TOWN OF BLACK MOUNTAIN
PLANNING BOARD

The Black Mountain Planning Board held its regular meeting on Monday, June 23, 2025, at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

I. CALL TO ORDER

The meeting was called to order with the following members present:

Chris Collins, Chair
Pam Norton, Vice Chair
Joe Laudenslayer
Rick Earley
Kathy Phillips
Chas Fitzgerald

Absent:

Lauronda Teeple

Staff:

Jennifer Tipton, Senior Admin
Michelle Kennedy, Planning Director
Russell Cate, Planner I/Zoning Administrator

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

II. ADOPTION OF AGENDA

Chris Collins made a motion to adopt the agenda as presented. The motion was seconded by Pam Norton and approved by a vote of 6-0.

III. ADOPTION OF MINUTES

IV. NEW BUSINESS

1. Mobile Retail Vendor Discussion

Cassie LaCourse asked to speak to the Planning Board about a discrepancy in the mobile retail vendor ordinance. The concern is that the mobile structures have to meet the same setback requirements as a brick-and-mortar structure. Based on her analysis of the central business district, there is no property that she could be compliant on. Ms. LaCourse said that she just wants to be compliant and be allowed to have her mobile retail structure. Ms. LaCourse said that she had originally asked to have the same requirements as the mobile food vendors, but the discussion and final amendment took a different direction. The board decided that since the language was not clear in the original amendment and needs clarity, they would like staff to bring back a proposed amendment to remove the front setback requirements in all districts where mobile retail vendors are allowed and that mobile retail vendors are not permanent structures. Chas Fitzgerald made a motion propose an amendment to the mobile retail vendor ordinance to state that mobile retail vendors are not permanent structures, that they not be subject to building setbacks, but still be subject to fire code setbacks imposed by the Fire Marshal and not impede any sidewalk. The motion was seconded by Pam Norton and approved by a vote of 6-0. Staff will not impose any violations or fines while the text amendment is moving forward.

2. Proposed Cheshire Text Amendment

Russell Cate briefly gave a summary of the proposed text amendment. Mr. Cate noted that the applicant did not specify which sections of the text they were seeking to amend so Mr. Cate provided the two sections he thought best fit the requested amendments. The requested amendments are that all structures within the Cheshire Master Plan shall be allowed to be subdivided onto their own lot subject to the respective lot meeting the "Design Code" minimum lot standards provided for each type of use within the approved master plan and that all subdivision plat submittals shall be considered a staff level review for a town approved master plan. The applicant is seeking amendments to clarify language so that current staff can process plats and building permits in the same manner as they have been reviewed and approved for the last twenty plus years. Chair Collins asked what text was actually changing and it was recommended that the board hear from the applicant since it was not specified on the application. **Sikes Ragan, 14 Jane Jacobs Road**, said the text amendment is to make Russell's job easier and provide clarification for staff to continue to do their job. Chas Fitzgerald said that it appears the current ordinance already allows staff to approve minor amendments. Chair Collins said it appeared to him that the request was just to approve subdivisions. Michelle Kennedy said that subdivisions are not considered a minor amendment and would have to go through the master plan amendment process. Mr. Ragan said that he is doing everything by his master plan. Mr. Fitzgerald asked why this would not be a minor amendment and Ms. Kennedy stated that is not the way the ordinance is written and that the town attorney is reviewing the ordinance. Historically speaking, staff do review minor amendments, and any major amendments go through a formal process. Cheshire has had several major amendments over the years, including Jacobs Cottages. Mr. Fitzgerald said that staff should be allowed to allow incremental changes through the master plan if they are not expanding the master plan and working within the already approved master plan. Ms. Kennedy stated that that is correct, but if the next phase is different, then it requires an amendment. Ms. Kennedy spoke about the importance of public input and not circumventing that process. Mr. Fitzgerald said that as a former developer, if he had been approved for a development and had gone through all of the public hearings, that he would not be okay if he had to do that again with each new phase and that someone could come in and say they now don't like the development. Ms. Kennedy said that her and other staff had met with Mr. Ragan, and he asked that the town attorney provide his input on the matter. Staff's recommendation at this time is that this is a major amendment. Ms. Kennedy said that the request of a text amendment now feels like a work-around to the major amendment requirement. Pam Norton expressed her concerns of this feeling like a work around. Mr. Ragan said that he is exercising his vested rights and following his master plan to a t. Mr. Fitzgerald said that he does not feel this is a work around and is instead the town being consistent. Mr. Ragan said that he has to record the lot to get the money from the bank to build his new mixed-use building and that this is how it has been for the last twenty-seven years and now he has a stumbling block with the town of getting a building permit and recording a plat. Mr. Cate said that the subdivision application that was submitted could not be approved until the subdivision is reflected on the updated master plan. The site plan for the actual building only depicts the area of the proposed building and shows several proposed property lines and needs to be edited to show actual property lines. Ms. Kennedy said that staff cannot work in theoreticals and have to see the actual property lines as of today and see the entire parcel and be able to assess what is actually documented today. Mr. Ragan said that he has resubmitted with the proposed property lines removed. Ms. Kennedy said that there had been a meeting with Mr. Ragan and several of his

team members and several staff members. Ms. Kennedy said staff would still say that a master plan amendment would still have to be done even if staff were to make the final decision. No matter how the properties are divided, whether parcel by parcel or on a larger scale, it is still a subdivision and would still require a master plan amendment. Mr. Ragan said that a master plan amendment would be inconsistent. Staff is willing to help expedite and get any amendments moving to help not slow down the development but also allow for public process. Mr. Fitzgerald made a motion to recommend that within the TND property can continue to be subdivided and approved by staff and that the master plan is updated accordingly and is also reviewed at staff level. Chair Collins asked if the motion would have to come back as an amended text. Chair Collins said he is still a little confused as to what is actually being asked. Mr. Fitzgerald said as a former developer, it scares him that he would have to come back after his original vision had been approved and have to go through the public process again. Ms. Kennedy explained that not every amendment would have to go back through the process, it would only be major amendments. Mr. Fitzgerald said that subdividing one lot into two lots is not a major change. Ms. Kennedy said that buildout plan that was part of the meeting with staff and Mr. Ragan shows other activity and parcels. Mr. Fitzgerald said that those rules were already set twenty-seven years ago. Ms. Kennedy said she understands but that if there is a substantive change from the current master plan, then we need to have a master plan that reflects what is actually being developed and staff has reviewed that. Mr. Fitzgerald interrupted and said that we get an updated drawing. Ms. Kennedy said that is all staff is asking for and we can move through this quickly. Ms. Kennedy said that during the meeting with staff and Mr. Ragan and his team, it was stated that they did not want the public involved and that is a problem and will continue to be a problem anytime someone wants to dissuade public input and public process. Mr. Fitzgerald said that he respectfully disagrees because he feels that if he brings a vision and is going to make an investment and he has agreed to the rules and the public process has been vetted then he does not want to have to be subjected to that process time and time again as it has already been done and is a waste of town resources. Ms. Kennedy said that there have been at least two for Jane Jacobs and that included the addition of land and the subdivision. Ms. Kennedy said that there has been no conversation about changing the rules but there could be a conversation about what triggers a major change or not. Mr. Fitzgerald asked what staff expect to get out of the public process if the rules haven't changed. Ms. Kennedy said that it is the public process that is important and that you cannot remove the citizenry from this type of decision and is not the best practice. If left to a staff decision, it would still be a master plan amendment. Mr. Fitzgerald said that if he had a master plan and had a vision for fifteen years in the future and now is at the fifteen-year mark and the vision is now different, we would put him through the process again and is inviting public comment into something he is vested to do and that financially we are being inconsistent. Ms. Kennedy said that she disagrees and will leave it at that. When changes are made that are no longer reflective of the master plan as it stands, then a master plan amendment needs to be done. Chair Collins said that he feels it is important to have a master plan that is somewhat flexible. Chair Collins said he is uncomfortable because there is not specific sections that show the actual amendment. The master plan amendment is for the subdividing of the ten-acre parcel into other lots. Staff is waiting on a interpretation from the town attorney and staff is also willing to reach out to School of Government for an interpretation as well. Mr. Earley said is not comfortable with a text amendment that doesn't show the exact language that is being amended. Ms. Tipton reminded the board that there was still a motion on the table. There was no second to the motion to the motion did not carry. Chair Collins made a motion to continue the discussion in order to

have time to get information from the town attorney and provide specific ordinance sections. The motion was seconded by Rick Earley and approved by a vote of 6-0.

V. OLD BUSINESS

None.

VI. PUBLIC COMMENT

None.

VII. COMMUNICATION FROM PLANNING BOARD

None.

VIII. COMMUNICATION FROM STAFF

Staff and the board thanked Chas Fitzgerald for his years of service and wished him well on his new adventure. Ms. Tipton asked Mr. Laudenslayer, Ms. Norton, and Chair Collins if they would be willing to serve another year while we try to finish up the UDO and they all agreed. Ms. Tipton will also reach out to Lauronda Teeple and see if she would also be interested in serving another year.

VX. ADJOURNMENT

With no further business, the meeting was adjourned at 7:36 p.m.

Prepared by:

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Chris Collins, Chair

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Jennifer Tipton, Senior Admin