

**TOWN OF BLACK MOUNTAIN
PLANNING BOARD**

The Black Mountain Planning Board held its regular meeting on 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:

Jesse Gardner, Chair
Pam Norton, Vice Chair
Chas Fitzgerald
Lauronda Teeple
Rick Earley
Chris Collins
Scott Reed

Staff:

Jennifer Tipton, Senior Admin
Jessica Trotman, Planning Director
Jake Hair, Planner
Ron Sneed, Town Attorney

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of seven (7) regular members.

II. ADOPTION OF AGENDA

Lauronda Teeple made a motion to adopt the agenda as presented. The motion was adopted by consensus by a vote of 7-0.

III. ADOPTION OF MINUTES

Chas Fitzgerald made a motion to adopt the minutes of July 27, 2020 as written. The motion was seconded by Scott Reed and approved by a vote of 7-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Election of Officers

Jesse Gardner nominated Pam Norton for Chair. The motion was seconded by Scott Reed but Pam Norton declined the nomination.

Pam Norton nominated Chris Collins for Chair. The motion was seconded by Scott Reed and approved by a vote of 7-0.

Jesse Gardner nominated Pam Norton for Vice Chair. The motion was seconded by Scott Reed and approved by a vote of 7-0.

2. Rezoning Request for 324 N Fork Road from CR-1 to UR-8

Jake Hair presented a rezoning request to the board. Sam Decker lives at 324 N. Fork Road and wants to rezone his property from CR-1 to UR-8. Mr. Decker was zoned R-20 prior to the town-wide rezoning in 2010 and he wishes to have a comparable zoning today. Mr. Hair went through

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the staff report and explained that this was a spot zone as the property is surrounded by CR-1. The property is encumbered by a stream and a sewer line easement. There was discussion about stream protection that is talked about in the Comprehensive Plan, which is guiding document and not a policy. It was explained that the applicant can request a rezoning and does not have to have a development plan. A rezoning request will consider any and all uses in the requested zoning district. There is a new aquatic buffer ordinance that will offer a buffer protection for the stream. The board expressed concerns about going from CR-1, which allows one unit an acre, to UR-8, which allows eight units an acre. Chas Fitzgerald said that the most comparable zoning would be SR-2, which would allow two units an acre. A spot zone is allowed but requires some additional scrutiny before a decision can be made. A rezoning must be found to be reasonable and consistent with the Comprehensive Plan.

Sam Decker, 324 N Fork Road, said that he was voluntarily annexed into the town in 1990 and was given the R-20 zoning designation. Mr. Decker said he was not informed or notified of the rezoning in 2010 and only found out when someone else sold a property and he was told what his zoning was. Mr. Decker spoke to staff and that the property was zoned R-20 prior to 2010. Mr. Decker wants to rezone so that if he ever needs to have additional income, then he could sell lots to be able to have additional income. This has been his plan since he purchased the property in the 1980's. Mr. Decker said that because of the stream and the sewer line, one acre lots just aren't feasible and it would impact the value of his property if he could only do one acre lots and he wants to make it right to what he was promised when he annexed into the town.

There are lots on Daniel Lane and Walker Cove Road that are legally non-conforming in that most of the lot sizes are one half acre to one quarter acre and they are zoned CR-1. The board discussed rezoning to the SR-2 district, which is the most comparable district to the R-20 district. Jennifer Tipton read some chat comments from three neighbors who said that they would all support the SR-2 zoning designation. The board also discussed doing a split zoning and it is possible but there would need to be a legal boundary such as the stream or the sewer line. Jesse Gardner made a motion to zone the portion of the property west of the creek to UR-8 and the property to the east of the creek to SR-2. The motion was seconded by Rick Earley but tied with split vote of 3-3 with Jesse Gardner, Rick Earley, and Chris Collins voting yes and Chas Fitzgerald, Pam Norton, and Lauronda Teeple voting no. Chas Fitzgerald made a motion to zone the property from N. Fork Road to the creek TR-4 and rezone the remainder of the property on the east side of the creek to SR-2. The motion was seconded by Pam Norton and approved by a vote of 5-1 with Jesse Gardner voting against the motion. The staff report to the Board of Aldermen will reflect both motions and votes. Chas Fitzgerald made a motion that the rezoning request is consistent with the Town's Comprehensive Plan and is reasonable and in the public interest by having lot sizes that make use of existing infrastructure and arterial roads and the property has two different areas topographically and the recommendation is consistent with adjacent lot sizes and is more akin to larger lots in the perimeter of the area. The motion was approved by a vote of 5-1 with Jesse Gardner voting against the motion.

3. Text Amendment – Prohibited Uses

Jessica Trotman explained that text amendment is to remove a sentence in the Land Use Code regarding prohibited uses. State statutes require that any prohibited uses be listed and if a use is not listed then staff has to find the most comparable category. Chas Fitzgerald made a motion to recommend the amendment as written to the Board of Aldermen. The motion was seconded by Lauronda Teeple and approved by a vote of 6-0.

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4. Text Amendment – Zoning Districts Intents and Purposes

Jessica Trotman explained that the text amendments proposed are to remove any language from the intents and purposes of the zoning districts that is regulatory in nature or are considered standards. The reason for the statements is only to provide a description of the district. Any regulations or standards would be located in the Land Use Code itself and not the intents and purposes section. Jesse Gardner made a motion to recommend the amendments as written to the Board of Aldermen. The motion was seconded by Chris Collins and approved by a vote of 6-0.

VI. COMMUNICATION FROM PLANNING BOARD

None.

VII. COMMUNICATION FROM STAFF

Jessica Trotman announced that we would be holding two virtual meetings for the comprehensive plan update on September 3rd at 10:00 a.m. and 6:00 p.m. The meetings will be live streamed and will give citizens an opportunity to give feedback regarding the goals and visions. The meetings will be recorded and posted to the website. A survey will also be posted to the website.

VIII. ADJOURNMENT

Jesse Gardner made a motion to adjourn at 7:44 p.m. The motion was seconded by Pam Norton and approved by a vote of 6-0.

Prepared by:

Chris Collins
Chris Collins, Chair

Jennifer Tipton
Jennifer Tipton, Zoning Administrator