

**MINUTES OF THE REGULAR MEETING OF THE
SANFORD HISTORIC PRESERVATION COMMISSION**

**WEST END CONFERENCE ROOM
7:00 PM, MONDAY, JUNE 21, 2010
SANFORD MUNICIPAL BUILDING**

Roll Call:

Commissioners Present: Al Roethlisberger, David Nestor, Donnie Worley
Brandon Atkins, Ed Page

Commissioners Absent: Shannon Gurwitch

Staff Present: Anne Sears, Director of Planning, Bob Bridwell
City Attorney, Susan Patterson

Government Official Present: Councilman, Sam Gaskins

Citizens: Michael Humphrey, Durant Holler, David
Christ, & Meadow DeFosche

**APPROVAL OF THE PREVIOUS MEETING MINUTES (MAY 24, 2010 AND
THE AGENDA FOR JUNE 21, 2010)**

Chairman David Nestor called the meeting to order. Clerk Anne Sears called the roll. Chairman Nestor asked for approval of the agenda. Commissioner Atkins moved to approve the agenda. Seconded by Commissioner Roethlisberger and the motion passed unanimously.

Chairman Nestor asked for approval of the minutes on May 24, 2010. Commissioner Page moved to approve the minutes. Seconded by Commissioner Worley, the motion passed unanimously.

Public Comment

Mike Humphrey, who resided at 503 Summitt Dr. came up to speak. Mr. Humphrey said he had several issues he wanted the Commission to address.

- 1) Staff had denied him a Certificate of Occupancy in February for the house he moved at 410 Sunset Drive on the basis of things he felt he was in compliance with. He felt he was being harassed to some degree.
- 2) Mr. Humphrey said he had received a violation notice for the case that the Commission was going to hear that evening, because staff apparently thought the trees were on his property. He indicated that the violation was not sent out as

something being questioned, it was sent out as a violation. The fine for that as they well knew was \$100.00 a day. Mr. Humphrey said he has been held under that and had to stop work, which wasn't the first time.

- 3) He also said it had been 27 months since he received from the Commission the authority to install a temporary power pole but never had received approval. He built that house without power to it.
- 4) Mr. Humphrey said he was behind what the Commission was trying to do in the historical district, but really he had issues that he couldn't make a decision on, such as the retaining wall on the property, which needed to be worked out with the city engineer and the Historic Commission, because the two might be in conflict with one another.
- 5) In the original COA for the moved house he said he had requested to put that mound back in, but if he put that mound back where the water meter was set, (not where he asked for it to be set, but where Public Works chose to place it), the meter would be three feet underground.

Chairman Nestor said that the Commission, which Mr. Humphrey had been on at one time, was there to judge on COAs, approving them and not approving them based on the rules. In this case they probably didn't have a lot of authority to deal with some of the stuff he was dealing with, but what Chairman Nestor did say was he would get back to him. Mr. Humphrey said, he had talked to the City Manager, he had talked with Council Members, but they had turned this back to the Commission; but now everybody was passing it another direction, so he was at the end; he was doing just what they wanted, and now the Commission was putting back in the other direction. Chairman Nestor said that is not what he said, he said would talk to Mr. Bridwell, and they would figure out a way to get it handled.

- 6) Mr. Humphrey mentioned the COAs for the trees tonight were not on his property, and Chairman Nestor asked if this was his testimony, and if it was, they had him to get under oath, and they would bring him back up. Mr. Humphrey said Mr. Holler was not going to be there and was told he did not need to be there. Mr. Humphrey's concern was if Mr. Holler was not there, the Commission wouldn't be able to hear the case, and those trees were planted right on the property line. Mr. Humphrey said the lumber for the fence he was going to build the fence with had been sitting in the hot sun and in the rain for nine weeks. Mr. Humphrey said he couldn't build that fence, because he was being told one thing by staff, but the property owner was telling him something else. He didn't want to put that fence up until the issue had been resolved. Mr. Humphrey said because Mr. Holler was not there, the commission couldn't hear the case, but the violation came to him on May 3rd.

Mrs. Patterson was asked her opinion. Mrs. Patterson said under due process, the applicant had the right to be there to present his case; she didn't know if they had anything that said whether he waived that right. Mrs. Patterson said if he did not have a representative or counsel to present his case, then the Commission could not decide on anything other than the written application. Mr. Humphrey said in the application

paragraph two, the first sentence reads “applicants to be heard by the commission require the owner or applicant to appear before the commission on the scheduled meeting date to make his or her request with his or her Certificate of Appropriateness. “ Meetings are held the fourth Monday of each month at 7:00 p.m. in the West End Conference room at the City Hall building, 225 East Weatherspoon Street”.

At this time, Chair Nestor asked Mr. Humphrey if he would see if he could get a hold of Mr. Durant Holler to see if he was available. Mr. Humphrey said he could call Mr. Holler. Mr. Humphrey left to go call Mr. Holler.

Commissioner Roethlisberger spoke and said unless they had an affidavit from an applicant that for some reason they surrendered that right, how did they know that person wasn’t given due process and they weren’t told? Mrs. Patterson said she didn’t know if someone was planning on coming later. Commissioner Roethlisberger said what they had done in the past where they had this question come up, was just move the case to the end of the agenda and hope the applicant showed up.

Public Comment was closed.

Chairman Nestor stated, and if the rest of the Commission agreed, they would go ahead and move COA-10-38 to the third position, since Mr. Holler was not there yet. Commissioner Roethlisberger made a motion to amend the agenda to move COA-10-38 to the third position of the cases to be presented. Seconded by Commissioner Worley, the motion passed unanimously.

Mr. Bridwell and Mrs. Martin were sworn in at this time.

PUBLIC HEARINGS:

- **Review of Application for Certificate of Appropriateness COA- 10-37.**

Mr. Bridwell stated that before them was an application made by Progressive Development Company, LLC, owners of 115 Chatham Street, who wished to install an emergency fire escape door in place of windows on the south elevations, install a bronze metal storefront door system on the west elevation, install a bronze metal window on the 1st floor on the west elevation, install bronze metal window and brick knee-wall on the 1st floor and ground floor on the north elevation, install bronze metal storefront and emergency door on the ground floor on the east elevation, install bronze metal storefront door system in the courtyard on the south elevation and install a brick knee-wall and bronze metal window on the ground floor on the south elevation.

Mr. Bridwell summarized COA-10-37 staff report:

Mr. Bridwell stated that Progressive Development Company LLC, 115 Chatham Street had restored numerous building in Downtown Sanford, including the aforementioned buildings as well as the Lee Furniture Building. Mrs. Martin, a representative for Progressive Development Company LLC, shared with staff that they had met with the

State Historic Preservation Office on three (3) occasions and the State had approved the restoration that they had proposed, however, no documentation of said approval was provided to staff. Staff recommended approval of the application as submitted.

Joni Martin came up and presented her case. Joni noted where the metal storefronts were proposed in the openings nothing currently existed in them. She said that they were not taking anything out and replacing it. When they first started the process they were going to put back wooden pane windows in the openings that were above the main door on Chatham Street; however, now they needed to have a place for ingress and egress. Chairman Nestor asked Mrs. Martin if she was adding a second stairwell, and she said that there were two stairwells in the building already, one in the front, and in the rear plus the elevator. Joni shared that it would have historic tax credits in it, and would have to be approved by SHPO as well. No further questions were made by the Commission.

FINDING OF FACT:

Commissioner Atkins moved that the Historic Preservation Commission find as fact that the proposed project COA- 10-37, 115 Chatham Street, if constructed according to the plans reviewed was congruous with the character of the district; that the architectural detailing, shapes, fenestration, proportions, location and pattern were for the reasons that were discussed, were generally in harmony with the criteria in the design guidelines and the special character of the neighboring properties and the historic district as a whole.

Commissioner Roethlisberger said he could not second that motion, because the Finding of Fact was crucial in stating the decision they made. He suggested that they state the following reasons: 1. SHPO had reviewed this. 2. The original windows did not exist anymore, so they didn't have the original material and pattern to go by. The City Attorney, Susan Patterson agreed with Commissioner Roethlisberger, and suggested that they should always say "because" and the reasons why.

Commissioner Atkins moved that the Historic Preservation find as a fact that the proposed project COA-10-37 @ 115 Chatham Street, if constructed according to the plans reviewed, was congruous with the character of the district, for the following reasons: because the proposed windows and doors were constructed of bronze metal, they did not have the original windows for comparison, they were still maintaining the original size and shape of windows, the existing windows would be properly maintained with paint & caulk, cleaned, and all the glass replaced would be clear and not darkened or shaded. Therefore, the project was in harmony with the criteria of the design guidelines and special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Worley, the motion passed unanimously.

FINAL MOTION:

Commissioner Page moved based on the preceding finding of fact, that the Historic Preservation Commission grant a Certificate of Appropriateness to Progressive Development Company, LLC and approve the proposal as shown in COA- 10-37 @ 115 Chatham Street. Seconded by Commissioner Worley, the motion passed unanimously.

Chairman Nestor relayed to Mr. Bridwell that the COA staff reports were mailed to members in advance, and that he would not have to read all the material for the case, just the subject and then the proposal. Attorney Patterson shared that if the staff report would not be read into the record, then she suggested that they be included as an exhibit, and the information contained there would be part of the case. It could be done as a reference to the document, as “ exhibit A” or “exhibit B”, and a motion was not necessary.

At this time Meadow DeFosche was sworn in.

• Review of Application for Certificate of Appropriateness COA-10-42

Mr. Bridwell stated that before then was an application by Meadow DeFosche who wished to replace the round columns at each corner of the side porch located on the south side of the house with two offset 4 x 4 square columns at each corner of the porch similar to the columns on the front porch and carport addition of the structure. The screens on the porch would be removed, as well as, the supports for the screening. The proposed work would not alter the roofline of the side porch.

Rosemount-McIver Park Guidelines important to the case:

Section P. Page 15 – Porches, Entrances, and Balconies: Guidelines

1. Preserve, protect and retain all architectural features that are character-defining elements of porches, entrances, and balconies (for example: piers, columns, pilasters, balustrades, rails, steps, brackets, soffits, and trim).

Comment: COA- 09-12- approved on April 27, 2009 had requested the removal of an addition at the end of the driveway on the north side of the house, so that a drive- thru could be recreated. This re-creation included 4 x 4 offset wood posts to support the roof of the drive-thru.

2. Preserve, protect and retain historic porch and balcony material, such as flooring, ceiling board, lattice, and trim. If replacement is necessary, use new material that matches the historic material in dimension, shape, color, pattern, and texture.

Comment: Per the historical photograph provided by the applicant it appeared that the original columns were 4 x 4 square and offset. The applicant was now proposing to install columns that matched what was previously approved by the Historic District commission on April 27, 2009, COA- 09-12 (Exhibit A attached-Meadow DeFosche)

The applicant also proposed to remove all screening and did not intend to rescreen the porch. Additional exhibits (B-F attached- Meadow DeFosche case) photos of existing porch and 4 x 4 offset columns were provided.

(Clerk, Anne Sears was asked to call Mr. Durant Holler at this time.)

Mrs. DeFosche addressed the Commission and gave a brief explanation of the project and asked members to look at the photographs that were present, including a historic picture of the house. (Exhibit A-) Mrs. DeFosche explained that the existing round columns do not match anything else on the house. Commissioner, Roethlisberger said he wished they had the COA in front of us that they presented last year for the carport. Commissioner Roethlisberger said if they looked at Exhibit A, it was clear the house evolved over time. Mrs. DeFosche said obviously. Commissioner Roethlisberger said at one point there was just a main body of the house without any porches, even the modification that they put back last year was probably not part of the original structure, because it was more contemporary. Commissioner Roethlisberger said if they looked at Exhibit A, there was not a pair of offset 4 by 4 posts there. Commissioner Roethlisberger, said now whether they were at some point of course he didn't know, but in this example, that image didn't seem to support that. Commissioner Roethlisberger said he did not disagree that it would be more harmonious across the front for the left hand side to also have the same posts that they had on the front stoop, but on the other hand the round columns that they did have, appear to be wooden, were not new. He didn't feel comfortable saying whether they were original either, just that they were older than the drive thru- porch and front porch columns. Meadow Defosche said that maybe one of the reasons that the house was not considered contributing when the survey was taken because it had deviated so far from its original look and feel with the initial neighborhood. Commissioner Roethlisberger noted while that was important, it still was subject to the same rules. Something else that had been difficult sometimes was windows. For example, those two changes the applicant made already, were those now significant? Commissioner Roethlisberger said boards dealt with that all the time, and he thought it was fairly safe to say that he thought that if a porch was added five to ten years within the construction of a 100 year house, it probably was significant; and when that happens a lot of time, they would have lots of houses that weren't pure examples of an architectural style, like most houses were not. Commissioner Roethlisberger thanked them for the clarification and noted indeed the round columns had been there a long time.

Mr. Michael Humphrey and Mr. David Christ were then sworn in at this time:

David Christ @ 321 N. Gulf came up to speak about the pillars and columns. Mr. Christ shared that the house was non-contributing to the district and the porch was not original to the house for the sheer fact that the original foundation had a breakthrough that lead to the porch. It may have been built shortly after the original house, but it wasn't part of the original structure. Mr. Christ stated that the original structure had a slightly different brick than the porch, but it was built to match the façade all the way around the trim-line and the roofline. It also matched the carport on the opposite side of the building that was exactly the same size, the same trim on top, and the same underpinning. Mr. Christ

continued to share additional information regarding the porch, and that some similar homes in the neighborhood have the exact same features of the offset 4x4 posts. He shared that they planned to pick out the columns to match the other side.

Mike Humphrey came up to speak. He shared comments on the structure of the porch and the era in which it could have been built. Mr. Humphrey stated to the Commission that the time line of windows supported what Commissioner Roethlisberger said, certainly the original structure was added on to sometime later and the front porch was not original either.

FINDING OF FACT:

Commissioner Page moved that the Historic Preservation Commission find as fact that the proposed project COA-10-42 @ 321 N. Gulf Street, if constructed according to the plans reviewed, was congruous with the character of the district, for the following: the 4 x 4 pillars proposed were consistent with those on the renovated carport, they were consistent with the smaller pillars located on the front porch and stoop, they were generally befitting the structure in the community. Therefore, the project was in harmony with the criteria of the design guidelines and special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Worley, the motion passed four to one. Commissioner Roethlisberger opposed.

FINAL MOTION:

Commissioner Page moved based on the preceding findings of fact, that the Historic Preservation Commission grant a Certificate of Appropriateness to Meadow DeFosche and approve the proposal as shown in COA-42, 321 N. Gulf Street. Seconded by Commissioner Worley, the motion passed four to one. Commissioner Roethlisberger opposed.

- **Review of Application for Certificate of Appropriateness COA-10-38**

Mr. Holler was sworn in at this time

Mr. Bridwell stated that before them was an application from Durant Holler, property owner of 411 Summitt Drive, who wished to install nine (9) Green Giant Arborvitaes on the south property line next to 410 Sunset Drive.

Mr. Bridwell asked that the background of the subject property be submitted for the record marked as exhibit B. (exhibit B attached. Mr. Durant Holler case) Chairman Nestor asked Mr. Bridwell to read the Rosemount-McIver Park Design Guidelines important to the case:

Rosemount-McIver Park Design Landscaping Guidelines:

- 1.** When introducing additional landscaping features, keep the location and style consistent with similar elements in the historic district.

Comment: Numerous screen plantings were located within the vicinity of the Rosemount McIver Park District as well as numerous styles of privacy fencing.

The Matrix adopted April 25, 2000

Construction of new fences, walls, hedges, or other screen planting greater than 42” in height is a Major work.

Comment: The Green Giant Arborvitae (Thuja (standishii x plicatal] ‘Green Giant’) that had been installed on the subject property was a vigorously growing, pyramidal evergreen. It had no serious pest or disease problems and had been widely grown and tested in commercial nursery production. ‘Green Giant’ was an excellent substitute for Leyland cypress. Green Giant could reach 60 ft. in height with 12-20 foot spread at maturity; 30 ft. at 30 years. This evergreen was adaptable in soil types from sandy loams to heavy clays and requires little to no pruning. Green Giant was hardy in USDA Zones 5-7 (U. S. National Arboretum: www.ars-grin.gov/na/), the City of Sanford was in hardiness zone 7A (U.S.D.A. Zones in North Carolina).

Staff Comments and Recommendation

The subject trees were installed on the property without obtaining a COA. A letter of violation was sent to Mr. Holler on May 6, 2010. Mr. Holler submitted his COA application on Monday, May 10, 2010.

Commissioner Page asked Mr. Bridwell if they had recommendation for approval or disapproval. Staff recommended approval.

Mr. Holler came up to speak, and stated he wasn’t aware that he needed a Certificate of Appropriateness. He gave a brief explanation of the trees, and how close they would be to Mr. Humphrey’s adjoining property at 410 Sunset Drive. Mr. Holler did state that the Giant Arborvitae were staggered along the line, with one row three to four feet off the fence, and the rear ones as much as six to eight feet off Mr. Humphrey’s property line. Commissioner Roethlisberger asked Mr. Humphrey if he had any concerns about how close they were to his fence line.

Mr. Humphrey shared that he was not going to share an opinion, but noted there were facts that had occurred which were not in the staff report. Mr. Humphrey asked if he could submit pictures of the trees as exhibit C – (attached- Mr. Durant Holler) as evidence for the case. Mr. Humphrey said he was not sure if there were guidelines that addressed this, but there might be a matrix that would. Several members continued to discuss and Commissioner Page asked if this tree was common, and if the fence was erected the way that it looked would it inhibit the growth of the trees? Commissioner Roethlisberger noted that they were popular in this area, and people liked the look and

feel of it, and they should grow tall and thin. Mr. Humphrey at this time asked for a copy of Exhibit C. (Mr. Durant Holler case- COA- 10-38)

FINDING OF FACT:

Commissioner Page moved that the Historic Preservation Commission find as fact that the proposed project COA-10-38 411 Summit Drive, if done in accordance with the proposed application was congruous with the character of the district, for the following reasons: that the green giant arborvitae would grow in such a way, and grow in such an appearance, that was consistent with trees now elsewhere in the district, and that they would contribute to the character of this property. Therefore, the project was harmony with the criteria in the design guidelines and special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Worley, the motion passed unanimously.

FINAL MOTION:

Based on the preceding findings of fact, Commissioner Page moved that the Historic Preservation Commission grant a Certificate of Appropriateness to Durant Holler and approve the proposal as shown in COA- 10-38, 411 Summitt Drive. Seconded by Donnie Worley, the motion passed unanimously.

OLD BUSINESS:

The Commission continued to make changes to the proposed new guidelines. Commissioner Roethlisberger asked Commissioner Worley if he could compile pages four through eight with all the changes, that had been discussed and Mr. Worley said he could and he would bring them back to the next meeting for further discussion. Attorney Susan Patterson reiterated to the Commission that The Rules and Procedures were how the board operated, while the Guidelines were what the public followed when making changes to their exterior of their property. The Commission had the ability to issue all COAs if they want to. She said the Commission delegated the authority of minor works to staff, in order to be more efficient and to carry out the duties without having to go through the process of a major case.

NEW BUSINESS:

- Mr. Bridwell summarized the minor COAs for the month of June. (summary of COAs attached.) Commissioner Roethlisberger had a question on renewals and their clarification.
- Commissioner Page asked Mr. Bridwell if he knew what Mr. Humphrey was referring too when he spoke under Public Comment. Mr. Bridwell indicated that because staff thought those were his trees, he was sent a violation notice; this was staff's error.

- Commissioner Roethlisberger asked: 1. When did they receive the final copy of the Rules and Procedures? 2. What was the status of attendance for their meetings? Commissioner Gurwitch had missed two meetings since the Commission adopted the new Rules and Procedures. Commissioner Roethlisberger suggested they call or send her an e-mail and Chairman Nestor said he would take care of it.
- One vacancy on the HPC board needed to be filled.
- Commissioner Roethlisberger stated that at their next meeting which would be held July, 26, 2010 that the Commission would need to appoint new officers.
- Commissioner Roethlisberger shared with everyone that this would be his last meeting, and he would not be reapplying at that time.

With no further business to come, Chairman Nestor entertained a motion to adjourn. Commissioner Roethlisberger moved to adjourn. Seconded by Commissioner Page, the motion passed unanimously. The meeting adjourned at 9:15 PM.

Adopted this _____ day of _____

BY: _____
Chairman, David Nestor

ATTEST: _____
Anne Sears, Clerk