



**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, Senior Admin  
Re: Agenda Packet for August 18, 2021  
Date: August 9, 2021

The **Town of Black Mountain Historic Preservation Commission** will meet on **Wednesday, August 18, 2021, at 6:00 p.m.** in Town Hall at 160 Midland Avenue and electronically via Zoom.

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

1. The proposed agenda;
2. Draft minutes from July 21, 2021;
3. Review of Rules of Procedure;
4. Training;
5. Election of Officers; and
6. Appointment of Minor Works Committee.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.  
[jennifer.tipton@townofblackmountain.org](mailto:jennifer.tipton@townofblackmountain.org) or (828) 419-9371.

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) 419-9371 or by email at [jennifer.tipton@townofblackmountain.org](mailto:jennifer.tipton@townofblackmountain.org).

CC: Jessica Trotman, Planning Director  
Jake Hair, Planner  
Ron Sneed, Town Attorney



## **PUBLIC NOTICE**

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

The Town of Black Mountain Historic Preservation Commission will meet for their regular meeting on **Wednesday, August 18, 2021, at 6:00 p.m.** in the Council Meeting Room at Town Hall, 160 Midland Avenue, Black Mountain, NC 28711. A Zoom link is also provided for anyone wishing to participate but is not able to attend in-person.

#### **There are three ways the public can participate in the meeting:**

1. **Attend the meeting in-person at Town Hall.**
2. **Join the meeting through Zoom on your computer or smart device.** *\*Citizen video feeds will not be enabled. There is no password.*

<https://us02web.zoom.us/j/81351775925>

**Meeting ID: 813 5177 5925**

If you have not used Zoom before on a computer or smart device, you are encouraged to download the application from their website at [Zoom.us/download](https://zoom.us/download) and try it out prior to the meeting. There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

3. **Join the meeting by telephone (listen only).**

Simply call US Toll-free 1-877-853-5247 or US Toll-free 1-888-788-0099

**Meeting ID: 813 5177 5925** followed by the Pound sign (#)

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**Jennifer Tipton**  
**Senior Admin**

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 at (828) 419-9371 or by email at [Jennifer.tipton@townofblackmountain.org](mailto:Jennifer.tipton@townofblackmountain.org)

*Posted to the Town Bulletin Board 08/02/2021*  
[www.townofblackmountain.org](http://www.townofblackmountain.org)



## **AVISO PÚBLICO**

### **COMISIÓN DE PRESERVACIÓN HISTÓRICA DE BLACK MOUNTAIN**

La Comisión de Preservación Histórica de la Ciudad de Black Mountain se reunirá para su reunión regular el **miércoles, 18 de agosto de 2021, a las 6:00 p.m.** en la Sala de Reuniones del Consejo en el Ayuntamiento, 160 Midland Avenue, Black Mountain, NC 28711. También se proporciona un enlace de Zoom para cualquier persona que desee participar pero no pueda asistir en persona.

#### **Hay tres formas en que el público puede participar en la reunión:**

1. **Asistir a la reunión en persona en el Ayuntamiento.**
2. **Únase a la reunión a través de Zoom en su computadora o dispositivo inteligente.**  
**\*Las transmisiones de video ciudadanas no estarán habilitadas. No hay contraseña.**

<https://us02web.zoom.us/j/81351775925>

**ID de reunión: 813 5177 5925**

Si no ha utilizado Zoom antes en una computadora o dispositivo inteligente, le recomienda descargar la aplicación desde su sitio web en [Zoom.us/download](https://zoom.us/download) y probarla antes de la reunión. No hay ningún costo asociado con el software o asistir a la reunión y hay opciones de número gratuito para marcar para escuchar solo en vivo.

3. **Únase a la reunión por teléfono (solo escuchar).**

Simplemente llame al **número gratuito 1-877-853-5247** o al **número gratuito 1-888-788-0099**

**ID de reunión: 813 5177 5925** seguido del signo de libra (#)

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**Jennifer Tipton**  
**Administrador Senior**

La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a [Jennifer.tipton@townofblackmountain.org](mailto:Jennifer.tipton@townofblackmountain.org).

*Posted to the Town Bulletin Board 08/02/2021*  
[www.townofblackmountain.org](http://www.townofblackmountain.org)



**Historic Preservation Commission Regular Meeting  
August 18, 2021**

**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 July 21, 2021 as written [or as amended]

**IV. OLD BUSINESS**

**V. NEW BUSINESS**

- Review of Rules of Procedure
- Training
- Election of Officers
- Appoint Minor Works Committee

**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, July 21, 2021, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina and electronically via Zoom.

**I. CALL TO ORDER**

The meeting was called to order at p.m. with the following members present:

Susan Leive, Chair  
Ron Collins, Vice Chair  
Matthew Turner  
Jay Parmar

Staff:

Jennifer Tipton, Senior Admin  
Ron Sneed, Town Attorney

Others Present:

Maury Hurt	Albert Sneed	Michael Zinsmeister
Ray Nightingale	Kathryn Nightingale	Eric Robinson
Tom McMurtry	Kim McMurtry	Steve Earley
Carolyn Earley		

The meeting was called to order at 6:06 p.m. and duly constituted and opened for business with a quorum of four (4) regular members.

**II. ADOPTION OF AGENDA**

Ron Collins made a motion to adopt the agenda as presented. The motion was seconded by Matthew Turner and approved by consensus.

**III. ADOPTION OF MINUTES**

Ron Collins made a motion to adopt the minutes of June 16, 2021 as written. The motion was seconded by Matthew Turner and approved by consensus.

**IV. OLD BUSINESS**

None.

**V. NEW BUSINESS**

**1. Certificate of Appropriateness for 120 Broadway**

Jennifer Tipton presented the Certificate of Appropriateness application. The owner of 120 Broadway is asking to put a fence along the property from the corner of the building at 128 Broadway to the corner of the Mountain Vista Properties building and put a chain across the alley. There was an incident in which a delivery truck was backing down the alley and almost hit an elderly couple and there are signs placed on either side of the alley stating that no delivery trucks are to go beyond that point.

**Maury Hurt, 101 Midland Avenue**, did the design of the fence and stated that the materials would be wooden posts with black chain and the chain going across the alley will also be black

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July 21, 2021

chain and is designed to not rust. The chain will also have a Knox Box so that the Fire Department will be able to have access to the alley.

**Albert Sneed, 11 N. Market Street**, said that with the dedication of withdrawal, the alley became the property of the owner and he does have the right to keep people off of his property.

**Tom McMurtry, 21 Beech Glen Drive**, said that he owns Europa and that they have two private parking spaces that are accessed off of the alley and if the alley is closed off, they will lose that access. Mr. McMurtry said that those parking spaces allow his employees to not have to utilize public parking and enables him to have easier deliveries to the basement of his building.

Town Attorney Ron Sneed reminded everyone that Historic Preservation Commission can only look at the design of the structure and whether it meets the criteria of the standards or not. The issue of the dedication of withdrawal on the alley and access concerns cannot be taken up by this commission and those concerned would need to consult their own attorney.

**Michael Zinsmeister, 14 Woodlink Drive**, said that he had just purchased the Seven Sisters building and that there is a sewer line that runs under the alley and asked about allowing space for trucks to get in for maintenance. Mr. Zinsmeister also spoke about accessibility and the possibility of allowing pedestrian traffic.

Chair Susan Leive again reminded everyone that the Commission cannot consider any issues other than the design of the structure but noted that it may be beneficial for those concerned to reach out to the owner to discuss the other issues.

There was a comment from the audience on if the Commission could postpone their decision until those concerned had had a chance to talk to the owner but there is not a provision that would allow the Commission to postpone the decision if the criteria of the standards is met in regards to the design of the structure.

Ron Collins made a motion to approve the Certificate of Appropriateness with the condition that the posts be stained dark bronze to match the neighboring building. The motion was seconded by Matthew Turner and approved by a vote of 3-1 with Jay Parmar voting against.

## **2. Proposed Amendments to Historic District Standards**

Jennifer Tipton presented the proposed amendments from the June meeting. Those amendments included adding new timeframes for approvals, adding color standards to signs, adding a provision that art and/or murals attached to another material (such as plywood or foamboard) will be treated as signs, and adding commercial art, mural, and sign definitions to the glossary. Ron Collins made a motion to approve the proposed amendments and add to the standards. The motion was seconded by Matthew Turner and approved by a vote of 5-0. Ron Collins did ask that the Commission look at creating a regular review schedule for the standards.

### **VI. COMMUNICATION FROM HISTORIC PRESERVATION COMMISSION**

None.

### **VII. COMMUNICATION FROM STAFF**

None.

### **VII. ADJOURNMENT**

Jay Parmar made a motion to adjourn the meeting at 7:01 p.m. The motion was seconded by Susan Leive and approved by consensus.

Historic Preservation Commission Regular Meeting  
July 21, 2021

Prepared by:

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Susan Leive, Chair

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Jennifer Tipton, Senior Admin



## **RULES OF PROCEDURE**

### **Town of Black Mountain** **Historic Preservation Commission**

#### I. PURPOSE

The purpose of these by-laws will be to set forth the general operating procedures for conducting the business of the Black Mountain Historic Preservation Commission.

#### II. GENERAL RULES

The Black Mountain Historic Preservation Commission shall be governed by the terms of the ordinance creating the Commission as contained in the Code of Ordinances for the Town of Black Mountain, North Carolina ~~at Section 31.70 in Division 7, Sections 2-209 through 2-211~~, and by the terms of N.C.G.S. 160D-303 ~~160A-395 through 160A-399.13~~ and N.C.G.S. 160D-940 through 160D-951 as they may be amended or revised.

#### III. JURISDICTIONS

The jurisdiction of the Commission shall be limited to those areas in Black Mountain as authorized by North Carolina General Statutes and local government ordinances.

#### IV. MEMBERS, OFFICERS AND DUTIES

A. General: The Commission shall consist of five members appointed by the Town Council ~~Board of Aldermen~~. All members shall reside within the ~~corporate limits~~ territorial jurisdiction of Black Mountain. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields. ~~with appointments as follows:~~

~~At least two members being property owners in either the Historic District or Conservation District.~~

The Commission may appoint advisory bodies and committees as appropriate.

Members of the Commission shall serve terms of three years. Terms shall be staggered. A member may be appointed for a second term. After two consecutive terms, a member shall be ineligible for reappointment until one calendar year has elapsed from the date of the termination of his/her appointment.

TOWN OF BLACK MOUNTAIN HISTORIC PRESERVATION COMMISSION  
RULES OF PROCEDURE

The Commission shall serve without compensation except that they **may** be reimbursed for actual expenses ~~incident~~ **incidental** to the performance of their duties within the limits of any funds available to the Commission.

B. Chairman: A chairman shall be elected annually by the voting members of the Commission. The chairman shall preside at meetings of the Commission, and shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Commission.

C. Vice-Chairman: A vice-chairman shall be elected annually by the voting members of the Commission in the same member as the chairman. The vice-chairman shall serve as acting chairman in the absence of the chairman, and at such times shall have the same powers and duties as the chairman.

D. Secretary/~~Treasurer~~: A secretary/~~treasurer~~ shall be elected annually by the voting members of the Commission in the same manner as the chairman. The secretary shall oversee the keeping of all records ~~and funds~~, and the conducting of all correspondence of the Commission.

~~F. E.~~ Elections: ~~The chairman shall appoint a nominating committee on or before the regular March meeting. The committee shall prepare a slate of nominations for Commission officers and submit it in writing to the membership on or before the regular May meeting, at which time nomination may also be made from the floor. Terms of officers shall begin with the regular July meeting. In the event that an officer of the Commission resigns or is otherwise removed from the Commission, the vacated office shall be filled by special election. A nominating committee appointed by the chairman shall submit nominations in writing to the Commission members not less than 30 days prior to the special election. Elections shall be held at the regular July meeting. The presiding chairman shall ask for nominations for Commission officers and a majority vote shall be required for each nomination. The presiding chairman shall preside over the elections until a new chairman has been nominated and voted on.~~ **Elections shall be held at the regular July meeting. The presiding chairman shall ask for nominations for Commission officers and a majority vote shall be required for each nomination. The presiding chairman shall preside over the elections until a new chairman has been nominated and voted on.**

~~G. F.~~ Terms of Appointments: Terms of appointment for Commission members shall be three years from date of appointment, ending June 30, except in the initial organization of the Commission. All members shall be limited to two three year terms of office. Any term less three years shall not count towards any part of another three year term.

The Black Mountain **Town Council** ~~Board of Aldermen~~ shall be encouraged to make new appointments to the Commission prior to April 1 to become effective July 1.

~~F. G.~~ Attendance of Meetings: Should a member fail to attend three consecutive regular meetings of the Commission and should there be no adequate excuse for such absence, the chairman, with the concurrence of a majority of the entire Commission, shall

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RULES OF PROCEDURE

recommend to the appropriate authority that a vacancy be declared and that the vacated position be filled.

~~I~~ **H.** Conflict of Interest: No Commissioner shall take part in the hearing, consideration or determination of any case **in which would violate the conflict of interest statute that Commissioner has personal financial interest** as provided for in N.C.G.S. 160D-109 ~~14-234~~.

V. MEETINGS

A. Regular Meetings: Regular meetings of the Commission shall be held on the third Wednesday at ~~7:00 p.m.~~ **6:00 p.m.** in the Town Hall located **at** 160 Midland Avenue provided that meetings may be held at some other convenient time and place in Black Mountain if directed by the chairman in advance of the meeting.

B. Special Meetings: The chairman may call special meetings of the Commission at any time. At least ~~twenty-four (24)~~ **forty-eight (48)** hours' notice of the time and place of special meetings shall be given by the ~~secretary, or by the chairman,~~ **Town staff person** to each member of the Commission; ~~provided that this requirement may be waived by action of a majority of all members.~~

C. Cancellation of Meetings: Whenever there is no business for the Commission, the chairman may dispense with a regular meeting by **informing and having Town staff give** ~~giving~~ notice to all the members not less than twenty-four (24) hours prior to the time set for the meeting.

D. Quorum: A quorum shall consist of a simple majority of those members then appointed to the Commission. In the event that only a quorum exists for the meeting and a Commission member is excused from voting, then the quorum shall be destroyed and no Commission vote can be taken or completed. Three (3) of the five (5) members shall be required to be a quorum.

E. Conduct of Meeting: All meetings shall be open to the public, subject to the provisions of the North Carolina Open Meetings Law, G.S. 143, Article 33C. The order of business at the regular meetings shall be as follows: a) roll call; b) adoption of agenda; c) adoption of minutes; d) business; e) historic commission/staff reports/comments; f) public comments; g) adjournment.

VI. The Commission shall adopt procedure and review criteria for the application for disposition of certificates of appropriateness as provided for in N.C.G.S. 160D-947 ~~160A-397~~, as amended.

VII. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) members of the commission provided that such

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amendment shall have first been presented to the membership in writing prior (at least one week) to the meeting at which the vote is taken.

VIII. APPLICATION PROCEDURES FOR CERTIFICATE OF APPROPRIATENESS

A. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Planning Department of the Town of Black Mountain. The Black Mountain Historic Preservation Commission shall prepare and adopt rules of procedure as well as principles and **standards guidelines** not inconsistent with Part ~~4~~ ~~3A~~ of Article ~~19~~ of Chapter 160~~D~~~~A~~ of the North Carolina General Statutes for new construction, alterations, additions, moving and demolition.

The Historic District Design **Standards Guidelines** divides work which requires a Certificate of Appropriateness in to three categories; Minor Works Projects Approved by Staff, Minor Works Projects Approved by the Minor Works Committee and Major Works. These projects shall be reviewed by the procedures specified in Section ~~2-209~~ ~~4.7.3.9~~ thru Section ~~2-211~~ ~~4.7.3.14~~ of the ~~Zoning Ordinance~~ **Land Use Code** for the Town of Black Mountain.

Applications for minor works approved by the Staff or Minor Works Committee shall be reviewed and recorded in the Commission minutes. Minor works disapproved by the Staff or Minor Works Committee shall be reviewed and upheld, reversed or continued by the Commission at its next regular meeting.

B. Nothing shall prevent the applicant from filing with the application additional relevant information (photographs, drawings, models, etc.) bearing on the application. Applications for Certificates of Appropriateness for new construction (including building additions) shall be accompanied by drawings, sketches or other substantiating materials which demonstrate the compatibility of the new construction to adjacent buildings.

C. Applications for major works shall be filed, and completed in form and context, not more than 25 days or less than 10 calendar days prior to the meeting at which the application is to be considered. ~~Town Commission staff~~ shall notify by mail property owners within one hundred (100) feet of the subject property.

D. The applicant and affected property owners shall be given an opportunity to be heard at the meeting at which the application is considered. Any party may appear in person or be represented by an authorized agent or attorney at the meeting.

The hearing shall be conducted pursuant to the rules of procedure established by the Commission pursuant to North Carolina General Statute ~~160D-406~~ ~~160A-397~~. In consideration of the application, witnesses may be called and factual evidence may be submitted, but the Commission shall not be limited to consideration of such evidence as would be admissible in a court of law.

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- E. Prior to final action on an application, the Commission, using the design review **standards** ~~guidelines~~ adopted by the Commission, shall make findings of fact indicating the extent to which the application is or is not in conformity with the historic aspects of the district.
- F. The vote of a majority of those voting members present shall be sufficient to decide matters before the Commission, providing a quorum is present. The Commission's action on the application shall be approval, approval with modification, or disapproval.
- G. The Commission shall cause to be entered into the minutes of its meeting the reasons for its actions.
- H. In cases where the Commission deems it necessary, it may hold **an evidentiary** ~~a public~~ hearing concerning the application.
- I. In taking action on the application the Commission shall apply the standards contained in the appropriate Design Review **Standards** ~~Guidelines~~ or in the absence thereof, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."
- J. Each member of the Commission should at its discretion, view the premises and obtain additional facts concerning any application, and may seek the advice of the Department of Cultural Resources or other expert advice as it may deem necessary.
- K. The Commission must issue or deny a Certificate of Appropriateness within **sixty (60)** ~~days ninety (90)~~ days after the filing of the application, except when the time limit has been extended by mutual agreement between the applicant and the Commission or when the application is for the demolition of an historic structure.
- L. If the application is approved, the staff secretary of the Commission shall transmit in writing a Certificate of Appropriateness, clearly describing the nature of the work which has been approved. The secretary shall attach a copy of the minutes of the meeting at which approval was granted and a placard form of a Certificate of Appropriateness **is** to be displayed on the project. A copy of this information shall be transmitted to the Inspection Department which is responsible for its enforcement.
- M. If an application is denied, a letter stating the reason for the denial shall be mailed to the applicant.
- N. If an application is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.
- O. An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals (1) may be taken by any aggrieved party, (2) shall be filed with the Board of Adjustment within 30 days following the

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Commission's action, and (3) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any case shall be made in accordance with the provisions of Section ~~2-209 thru Section 2-211~~ 4.7.3.14 of the ~~Zoning Ordinance~~ Land Use Code for the Town of Black Mountain.

- P. A Certificate of Appropriateness shall be valid for six (6) months following the approval. If no work has begun within six (6) months from the date of approval, the applicant may be required to resubmit the project to the Commission for review.
- Q. No application for the demolition of a historic property or of a key or contributing structure within a historic district shall be granted until the Historic Preservation Commission has both inspected the structure noting significant architectural details and investigated its historical significance. The Historic Preservation Commission shall also be given a reasonable opportunity to salvage significant interior and exterior details which the owner otherwise intends to demolish. The Commission may impose a 30-day delay on the issuing of such certificates to allow time for these investigations and salvage. The property owner may avoid the delay for these investigations by providing historical background material to the Commission's standards and by providing a reasonable opportunity for salvage. These provisions do not alter the Commission's authority to impose a maximum 365-day delay on demolition where warranted by either the significance of the property or by the possibility of finding a preservation solution.

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Historic Preservation Commission Chair

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Historic Preservation Commission Secretary

REVISED: