

**Town of Montreat**  
**Planning & Zoning Commission (P&Z)**  
**Meeting Agenda**  
**April 27, 2023, 10:30 a.m.**  
**Montreat Town Hall, 1210 Montreat Rd., Black Mountain, NC 28711**  
And via Zoom: <https://us02web.zoom.us/j/86933563365>

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**I. CALL TO ORDER**

- Welcome
- Moment of Silence

**II. ADOPTION OF AGENDA**

**III. ADOPTION OF JANUARY 19, 2023 MEETING MINUTES**

**IV. SUBCOMMITTEE UPDATES**

- Hillside Development Subcommittee
- Montreat Sign Ordinance Subcommittee
- Zoning Ordinance Amendments Research Subcommittee

**V. NEW BUSINESS**

**VI. NEXT MEETING**

- July 20, 2023, 10:30 a.m.

**VII. PUBLIC COMMENT**

**VIII. ADJOURNMENT**



Board members: Wade Burns  
Dan Dean  
John Hinkle  
Julie Schell  
Bill Scheu  
Liz Johnson  
Sally Stansill, Alternate Representative  
Bill Tucker, Alternate Representative  
Allen Crawford, ETJ Representative

Board members absent: None

Town staff present: Kayla DiCristina, Zoning Administrator  
Angie Murphy, Town Clerk

There was a member of the public present. Mr. Scheu called the meeting to order at 10:30 a.m., and led the group in a moment of silence after a brief welcome.

#### **Agenda Approval**

John Hinkle moved to approve the agenda as presented. Wade Burns seconded and the motion carried 7/0.

#### **Meeting Minutes Adoption**

Dan Dean suggested some minor changes on page 5 and 6 of the October 13, 2022 Meeting Minutes. Dan Dean moved to approve as amended the October 13, 2022 Meeting Minutes. Wade Burns seconded and the motion carried 7/0.

John Hinkle moved to approve the November 10, 2022 Meeting Minutes as written. Wade Burns seconded and the motion carried 7/0.

#### **Organization of Planning & Zoning Commission**

A. Election of Officers: Dan Dean moved to re-elect the current officers: Bill Scheu as Chair, John Hinkle as Vice-Chair and Angie Murphy as Secretary. Liz Johnson seconded and the motion carried 7/0.

#### **Adoption of 2023 Meeting Schedule**

The Ordinance states that the Montreat Planning & Zoning Commission meets quarterly on the 3<sup>rd</sup> Thursday of each January, April, July and October. The proposed dates are as follows:

April 20, 2023  
July 20, 2023  
October 19, 2023

It was decided to modify the schedule to April 27<sup>th</sup> instead of April 20<sup>th</sup>. Julie Schell moved to adopt the amended 2023 Meeting Schedule. Liz Johnson seconded and the motion carried 7/0.

### **Subcommittee Updates**

- **Hillside Development Subcommittee:** Wade Burns expressed his interest in receiving, in writing, a clarification of the Open Meeting Laws regarding meeting with members outside of a posted meeting date. Chairman Scheu advised Mr. Burns to reach out to Kayla DiCristina about scheduling a meeting of his subcommittee members.
- **Montreat Sign Ordinance Subcommittee:** Kayla DiCristina advised that she had some draft language currently being reviewed by the Town Attorney which she hopes to have to the subcommittee soon. John Hinkle advised that as soon as the draft language is returned the subcommittee will reconvene to take action to present to Town Council.
- **Zoning Ordinance Amendments Research Subcommittee:** Dan Dean stated that his subcommittee is still waiting for the Montreat Lodge controversy to resolve itself before moving forward with zoning ordinance amendments.

### **New Business**

Kayla DiCristina advised that upon reviewing last year's cases and training session she realized that the Planning & Zoning Commission did not review one of the sections in the Ordinance regarding Planned Unit Developments. Chairman Scheu asked Ms. DiCristina to schedule a training session on the topic of PUDs.

### **Next Meeting**

Thursday, April 27<sup>th</sup> at 10:30 a.m.

### **Public Comment**

Commissioner Jane Alexander thanked the Commission for all their hard work.

### **Adjournment**

John Hinkle moved to adjourn the meeting. Allen Crawford seconded and the meeting was adjourned at 11:30 a.m.

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Bill Scheu, Chair

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Angie Murphy, Town Clerk

DRAFT



## EXAMPLE MODIFICATION LANGUAGE

**General – Section 160D-403(d):** ... A local government may define by ordinance minor modifications to development approvals that can be exempted or administratively approved. The local government shall follow the same development review and approval process required for issuance of the development approval in the review and approval of any major modification of that approval.

**Site-Specific Vesting Plans (PUD) - Section 160D-108.1(c):** ...An approved site-specific vesting plan\* and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

**Conditional Rezoning – Section 160D-703(b):** ...The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

**Special Use Permits – Section 160D-705(c):** ...The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.

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## MAGGIE VALLEY

### 153.10 MINOR MODIFICATIONS

The Town Planner shall have the authority to approve a minor modification to an approved Conditional Zoning District site plan without the requested change having to be approved as a new application. Such administrative amendments shall include only those changes that do not significantly alter the site plan or its conditions and do not significantly impact abutting properties. Any request for an administrative amendment shall be in writing and it shall detail the requested change. The applicant must provide any additional information requested by the Town Planner. The Town Planner shall have the discretion to decline to approve or deny modifications as provided for herein and may require the applicant to seek an amendment to the Conditional Zoning District approval. Any decision by the Town Planner to

approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. Such modifications shall be limited to the following:

- A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback.
- A reduction of up to 25 percent in the number of parking spaces.

Any other minor modification in accordance with the limitations and procedures prescribed in this ordinance, unless an enacting ordinance of a conditional zoning district adopted pursuant to this section specifies otherwise.

#### 153.11 MAJOR MODIFICATIONS

A request to change the site plan or the conditions governing an approved Conditional Zoning District that do not qualify as a minor modification shall be processed in accordance with the provisions of this Ordinance as a new application to rezone property to a Conditional Zoning District.

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#### BLACK MOUNTAIN

##### 7.2.10 - MODIFICATION OF AN APPROVED SPECIAL USE PERMIT.

A. The owner of property that is subject to an approved special use permit may apply for a modification of the special use permit by following the same procedure as if applying for a new special use permit. Applications for a modification must include a new site plan that identifies the proposed changes. Evidence presented at the hearing on the proposed modification will be limited to the effect of the proposal on the original special use permit, any plans or conditions that were a part of the original special use permit, and the standards and requirements of the ordinance under which the original special use permit approved.

B. Changes to the plans and conditions of development that were the basis of the approval of the special use permit require board of adjustment approval; provided, however, that certain minor changes may be approved by the zoning administrator without board of adjustment approval, if:

1. Building floor areas are not changed by more than 20 percent;
2. Building or structure heights are not increased by more than 20 percent;
3. Density is not increased;
4. Relocated buildings, roads or uses maintain the same general relationships, landscaping, road, and utility standards; and
5. The amendment preserves compliance with any specific requirement of this chapter and the zoning district requirements at the time of the amendment request.

If the zoning administrator determines that a proposal is not a minor change, the application for changes shall be forwarded to the board of adjustment for consideration.

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## MARSHALL

### 11.5 AMENDMENTS TO AND MODIFICATIONS OF PERMITS

11.5.1 Insignificant deviations from the permit (including approved plans) issued by the Board of Adjustment or the Administrator are permissible and the Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

11.5.2 Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

11.5.3 All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously issued permit.

11.5.4 A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

### 14.6.4 EFFECT OF APPROVAL AND EXPIRATION

(A) If a petition for a CZ Rezoning is approved as provided for herein, the district that is established and all conditions which may have been attached to the approval are binding on the property as an amendment to the Zoning Map. Subsequent development on the property(ies) in question shall be in accordance with the standards for the approved CZ district and any conditions attached to the approval. Except as herein provided for "minor changes", changes to the approved petition or to the conditions attached to the approval shall be treated the same as an amendment to the Zoning Map and shall be processed in accordance with the Town Board of Aldermen approval process. Minor changes in the detail of the approved application may be made with the approval of the Administrator. The following criteria qualify as a "minor change":

- (1) The proposed change(s) will not alter the basic relationship of the proposed development to adjacent property; and
- (2) The proposed change(s) will not alter the uses permitted; and
- (3) The proposed change(s) will not increase the height of any structure to the extent that additional usable floor space will be added; and
- (4) The proposed change(s) will not increase the gross floor area of any nonresidential use by the smaller of 10 percent or 10,000 square feet. Such limitations shall be cumulative and shall be based on the gross floor area specified in the CZ district as originally approved; and

- (5) The proposed change(s) will not result in an increase in the number of dwelling units constructed for any residential use; and
  - (6) The proposed change(s) will not decrease the off-street parking below the minimum number of parking spaces required by this Ordinance.
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## HENDERSONVILLE

### 7-6-3 - MODIFICATIONS OF DEVELOPMENTS AUTHORIZED UNDER SPECIAL USE REVIEW AND CONDITIONAL ZONING DISTRICTS.

The city manager is authorized to approve minor modifications to the approved final plans of developments authorized under special use permit review and conditional zoning districts but major modifications may only be authorized by city council in accordance with procedures set forth herein. A modification shall be deemed minor if it is not a major modification. A modification shall be deemed major if it proposes a substantial departure from the approving action of city council with regard to the original application or any subsequent modifications. Substantial departure from such approving action shall exist whenever the proposed modification would result in one or more of the following:

- a) A substantial change in the boundaries of the site approved by city council;
- b) A substantial change from the use(s) approved by city council;
- c) A substantial increase in the floor area approved by city council;
- d) A substantial increase in the number of residential dwelling units;
- e) A substantial increase in the density of nursing homes, rest homes, congregate care facilities or progressive care facilities;
- f) A substantial change in the location of one or more principal and/or accessory structures approved by city council;
- g) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by city council;
- h) A substantial change in pedestrian or vehicular access or circulation approved by city council; and
- i) A substantial change in the amount or location of open space, landscaping or buffer screens approved by city council.

If the proposed action is determined to be a major modification, the city manager shall require the filing of a request for a map amendment. The city manager shall prescribe the form(s) of application as well as any other material reasonably required to determine compliance with this article.

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## BREVARD

### 16.9. - ADMINISTRATIVE MODIFICATIONS.

A. Changes to individual parcels within a Conditional Zoning District or a special use permit. For a conditional zoning district or special use permit applicable to multiple parcels, the owners of individual parcels may apply for modifications so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

B. The planning director shall determine whether a proposed action is consistent with an approved conditional zoning district, special use permit, or other development approval. If such proposed action is not consistent, the planning director shall determine whether any modifications contained therein are minor, intermediate or major. The planning director, in his or her discretion, may refer this determination to the planning board. The planning director shall notify the applicant in writing of such determination.

C. The authority given to the administrator or BPB to grant such modification shall be construed to be permissive and not mandatory and the administrator or BPB may decline to make such modification.

D. Major modifications. Except as allowed under minor and intermediate modifications below, all changes to approved conditional zoning districts, special use permits, or other development approvals are major modifications and shall follow the same process applicable for the original approval.

E. The minor and intermediate modifications authorized below are intended to provide relief based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed. The permit holder shall bear the burden of proof to secure the modification(s).

F. Minor modifications. The administrator is authorized to review and approve administratively a minor modification to an approved conditional zoning district, special use permit, or other development approval, subject to the following limitations.

1. General limitations. The minor modification:

- (a) Does not involve a change in uses permitted or the density of overall development permitted;
- (b) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
- (c) Meets all other ordinance requirements.

2. Site design. Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

- (a) Comply with underlying zoning standards and other applicable conditions of the approval;
  - (b) Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, a minor adjustment to lot sizes, or a minor adjustment to utility alignment.
3. Dimensional standards. Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the planning director, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.
- (a) The planning director's determination shall be based on the existence of one or more of the following conditions:
    - (1) There are site or structural conditions that preclude strict adherence to the permit or ordinance requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.
    - (2) The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety ordinance, flood hazard reduction, steep slope protection, surface water protection, Americans with Disabilities Act standard, or other public safety ordinance requirements.
    - (3) The proposed modification would facilitate the preservation of significant existing vegetation or the protection of a surface water protection area.
    - (4) A good faith error was made in the location of a building foundation not exceeding one foot due to either field construction or survey error.
  - (b) In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:
    - (1) A reduction of up to 10 percent in the number of parking spaces.
    - (2) An adjustment to setback requirements up 12 inches or 10 percent, whichever is greater, of the approved setback.
    - (3) An adjustment to landscape standards up to 10 percent of the required landscaping buffer width, minimum height, or horizontal opening; or changing the species of approved landscaping plants.
    - (4) A reduction in impervious coverage or an increase in open space up to 20 percent.

(5) A reduction in required open space by up to 10 percent of the total required area.

(6) Change in width, depth, height, or square feet of one or more buildings by no more than 10 percent.

G. Intermediate modifications. Intermediate modifications to a conditional zoning district have a more substantial impact than minor modifications, but do not change the intent of the district. The BPB is authorized to review and approve administratively, without a public hearing, an intermediate modification to an approved conditional zoning district, subject to the following limitations.

1. General limitations. The intermediate modification:

(a) Does not involve a change in uses permitted or the density of overall development permitted;

(b) Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and

(c) Meets all other ordinance requirements.

2. Dimensional standards. Dimensional standard intermediate modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the BPB, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval.

(a) In addition to the general limitations for intermediate modifications, dimensional standard intermediate modifications are limited to:

(b) A reduction of up to 30 percent in the number of parking spaces.

(c) An adjustment to setback requirements up 24 inches or 25 percent, whichever is greater, of the approved setback.

(d) An adjustment to landscape standards up to 30 percent of the required landscaping buffer width, minimum height, or horizontal opening.

(e) A reduction in impervious coverage or an increase in open space up to 30 percent.

(f) A reduction in required open space by up to 25 percent of the total required area.

(g) Change in width, depth, height, or square feet of one or more by no more than 20 percent.

H. Appeals and variances. A decision on a minor or intermediate modification, or a determination of a major modification, may be appealed pursuant to Section 16.8.E. An application for a minor modification does not preclude an applicant from seeking a variance from the board of adjustment.