TOWN OF BLACK MOUNTAIN
STAFF REPORT
September 28, 2026

REQUEST

Applicant:
Planning and Development staff are suggesting this text amendment.

Proposal:
Revise wording in two locations in Chapter 4 (Zoning) of the Land Use Code so it's clear that streets are to be publicly accessible whether they are private streets, Town roadways, or State roadways: Section 4.4.2 (Lot Access) and the *Streets, Alleys and Pathways* subsection of the design standards in Section 4.7.11 (Traditional Neighborhood Development - Master Planned).

Affected Ordinance Sections:
Item ***A*** in Section 4.4.2 (Lot Access)

Item ***(D) (1)*** in subsection 4.7.11.5 (Design Standards) of Section 4.7.11 (Traditional Neighborhood Development - Master Planned)

DETAILS OF PROPOSAL

The following is a summary of proposed amendments:
Chapter 4 is the zoning chapter of the Land Use Code. The Land Use Code should not implicitly or explicitly commit the Town of Black Mountain or the North Carolina Department of Transportation to the building of roadways. Item ***A*** in Section 4.4.2 and item ***(D) (1)*** in subsection 4.7.11.5 (Design Standards) are the only places in Chapter 4 where the phrase "public street" exists in a way that could indicate 'a Town or State roadway.'

Lot Access

The Town does not permit use of land on a lot where the lot doesn't have access to a street (directly or by means of an access easement). The Town has many private streets, many Town roadways, and a significant number of State roadways. Item ***A*** in Section 4.4.2 (Lot Access) is:

> No building, structure or use of land for other than conservation purposes shall be established on a lot which does not have access to a public street directly or by means of an easement. Access shall meet the requirements as indicated in the Town of Black Mountain Standards and Details Manual and connect any lot that does not abut a street with the nearest reasonable accessible street to said lot. The strip shall be under the same ownership as the lot to which it provides access, or shall be an easement of record and appurtenant to the lot for which it provides access.

The first sentence uses the phrase "public street," but the second sentence uses "nearest reasonable accessible street." The many lot owners whose lots are on a private street (directly or by means of an access easement) are permitted to establish buildings, structures or uses, just as lot owners whose lots are on a Town or State roadway are permitted.

The proposed amendment is:

> No building, structure or use of land for other than conservation purposes shall be established on a lot which does not have access to a ~~public street~~ **public roadway or a private street** directly or by means of an easement. Access shall meet the requirements as indicated in the Town of Black Mountain Standards and Details Manual and connect any lot that does not abut a street with the nearest reasonable accessible street to said lot. The strip shall be under the same ownership as the lot to which it provides access, or shall be an easement of record and appurtenant to the lot for which it provides access.

TND Design Standards

Mirroring the Town's lot access requirements, the Traditional Neighborhood Development – Master Planned (TND) zoning district has a design standard for streets that lots must be publicly accessible.

The proposed amendment to item ***(D) (1)*** in subsection 4.7.11.5 (Design Standards) of Section 4.7.11 (Traditional Neighborhood Development - Master Planned) is:

> ~~Public streets~~ **Streets that are publicly accessible** shall provide access to all lots. Designs shall permit comfortable use of the street by motorists, pedestrians and bicyclists. Pavement widths, design speeds, and number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the overall town street network. All roads shall be in compliance with the requirements as indicated in the Town of Black Mountain Standards and Detail Manual.

ANALYSIS

CONSISTENCY WITH ADOPTED POLICY GUIDANCE:

Chapter 4 is the zoning chapter of the Land Use Code. The Land Use Code should not implicitly or explicitly commit the Town of Black Mountain or the North Carolina Department of Transportation to the building of roadways.

REASONABLENESS/PUBLIC INTEREST:

It is reasonable and in the public interest for the Town to not indicate through its zoning regulations that either the Town or the State is committed to the construction of roadways. It's reasonable and in the public interest for the zoning chapter to consistently refer to all types of roadways (private streets, Town roadways, State roadways) when detailing anything related to the rights of an owner of a lot to establish a building, structure, or use of land.

RECOMMENDATION

Staff recommends that Planning Board recommend to Council that item ***A*** in Section 4.4.2 (Lot Access), and item ***(D) (1)*** in subsection 4.7.11.5 (Design Standards) of Section 4.7.11 (Traditional Neighborhood Development - Master Planned) be amended so as to bring accuracy to the way streets and roadways are referenced in the zoning chapter of the Land Use Code, and so as to not indicate a commitment by the Town or the State to roadway projects.

REPORT PREPARATION

This report was prepared by Planning Department staff member Russell Cate, Planner/Zoning Administrator, and reviewed by Michelle Kennedy, Planning Director.