a trail system along the stream. The roads will be turned over to the town. There will be two entrances and Mr. Gardner said he does plan to widen Brooks Cove Road along the lots frontage, approximately seven hundred feet. Mr. Gardner has spoken with the neighbors and is looking at potential buffer opportunities. Mr. Gardner said that he has moved one stormwater BMP so that the water will not take the sharp turn at Brooks Cove Road and will instead flow more directly to the stream.
Mr. Gardner said there will be fill in some areas to help with slope and there will be cut slopes as well. Mr. Gardner said that he is placing the house sites above the stream, even though the property is not currently in a floodplain, he is planning for the potential that it might be one day. Mr. Gardner said he and his client are still looking at what infrastructure will be needed and the cost of said infrastructure as well as doing continuing market research on what the Black Mountain market is looking for so the number and size of lots could change. The board expressed appreciation that there is ample open space and the creek has not been disturbed. Mr. Gardner said that his goal is to bring the preliminary plan to the Planning Board in March.

VI. COMMUNICATION FROM PLANNING BOARD
None.

VII. COMMUNICATION FROM STAFF
None.

VIII. ADJOURNMENT
Jesse Gardner made a motion to adjourn at 8:37 p.m. The motion was seconded by Rick Earley and approved by a consensus vote.

Prepared by: ______________________________
Chris Collins, Chair

___________________________
Jennifer Tipton, Senior Admin
SUBJECT: Petition for voluntary annexation for the properties located at 201 & 207 Old Toll Road.

BRIEF SUMMARY: Brownie and Elizabeth Newman have put in a request for voluntary annexation for their properties at 201 & 207 Old Toll Road.

MOTION FOR CONSIDERATION: The Newman’s are needing to be annexed as they are wanting to develop their land and need town water to do so.

ATTACHMENTS: Voluntary annexation application.

PLANNING STAFF COMMENTS AND RECOMMENDATIONS:
TOWN OF BLACK MOUNTAIN

VOLUNTARY ANNEXATION SUBMITTAL REQUIREMENTS

Only complete submittals will be processed. The following items are required to be submitted to the Planning and Development Department in order for your application to be deemed complete:

☑ Original Petition Form Signed by ALL Owners of the property
☑ Legal Description of the area to be annexed in both hard and digital (Word) format
☑ A complete copy of the last deed of record for each parcel of property to be annexed
☑ 3 paper copies of the draft annexation plat prepared by a registered land surveyor including the following information:

- Title block:
  Annexation File #: _______________________

- Vicinity map showing location of property in relation to the primary corporate town limits (indicate where corporate limits are adjacent to the property or the location of the closest point of the primary Town Limits)

- Surveyor’s certificate

- The following review officer’s certificate:
  Review Officer’s Certificate
  State of North Carolina
  Buncombe County
  I, _______________________, Review Officer of Buncombe County, certify that the plat or map to which this certification is affixed meets all statutory requirements for recording.
  ___________________________  ___________________________
  Review Officer  Date

After the draft annexation plat is approved by Town staff, one (1) mylar and two (2) paper copies of the Annexation Plat as well as ten 11x17 paper copies will be required to be submitted prior to the Public Hearing and official action by the Board of Aldermen.

Received by: Jennifer Apter  Date: February 19, 2021
Application Complete: ☐ Yes  ☐ No

Completed annexation petition form certified by: Jennifer Apter
Date: February 24, 2021
VOLUNTARY ANNEXATION PETITION FORM

To: The Town of Black Mountain Board of Aldermen

Date: 2-2-2021

We, the undersigned, being all of the owners of the real property described herein, respectfully request that the area described herein be annexed to the Town of Black Mountain pursuant to the provisions of G.S. 160A-31.

The area to be annexed is ☑ contiguous □ non-contiguous to the existing Town Limits and the boundaries of such territory as are indicated on the attached map and description.

Parcel Identification Number(s): 0619 8776 1300000 and 0619 8784 9500000

Current County Zoning District: Buncombe County R-1

Town Zoning District designation requested: UR-8

Buncombe County property tax valuation: $187,100 and $81,300

Do you declare vested rights*? ☑ yes □ no

*We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate "yes" and attach proof.)

Are you requesting water service from the Town of Black Mountain? ☑ yes □ no

Number of existing residential dwelling units: 1 Number of commercial units: 1

A legal description of the area, complete copy of the last deed of record for each parcel of property to be annexed, and copies of the draft annexation plat prepared by a registered land surveyor are attached. We have also provided the following for your additional information:

Please feel free to attach any additional information you feel may help the Board of Aldermen in determining the appropriateness of annexing this parcel into the Town of Black Mountain.

Property Owner(s): Address: Signature: Date:
All property owners must sign this petition including husband and wife if jointly owned. Add other sheets as needed.

Brownie and Elizabeth Newman
285 Montford Ave., Asheville NC 28801

Brownie Newman
2-2-2021

Please Return Completed Applications to the Town of Black Mountain Planning and Development Department, 160 Midland Avenue, Black Mountain, NC 28711, (828) 419-9300.
ANNEXATION OF THE PROPERTY OF:
BROWNIE W. & ELIZABETH D. NEWMAN
BLACK MOUNTAIN TOWNSHIP, BUNCOMBE COUNTY, NC
LYING & BEING IN BLACK MOUNTAIN TOWNSHIP, BUNCOMBE COUNTY, NORTH CAROLINA; BEING THE 3.443 ACRE TRACT OF PLAT BOOK 213 PAGE 41, BEING THE PROPERTY DESCRIBED IN DEED BOOK 5982 PAGE 1073, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING 1” IRON PIPE, BENT WITH NAIL AT BASE, SAID IRON PIPE HAVING NC GRID COORDINATES OF N: 697,349.35’, E: 1,018,816.40’ (NAD 83/11), AND BEING A COMMON CORNER OF THE J. RICHARD HUDSON, ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 2161 PAGE 355; THENCE ALONG AND WITH THE HUDSON PROPERTY N 82°25’44” W, 134.82’ TO A CAPPED EXISTING IRON PIPE, THE NORTH EAST CORNER OF THE PROGRESS ENERGY OF THE CAROLINAS PROPERTY (FORMERLY KNOWN AS CAROLINA POWER & LIGHT COMPANY) AS DESCRIBED IN DEED BOOK 1006 PAGE 413; THENCE ALONG AND WITH THE PROGRESS ENERGY OF THE CAROLINAS PROPERTY N 82°25’44” W, 255.24’ TO AN EXISTING IRON PIPE IN THE EASTERN LINE OF THE STEPHEN SCOTT HAMMOND PROPERTY AS DESCRIBED IN DEED BOOK 5970 PAGE 811, AND BEING THE SOUTH EAST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED. THENCE ALONG AND WITH A LINE OVERLAPPING WITH THE HAMMOND PROPERTY N 82°25’44” W, 5.57’ TO A POINT, THE SOUTH WEST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED; THENCE ALONG AND WITH A LINE OVERLAPPING WITH THE HAMMOND PROPERTY N 04°18’16” E, 15.78’ TO A POINT, THE NORTH WEST CORNER OF AN APPARENT DEED OVERLAP WITH SAID HAMMOND PROPERTY AND THE SUBJECT PROPERTY HEREIN DESCRIBED, AND SOUTH EAST CORNER OF THE JAMES DAVID HUTCHINS PROPERTY AS DESCRIBED IN DEED BOOK 3952 PAGE 694, SAID POINT LYING N 87°47’04” W, 5.60’ FROM AN EXISTING ¾” IRON PIPE WITH PINCHED TOP; THENCE ALONG AND WITH THE EASTERN MARGIN OF SAID PLATTED RIGHT OF WAY N 04°18’16” E, 27.17’ TO AN EXISTING ¾” IRON PIPE, SOUTH WEST CORNER OF THE HEATH O. TWEED PROPERTY AS DESCRIBED IN DEED BOOK 5590 PAGE 556; THENCE ALONG AND WITH THE TWEED PROPERTY THE FOLLOWING TWO CALLS: S 82°58’15” E, 130.05’ TO AN EXISTING #5 IRON REBAR, SAID IRON REBAR LYING S 00°38’39” W 8.00’ FROM AN EXISTING ¾” IRON PIPE; THENCE N 04°15’11” E, 184.31’ TO AN EXISTING #5 IRON REBAR WITH ¾” IRON PIPE WITNESS IN THE SOUTHERN LINE OF THE WILLIAM C. HONEYCUTT, JR. ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 1249 PAGE 459 & DEED BOOK 765 PAGE 475; THENCE ALONG AND WITH THE HONEYCUTT PROPERTY S 82°58’48” E, 385.32’ TO AN EXISTING 1” IRON PIPE IN THE WEST LINE OF THE ALBERT R. & JESSICA D. ADKINS PROPERTY AS DESCRIBED IN DEED BOOK 1820 PAGE 229; THENCE ALONG AND WITH THE ADKINS PROPERTY S 00°18’03” E, 110.18’ TO AN EXISTING #5 IRON REBAR WITH ID CAP “NIELSON & WATTS”, NORTH WEST CORNER OF THE GLENDI WHITSON BORNER PROPERTY AS DESCRIBED IN DEED BOOK 4366 PAGE 408; THENCE ALONG AND WITH THE BORNER PROPERTY THE FOLLOWING THREE CALLS S 52°53’50” W, 149.93’ TO AN EXISTING #5 IRON REBAR WITH ID CAP “NIELSON & WATTS” IN BETWEEN TWO CHAIN LINK FENCES; THENCE S 32°49’22” E, 85.98’ TO AN EXISTING #5 IRON REBAR WITH ID CAP “NIELSON & WATTS”; THENCE S 32°49’22” E, 14.02’ TO A POINT IN OLD TOLL ROAD (SR 2527); THENCE ALONG A LINE WITHIN OLD TOLL ROAD (SR 2527) S 18°47’06” W, 102.66' TO A POINT IN THE NORTH LINE OF THE J. RICHARD HUDSON ET AL. PROPERTY AS DESCRIBED IN DEED BOOK 2161 PAGE 355; THENCE ALONG AND WITH THE HUDSON PROPERTY THE FOLLOWING TWO CALLS N 56°14’37” W, 29.53’ TO AN EXISTING ¾” IRON PIPE; THENCE N 56°14’37” W, 28.71’ TO AN EXISTING 1” IRON PIPE, BENT WITH NAIL SET AT BASE, THE POINT AND PLACE OF BEGINNING, HAVING AN AREA OF 3.443 ACRES.

ALL BEARINGS ARE REFERENCED TO NC GRID NORTH (NAD 83/11), AND ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN US SURVEY FEET.
NORTH CAROLINA
GENERAL WARRANTY DEED

THIS DEED made this 19th day of November, 2020, by and between

GRANTOR
Michael T. Reed and spouse, M. Louise Reed
107 W. Greenbriar Road
Black Mountain, NC 28711

GRANTEE
Brownie W. Newman and spouse, Elizabeth D. Newman
285 Montford Avenue
Asheville, NC 28801

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the city of Black Mountain Township, Buncombe County, North Carolina, and more particularly described as follows:

SEE ATTACHED DESCRIPTION

All or a portion of the property herein conveyed ______ includes or ______ does not include the primary residence of a Grantor.

Submitted electronically by "Goosmann Rose Colvard & Cramer, PA"
in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Buncombe County Register of Deeds.
The property hereinafter described was acquired by Grantor by instrument in Book 1475, Page 264.

A map showing the above described property is recorded in Plat Book ___, Page ____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomever except for the exceptions hereinafter stated.

Title to the property hereinafter described is hereby conveyed subject to all valid and subsisting restrictions, reservations, covenants, conditions, rights of ways and easements properly of record, if any, ad valorem taxes for the current year and subsequent years.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, or, if corporate, has caused this Deed to be executed by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

Michael T. Reed
(SEAL)

M. Louise Reed
(SEAL)

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

Personally appeared before me this day the said Michael T. Reed and spouse, M. Louise Reed, known to me personally or who produced satisfactory evidence of their identity in the form of a driver's license, and who acknowledged that they voluntarily executed the foregoing instrument for the purposes stated therein this the 19th day of November, 2020.

My Commission Expires: 08/02/2025

Barrett W. McFatter
Notary Public

BARRETT W. MCFATTER
NOTARY PUBLIC
Buncombe County
North Carolina
My Commission Expires 08-02-2025
Description of property for transfer from Michael T. Reed and spouse, M. Louise Reed to Brownie W. Newman and spouse, Elizabeth D. Newman

Being all of that certain 3.443 Acres Tract as shown on that plat recorded in Plat Book 213 at Page 41 of the Buncombe County, NC Register’s Office; reference to which Plat is hereby made for a more particular description of said Property.

The above described property is all of that property described and conveyed by Deed duly recorded in the office of the Register of Deeds for Buncombe County, North Carolina in Book 1475, at Page 264.

Being further identified as Buncombe County Tax Pin #0619-87-7613-00000 and 0619-87-6495-00000.

Initial: [Signature]

BWN
The western boundary of parcel 061987649500000 is contiguous with the Town of Black Mountain municipal limits.
SUBJECT:  Rezoning at 201 & 207 Old Toll Road

BRIEF SUMMARY:  Brownie and Elizabeth Newman have put in a request to rezone their properties at 201 & 207 Old Toll Road from R-1 (Buncombe County) to UR-8.

MOTION FOR CONSIDERATION: The Newman’s are needing this rezoning as they are petitioning to have their properties annexed into the town and need water for their development.

ATTACHMENTS:  Rezoning application and staff report.

PLANNING STAFF COMMENTS AND RECOMMENDATIONS: The requested zoning district UR-8 conforms to the abutting district.
STAFF REPORT
Planning Board Meeting Date: March 22, 2021

GENERAL INFORMATION

APPLICANT: Brownie & Elizabeth Newman

HEARING TYPE: Rezoning Request

REQUEST: R-1 Residential District (Buncombe County) to UR-8 (Urban Residential District)

CONDITIONS: This rezoning is for a 2 parcels that are in the process of being annexed into the town.

LOCATION: 201 & 207 Old Toll Road

PARCEL ID NUMBER(S): 0619-87-6495-00000 & 0619-87-7613-00000

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). 18 notices were mailed to those property owners in the mailing area.

TRACT SIZE: 3.44 acres

TOPOGRAPHY: 17% slope

VEGETATION: Wooded
SITE DATA

EXISTING USE
Single family home and commercial shop (inactive)

SUMMARY OF DISTRICT PURPOSES

<table>
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<tr>
<th>Zoning District Designation</th>
<th>Purpose: The R-1 Residential District is primarily intended to provide locations for single-family and two-family residential development and supporting recreational, community service, and educational uses in areas where public water and sewer services are available or will likely be provided in the future. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1 (Residential District)-Buncombe County</td>
<td>Purpose: The Mixed Residential District is established to provide a variety of housing types, promote density in the more urbanized and developable areas of Town, and structure the orderly development of residential neighborhoods.</td>
</tr>
</tbody>
</table>

ZONING DISTRICT STANDARDS

District Summary

<table>
<thead>
<tr>
<th>Zoning District Designation</th>
<th>Existing</th>
<th>Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max. Density:</td>
<td>10 units/acre</td>
<td>8 units/acre</td>
</tr>
<tr>
<td>Front Setback:</td>
<td>10’</td>
<td>20’</td>
</tr>
<tr>
<td>Side Setback:</td>
<td>10’</td>
<td>10’</td>
</tr>
<tr>
<td>Rear Setback:</td>
<td>20’</td>
<td>15’</td>
</tr>
<tr>
<td>Min. Lot Size:</td>
<td>8,000 sf</td>
<td>1/8 acre (5,446 sf)</td>
</tr>
<tr>
<td>Max. Height:</td>
<td>35’</td>
<td>35’</td>
</tr>
<tr>
<td>Min. Width:</td>
<td>N/A</td>
<td>15’</td>
</tr>
<tr>
<td>Min. Depth:</td>
<td>N/A</td>
<td>None</td>
</tr>
</tbody>
</table>

Permitted Uses:

- Single-family residential dwelling, including modular
- Two residential dwelling units (attached or detached)
- Community oriented developments
- Subdivisions
- Community Living Facilities
- Government facilities
- Places of worship
- Public utilities
- Single-Family Residences
- Two-Family Residences (duplex)
- Subdivisions, alternative path hillside development
- Subdivisions, conservation development
- Accessory buildings
- Places of worship
- Family care home
- Home occupations
- Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)
- Recreation use, governmental
- Vacation rentals

**Additional Requirements:**
- HUD-labeled manufactured homes Residential
- Day nursery and private kindergarten (up to 8 students)
- Accessory structures
- Agriculture
- Bed & Breakfast Homes
- Boarding House
- Camps, summer
- Conference Centers
- Family Care Homes
- Home Occupations
- Manufactured Home (on individual lots)
- Market Gardens
- Multi-family Residential
- Secondary Dwellings

**Conditional Uses:**
- Planned unit developments, level I
- Private utility stations and substations, pumping stations, water and sewer plants, water
- Bed & Breakfast Homes & Inns
- Cultural, Community Facilities
- Educational facilities
storage tanks (2 acres or greater in total footprint)
- Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)

Special Uses:
- Residential Special Use Developments:
- Conservation Subdivisions
- Cottage Housing (CHD)
- Residential Planned Unit Development (PUD)
- Manufactured Home Parks

Exclusions:
- All uses not specifically enumerated
- Correctional institutions
- 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
- Wellness Protection Overlay: N/A

Environmental
- Floodplain: N/A
- Floodway: N/A
Stream
A stream runs through the northern side of 207 Old Toll Rd

Utilities
Water
N/A
Sewer
Closest sewer line runs along Brooks Cove Rd
N/A

Landscaping
N/A

Transportation
Street Classification
Buncombe County Road – Old Toll Road
Site Access
Access is available from Old Toll Rd
Traffic Counts
N/A
Sidewalks
There are no sidewalks on Old Toll Rd
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 UR-8 district is the most similar town zoning district with the counties. UR-8 conforms to current zoning nearby.
REZONING WORKSHEET

PIN #: 0619-87-6495-0000 & 0619-87-7613-00000

Current Zoning District: R-1       Requested Zoning District: UR-8

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  Brownie & Elizabeth Newman

Applicant Address  285 Montford Ave, Asheville NC 28801

Home Phone  828-243-0107  Cell Phone  828-243-0107  Email Address  newmanasheville@gmail.com

MAP AMENDMENT LOCATION AND REQUEST

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

Property Address: 201 and 207 Old Toll Rd.  PIN #: 0619 8746 95 00000

Current Zoning Classification: R-1, Buncombe County Requested Zoning Classification: UR-8

Current Land Use: single family home and commercial shop (inactive)

Size of Parcel: 3.443 acres

Reason for Requested Rezoning:

Based on the Black Mountain town ordinances, I am required to file a voluntary annexation application as a condition of getting water service to my property. The UR-8 zoning most closely matches my current zoning with the county.

PROPERTY OWNER INFORMATION (If different from applicant)

Property Owner Name

Property Owner Address  (Number, Street, City, State, ZIP)

Phone Number  Email Address

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  Brownie Newman

Date  2/19/2021

OFFICE USE ONLY

Date Received:  2/19/2021  Planning Board Meeting Date:  3/22/2021

Vote: ___ to ___  Vote: ___ to ___  For  Against  For  Against

Fee: $350.00  Cash: ☐  Check: ☐  Credit: ☐  $350  #  $0
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>PIN #</th>
</tr>
</thead>
<tbody>
<tr>
<td>WM C Honeycutt Jr ETAL</td>
<td>PO Box 5601</td>
<td>Asheville</td>
<td>NC</td>
<td>28813</td>
<td>0619-88-6353</td>
</tr>
<tr>
<td>Elaine W Payne</td>
<td>PO Box 172</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-2710</td>
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<tr>
<td>James Boyer</td>
<td>PO Box 1502</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-3774</td>
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<tr>
<td>Carl David &amp; Barbara H Tweed LE</td>
<td>115 Brooks Cove Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-3665</td>
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<tr>
<td>Heath O Tweed</td>
<td>207 Old Toll Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-5615</td>
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<tr>
<td>Elizabeth D &amp; Brownie W Newman</td>
<td>285 Montford Avenue</td>
<td>Asheville</td>
<td>NC</td>
<td>28801</td>
<td>0619-87-7613</td>
</tr>
<tr>
<td>Elizabeth D &amp; Brownie W Newman</td>
<td>285 Montford Avenue</td>
<td>Asheville</td>
<td>NC</td>
<td>28801</td>
<td>0619-87-6495</td>
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<tr>
<td>James David Hutchins</td>
<td>107 Brooks Cove Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-2468</td>
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<tr>
<td>Stephen Scott Hammond</td>
<td>15 Brooks Cove Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-2353</td>
</tr>
<tr>
<td>Timothy Sean &amp; Elaine Ann Jennings</td>
<td>107 High Street</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-2188</td>
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<tr>
<td>Dorothy P &amp; Barry Wheeler LE</td>
<td>109 High Street</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-3168</td>
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<tr>
<td>Progress Energy of the Carolinas</td>
<td>555 Brevard Road</td>
<td>Asheville</td>
<td>NC</td>
<td>28806</td>
<td>0619-87-5047</td>
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<tr>
<td>J Richard &amp; Ethel Hudson ETAL</td>
<td>118 W State Street</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-7188</td>
</tr>
<tr>
<td>Glenda Whitson Borner</td>
<td>215 Old Toll Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-87-9409</td>
</tr>
<tr>
<td>Albert R &amp; Jessica D Adkins</td>
<td>225 Old Toll Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-97-1748</td>
</tr>
<tr>
<td>Steve Traub</td>
<td>PO Box 5304</td>
<td>Asheville</td>
<td>NC</td>
<td>28813</td>
<td>0619-97-2535</td>
</tr>
<tr>
<td>Theodore L Curto</td>
<td>230 Old Toll Road</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-97-0487</td>
</tr>
<tr>
<td>Monte Vista of Black Mountain LLC</td>
<td>PO Box 500989</td>
<td>Malabar</td>
<td>FL</td>
<td>32950</td>
<td>0619-87-9394</td>
</tr>
<tr>
<td>Adam &amp; Julie Miller</td>
<td>374 Old Toll Circle</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-97-1330</td>
</tr>
<tr>
<td>Ethel M &amp; John Richard Hudson III ETAL</td>
<td>118 W State Street</td>
<td>Black Mountain</td>
<td>NC</td>
<td>28711</td>
<td>0619-97-0032</td>
</tr>
</tbody>
</table>
NOTICE OF REZONING REQUEST
PUBLIC MEETING ONLY
(REGARDING NEIGHBORS WITHIN 200 FEET OF PROPERTY)

DATE: March 1, 2021
TO: Property Owner
FROM: TOWN OF BLACK MOUNTAIN
       ZONING ADMINISTRATOR

APPLICANT NAME: Brownie & Elizabeth Newman
PROPERTY ADDRESS: 201 and 207 Old Toll Road
PIN #: 0619-87-6495 (201 Old Toll Road) and 0619-87-7613 (207 Old Toll Road)
CURRENT ZONING CLASSIFICATION: R-1 (residential district - Buncombe County Zoning)
REQUESTED ZONING CLASSIFICATION: UR-8 (urban residential – Black Mountain Zoning)
CURRENT LAND USE: single family home and inactive commercial shop
SIZE OF PARCEL: 3.443 (both lots combined)

REASON FOR REQUESTED REZONING:

Based on the Black Mountain town ordinances, I am required to file a voluntary annexation application as a condition of getting water service to my property. The UR-8 zoning most closely matches my current zoning with the County.

A public meeting of the Planning Board on this matter will be held Monday, March 22, 2021 @ 6:00 p.m. electronically via Zoom. The public notice is included with the Zoom link.

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. Notice of the time, date and place of the hearing will be published in the Black Mountain News in accordance with the Land Use Code of the Town of Black Mountain.

Note: This is not a public hearing. This is a meeting for the Planning Board to make a recommendation to the Board of Aldermen at which time the public hearing will be held.
**SUBJECT:** Major Subdivision Open Space Requirements

**AGENDA INFORMATION**

Agenda Location: NEW BUSINESS

Item Number:

Department: Planning and Development Department

Contact: Jessica Trotman, Planning Director

Presenter: Jessica Trotman, Planning Director

**BRIEF SUMMARY:** This text amendment increases the minimum open space requirements of major subdivisions from five-percent to fifteen-percent. The comprehensive plan supports increasing greenspace for purposes of environmental protection, stormwater infiltration, and passive recreational purposes.

**ATTACHMENTS:**

Proposed amendment
3.5.6 - Open space requirements (major subdivisions only).

A. All major subdivisions must dedicate the equivalent of five (5%) percent of the total land area of the original parcel or combination or parcels used in the subdivision as dedicated, common open space.

B. Designation of easements to the town for parks or greenways according to the town's pedestrian plan, greenway master plan or recreation and parks plan may qualify for the dedicated open space requirements but must be approved by the planning board.

C. Land designated as open space on a final plat shall be dedicated to a neighborhood association or other entity, or shall be considered to be offered for dedication to the town. The town may accept control of the open space through:

1. Express action by the board of aldermen;

2. Approval of the final plat with areas specifically dedicated to the Town of Black Mountain for the purpose of open space, park and/or greenway development as accepted by the board of aldermen; or

3. Conveyance of fee simple marketable title (unencumbered financially and environmentally) to the property to the town at the time of final plat recordation, subject to approval by the board of aldermen.

4. Until such time as the dedication has been accepted, land so offered may be used for open space purposes and be maintained by the underlying or abutting property owner or similarly by an owners' association. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use.

D. Requirements concerning land dedicated to the town for recreational purposes. The board of aldermen must approve property dedications being offered to the town for parks and greenways facilities at the time of final plat approval. The board of aldermen may request review by the recreation and parks commission before making their determination. Dedications should meet the following criteria:

1. **Unity.** Dedicated area shall form a single parcel of land, except where the board of aldermen determines that two or more parcels or a linear easement across multiple parcels would be in the best interest of the public given the type and distribution of space needed to serve the development. In such cases, the board may require that such parcels be connected by a dedicated strip of land or easement be at least 20 feet in width or that an easement for access be granted.

2. **Usability.** At least one-half of the total land dedicated shall be located outside of areas of special flood hazard, alluvial soils, lakes or other water bodies, and at least 75 percent of the total land dedicated shall be located outside of wetlands. Land dedicated only for greenways need not follow the requirements of this subsection.
3. *Shape.* Dedicated land shall be sufficiently shaped and proportioned to be usable for proposed recreational facilities and activities, such as greenways, athletic fields, playground area, tennis courts, swimming pool, etc.

4. *Access.* Public access to dedicated land shall be provided by adjoining public street frontage or by a dedicated public easement which connects the dedicated land to a public street or right-of-way, or from adjacent property, as determined by the board of aldermen.

5. *Greenway* dedications shall be a minimum of 15 feet in width.