



**TOWN OF BLACK MOUNTAIN**  
160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711  
Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

**MEMORANDUM**

To: Town of Black Mountain Historic Preservation Commission  
From: Jennifer Tipton, Zoning Administrator  
Re: Agenda Packet for February 20, 2019  
Date: February 8, 2019

The **Town of Black Mountain Historic Preservation Commission** will meet in a special call meeting on **Wednesday, February 20, 2019 at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from October 17, 2018;
3. Review proposed text amendments for Section 4.7.3 Historic District Overlay; and
4. Calendar Schedule of Meetings.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.  
[jennifer.tipton@townofblackmountain.org](mailto:jennifer.tipton@townofblackmountain.org) or (828) 419-9373.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9373 or by email at [jennifer.tipton@townofblackmountain.org](mailto:jennifer.tipton@townofblackmountain.org).

CC: Jessica Trotman, Planning Director  
Ron Sneed, Town Attorney



## **PUBLIC NOTICE**

### **BLACK MOUNTAIN HISTORIC PRESERVATION COMMISSION**

### **SPECIAL CALL MEETING**

**Wednesday, February 20, 2019 at 6:00 p.m.**

The Black Mountain Historic Preservation Commission will hold a special call meeting on **Wednesday, February 20, 2019 at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to review proposed text amendments to Section 4.7.3 Historic District Overlay and to consider a new meeting schedule.

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**Jennifer Tipton**  
**Zoning Administrator**

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton, Zoning Administrator at (828) 669-2030 or by email at [Jennifer.tipton@townofblackmountain.org](mailto:Jennifer.tipton@townofblackmountain.org)

*Posted to the Town Bulletin Board 02/07/19*

[www.townofblackmountain.org](http://www.townofblackmountain.org)



**Historic Preservation Commission Special Call Meeting  
February 20, 2019**

**PROPOSED AGENDA**

**I. CALL TO ORDER**

- **Welcome**
- **Determination of Quorum**

**II. ADOPTION OF AGENDA**

- **Motion:** To adopt the agenda as presented [or as amended]

**III. ADOPTION OF MINUTES**

- **Motion:** To adopt the minutes of October 17, 2018 as written [or as amended]

**IV. OLD BUSINESS**

**V. NEW BUSINESS**

- Review Proposed Text Amendments for Section 4.7.3 Historic District Overlay
- New Schedule of Meetings

**VI. COMMUNICATION FROM HISTORIC PRESERVATION COMMISSION**

**VII. COMMUNICATION FROM STAFF**

**VIII. ADJOURNMENT**

**TOWN OF BLACK MOUNTAIN  
HISTORIC PRESERVATION COMMISSION**

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The Black Mountain Historic Preservation Commission held its regular meeting on Wednesday, October 17, 2018 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:

Elaine Loutzenheiser, Chair  
Shannon-Heather Wall  
Frank Cappelli

Absent:

Lauronda Teeple  
Debra Wooton

Staff:

Jennifer Tipton, Zoning Administrator

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of three (3) regular members.

**II. ADOPTION OF AGENDA**

Jennifer Tipton added appointment of the minor works committee and two minor work sign approvals to the agenda. Shannon-Heather Wall made a motion to adopt the agenda as amended. The motion was approved by consensus with a vote of 3-0.

**III. ADOPTION OF MINUTES**

Shannon-Heather Wall made a motion to adopt the minutes July 18, 2018 as written. The motion was approved by consensus with a vote of 3-0.

**IV. OLD BUSINESS**

None.

**V. NEW BUSINESS**

**1. Presentation from Beautification Committee for New Garden Signs**

Lyndall Noyes-Brownell and Joyce Ackerman presented the new design for the garden signs that are placed in the twenty beds downtown that are cared for by the Beautification Committee. The current signs are five years old and are beginning to deteriorate. The new material is aluminum and comes with a lifetime warranty. The lettering will be engraved. The signs will be 8" x 11" so they can be easily read. Frank Cappelli made a motion to approve the signs as presented. The motion was seconded by Shannon-Heather Wall and approved by a vote of 3-0.

**2. Swannanoa Valley Museum Sign Approval**

Ms. Tipton presented a sign application from the Swannanoa Valley Museum for a sign that would be located in the alleyway between the museum and the Dripolator. The sign will explain the brick walkway that is in the alleyway showcasing the mountain ranges in the valley. Frank Cappelli made a motion to approve the sign as presented. The motion was seconded by Shannon-Heather Wall and approved by a vote of 3-0.

Planning Board Regular Meeting  
October 17, 2018

**3. Mountain Me Sign and Paint Approval**

Ms. Tipton presented a sign application and a minor works application for Mountain Me on W. State Street to install a new awning with their logo and to paint the window trim. The awning will be blue and green and the window trim will be the same blue color as the awning. Shannon-Heather Wall made a motion to approve the sign and painting as presented. The motion was seconded by Frank Cappelli and approved by a vote of 3-0.

**4. Minor Works Appointment**

Ms. Tipton explained that the minor works committee consists of two members who will typically review small projects such as signs, paint colors, etc. Ms. Tipton said that the commission can choose to do this now or wait until a later time and until such time a minor works committee is appointed then minor works approvals can come before the full commission. The commission decided to not appoint a minor works committee at this time.

**VI. COMMUNICATION FROM HISTORIC PRESERVATION COMMISSION**

None.

**VII. COMMUNICATION FROM STAFF**

Ms. Tipton will work on getting resources together for contributing structures versus non-contributing structures that are currently located in the Historic District and try to gather some resources about adding properties to the current Historic District.

**VII. ADJOURNMENT**

The meeting was adjourned at 6:45 a.m.

Prepared by:

\_\_\_\_\_  
Elaine Loutzenheiser, Chair

\_\_\_\_\_  
Jennifer Tipton, Zoning Administrator

CHAPTER 4  
SECTION 4.7. 3  
HISTORIC DISTRICT OVERLAY

Section 4.7.3 Historic district ~~and historic conservation district~~ overlay.

4.7.3.1 Intent.

The historical heritage of our town is one of our most valued and important assets. The ~~conservation and~~ preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the town. The purpose of establishing local ~~conservation districts,~~ historic districts and landmarks is to encourage the restoration, preservation, and rehabilitation ~~and conversation~~ of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets. In addition, the preservation of the historic districts and landmarks provides for the education, pleasure and enrichment of the residents of Black Mountain and the state as a whole.

4.7.3.2 Historic district, ~~conservation district~~ and landmark establishment.

- A. Historic districts, ~~conservation districts~~ and landmarks are established through the application of an overlay district which are zoning districts that are applied only in conjunction with other zoning districts, and may grant additional use or development requirements upon the underlying zoning controlling the use and development of a lot to ensure the compatibility and appropriateness of exterior design within the historic district or for the landmark.
- B. Overlay districts can be applied to any zoning districts and the boundaries of such overlay shall be shown on the official zoning map of the Town of Black Mountain. (i.e. “HD” overlay also referred to as “historic district”.) An overlay district can be initiated as an amendment by board of aldermen, planning board, historic preservation commission, or a property owner.

4.7.3.3 Designation of historic districts.

The board of aldermen may adopt, amend, reject or repeal ordinances designating historic districts when adoption or amendment is pursuant to the following procedure:

- A. An investigation and report describing the historical, architectural, or archaeological significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared; and
- B. The North Carolina Department of Cultural Resources, acting through the state historic preservation officer or his or her designee, shall make an analysis of and recommendations concerning such report and description of proposed boundaries Failure

of the department to submit its written analysis and recommendations to the board of aldermen within 30 calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the town of any responsibility for awaiting such analysis, and the board of aldermen may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

- C. Historic districts shall consist of areas, which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to possess integrity of design, setting, materials, feeling, and association. The area, buildings, structures, sites, or objects shall be significant elements of cultural, social, economic, political, or architectural history of the town or of the archaeological history or prehistory of the town. The ~~conservation~~ preservation of such a district will provide for the education, pleasure and enhancement of the quality of life of all residents of the town.
- D. The board of aldermen shall designate the boundaries of an historic district in accordance with the procedures set forth in the town code of ordinances, amendments of the Black Mountain Zoning Ordinance and G.S. 160A-384.
- E. Following the board of aldermen designation and approval an historic district, the area so designated shall be labeled “HD” on the official zoning map.
- F. With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the town, the investigative studies and reports shall be prepared by the historic preservation commission and shall be referred to the planning board for its review and comment. Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions as stated above.

#### 4.7.3.4 Designation of conservation district.

The board of aldermen may adopt, amend, reject, or repeal ordinances designating conservation districts when adoption or amendment is pursuant to the following procedure:

- A. The board of aldermen shall designate the boundaries of a conservation district in accordance with the procedures set forth in chapter 1.5, amendments chapter and G.S. 160A-384.
- B. Following the board of aldermen designation and approval of a conservation district, the area so designated shall be labeled “CD” on the official zoning map.

#### Section 4.7.3.5 Designation of landmarks.

The board of aldermen may adopt, amend, reject, or repeal ordinances designating historic landmarks that meet the following criteria, when those ordinances contain the following elements and when adoption or amendment is pursuant to the following procedure:

- A. Criteria for designation. No building, structure, site, area, or object shall be recommended for designation as an historic landmark unless it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological, and for cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

- B. Elements of ordinances designating historic landmarks. Ordinances designating historic landmarks shall contain the following elements, which shall:
1. Describe each property designated in the ordinance, including the approximate area of the property so designated.
  2. List the name or names of the owner or owners of the property.
  3. Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance.
  4. Describe the nature of the commission's jurisdiction over the interior, if any, and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed.
  5. Require, for each building, structure, site, area, or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to demolition.
  6. Recite any other information the board of aldermen deems necessary within the authority conferred by the general statutes.
- C. Procedure for adopting or amending historic landmark ordinances. Ordinances designating historic landmarks shall be adopted and amended according to the following procedure:
1. The historic preservation commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural, archaeological and/or cultural significance of each building, structure, site, area, or object proposed designation. Applications prepared by owners will be judged by the same criteria as those prepared by the commission. Such reports shall contain the following information:
    - The name of the property to be considered for designation – both common and historic names, if they can be determined.
    - The name and address of the current property owner.
    - The location of the property proposed to be designated historic, including the street address and tax map and parcel numbers.
    - The date of construction and of any later alterations, if any.
    - An assessment of the significance of the site or structure.
    - An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report shall contain a description of those features.
    - An historical discussion of the site or structure within its type, period, and locality.
    - Black and white photographs and color slides that clearly depict the property proposed to be designated, including views of all facades, pertinent details and siting.
    - A map showing the location of the property, including any outbuildings and appurtenant features.
    - A clear description of the boundaries.
  2. The commission shall forward its recommendation to the board of aldermen. The commission shall refer the report to the state department of cultural resources, division of archives and history.

3. The department of cultural resources, acting through the state historic preservation officer or his or her designee, may make an analysis of and recommendations in connection with any proposed designation within 30 calendar days after a written request for such analysis has been received by the department, the commission and the board of aldermen shall be relieved of any responsibility to consider such comments.
4. The historic preservation commission and the board of aldermen shall each hold a public hearing on the proposed ordinance. Notice of the hearings shall be published at least once in a newspaper generally circulated within the town. Written notice of the hearings shall be mailed by the preservation commission to all owners of property proposed for landmark status and the owners of all properties that abut the proposed landmark property whose identity and current mailing address can be ascertained by the exercise of reasonable diligence. All such notices shall be published or mailed not less than ten nor more than 25 days prior to the date set for the public hearing. The mailed notices in this subsection are for the convenience of property owners and occupants and any defect of their omission therein shall not impair the validity of the public hearing or any action following therefrom.
5. Following the public hearings, the board of aldermen may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
6. Upon adoption of the ordinance or any amendments thereto, the owners and occupants of each designated historic property shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and each amendment thereto shall be filed by the historic preservation commission in the office of the county register of deeds. Each historic property designated as an historic landmark in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the historic preservation commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and of each amendment thereto shall be kept on file in the town clerk's office and shall be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the ~~county~~ town building inspector.
7. Upon adoption of the ordinance or any amendments thereto, it shall be the duty of the historic preservation commission to give notice thereof to the county tax assessor. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the assessor in appraising for tax purposes. The fact that a building, structure, site, area, or object has been designated an historic landmark shall be clearly indicated on all tax maps maintained by the county for such period as the designation remains in effect.

#### 4.7.3.6 Jurisdiction of historic preservation commission.

There is hereby established a commission, which shall be known as the Black Mountain Historic Preservation Commission and is further described in title III, section 30.70 through section 30.72

[chapter 2, article III, division 7] of the Black Mountain Code of Ordinances. Its jurisdiction shall include the Town of Black Mountain and any extraterritorial jurisdiction area of the town as shown on the official zoning map and atlas of the town.

#### 4.7.3.7 Rules of procedure, design guidelines and meetings.

- A. The historic preservation commission shall develop and adopt rules of procedure, which shall govern the conduct of its business in accordance with the provisions of this ordinance. Such rules of procedure shall also include as an appendix “The Secretary of the Interior’s Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings” and the “Historic District Guidelines” including photographs, illustrations, descriptions and other similar material interpreting the criteria for determine appropriateness. The design guidelines shall be placed on filed in the Black Mountain town offices and made available to the general public during the regular town office business hours.
- B. The historic preservation commission may review and propose changes to the design guidelines and forward any such recommendations for changes to the board of aldermen for their approval.
- C. Specific provisions shall be made in the commission’s rules of procedure for commission meetings following the filing of a proposal on which the commission is required to pass. Such specific provisions shall be made in order that a proposal be brought before the commission:
  - 1. Within a reasonable time;
  - 2. In a manner which is conducive to commission consideration; and
  - 3. In a manner which will facilitate commission action.
- D. The commission shall meet at regularly scheduled times and at such other times as the commission may determine or at the call of its chairman as provided for in its rules of procedure.

#### 4.7.3.8 Powers and duties.

- A. The powers of the historic preservation commission shall be to:
  - 1. Receive applications for certificates of appropriateness. The commission shall review such application according to the criteria to determine appropriateness, provided in the historic district guidelines, and the guidelines of the Secretary of the Interior, and shall approve, approve with conditions, or disapprove such application.
  - 2. Recommend to the board of aldermen districts or areas to be designated by ordinance as historic overlay districts, conservation districts, and recommend individual structures, buildings, sites, areas, or objects to be designated by ordinance as an historic landmark.
  - 3. Recommend to the board of aldermen that designation of any areas as an historic overlay district or part thereof be revoked or removed for cause and recommend that designation of individual structures, buildings, sites, areas, or objects as historic landmarks be removed for cause.

- B. The Black Mountain Historic Preservation Commission shall exercise such other powers and perform such other duties as are required elsewhere by the ordinance creating the historic preservation commission, the Black Mountain Zoning Ordinance or the General Statutes of North Carolina or as assigned by the Black Mountain Board of Aldermen.

#### 4.7.3.9 Certificates of Appropriateness required.

- A. From and after the designation of a landmark or an historic district, no exterior portion of any building or other structure (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on a landmark, or within the historic district, until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the historic preservation commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this ordinance. A certificate of appropriateness shall be required whether or not a building or other permit is required. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.
- B. For purposes of this ordinance, “exterior features” shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. Exterior features may also include historic signs, color and significant landscape, archaeological and natural features of the area. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.
- C. The State of North Carolina (including its agencies, political subdivisions and instrumentalities), the Town of Black Mountain and all public utility companies shall be required to obtain a certificate of appropriateness for landmarks and in the historic district prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the Town of Black Mountain or public utility companies or for construction, alteration, moving or demolition within the historic district or of designated landmarks.
- D. Examples of specific items which fall under ordinary maintenance or repair that will not require a certificate of appropriateness are:
  - 1. Underground utilities, except where archaeological finds or sites are uncovered;
  - 2. Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
  - 3. Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;
  - 4. Deletion or replacement of poles of standard material and height, not to exceed 37 feet;

5. Addition or delete of fire hydrants;
6. Routine replacement of street signs;
7. Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;
8. Addition of equipment on existing lines or poles;
9. Replacement of existing overhead lines, poles or ground-mount installation.

#### 4.7.3.10 Application for certificate of appropriateness.

- A. Applications for a certificate of appropriateness shall be obtained from, and when completed, filed with the planning director or his or her designee. The application shall be filed two weeks prior to the next regularly scheduled meeting of the commission. Sketches, drawings, photographs, specifications, descriptions and other information of sufficient detail to clearly show the proposed exterior alterations, additions, changes or new construction shall accompany each application. The names and mailing addresses of property owners filing and/or subject to the application, and the addresses of property within 100 feet on all sides of the property, which is subject to the application, must also be filed. No application which does not include the aforementioned information will be accepted. **It is the responsibility of the property owner to ascertain if the project will require a certificate of appropriateness.**
- B. It shall be the policy of the commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that an applicant may request a meeting with staff and an individual commission member prior to going to the full historic commission in order to advise them informally at an early state in the development process concerning the commission's guidelines, the nature of the area where the proposed project will take place, and other relevant factors. The staff members and individual commission member, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any staff member or commission member at such an informal meeting shall not be considered official or binding upon the commission.

#### 4.7.3.11 Criteria to determine appropriateness.

- A. No certificate of appropriateness shall be granted unless the commission finds that the application complies with the principles and guidelines as adopted in the historic district design guidelines. It is the intent of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures in the district or of landmarks shall be congruous with the special character of the district or landmark.
- B. The following review criteria, in addition to the principles and design guidelines and the guidelines of the secretary of the interior, shall be considered, where relevant, to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the designated landmark or district:
  1. Lot coverage, defined as the distance between adjacent buildings.
  2. Setback, defined as the distance from the lot lines to the building.

3. Building height.
  4. Spacing of buildings, defined as the distance between adjacent buildings.
  5. Proportion, shape, positioning, locating, pattern sizes and style of all elements of fenestration and entry doors.
  6. Surface materials and textures.
  7. Roof shapes, forms and materials.
  8. Use of regional or local architectural traditions.
  9. General form and proportion of buildings and structures and the relationship of additions to the main structure.
  10. Expression of architectural detailing.
  11. Orientation of the building to the street.
  12. Scale, determined by the size of the units of construction and architectural details in relation to the human scale, and also by the relationship of the building mass to adjoining open space and nearby buildings and structures; maintenance of pedestrian scale.
  13. Proportion of width to height of the total building façade.
  14. Archaeological sites and resources associated with standing structures.
  15. Effect of trees and other landscape elements.
  16. Major landscaping which would impact known archaeological sites.
  17. Style, material, size and location of all outdoor advertising signs.
  18. Appurtenant features and fixtures, such as lighting.
  19. Structural condition and soundness.
  20. Walls – Physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses or combinations of these.
  21. Ground cover or paving.
  22. Significant landscape, archaeological and natural features.
- C. The Secretary of Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building” shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for certificate of appropriateness.
- D. The commission shall adopt principles and guidelines interpreting these criteria for new construction, alterations, moving and demolition of landmarks or properties in the historic district.

#### 4.7.3.12 Demolition.

- A. An application for a certificate of appropriateness authorizing the relocation, demolition, removal or destruction of a designated landmark or a building, structure or site within historic district may not be denied except as provided in section 4.7.3.12(C) below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The commission shall reduce the period of delay if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period the commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. If the commission finds that a building, structure or site has no special significance or value toward maintaining the character of a

district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

- B. If the commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the board of aldermen, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the commission for a period of up to 180 days or until the board of aldermen takes a final action on the designation, whichever comes first.
- C. The board of aldermen may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.
- D. An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

#### 4.7.3.13 Land use, interior arrangement, maintenance, emergency repairs not considered.

- A. Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.
- B. The commission may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without express consent of the owner or occupant thereof.
- C. Except as provided in paragraph D, below, the commission shall have no jurisdiction over interior arrangement and shall take no action except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of a landmark or of the district.
- D. Notwithstanding paragraph C, above, the jurisdiction of the commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owner designated landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds and indexed accordingly to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.
- E. The ordinary maintenance or repair of any exterior architectural feature of a landmark, or in the historic district (HD) which does not involve a change in design, material, or outer appearance thereof, shall not be prevent by the requirements pertaining to the designated landmark or historic district.

- F. Nothing in this article shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the commission or the ordinary repair of streets, sidewalks, pavement markings, street signs, or traffic signs.
- G. The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the town building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the landmark, or the historic district.

#### 4.7.3.14 Hearing procedures.

- A. The historic preservation commission shall receive applications for certificates of appropriateness. The commission shall review such application according to the review criteria, the historic district guidelines and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and shall approve or disapprove such application as provided in paragraph F of this section.
- B. Prior to issuance or denial of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent to the applicant and to owners of property (i.e. lots, parcels or tracts of land) within ~~100~~ 200 feet of the property for which an application for a certificate of appropriateness has been applied for.
- C. Applications for certificates of appropriateness shall be acted upon within 90 days after filing, otherwise the application shall be deemed approved and a certificate shall be issued.
- D. Prior to the issuance or denial of a certificate of appropriateness that applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard. All meetings of the commission shall be open to the public in accordance with the North Carolina Open Meetings law, G.S. ch. 143, and art. 33C.
- E. In cases where the commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness. **Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date of the public hearing and during the same time the town shall post a notice of the public hearing on the site of the subject property or on an adjacent public street or highway right-of-way. Notice shall also be provided by first-class mail to all property owners within 200 feet of the property boundary of the subject property.**
- F. The historic preservation commission's final action on an application for a certificate of appropriateness shall be by the passage of a motion to take one of the following actions:
  - 1. Approve the application for a certificate of appropriateness as proposed;
  - 2. Approve the application for a certificate of appropriateness subject to specific conditions and/or modifications of the proposal presented in the application for a certificate of appropriateness;
  - 3. Disapprove the application for a certificate of appropriateness as proposed or modified.

- G. An appeal of the commission's action in granting or denying any certificate may be taken to the zoning board of adjustment (a) by an aggrieved party, (b) shall be taken within 30 days of the written decision and (c) shall be in the nature of certiorari.
- H. Written notice of the intent to appeal to the board of adjustment from the historic commission must be sent to the town clerk postmarked within 30 days following the riling of the written decision with the town clerk. The superior court of Buncombe County shall hear appeals of the board of adjustment. In the case of properties owned by the State of North Carolina or its agencies, appeals may be taken to the North Carolina Historical Commission which shall render its decision within 30 days from the date of the appeal by the state is received by the historical commission. The decision of the North Carolina Historical Commission shall be final and binding upon both the state and the commission.

#### 4.7.3.15 Major and minor works.

- A. Major works – Major work projects involve a change in the appearance of a building or landscape, and are more substantial in nature than minor works projects.
- B. Minor works – A certificate of appropriateness application when determined to involve a minor work, may be reviewed and approved by the minor works committee or in some cases by staff as outlined in the design guidelines. The minor works committee consists of the historic preservation chairman and vice-chairman and the planning director and his or her designee.
  - 1. Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property in the historic district.
  - 2. An application may receive a certificate of appropriateness from staff or the committee if it falls under the list of minor works provided in the historic preservation commission rules of procedure or the design guidelines. If the staff or committee does not issue a certificate of appropriateness, the applicant will be advised to make a formal application to the historic preservation commission. No application may be denied without formal action by the historic preservation commission. All minor works applications approved by the planning director or his/her designee shall be forwarded to the commission for their information in time for its next scheduled meeting.

#### 4.7.3.16 Certificate issuance; expiration; enforcement.

- A. Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a certificate of appropriateness by the historic preservation commission. The application and the duly approved minutes of the commission shall constitute the written documentation of such issuance. Following the meeting a certificate shall be mailed to the property for which a certificate has been issued. The certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a historic preservation commission meeting shall be approved before the end of the next meeting.

- B. A certificate of appropriateness shall be valid for a period of six months from the date of issuance for the purpose of obtaining a zoning permit or other permit for constructing or altering structures. A certificate of appropriateness shall expire six months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six months, the permit shall immediately expire.
- C. Compliance with certificates of appropriateness shall be enforced by the planning director and his or her designee. Failure to comply with a certificate of appropriateness shall be a violation of the zoning ordinance and is punishable according to established procedures and penalties for such violations. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
- D. In case any building, structure, site, area or object designated as a landmark or located within the historic district is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the commission or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to a building or structure.

#### 4.7.3.17 Conditions for certain approvals.

- A. In the event that the commission, in considering an application for a certificate of appropriateness, shall find that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the zoning board of adjustment authorizes such a special exception and not use other than that permitted in the district in which such is located is made of said property. Such conditions as may be attached to the historic preservation commission approval and those conditions as may be set by the zoning board of adjustment shall be included in any certificate of appropriateness related thereto.
- B. If the commission finds that an application for a certificate of appropriateness concerning any porches, steps, posts, fences, walls or other items extending over, on or within public rights-of-way to be necessary for the authentic restoration, reconstruction or maintenance thereof, and will not impede or block pedestrian traffic or constitute hazard to public safety, such findings shall be transmitted to board of aldermen for its consideration in authorizing or denying such encroachments into rights-of-way.
- C. If the board of aldermen authorizes such encroachments, any items, restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the Town of Black Mountain harmless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof. The lowest point of any such item projecting over any sidewalk shall be at least nine feet above the sidewalk immediately below.



**TOWN OF BLACK MOUNTAIN**  
**2018 - 2019**  
**HISTORIC PRESERVATION COMMISSION MONTHLY**  
**MEETING SCHEDULE**

**REGULAR MEETING**

MARCH 20

APRIL 17

MAY 5

JUNE 19

**Other meetings called as necessary.**

The Historic Preservation Commission Regular meetings are held on the third Wednesday of every month at 6:00 p.m. at Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

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Jennifer Tipton  
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton, Zoning Administrator at 419-9300 or by email at [jennifer.tipton@townofblackmountain.org](mailto:jennifer.tipton@townofblackmountain.org).

**Adopted:**

**Posted:**