Town of Black Mountain Staff Report
Board of Adjustment

Case No: S-25-01 **Hearing Date:** July 17, 2025
Case Name: 399 Blue Ridge Rd **Procedure:** Special Use Permit Evidentiary Hearing

Address of Variance Request:
399 Blue Ridge Rd.
Black Mountain, NC 28711
Property ID Number (PIN): 061900477600000

Applicant:
Fuller Center Disaster Rebuilders
10 Arrowhead Rd.
Danvers, MA 01923

Request:
The applicant is seeking a Special Use Permit to develop the parcel as a Planned Unit Development consisting of what the applicant describes on their application as "56 deeply affordable dwellings." The development is to be a mixture of single-family homes and duplexes.

Town Staff:
Jennifer Tipton, Clerk to Board of Adjustment
Russell Cate, Planner 1/Zoning Administrator

I. SUMMARY OF REQUEST

The applicant is seeking a Special Use Permit to develop the parcel as a Planned Unit Development consisting of 56 homes – a mix of single-family homes and duplexes. The density calculation is 6.2 units per acre, meeting the Planned Unit Development density requirement of no less than four units per acre and no more than eight units per acre. The project includes an open space area of 1.50 acres, complying with the PUD requirement that at least 15 percent of the parcel be dedicated to open, permeable space in addition to the perimeter yard setbacks.

The plans depict the following major elements: open space, with a playground, a dog park, and a community garden located in the open space area; a mail kiosk; and, the required off-street parking (room for at least two vehicles to park off-street per dwelling unit) as well as two on-street parking spaces. A small retaining wall is depicted along a portion of the west side of the parcel.

Access is accommodated via a "street-type driveway connection" with South Blue Ridge Road and with Old Lakey Gap Road. The roads in the PUD are private roads that are asphalt.

The plans depict a 10-foot landscape barrier along the periphery of the parcel.

The disturbed area is 5.5 acres, triggering the requirement for a stormwater permit and stormwater control measure or measures. The plans depict a stormwater control measure.

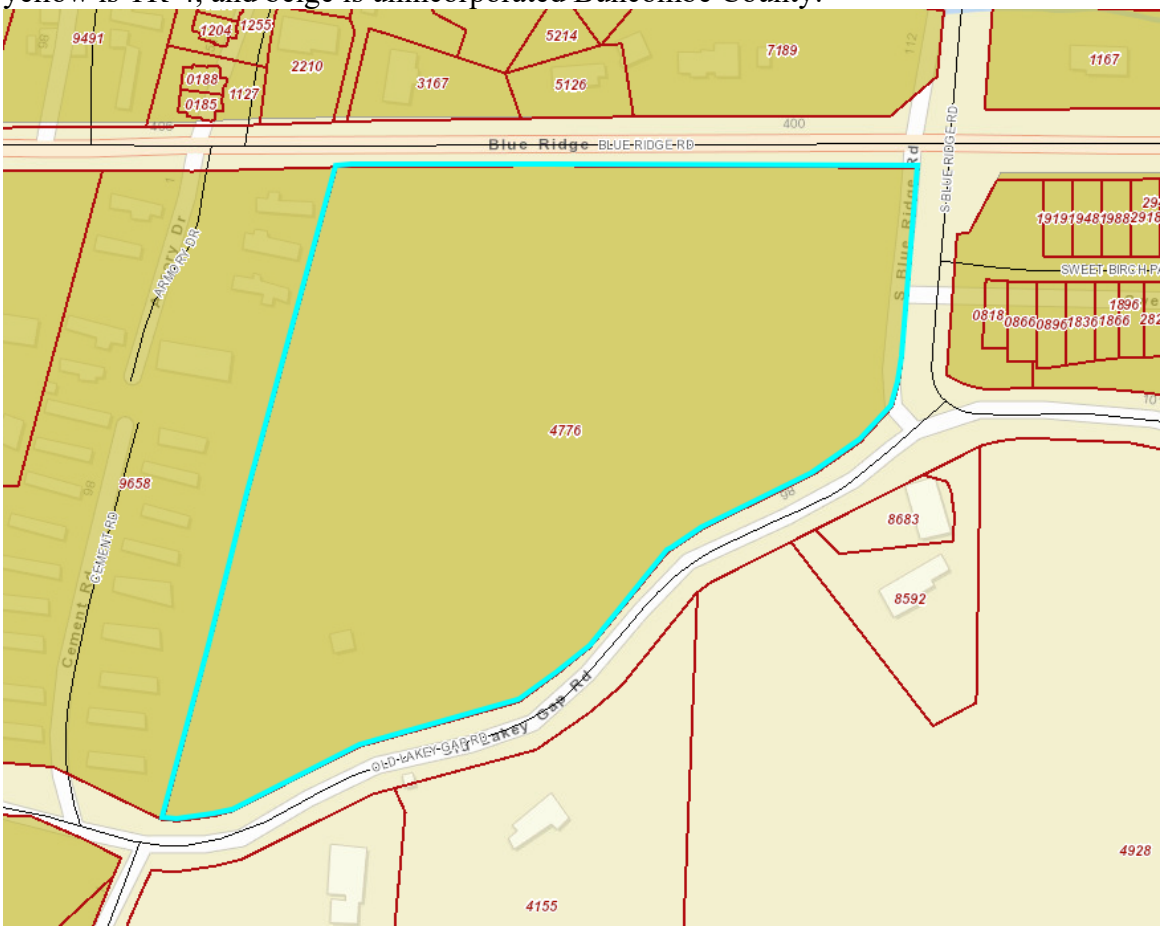
The utility plan for the project depicts an existing 6-inch Metropolitan Sewerage District (MSD) line serving the parcel, as well as an existing water line on northern edge of the parcel. In addition, the plan shows a proposed sewer line with 20-foot MSD easement. Also, a proposed water line is shown. A "proposed fire hydrant assembly" is the southwest corner of the parcel.

II. PROCESS – REQUIRED CITY APPROVALS

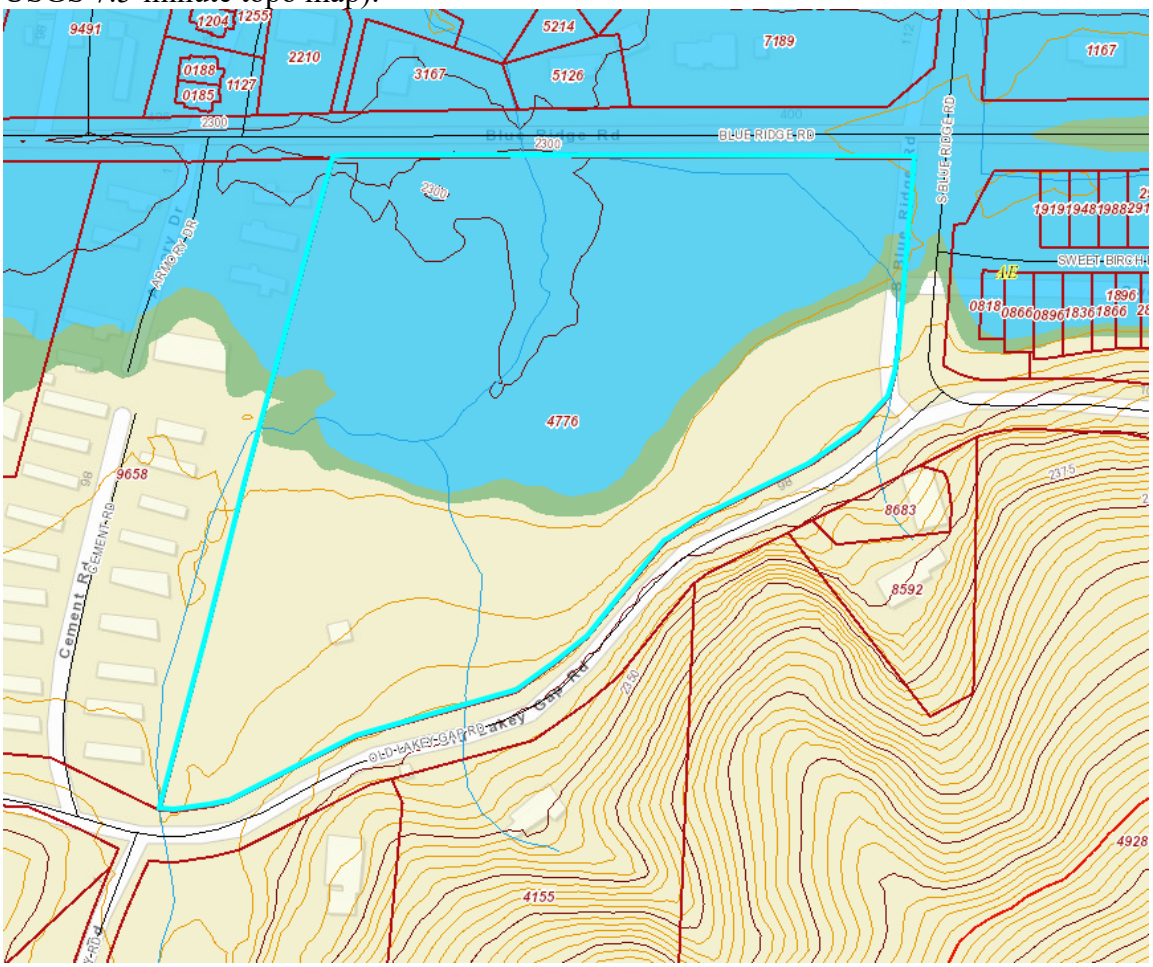
In addition to this Special Use Permit, the applicant will need to obtain zoning compliance approval and a building permit that demonstrates compliance with all applicable standards of the Zoning Ordinance and the North Carolina Building and Fire Codes.

III. ZONING AND LAND USE

The parcel is in the Town Residential (TR-4) zoning district. This clip is from Buncombe GIS – yellow is TR-4, and beige is unincorporated Buncombe County:



This clip is from Buncombe GIS with the *Stream & River*, *2020 – DFIRM Flood Data*, and *5 Foot Contours* layers on (the *Stream & River* layer corresponds to watercourses shown on the USGS 7.5-minute topo map):



This clip is from Buncombe GIS showing *Post Helene 2024 Imagery*:



This clip is from the U.S. Geological Survey (USGS) 7.5-minute topo map:



Source: USGS *topoBuilder* [https://topobuilder.nationalmap.gov/]

Minimum Yard Requirements (setbacks) apply only on the perimeter of the Planned Unit Development project. For TR-4, those requirements are:

Front: 20 feet
Side: 10 feet
Rear: 15 feet

The maximum building height of any structure in a PUD cannot exceed the building height requirement of the district in which it's located. The TR-4 height limit is 35 feet. Chimneys and roof-mounted mechanical equipment are not included in height measurement, and there's the following allowance for parapets: in zoning districts with a 35-foot height limit, a parapet may extend as much as 3.5 feet above the 35-foot point of the structure.

Reference: Sections 4.5.2, and 4.7.15, and 7.8.4 of the Land Use Code.

Surrounding parcels:

	North	South	East	West
Adjacent Zoning Designation	TR-4	The two parcels to the southwest are in Buncombe County's Residential District (R-1) The three parcels to the southeast are in Buncombe County's Low-Density Residential District (R-LD)	TR-4	TR-4
Adjacent Land Uses (according to Buncombe County Property Record Cards)	single-family home	The two R-1 parcels: single-family home The three R-LD parcels: vacant land (one parcel); single-family home (the other two parcels)	Planned Unit Development (Sweet Birch Commons)	Manufactured Home Park

The *Purpose and Intent* of the Town Residential (TR-4) zoning district is:

> The town residential district is established to allow for a variety of housing types while maintaining an overall residential character with medium density. Any use which, because of its characteristics would interfere with the residential nature of the area is excluded.
>
> *Reference: Section 4.7.3 of the Land Use Code.*

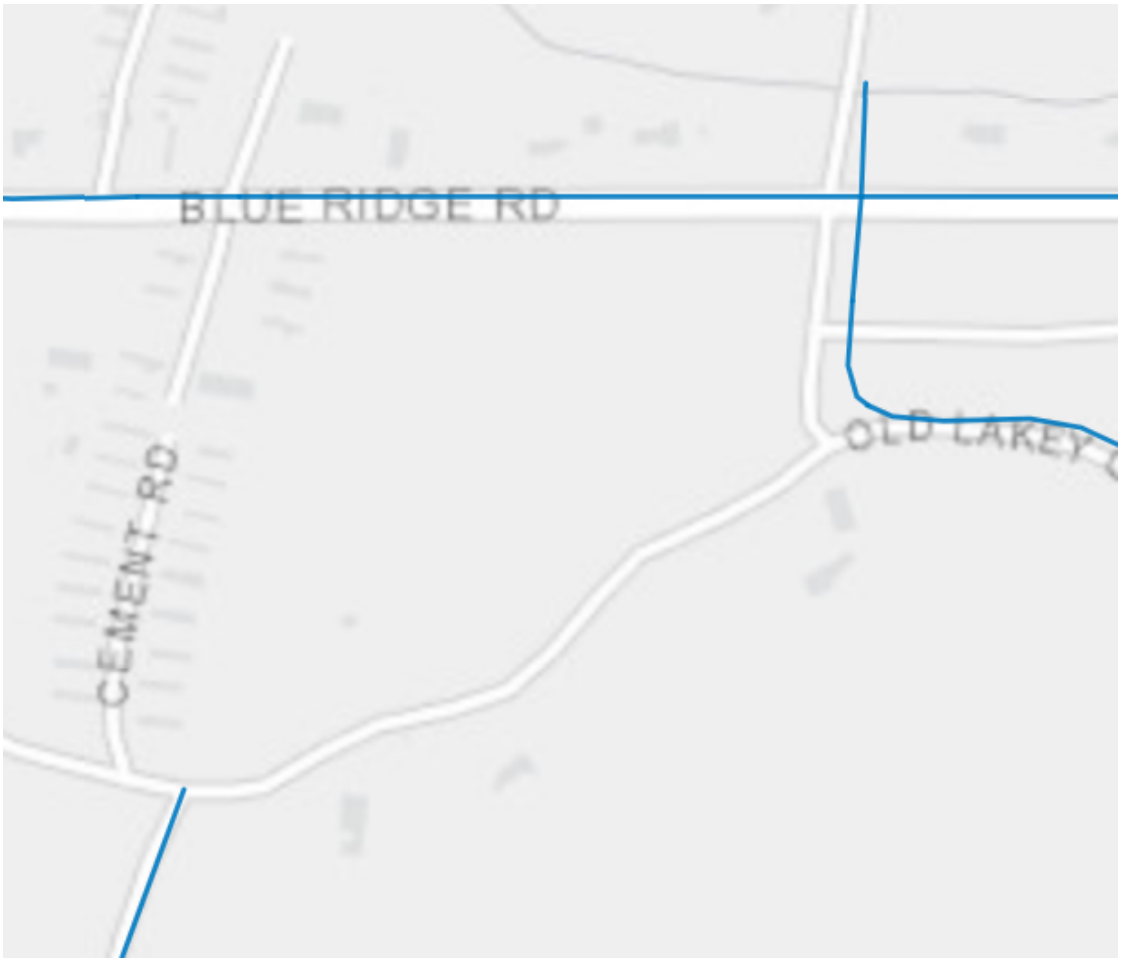
Existing Conditions

According to the Buncombe County Property Record Card, the parcel has no buildings. The county lists the lot size as 9.98 acres. The overall slope of the lot is 5.02 percent (according to https://www.mapwnc.org/find-slope-for-parcel).

Below is a street view of the lot (photo taken on 7/9/2025):



Below is a clip from N.C. Department of Transportation's ***NC OneMap***, which depicts NCDOT State Maintained Roads with blue lines:



Source: *NC OneMap: NCDOT State Maintained Roads*

IV. NOTIFICATION

Notice of the special use permit request and hearing was mailed to all property owners within 200 feet of the project site. Public notice was posted on the Town bulletin board and on the Town of Black Mountain website on July 2, 2025. Legal notice appeared in *Black Mountain News* the weeks of July 10, 2025, and July 17, 2025. The property was posted with a notice listing the time and date of the hearing.

V. ANALYSIS

The context of the special use permit application is a Planned Unit Development. On their application, the applicant states: "The project consists of 56 deeply affordable dwellings, the dwellings are to be a mixture of detached single-family homes and duplexes." On the site plan, the single-family homes are labeled *Type A 20' x 40' Single-Family Home*, and the duplexes are labeled *Type B 42' x 40' Duplex*.

The plans depict **open space** with a playground, a dog park, and a community garden located in the open space area. The complies with the following requirement for residential PUDs:

> For PUDS containing residential units, the open space designation shall be established for the purpose of passive or active recreational purposes.

The depicted **access** (a "street-type driveway connection" with South Blue Ridge Road and with Old Lakey Gap Road, both of which are public roads) appears to comply with the requirement for a PUD to demonstrate the following:

> Traffic and truck egress/ingress must be designed so as to minimize traffic hazards on public streets.

The plans depict a 10-foot **landscape barrier** along the periphery of the parcel, complying with the following requirement:

> If the property adjoins a residential district, then a fence, hedge or other natural planting of comparable opacity shall be provided along the side or rear lines where the property adjoins said residential district.

As shown in the USGS and Buncombe GIS clips above, the parcel has **watercourses** that are shown on the USGS 7.5-minute topo map. This triggers the requirements of the *Stream Buffer Protection Standards*, which – stated in summary form – are:

- Stream Buffer: 30 feet on both sides of watercourse: only features like natural-surface trails and stormwater control structures (when alternate methods of stormwater control aren't feasible).
- Transitional Area: additional 20 feet on both sides of watercourse: only pervious materials.

The standards state that:

> Stream buffers shall be clearly indicated on all development plans, including concept plans, preliminary plans and final plans, and on all preliminary and final plats.

The applicant submitted a site plan, landscape plan, storm and grading plan, and utility plan that depict one of the three watercourses, including showing the 30-foot Stream Buffer as required. The label for this feature on the plans is "Existing Stream and 30' Buffer."

For the watercourse that USGS shows in the northeast of the parcel, the watercourse and the Stream Buffer need to be depicted on the site plan, landscape and compliance plan, storm and rough grading plan, and utility plan. The depiction likely won't trigger the need for a change in the proposed development, because in this portion of the parcel the plans depict only one development feature: crossing by the "proposed private asphalt road." This is permitted, as stated in exception ***1*** in the standards:

> Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Streets and driveways may run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design

> minimizes the amount of intrusion into the stream buffer. Crossing with a width of 40 feet or more are permitted only when it has been demonstrated that there is no practical alternative.

In the immediate area of the watercourse that USGS shows running north-south on the southern portion of the parcel, the plans depict single-family homes and duplexes. In the area of the watercourse, the storm and rough grading plan depicts a segment of "proposed storm system," as well as the following features/structures: an "existing storm pipe," a "proposed connection into existing storm structure," and a "proposed open throat." These four features/structures appear to conform to exception ***6*** in the standards:

> Streams may be piped, thereby exempting the piped section of the stream from steam buffer requirements, provided such piping complies with the permitting/certification requirements of the Clean Water Act and any other applicable state and federal regulations. Piping undertaken for the purpose of accommodating public roads, railroads, greenways, recreational facilities and private roads and drives should be designed so that the right-of-way or roadway-and-shoulder width is not more than is necessary considering the design capacity for the facility and so that the proposed stream piping is not substantially in conflict with the other objectives of this section. Where stream piping is approved, a vegetated buffer area or other device shall be provided at any intake or discharge structure. All buffers and physical improvement related to the stream piping shall be located entirely on the site or, pursuant to easement, on lands adjacent to the site.

Reference: Article IX (Stream Buffer Protection Standards) in Chapter 20 of the Code of Ordinances; USGS *topoBuilder* [https://topobuilder.nationalmap.gov/].

The applicant submitted a site plan that depicts the 100-year **flood zone** (sometimes referred to as the federal blue *AE* zone). Six duplex structures, one single-family structure, a portion of the proposed private asphalt road, a community garden, a dog park, a playground, and open space, are in the flood zone. For these reasons – and possibly additional – the requirements of the *Flood Damage Prevention Ordinance* take effect. Any development in the *AE* zone requires a Floodplain Development Permit. "Development" means any human-made change including building of structures, addition of gravel, etc.

Reference: Section 2.3 (Flood Damage Prevention Ordinance) of the Land Use Code.

The disturbed area is 5.5 acres, triggering the requirement for a stormwater permit and **stormwater control measure or measures**. The plans depict a stormwater control measure.

On the *Special Use Application Checklist* is the following:

> Sidewalks or greenway easements shall be provided in locations shown on the adopted comprehensive pedestrian master plan. A fee-in-lieu of construction or dedication of easement may be provided to the town at an equivalent cost to construction upon approval of the town planning board.

For this checklist item, the applicant wrote: "N/A – Proposed internal greenway connections are shown in place of sidewalks." The site plan does depict – in green – **internal path connections**.

In the *Access and Streets* subsection of the *PUD Design* section of Chapter 7 are two items related to sidewalks and greenways:

> The plan shall provide for internal pedestrian circulation with sidewalks or greenway trails. Sidewalks shall form a logical, safe and convenient system for pedestrian access to all dwelling units, appropriate project facilities and connections to off-site pedestrian destinations such as sidewalks, greenways, or bus-stops external to the development. PUDs adjacent to transit routes must provide a pedestrian connection to, and a provision for, a public bus stop.
>
> In addition to internal pedestrian consideration, the plan shall allow for the provision that the developer will provide the town with a minimum eight-foot sidewalk right-of-way along any adjoining or abutting town dedicated street.

The parcel is in the study area of the *Blue Ridge Road Small Area Plan* (adopted by Town Council on Sept. 14, 2020):

Study Area

The Plan's study area (solid red line) encompasses approximately a 210-acre area south of I-40 from the new interchange project (yellow hatched area on west end), 1.2 miles along Blue Ridge Road (SR 2500), to the NC 9 Roundabout Project (yellow hatched area on east end). Figure 1 identifies the study area.

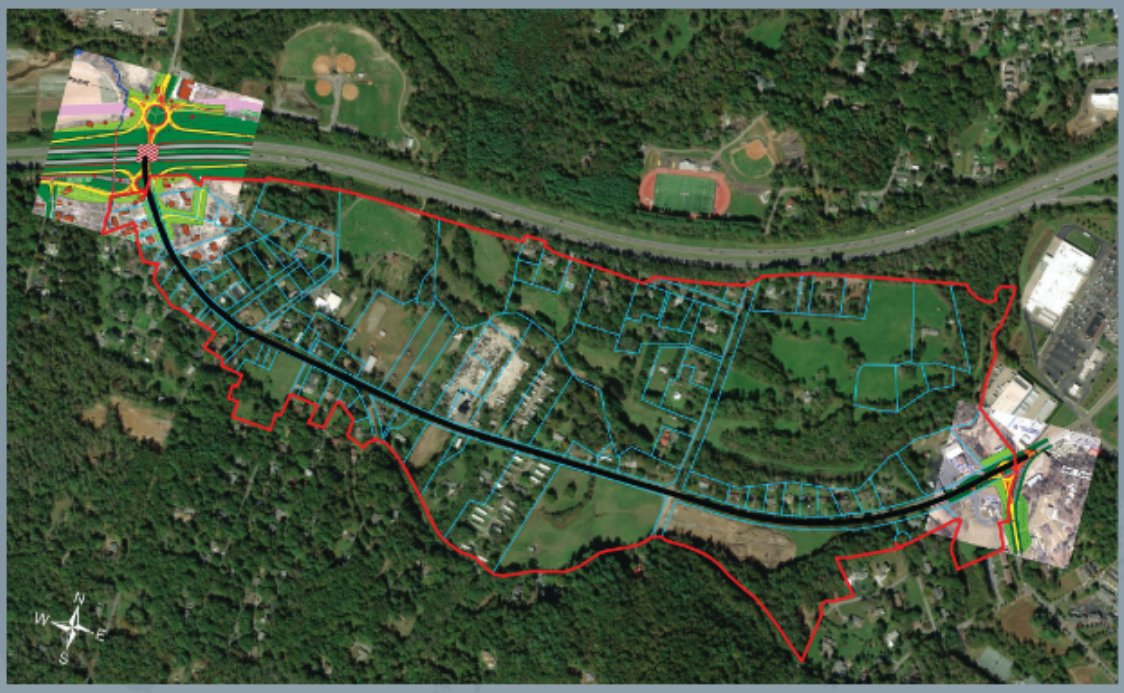


Figure 1: Project Study Area of the Blue Ridge Road Small Area Plan

The small area plan concludes with a recommendation that the following alternatives be advanced for Blue Ridge Road in the medium and low density residential areas (including the area of 399 Blue Ridge Rd.) in coordination with the MPO and NC DOT:

- Alternative 1: two-lane roadway, curb and gutter, sidewalk and multiuse path
  - *Turn lane intersection alternatives*
- Alternative 2: two-lane roadway, curb and gutter, sidewalk and multiuse path
  - *Roundabout intersection alternatives*
- Alternative 3: two-lane roadway, combination of Alternative 1 and Alternative 2 (roundabout and turn lane intersection alternatives, sidewalk and multiuse path)

Given that the Blue Ridge Road Small Area Plan calls for a sidewalk and multiuse path along Blue Ridge Road, the Board of Adjustment should seek a **"sidewalk or greenway easement"** along the portion of the parcel that abuts Blue Ridge Road.

The site plan and landscape compliance plan do depict the required "internal pedestrian consideration" (*Pedestrian Trail* lines that are colored green are shown on the project plans). But in addition, the Board should seek the provision to the Town of **"a minimum eight-foot sidewalk right-of-way"** along the "abutting town dedicated street" of Old Lakey Gap Road.

Note: Most of Old Lakey Gap Road is a State roadway. But according to the *Powell Bill Street Map for the Town of Black Mountain*, .50-mile of the road is a Town roadway. Mirroring this, *OneMap: NCDOT State Maintained Roads* depicts the portion of Old Lakey Gap Road that abuts the parcel as not being a State maintained road.

Reference: Section 7.8.5.2 of the Land Use Code; Blue Ridge Road Small Area Plan; Powell Bill Street Map; OneMap: NCDOT State Maintained Roads.

There are eight overall **goals** for Planned Unit Development:

1. Facilitate more affordable housing by providing possibilities for savings in infrastructure, installation costs, and energy costs through clustering of dwellings;
2. Retain natural features and encourage developments that will be compatible with environmentally sensitive areas;
3. Encourage pedestrian circulation within and adjacent to the PUD;
4. Encourage mixed-use development;
5. Encourage quality design and management of open space.
6. Establish criteria and guidelines for housing developments consisting of one or more principal structures or buildings and accessory structures or buildings to be constructed on a lot or plot not subdivided into the customary streets and lots, but in which dwelling units, are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis or by an established homeowners' association;
7. Establish additional criteria for developments consisting of one or more principal structures or buildings and accessory structures or buildings to be constructed on a lot or plot to be subdivided at the same time or in phases for the purpose of commercial or industrial uses and which may not meet the customary street and lot layouts;

8. Provide for a cohesive approach to multi-family development that is sensitive to the surrounding properties and which protects the health, safety and welfare of its residents and neighbors.

The submitted plans indicate clustering (goal 1); overall compatibility with the flood zone, stream, and two small wetland areas (goal 2); provision of internal pedestrian paths (goal 3); creation of a community with individually-owned units and common areas and facilities owned by all the owners (goal 6); and, sensitivity to the surrounding properties (goal 8).

"Mixed use" is defined as a building or cluster of buildings that contain both residential and non-residential spaces; this PUD is entirely residential, so it is not "mixed-use development" (goal 4).

Goal 7 is not applicable, and staff cannot comment on the Goal 5 because "quality" in the phrase "quality design" is subjective.

Reference: Section 7.8.1 of the Land Use Code.

Section 7.2.7 of the Land Use Code lists the **standards** that the Board of Adjustment must apply in deciding whether to issue (or amend) a special use permit:

> No special use permit shall be issued or amended unless the board of adjustment shall find that:
>
> 1. The special use will not be detrimental to or endanger the public health, safety, or general welfare.
> 2. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity.
> 3. The special use will not substantially diminish or impair property values within the immediate vicinity.
> 4. The special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
> 5. The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with the exterior architectural appeal and character of the neighborhood or district in which the use will be located.
> 6. Adequate utilities, access roads, drainage and/or other necessary facilities have been, are being, or will be provided.
> 7. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.
> 8. If the special use involves the subdivision of land, it conforms to all applicable regulations of Chapter 3 of this Land Use Code.
> 9. The special use, in all other respects, conforms to the applicable regulations of the district in which it is located, except as such regulations have, in each instance been modified by the board of adjustment in approving the issuance of the special use permit.

And Section 7.2.8 details the "effect of approval:"

A special use permit, once approved, attaches to and runs with the land and no subsequent development or use of the property may be undertaken except in conformity with the permit and all plans, specifications, and conditions.

Per Section 2.1.4 of the Land Use Code, a permit is required before work is begun and a permit shall not be issued until the town zoning administrator has provided authorization that the proposed structure is in compliance with the zoning district in which it is located.

ATTACHED FOR REFERENCE

Sections 7.1, 7.2, and 7.8 of the Land Use Code