

Any property owner or tenant may appear in person or by agent or by attorney before the Historic Zoning Commission at any duly convened regular meeting, or at any special meeting called for the specific purpose of reviewing the application in question. Any tenant or agent or attorney appearing before the Commission should be prepared to demonstrate to the satisfaction of the Commission that they have the authority to represent the property owner.

All applications and presentations must be clear and must be supported by appropriate photographs, drawings, illustrations, models, and/or samples for the commissioners to have an accurate understanding of what is being proposed.

The Commission may, at its discretion, **view the premises and obtain additional facts** concerning any application before arriving at a decision.

Proposals may be altered during any presentation **by mutual agreement** between the Commission and the property owner or the owner's duly appointed representative(s).

The Commission may, at its discretion, **request additional information** and/or professional consultation.

Modification of an application already considered by the Commission, whether approved or denied, **shall be treated as a new application**.

The Commission may require notification of neighboring property owners who, in the judgement of the Commission, may be affected by any proposal presented, in order to give those property owners an opportunity to be present at the Commission meeting.

Affected property owners shall be notified by mail not less than seven (7) days prior to the meeting at which the matter is to be heard.

The Commission may schedule a public hearing prior to granting approval for Certificate of Appropriateness for any proposal which, in its judgement, may have a general impact on the Historic Zone, the town or the community as a whole.

Procedures for review of Historic Zoning Commission of permit applications.

1. Permit applications and building inspector. All permit applications for exterior alterations, new construction, relocation, or demolition within the historic districts shall be referred to the Historic Zoning Commission, together with all plans, elevations, or other information as may be necessary to determine the appropriateness of the features to be passed upon by the building inspector.

2. Historic Zoning Commission review. The Historic Zoning Commission shall meet within 15 days after notification by the building inspector of the filing of a complete application for Certificate of Appropriateness involving property in the Historic Zone. At such meeting, the Historic Zoning Commission shall apply the applicable design guidelines for the Historic Zone to determine the appropriateness of the proposal and approve or disapprove the application with or without attached conditions or defer the application.

3. Approval. Upon approval of an application for Certificate of Appropriateness, the Historic Zoning Commission shall forthwith issue a Certificate of Appropriateness to the applicant and notify the building inspector of the approval. Upon failure of the Historic Zoning Commission to take final action within 30 days (except as otherwise provided in these Policies and Procedures) after receipt of an application, the application shall be deemed approved, except when mutual agreement has been made for an extension of the time limit. [Amended 10/12/06]

4. Disapproval. In the case of disapproval by the Historic Zoning Commission of any application for Certificate of Appropriateness, the Historic Zoning Commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such disapproval and a copy of the written statement of reasons therefore shall also be transmitted to the building inspector.

5. Economic hardship in cases of demolition. In cases involving demolition, the Historic Zoning Commission may take into account economic hardships in addition to other review guidelines. The Historic Zoning Commission may, after reasonable notice to the applicant and the public, set an application for demolition for public hearing and may consider any or all of the following:

- (a) Estimate of the cost of proposed redevelopment, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Zoning Commission for changes necessary for the issuance of a Certificate of Appropriateness
- (b) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation
- (c) Estimated market value of the property in its current condition; after completion of the proposed redevelopment, alteration, demolition, or removal; after any changes recommended by the Historic Zoning Commission; and, in the case of proposed demolition, after renovation of the existing property for continued use
- (d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property
- (e) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicants and the persons from whom the property was purchased, and any terms of financing between the seller and the buyer
- (f) If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period

- (g) Any other information considered necessary by the Historic Zoning Commission to be a determination as to whether the property does or may yield a reasonable return to the owners [Ord. of May 8, 1989]

6. Expiration of Certificate of Appropriateness. A Certificate of Appropriateness automatically expires one year after being issued. If the proposed work has not been substantially completed by the time of Certification expiration, the proposal must be resubmitted to the Commission as though it were a new application for Certificate of Appropriateness. In reviewing the reapplication, the Commission must take into consideration the criteria for the original approval, as well as any new information or conditions that may have come to light by the time of the reapplication.

7. Expediting approvals of limited routine building maintenance [Amended 8/13/98]. The building inspector, in consultation with one designated Expediting Commissioner, may approve the issuing of a building permit for certain limited types of routine maintenance projects within the Historic Zone without prior approval by the entire Commission. Such expedited approvals must comply with the following conditions:

- (a) The Commissioner with whom the building inspector consults shall be one of three Commissioners designated in the Minutes of the Commission as Expediting Commissioners.
- (b) In reviewing an application for expediting approval, the building inspector and the Expediting Commissioner must review the specifications for the proposed work, as well as the scope and impact of the work on the building in question.
- (c) Any work which may have an impact on the structural integrity of the building; or which may change the exterior appearance of the building; or which may modify historic fabric of the building must be referred to the entire Commission for review.
- (d) Any application for repair or maintenance of earlier work that may be currently inconsistent with the Standards and Guidelines of the Commission must be referred to the full Commission for review.
- (e) Expedited approval shall be denied and the application referred to the full Commission if either the building inspector or the Expediting Commissioner disapproves of the proposed project or deems it wise to submit the application for full Commission review.
- (f) All expedited approvals are to be reported to the entire Commission at the next regular meeting and are to be entered into the Minutes of the Commission in order for the Commission to monitor continuously the administration of expedited approvals by the building inspector and the Expediting Commissioners.
- (g) The following is a list of the types of work which may receive expedited approval:

1. Roof maintenance or replacement, when materials of identical composition are used and when existing roof material clearly is not important historically.
2. The replacement of built-up asphalt or similar roofing with more modern or successor materials designed for use on flat or nearly flat roofs not visible from the public right-of-way.
3. Gutters and downspouts that are consistent with the Commission's Guidelines, when material of identical style and color is used.
4. Painting of exterior surfaces when identical colors are to be used and when methods of preparation clearly will not damage important historic materials.
5. Minor carpentry repairs that use like materials of like design, configuration and dimension.
6. Glass replacement and window glazing.
7. Fence repairs that use materials of identical composition, design and color.
8. The placement of utility equipment that is clearly consistent with the Commission's Guidelines, Section 12.

- (h) This method of expediting approvals of limited routine building maintenance is intended to assist property owners when time is of the essence and when delay of the proposed work for review by the entire Commission would create an undue hardship for the property owner. It is not intended, and should never be used, to discourage appropriate review by the entire Commission or to circumvent the duties of the Commission.

8. Application and Review Procedures for Demolition Within the H-1 and the H-2 Zones.
[Revised 10/12/06] All demolition proposals within the H-1 and the H-2 Overlay Zones require an application for a Certificate of Appropriateness. The review process consists of at least two public meetings, and is structured to give ample time to the applicant, the community, and the Commission to obtain information and to study the proposal thoroughly. Review procedures are as follows:

- A. Documentation Requirements (before the first public meeting). The following information must be submitted to the Commission at least seven (7) days before a scheduled meeting for review of the demolition application. Incomplete applications cannot be scheduled for review.
- (a) A completed application form for a Certificate of Appropriateness signed by the applicant and the property owner, describing existing conditions and proposed changes.
 - (b) A list of the names and addresses of all owners of all properties any part of which are located 500 ft. or less from the property on which the structure proposed for demolition is located. All such property owners shall be notified of the meetings in which the proposal for demolition is to be heard.
 - (c) A site plan, to scale, showing the location of the structure proposed to be demolished in relation to other structures on the property, property lines and structures on abutting properties.
 - (d) A written report from an engineer licensed in the State of Tennessee and/or the Building Inspector of the Town of Jonesborough, as to the structural soundness of

the building and its adaptability for rehabilitation. Any dangerous conditions should be identified.

- (e) A written description of how the site will be developed, including a basic site plan and a description of any proposed replacement structure. Although detailed site plans and elevations are not required for an application to be submitted, the Commission may require them at a later date.
- (f) A summary account of all alternatives to demolition that have been considered and the feasibility of each.
- (g) If the demolition proposal is based in part or as a whole on conditions of unreasonable hardship, the documentation of such unreasonable hardship must be consistent with the provisions of the sections of the Commission's Building Standards and Guidelines and of the Commission's Policies and Procedures on economic hardship.

The Commission may also require any or all of the following additional documentation before reviewing a demolition application.

Architectural Data. A detailed description of how the site will be developed. The description must include a detailed site plan and, if a replacement structure is proposed, schematic plans and elevation drawings. (See Guidelines Section 15 New Construction)

Demolition Alternatives. An itemized breakdown of the feasibility of all possible alternatives to demolition, and reasons why such alternatives were rejected, including:

- (a) Sale of the structure on the present site to a party willing to preserve the structure.
- (b) Sale of the structure for removal and preservation on a new site. Consider the likelihood of a party willing to buy the structure for removal and the feasibility of removal in both economic and practical terms.
- (c) Public or quasi-public agencies having any potential use for the structure, or knowing of potential users or purchasers.
- (d) The availability of financial programs that could assist in the rehabilitation and preservation of the structure.
- (e) Alternative uses for the structure that would allow its preservation.

Financial Data

- (a) Form of ownership of property, including the names and addresses of the owners. If the owner is an organization, governmental entity, or corporation, include the name, address, and telephone number of a contact person.
- (b) The remaining balance on any mortgage or other financing secured by the property and the annual debt service for the past three years.

- (c) Three written bids for the cost of the proposed demolition compared to the cost of stabilizing or “mothballing” the structure, and compared to the cost of rehabilitating the structure.
 - (d) The fair market value of the property as determined by a qualified professional expert.
 - (e) The amount paid for the property, the date of purchase, and the name of seller, including the relationship between the applicant and owner of record and the party from whom the property was acquired.
 - (f) The price asked for the property and any offers received in the previous three years.
 - (g) If the property is commercial or income-producing: the gross annual income from the property for the past three years, the itemized operating and maintenance expenses for the previous three years, the depreciation deduction and annual cash flow before and after debt service for the previous three years.
- B. Review Procedures (first public meeting). The first public meeting shall be held to determine whether or not additional information is required and to determine the historical and architectural significance of the structure and its contribution to the Overlay Zone. The applicant and/or property owner must attend the meeting and present the application to the Commission. Public comment will be taken.
- (a) The Commission shall determine whether sufficient information has been submitted with the application to allow thorough review and whether alternatives to demolition have been considered. If additional information is needed, then the matter will be continued until the additional information is submitted.
 - (b) The Commission shall review the current designation of the structure (whether contributing or non-contributing) in the context of the proposed demolition using the criteria described in the Property Designation Committee Handbook including a determination as to (1) whether the Property Designation Committee has evaluated the structure in its current condition and (2) whether the Commission has adopted the report of the Property Designation Committee. If the Property Designation Committee has not evaluated the structure, then the Commission shall refer the demolition proposal to the Property Designation Committee for its evaluation, advice, and recommendations.
 - (c) If desired, the Commission may also call upon expert witnesses to assist in the evaluation.
 - (d) Applicants may also present testimony as to the significance of the structure.
- C. Review Criteria (second public meeting). At the second public meeting, the Commission shall use the following criteria for review of the demolition proposal. Public comment will be taken.
- (a) The merit of the structure to be demolished.
 - (b) The effect of the demolition on surrounding buildings.

- (c) The effect of the demolition on the Overlay Zone as a whole.
- (d) The effect of the demolition on the local economy.
- (e) Whether the demolition will stabilize and improve property values in the Overlay Zone.
- (f) The effect of the demolition on safeguarding the heritage of the Town, State, or Nation.
- (g) The value or usefulness of any proposed replacement structure to the community and the appropriateness of its design to the Overlay Zone.
- (h) If the lot is to be left open, the impact of open space in that location and on the Overlay as a whole as provided in the Commission's Building Guideline 16.4.

D. Approval or Disapproval.

- (a) A written resolution will be issued within 15 days of the vote to approve or disapprove the application. The resolution will describe the Commission's decision and the reasons behind it and will specify any conditions of approval or disapproval.
- (b) All conditions of approval listed below and any additional conditions of approval must be met before a Certificate of Appropriateness and a Demolition Permit can be obtained from the Building Inspector.
- (c) The applicant must post a bond with the Building Inspector in the amount of 100% of the total projected project cost including demolition, landscaping and all phases of new construction when applicable. Written documentation of estimated cost must be provided with the bond. The bond will be refunded to the applicant upon issuance of Certificate of Occupancy. If the project is abandoned at any stage prior to the issuance of a Certificate of Occupancy, the Town shall retain the right to cash the bond after written notification to the owner in order to secure and/or stabilize the property.
- (d) If an application is denied, a new application for demolition will not be submitted unless it is substantially different from the denied application. A change in ownership of property does not in itself constitute a substantial change in a demolition application.
- (e) If applications for demolition of a particular structure are denied twice during a period of 12 months, the Commission will not consider another request for demolition of that particular structure until at least one full year has passed after the second denial.

9. Meetings

- (a) Regular meetings shall be scheduled on the second and fourth Thursdays of each month, January through October, and on the second Thursday of each month, November and December, starting at 7:00 p.m. at Town Hall. [Amended 7/9/98]
- (b) Called meetings may be held at the request of a majority of the Commission members or at the discretion of the chairman in order to maintain the timely review and processing of applications. A called meeting shall be conducted in the same manner as a regular meeting.

- (c) The Commission may meet as needed in various locations throughout the Historic Zone in order to inspect subject properties of Certificates of Appropriateness applications that are currently before the Commission.
- (d) All meetings are open to the public at all times, and must be advertised publicly and announced in compliance with the Open Meeting Law Tennessee Code Annotated Section 8-44-101 through 8-44-106 and consistent with current policies and practices of the Board of Mayor and Aldermen in advertising and announcing their meetings. [Amended 7/9/98]
- (e) The agenda for each regular meeting of the Historic Zoning Commission shall be set seven (7) days prior to the date of the meeting and shall be advertised publicly and announced as part of meeting advertisements and announcements as required in paragraph (d) above. [Amended 7/9/98]
- (f) Applicants shall submit completed applications and all supporting materials to Town Hall at least seven (7) days prior to the regular meeting when the application is to be heard. [Amended 7/9/98]

Agenda of all meetings must include the following:

1. Roll Call noting presence of a quorum
2. Call to order
3. Recognition of any potential conflicts of interest
4. Hearing of new proposals one at a time
 - a. Identification and appropriate description of property
 - b. Presentation of proposal
 - c. Commission discussion
 - d. Comments by other persons
 - e. Applicant response or rebuttal
 - f. Further Commission discussion
 - g. Motion; second; discussion of motion; vote
5. Signs
6. Old business
 - a. Report of building inspector including any expedited permits
 - b. Report of any special investigations or consultations requested by commissioners
 - c. Report of any matters of particular interest to the Commission
7. Expedited approvals
8. Corrections and approvals of Minutes
9. Other
10. Motion to adjourn

Standing Committees

Property Designation Committee [Amended 8/12/99]. In the first regular meeting of September of each year, the Commission is to appoint or elect a Property Designation Committee. The committee is to evaluate properties in Jonesborough's H-1 and H-2 Overlay Zones according to the property designation criteria adopted by the Commission. Approximately one-fifth of the properties in the Zone shall be reviewed each year. Within any five-year period, all properties in

the H-1 and H-2 Zones will be reviewed. The secretary of the Historic Zoning Commission shall notify the owners of all properties being reviewed prior to the annual review. The committee shall review the property designation criteria every ten years. The committee is also charged with reviewing properties as they are added to the Zones. The Committee is to report its findings to the Commission upon completing its yearly review and upon the completion of any special reviews conducted at the Commission's request. Additionally, the Secretary of the Historic Zoning Commission shall notify property owners of properties being reviewed by the Historic Zoning Commission as part of any special review being conducted at the Commission's request.

The Property Designation Committee should have no less than four and no more than six members. At least one-third of the committee's members should come from outside the Historic Zoning Commission. Every effort should be made for an architect to serve on the committee.

A file is to be maintained for each property. The file should contain all property designation worksheets and reports for that property, photographs of the property taken at the time of each review, any available documentation of the property's age, and any other available contributing information about the property. The Property Designation Committee chairperson is responsible for maintaining the files.

Property Designation Criteria. Properties that meet three or more of the following criteria shall be designated as contributing. [Amended 2/28/02]

- (a) Property is a natural feature having an association with an event or person significant to the history of Jonesborough, the State of Tennessee, or the United States, or which is significant because of size, condition, uniqueness, location, or setting.
- (b) Property includes an outbuilding embodying or providing for a given use, period, style, and/or setting.
- (c) Property is a historical or cultural resource, which was constructed 50 years ago or earlier. [Amended 4/27/17]
- (d) Property is a building or buildings which embody distinguishing characteristics of an architectural type or style or are representative of a recognized architect's or craftsman's work that is not substantially altered.
- (e) Property is a key focal point in the visual quality or character of the neighborhood, street, area, or zone.
- (f) Property is a historical or cultural resource that is identified with a person or persons who significantly contributed to the cultural history or development of Jonesborough, the State of Tennessee, or the United States.
- (g) Property is a historical or cultural resource that is the site of a significant historic event.
- (h) Property is a historical or cultural resource representing patterns of Jonesborough's 18th and/or 19th centuries and subsequent cultural and economic development.

Building Maintenance Inventory Committee [Adopted 2/27/03][Amended 10/13/03].

The following policies and procedures shall be followed by the Historic Zoning Commission in order to provide a regular recurring means of initiating identification of properties possibly failing to meet minimum maintenance requirements under the Ordinance Chapter 16, Demolition by Neglect, as provided in Section 11-1602. These policies and procedures are not intended to replace or supercede the ability of any member of the Historic Zoning Commission, Commission Staff, the Building Inspector, or (by referral) someone in the area to identify failure to meet minimum maintenance requirements in a building as provided in Section 11-1603 (1).

Each year in the first meeting of September, the Commission shall appoint a **Building Maintenance Inventory Committee** of no less than four and no more than seven members. At least two of the committee's members should come from outside the Historic Zoning Commission at the time of their appointments. The members of the Building Maintenance Inventory Committee may be the same people as the members of the Property Designation Committee at the discretion of the Commission at the time of the appointments of the two committees. It shall be the duty of the Maintenance Inventory Committee to review and inspect from the public right-of-way with regard to maintenance of the properties in each historic zone and all designated historic landmarks. [Amended 10/13/03 and 10/12/06]

The Committee shall report its findings in writing to the Chairman of the Historic Zoning Commission prior to March of the year following its appointment. The Committee's report shall include a listing of the specific characteristics of deterioration observed by referencing Section 11-1602 for each property that in their majority opinion may fail to meet minimum maintenance requirements. The Committee may include in its report any information that in the judgment of its majority may clarify and contribute to the Committee's findings. Such contributing information may include but not necessarily be limited to exhibits of photographs documenting the conditions observed, identification of specific parts of the building possibly undergoing deterioration, written descriptions of observations, and suggestions of corrections needed.

After receiving the Committee's report the Chairman or his designee shall contact the owners of the properties identified by the Committee and discuss with each property owner the report of the Committee. The purpose of the discussion with the property owner shall be to arrive at an understanding as to whether there are reasons why the matter should not promptly be placed on the agenda of the Historic Zoning Commission for possible formal initial identification of Demolition by Neglect as provided in 11-1603 (2).

Following the conclusion of the discussions with the property owner(s), the Chairman of the Commission or his designee shall draft a letter of understanding and send it or deliver it to the property owner thoroughly setting forth the understanding arrived at in the discussion with the property owner. A list of all of the characteristics of deterioration (not just the characteristics observed by the Committee for the particular property in question) as provided in 11-1602 and/or a copy of the report of the Maintenance Inventory Committee and/or a copy of the entire ordinance may also be enclosed with the letter to the property owner. The letter to the property owner shall also contain a date by which the matter will be placed on the agenda of the Historic Zoning Commission to review and approve a Certificate of Appropriateness. The Chairman of the Commission shall keep or cause to be kept a thorough record of all meetings and discussions with the property owner and the time and manner in which the letter of understanding is sent or delivered to the property owner. The Chairman's file shall also contain a copy of the letter of understanding. [Amended 10/13/03]

If the understanding with the property owner is that the property owner intends to correct the possible failures to meet minimum maintenance requirements, the letter of understanding shall include a date by which the Commission will hear the owner's application for a Certificate of Appropriateness and a date by which the owner expects to have completed the work. [Added 10/13/03]

If the understanding with the property owner is that the property owner does not intend to correct or is unable to correct the possible failures to meet minimum maintenance requirements, or in the event the Chairman or his designee determines the property owner has failed to meet scheduled expectations from earlier agreements whether or not contained in a letter of understanding, then the matter shall promptly be placed on the agenda of the Historic Zoning Commission as provided in 11-1603 (2) and the property owner so notified by sending 30 days in advance of the meeting to the address for payment of Town property taxes a letter of understanding, which shall be enclosed with a copy of this section of the Commission's Policies & Procedures, a copy of the respective report of the Property Maintenance Inventory Committee, and a copy of the Ordinance Chapter 16, Demolition by Neglect. [Amended 10/13/03]

If the property owner requests that formal initial identification of Demolition by Neglect (as provided in 11-1603 (2)) be delayed, the specific reasons for delay and the specific length of time requested for the delay shall be included in the letter of understanding.

10. Conflict of interest [Added 1/7/00]. The topic, "Disclosure of Potential Conflict of Interest," shall be added after "Call to Order" to the agenda of each regular and called meeting of the Historic Zoning Commission. Under that topic the chairman shall ask, "Does any commissioner have a conflict of interest with any item on the agenda?" In response to that question, any commissioner having a conflict of interest must so state and identify the particular agenda item about which he or she may have a conflict of interest. When that item comes before the Commission for consideration, the commissioner having a conflict of interest must then leave the table and not act as a commissioner while that item is being considered by the Commission.

All disclosures of conflict of interest shall be entered into the minutes of the meeting of the Historic Zoning Commission in which such conflicts of interest are disclosed.

Being a Historic Zoning Commissioner is a trust conferred by the public through the Board of Mayor and Aldermen. The duties of a commissioner must, therefore, be exercised with fairness and impartiality. A commissioner, in carrying out his or her duties, must devote himself or herself with complete energy, loyalty and singleness of purpose to the general public interest. Broadly speaking, a conflict of interest may be defined as use of a public office to advance private interests at the expense of the public interest. [Cranston, Regulating Conflicts of Interest of Public Officials: A Comparative Analysis, 12 Vand. J. Trans. L. 215 (1975)].

A conflict of interest shall exist if a commissioner is directly interested in the subject property or proposal. "Directly interested" means any proposal before the Commission that may affect any contract with the commissioner personally or with any business in which the commissioner is a sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" includes an individual with the ownership or control of the largest number of outstanding shares or percentage owned by any single individual ownership group, corporation or company. [Tenn. Code Ann. § 12-4-101(a)(1)]

A conflict of interest shall also exist if a commissioner is indirectly interested in the subject property or proposal. "Indirectly interested" refers to a pecuniary interest which means

any proposal in which the commissioner would expect to receive or already has received gifts, that could be construed as an attempt to influence a commissioner's vote, or payment for goods or services the commissioner has provided or is to provide in connection with the proposal under consideration. [Tennessee Attorney General's Opinion 96-043 (June 4, 1996)].

Any member of the Historic Zoning Commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of the commission shall be disqualified from participating in the discussion, decision, or proceedings of the Historic Zoning Commission in connection therewith. [Ord. 11-1008 of May 8, 1989]

A commissioner is entitled, as any other citizen, to present his or her proposal to the Commission but may not participate in the Commission's debate or vote on his or her own application.

It is also important to the Town of Jonesborough for the commissioners to be aware of the appearance of impropriety. For this reason alone, commissioners may wish to abstain from debating and voting on issues in which the public trust may be undermined by his or her participation in that issue.