

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

**WEST END CONFERENCE ROOM
7:00 PM, MONDAY, NOVEMBER 28, 2011
SANFORD MUNICIPAL BUILDING**

Roll Call:

Commissioners Present: David Nestor, Mike Humphrey, Mark Lane, Cheryl Myers,
Brandon Atkins, & Shannon Gurwitch

Commissioners Absent: Donnie Worley

Staff Present: Liz Whitmore, Staff
Susan Patterson, City Attorney
Bob Bridwell, Director Community Development
Bruno Pursche, Board Clerk

Government Official Present: Councilman Sam Gaskins

APPROVAL OF THE AGENDA FOR NOVEMBER 28, 2011

Chairman Shannon Gurwitch called the meeting to order. Board Clerk, Bruno Pursche called the roll. Chairman Gurwitch asked for approval of the agenda, as amended, by adding the September 15, 2011 Special Meeting Minutes. Commissioner Nestor moved to approve the agenda as amended. Seconded by Commissioner Atkins, the motion passed unanimously.

APPROVAL OF THE MINUTES

Chairman Gurwitch asked for approval of the September Special Meeting minutes. Commissioner Nestor moved that the minutes be approved. Seconded by Commissioner Lane, the motion passed unanimously. Chairman Gurwitch asked for approval of the October minutes. Commissioner Nestor moved that the minutes be approved. Seconded by Commissioner Atkins, the motion passed unanimously.

NEW BUSINESS:

Staff provided updates on minor approved COA's (see list included by reference). Liz Whitmore further advised the board about the installation of a window heating/air unit installed in a front window at 308 Green Street, which violates the guidelines, to be heard as a major before the commission. There is a contract by George Smith to purchase 221 N Horner Blvd, contingent on the approval of COA 11-77 which will be heard in December for replacement of the roof.

PUBLIC HEARING:

Mike Humphrey, Liz Whitmore and Bob Bridwell were given the oath.

1. An application COA-11-61 was submitted by Michael and Nancy Humphrey, owners of 0 Summitt Drive, who wish to build 8'3" X 16', fireplace shelter next to the existing fireplace with raised seamed metal roof to match existing metal roof on outbuildings. The height of the roof will be 8'8" to 6'6" above the floor of the shelter and the floor will be approximately 8" above grade.

No conflicts of interest existed; Mr. Humphrey stated he had an attorney on retainer until 9:00 PM.

Chairman Gurwitch opened the Public Hearing.

Ms. Whitmore summarized the staff report for COA-11-61 which is incorporated by reference. Ms. Whitmore indicated that all public notifications required by the general statutes had been fulfilled. She referred to the supportive material in the package submitted to the Commission which included pictures of the property, UDO and site plan to be used as Exhibits A, B, C, D, E-1, E-2, F, G. While Ms. Whitmore was presenting the case Mr. Humphrey objected to Ms. Whitmore's stating a building permit and zoning approval was needed to build the shelter. Chairman Gurwitch informed him that she was presenting the case, and he could address the issue in rebuttal when he presents his evidence.

Mr. Humphrey presented his case before the Commission stating that 0 Summitt Drive does not exist that it should be considered part of the 503 Summitt Drive and that the shop/garage should be considered historic since it was built in the 30's. Mr. Humphrey addressed item 5 in the staff report regarding the height of the project within the district; he clarified the height discrepancy and how he made his reading with a transom. He stated he received a minor COA to replace the roof on the building with galvanized metal and would use this same material on the shelter, he provided Exhibits ES-1, ES-2, ES-3 EM-1, EM-2, and EM-3 for consideration & will use them throughout the evening with other COA's. He addressed the possible removal of a fence in Exhibit EM-1 and position on page 26 site plan (Exhibit D) upper right hand corner due to construction. The issue of 0 Summitt Drive being an unimproved lot has been going on for a number of years; he referred the commission to the map for the Rosemont/McIver area in their guidelines, that for 85 years it was one piece of property. When the Humphrey's purchased it was one piece of property, at some point in time the tax department decided they were splitting it into two pieces. The tax assessor that did this no longer works for the county, the reason stated that they were being billed at a higher rate even though it was an empty lot, but the taxes went up anyway. It's never been put back to show this property as one lot. Mr. Humphrey admitted he was not aware of the UDO requirements to have a primary structure on a lot before you can build accessory building; however, he thought the case he presented should receive special circumstance and that UDO was setup primarily for new construction didn't take into account all the old neighborhoods and old situations that have happened. The picture of the front of the house and side of the garage in Exhibit G is not the one he submitted; he does not know if that would make a difference in this matter. Commissioner Atkins asked what difference it would make in the picture which was submitted; the case presents the pictures needed by the commission to make a decision. Commissioner Nestor asked about the fence removal, Mr. Humphrey stated he may have to remove it to get a truck in there. Attorney Patterson questioned Mr. Humphrey regarding the UDO and the break out of the two lots for tax purposes; Mr. Humphrey responded, a year and one half after we purchased the home that the tax department separated the two lots. Chairman Gurwitch explained that her property record and deed was similar to Mr. Humphrey; that she also has two lots

but recorded on one deed with two tax bills. Attorney Patterson stated that this board could not make legal that which the UDO prohibits; granting of the COA is contingent upon the requirements of UDO guidelines or having some sort of recombination of said property. Mike reiterated that it has been one piece of property for over 85+ years. Ms. Whitmore explained that she had checked with GIS (William Cannady) regarding Mr. Humphrey's property and according to his records it is two parcels, 0 Summitt and 503 Summitt Drive. This designation of zero is for an address to a piece of property that doesn't have a structure. There was a discussion regarding the plot maps; Ms. Whitmore referred to page 27 & 28 of the COA 11-61 packet on the UDO language. Chairman Gurwitch asked if there was anything else for Mr. Humphrey to submit; he brought up the building permit requirement, Chairman Gurwitch responded that any approved COA by the commission is contingent upon any permits which need to be secured by the applicant. Chairman Gurwitch read paragraph 5.1.2.2 (included by reference) of the UDO for clarity as pointed out by Commissioner Nestor. It is the applicant's responsibility to meet the requirements by addressing the Lee County Board of Adjustment for a special use permit. Chairman Gurwitch stated that the board only makes a decision whether or not his application falls within the criteria set forth in the historic guidelines and rules on it.

Chairman Gurwitch closed the Public Hearing.

Commissioner Atkins questioned the type of metal roof which is being; he stated nothing exists in the file as to type of roof material or color which would be required of other applicants in the form of pictures. Chairman Gurwitch explained that applicants must provide sufficient evidence, now sometimes if they don't provide something do we still have the ability to make a ruling since we know what that kind of roof looks like, or we can make a decision that we don't have enough evidence. Commissioner Atkins interjected during the applicant's presentation there was still a question of eighteen inches versus twelve inches for the roofing material. Commissioner Nestor explained that a metal roof normally comes in sixteen or eighteen inch width.

Chairman Gurwitch reopened Public Hearing:

Mr. Humphrey clarified that he was using twelve inch metal roofing and he is using galvanized metal because he is replacing it with the same thing. Painted metal would be cheaper.

Chairman Gurwitch closed the Public Hearing.

According to Chairman Nestor galvanized roofing material was the industry standard back in the day of the historic district and will turn green after a while from the elements. In the future we need to be careful bringing up so many issues on zoning and permitting; Chairman Gurwitch concurred. Commissioner Myers has no issue with the roofing material or height; regarding the fence, she doesn't see the need for a COA to remove the fence as long as it put back in the same place.

FINDING OF FACT: Commissioner Nestor moved that the Historic Preservation Commission find as fact that the proposed project COA-11-61, 0 Summitt Drive, if done in accordance with the decision by the Historic Preservation Commission, is congruous with the character of the district, for the reasons that the height of the project is in relation to the average height of buildings on the same street and in the historic district and is congruous with

those buildings and in addition that any of the appurtenant features and fixtures that being overhangs, galvanized roof type, are also congruous with existing structures in the historic district are in general harmony with the criteria in the design guidelines and the special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Myers and the motion passed unanimously.

There was a procedural discussion referencing each criterion on page 10 of the packet for congruousness. Due to time constraints the board was allowed consolidate the items in the finding of fact. Based on the discussion the original finding of fact was approved and added to with the following:

FINDING OF FACT: Commissioner Nestor moved that the Historic Preservation Commission find as fact the proposed project COA-11-61, 0 Summitt Drive, if done in accordance with the decision by the Historic Preservation Commission, is congruous with character of the district for the reasons that the architectural detailing, that being the overhang and the materials used (post & rafters and the standing seam metal roof) and the location on site and the actual general form and proportions of the building to be as other accessory structures on the site is in general harmony with the criteria of the design guidelines and the special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Atkins and the motion passed unanimously.

FINAL MOTION: Based on the preceding Findings of Fact, Commissioner Nestor moved that the Historic Preservation grant a Certificate of Appropriateness to Michael and Nancy Humphrey and approve the proposal as shown in COA-11-61, 0 Summitt Drive, with the conditions that the UDO and any Municipal or County required permits are applied for and received. Seconded by Commissioner Atkins and the motion passed unanimously.

2. An application COA-11-62 was submitted by Michael and Nancy Humphrey, owners of 503 Summitt Drive; who wish to install a metal roof on the residence that will be both green and silver metal.

Chairman Gurwitch opened the Public Hearing. Witnesses were still under oath.

Ms. Whitmore summarized the staff report for COA-11-62 which is incorporated by reference. Ms. Whitmore indicated that all public notifications required by the general statutes had been fulfilled. She referred to the supportive material in the package submitted to the Commission which included pictures of the property as Exhibits A, & B.

Mr. Humphrey presented a correction to the staff report. The metal would be green or silver not green and silver; he further submitted evidence Exhibits ER1, ER2, ER3, ER4 ER5, ER6, and ER7 showing dormers and other properties with metal roofs. Six years ago he submitted a COA to replace the roof with metal and it had an asphalt roof; the board said it was not appropriate to do that, so we replaced the roof with a timberline architectural shingled roof. He referenced the pictures of staff exhibits to address the pitch of the arched dormers; consider water running sideways on a shingled roof, not to mention the building code says ' if you don't have a 4/12 pitch you can't put

shingles on' the roof. He put shingles on it that was the request and he is having issues to solve regarding the leaking problem. The reason he is here is that 75% of his roof is two dormers; He's proposing to put metal roof on those two dormers and again referred to pictures in his exhibits. He further believes that metal was used originally on the dormers. Shingles should have never been used because it does not meet the code for the pitch of the roof on these dormers. He clarified materials to be used are green asphalt shingles and silver metal.

Chairman Gurwitch closed the Public Hearing.

There was a discussion about mixing roof materials and the evidence which was provided.

Chairman Gurwitch reopened the Public Hearing.

Mr. Humphrey stated that if the Commission didn't care what materials he used; he would like to replace the roof with cheaper colored tin roof instead of galvanized material. All he wanted to do is put it back historically accurate at a much greater cost. He is in to a \$17,000.00 roof now that is not working; he is here for any help he can get.

Chairman Gurwitch closed the Public Hearing.

It was suggested in discussion that the color of the roof material also be used in previously approved COA-11-61 to give continuity to all the structures on the property.

FINDING OF FACT: Commissioner Atkins moved that the Historic Preservation Commission find as fact the proposed project COA-11-62, 503 Summitt Drive, if done in accordance with the decision by the Historic Preservation Commission, is congruous with the character of the district, for the reasons that include roof shapes, forms and materials proposed are indeed congruous and that the many characteristics of the existing or other roofs in general vicinity are congruous with roof that include 411 and 507 Summitt Drive which were submitted as examples and the materials and installation are congruous and are 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. Seconded by Commissioner Nestor and the motion passed unanimously.

FINAL MOTION: Based on the preceding finding of fact, Commissioner Atkins moved that the Historic Preservation grant a Certificate of Appropriateness to Michael and Nancy Humphrey and approve the proposal as shown in COA-11-62, 503 Summitt Drive contingent upon the materials to be metal or galvanized roof in the colors of green and/or silver consistent with other building sites, and to adhere to any potential permits and approval by local UDO. Seconded by Commissioner Nestor and the motion passed unanimously.

3. An application COA-11-63 was submitted by Michael and Nancy Humphrey, owners of 503 and 0 Summitt Drive, who wish to install three arbors; two will be located at 0 Summitt Drive and one will be located at 503 Summitt Drive. The arbors will be forty inches wide and seven feet tall.

Chairman Gurwitch opened the Public Hearing. Witnesses were still under oath.

Ms. Whitmore, staff, summarized the staff report which is incorporated by reference and referred to Exhibits A, B, C, D, E, and G of the application and that there were no guidelines for construction of arbors in the guidelines; the matrix does not specifically mention them but due to the size it was appropriate to come before the board.

Mr. Humphrey stated as staff pointed out there are no guidelines for construction of arbors but willing to answer any questions.

Chairman Gurwitch closed the public hearing.

Mr. Bridwell made a point that if the Commission feels comfortable they could refer this COA back to staff level for approval.

Commissioner Nestor moved to refer COA 11-63 to Staff level for approval. Seconded by Commissioner Atkins and the motion passed unanimously.

4. An application COA-11-64 was submitted by Michael and Nancy Humphrey, owners of 503 and 0 Summitt Drive, who wish to put a raised metal roof over the gazebo to replace the existing canvass roof.

Chairman opened the Public Hearing witnesses were still under oath.

Ms. Whitmore, staff, summarized the staff report which is incorporated by reference and referred to Exhibit A.

Mr. Humphrey stated he would not mind if this COA were referred to Staff; Chairman Gurwitch stated since there was a change in materials it would have to be considered as a major COA. The metal would be as the rest of roofing projects.

Chairman Gurwitch closed the Public Hearing.

FINDING OF FACT: Commissioner Nestor moved that the Historic Preservation Commission find as fact that the proposed project COA-11-64, 503 Summitt Drive if done in accordance with the decision by the Historic Preservation Commission is congruous with the character of the district, for the reason that the roof material and application to the out building is congruous with the visual characteristics of the existing roofs on the site along with roofs in the general vicinity as referenced in approved COA-11-62, photo Exhibit ER-3 south of the property in question and thus being in general harmony with the criteria in the design guidelines and the special character of the neighboring properties and the historic district as a whole (and we are talking about a twelve inch standing seam roof either green or galvanized.) Seconded by Commissioner Lane and the motion passed unanimously.

Attorney Patterson asked was any evidence presented in the case of other roofs in the vicinity or using only pictures that were previously submitted part of this packet by reference. Commissioner Nestor questioned, do we have to do it. Attorney Patterson replied that there was a motion that it was congruous with structures in the vicinity; but she doesn't know what the courts would look to for the evidence that the board based that on. Commissioner Nestor suggested we drop the word 'vicinity' from the motion. Commissioner Atkins asked, we are referring to a roof pattern and color, and that we still don't know what it looks like. Commissioner Nestor replied it is a 12" standing seam roof, it was in the one picture that Mr. Humphrey did show. Chairman Gurwitch suggested that the board use photograph ER3 and shows a metal roof on a portion of a home to the south of the property in question as referenced in COA 11-62 and the photos which were submitted. The motion as amended passed unanimously.

FINAL MOTION: Based on the preceding finding of fact, Commissioner Nestor moved that the Historic Preservation Commission grant a Certificate of Appropriateness to Michael and Nancy Humphrey and approve the proposal as shown in COA 11-64, 503 Summitt Drive subject to the conditions that all work shall meet the guidelines of the local UDO and local building ordinances and requirements and that the color of the roof will match other structures on site. Seconded by Commissioner Myers and the motion passed unanimously.

5. An application COA-11-68 was submitted by Mike and Nancy Humphrey, owners of 503 Summitt Drive; who wish to build an addition (a carport) to the existing garage.

Chairman Gurwitch opened the Public Hearing. Witnesses are still under oath.

Liz Whitmore, Staff, summarized the staff report which is incorporated by reference, referencing Exhibits A, B, C, D, E, and F.

Mr. Humphrey stated that staff pretty much explained the project. The question was a height discrepancy ten feet verses eleven feet; ten feet is the actual size of the roof, eleven feet is the actual distance from the wall of the structure to what would be the outside wall. The differences are the overhang; one overhang is eighteen inches and the other is twelve inches. He feels the carport will meet structural load requirements. The roof on the garage is the same as on the house-40 year timberline architectural shingles. He would prefer to put those shingles on the roof; the reason he requested metals, if the board made any changes, he may not meet the building code and for that reason would have to go to a metal roof. Back in the day that building was built on the property line which was acceptable; the overhang, as you face it from the street, the left hand side of the overhang actually overhangs the property. The garage met the setbacks when built.

The property looks like the picture in exhibit C page 24 of the proposal packet. There was no grading done to the drive; it is just the slope of the driveway as shown in exhibit C and E. The fascia and gutters will be removed to install the carport and will be tied in with the garage. Chairman Gurwitch asked if Mr. Humphrey would mind to amend his application for removal of the fascia and gutters, since they were not addressed in the original application; he had no problem with amending his application. Chairman Gurwitch had the record reflect that the application is amended to reflect that statement regarding gutters and fascia. Other conditions, proposed by staff, that if any materials

need to be replaced, they will be replaced with like materials. When attaching to a historic structure it must be done in such a way that it can be removed and not damage the historic structure. Commissioner Lane asked if there was going to be any change to the rail where the carport would be tied in at; Mr. Humphrey replied he would have to change the 2" X 4" rail with a double rail 4" X 6" and dropped 2-3 inches to give it a 4/12 pitch.

Chairman Gurwitch closed the Public Hearing.

FINDING OF FACT: Commissioner Nestor moved that the Historic Preservation Commission find as fact that the proposed project COA-11-68, 503 Summitt Drive, if done in accordance with the decision by the Historic Preservation Commission, is congruous with the character of the district, for the reasons that the height of the project is congruous with the other buildings and the slope of the roof will be functional with the composite timberline roofing, that the setback and placement of the project is not outside of what other setbacks are in the neighborhood, that the materials and the colors will be congruous with the existing garage, that the architectural detailing as well will be congruous with the existing garage, the roofing material as stated before the timberline green, will be congruous and match the existing roof on the garage; that any of the overhangs will match the existing garage, fascia boards will tie into the existing garage; the attachment of the new rafters to the existing rafter tails will be done in a fashion that will allow removal when and if that were ever to happen. Let it also be noted that the gutters and existing fascia board will be moved out to a new location on the bottom edge of the rafters installed and lastly existing posts are congruous with the rest of the fencing and the rest of the construction that is on and around the current garage, and for that reason we do find that it is in generally harmony with the criteria in the design guidelines and the special character of the neighboring properties and the historic district as a whole. Seconded by Commissioner Myers and the motion passed unanimously.

FINAL MOTION: Based on the preceding findings of fact Commissioner Nestor moved that the Historic Preservation Commission grant a Certificate of Appropriateness to Michael and Nancy Humphrey and approve the proposal as shown in COA 11-68 as amended, 503 Summitt Drive subject to the conditions of meeting the requirements of the UDO and receiving any necessary permits and approvals from local municipalities. Seconded by Commissioner Lane and the motion passed unanimously.

6. An application COA-11-73 was submitted by Mike and Nancy Humphrey, owners of 0 Summitt Drive, who wish to build a picnic shelter 12 feet X 16 feet X 9 feet with a concrete floor, treated wood will be canyon brown with a natural metal roof. The picnic shelter will be built on the north side of 0 Summitt Drive adjacent to the residence located at 503 Summitt Drive owned by Michael and Nancy Humphrey.

Chairman Gurwitch opened the public hearing. Witnesses are still under oath.

Liz Whitmore, Staff, summarized the application which are incorporated by reference (referencing Exhibits A, B, C-1, C-2 and D). The color of the roof is an issue again; she further pointed out that this is another exception to an outbuilding being placed on a lot without main use structure and on

page 36 of the guidelines it states that, 'it is inappropriate to introduce gazebos and playground equipment in front yards or front side yards.' If you look at the elevation on page 22, Exhibit A, she does not believe it would be visible from Summitt Drive. She has a recommended condition about the color of the metal roof. If it was all one lot, it would still be a concern in the front and side yard.

Mr. Humphrey stated that the natural metal roof in the application is a galvanized metal roof and would be the same color. He does not agree with staff that if this was all one piece of property that putting that type of structure in its location would not be appropriate. He has not had time to consult the guidelines. The property drops down at least 5-6 feet from the front yard to that location and vegetation blocks the view. If he cannot build it in its present location, he would move it to the rear of his property. Chairman Gurwitsch asked what evidence is presented to show the vegetation, since exhibit D did not give a clear shot of the planting area. Mr. Humphrey stated the board had the luxury to continue this COA to December since it was not submitted until November 7, 2011.

Chairman Gurwitsch closed the public hearing.

Commissioner Nestor moved that COA 11-73 be tabled to the December 19, 2011 Historic Preservation Meeting for additional evidence. Seconded by Commissioner Lane and the motion passed unanimously.

7. Liz Whitmore explained COA-11-72 and 74 were submitted for rulings by the commission. COA 11-72 had to do with three seventeen (17) foot light posts having been installed on 0 Summitt Drive; one has a large street light installed, one has nothing, and one has a large security camera installed. It was presented to staff August 7, 2009 at that time there was some lacking information because of the site plan and where the light was to be placed and type of pole to be used. Historic Guidelines page 31 regarding lighting states, 'Introduce lighting that is subtle and compatible with the district in terms of scale, design, material, use, size, color and brightness.' 'Lighting should be used for safety concerns and aesthetic concerns and in all cases must be appropriate to the historic character of the property and the district.' 'It is not appropriate to remove exterior lighting fixtures that would alter the historic or architectural character of the structure, property or the district.' It is also known that page 2 item 8 there was a COA 09-63 approved for security cameras (to install motion detectors and security cameras locations not to be disclosed, the cameras will not be visible from any street or adjoining properties). Liz Whitmore, staff, stated she had back up material in the original application by Mr. Humphrey in regard to the three light posts.

COA-11-74 has to do with two light posts in the front yard; one was removed due to vandalism according to the application, the pole which was left was boxed in. This had to do with a minor COA to remove a light post and the other one was going to be changed from its original appearance. With exterior lighting when there is no change in design or materials changing appearance it is considered to be routine maintenance. Insulation, alteration, removal of exterior lighting fixtures is a minor COA. But since he removed the one and changed the appearance of it, a minor COA should have been applied for. The guidelines on page 30 states 'Use unobtrusive signs in the historic district that are simply designed and easily read. Install signs that are appropriate in material, design and color for the district. House identification signs should be small and unobtrusive. Lighted signs should be made compatible and appropriate with the district. It is not appropriate to install internally lighted

signs, plastic signs, flashing signs or portable signs in the district.' The matrix states installation, alteration, removal of signs is a minor. These are signs that are placed the two section of fence about six feet tall on Vance Street; there is a large mirror (Mr. Humphrey stated in his application it was there to assist him in backing up his trailer into the driveway), there is a house placard posted, and on the other side there is a shield "this house is protected by Smith & Wesson;" he did not apply for any COA's for signage which is required in the guidelines, be it for house numbers or no trespassing signs. These items need to be addressed. Additionally plantings were done in the right of way on Vance Street and also in the front yard on Summitt Drive. Chairman Gurwitch asked if pictures were available, Ms. Whitmore provided exhibits L-1, L-2, L-3, L-4, L-5, L-6, L-7, L-8, L-9, L-10, L-11 and L-12 incorporated by reference; she explained each exhibit to the board. According to Mr. Humphrey's application which you have in your packet, there are some discrepancies, he thought he had met the requirements; Ms. Whitmore met with Mr. Humphrey regarding the COA's which had been submitted and based on notes kept from these meetings the applications needed more information to be presented before the commission could hear the cases. Mr. Humphrey stormed out of the room; Commissioner Lane commented that he didn't like the way he exited and in what frame of mind he would return. Police Officers were requested to sit in on the meeting. A discussion continued regarding the COA's which were being considered; Mr. Bridwell recommended options the commission could take; whether or not the COA's are major or minor or if it was even an issue and to give staff some direction on how to move forward. It was ascertained that the commission, one way or another, could resolve this issue. Mr. Humphrey reentered the room.

Mr. Humphrey asked Ms. Whitmore, staff, while under oath, that she did not receive a site plan with those eight (8) COA's which were turned in. Ms. Whitmore looked for the documentation which was submitted to her by Mr. Humphrey.

Chairman Gurwitch called for a recess at 9:36 PM after which she reconvened the meeting at 9:42 PM.

Ms. Whitmore presented the application #8 was a major and that these light posts would have included on, that is not listed in this application for lights, this was for the security camera; Mr. Humphrey had separate applications for the light posts and what he brought in was just the application without cut sheet or site plans at that time. He submitted 10 applications August 7, 2009 and the board has copies of what he submitted; the site plan which he submitted was not included with COA 09-64. Commissioner Nestor stated he remembered a site plan but it is was not of the quality submitted now before the board. Ms. Whitmore reiterated that COA 09-64 was for a light pole not three. Mr. Humphrey stated there are not three light posts but there are three posts. Chairman Gurwitch asked Mr. Humphrey whether he had COA's for the other two posts. He responded that no COA's were submitted for the other two posts. Mr. Humphrey stated he did not have any of the documentation which was provided the commission; the clerk provided Mr. Humphrey copies of the documentation. Chairman Gurwitch explained to Commissioner Atkins that the commission is asked to rule on whether or not procedures were properly followed. Ms. Whitmore addressed the pictures in exhibit L-9, L-10, L-11 and L-12 for signage, lights in front yard (where one was removed and the other was boxed in) and flower boxes in the right of way. Ms. Whitmore responded to Commissioner Atkins that she did not receive sufficient evidence to make a decision on the COA's which were submitted by Mr. Humphrey.

Mr. Humphrey presented his case, he stated he turned in a big packet of COA's and that a site plan was submitted; only one case was heard by the Commission; he tried to get the information in for the light pole but was stopped. There is a large site plan drawing with a little star of the location of the telephone pole that he requested. There is a red 'X' beside that with a circle around it, because he was asked and told that wasn't on the site plan. He did that in the office with a red marker. He submitted to the old commission a 107 page document with that COA which included the background information on that light pole. It included every light pole in his pictures and location of it; his memory going back several years shows 26 light poles in the district for which there were no COA's. His request for that COA was to allow Progress Energy to install a standard area light. The issue did come about for placement at this exact location in the conversation with staff, but that this was a general location pending the placement by Progress Energy. Progress does a site survey and they put it in that general vicinity. After not being addressed by the commission approximately 3 times, Mr. Humphrey presented his complaint to Mr. Hegwer, City Manager, and there were some things done which were negative in nature (some of Mr. Humphrey's testimony is inaudible). He spoke with Commissioner Nestor when he was Chairman regarding the situation. Mr. Humphrey stated he followed to the letter of the law with what Mr. Hegwer required of him. Mr. Humphrey's continued to describe an adverse situation with staff but it was inaudible. In July he addressed the commission in public comment about his issues regarding the light, security camera and a violation letter he received for planting six evergreens which should have gone to his neighbor. According to exhibit EM-2 since both lights (exhibit L-11) were destroyed by vandals, a new light was installed after contacting Mr. Montgomery, staff, and asking if a COA was required, no COA was required because at this time lights were not being addressed by HPC. Mr. Humphrey explained the composite of the light and pole in exhibit EM-2. Mr. Humphrey addressed Ms. Whitmore, staff, that he had no intention of violating any historic guidelines.

Chairman Gurwitch asked what Mr. Humphrey's specific issues were; Mr. Humphrey replied there were four (4) issues; 1) the light, 2) the street light 3) security camera, and 4) a violation he received for planting 6 evergreen trees for which he had an approved COA. According to Mr. Humphrey, the violation was for the neighbor who was planting trees.

Chairman Gurwitch decided to consider each one of the issues addressed individually. There are three poles in the rear yard, one is a light pole which you feel should be approved by default for failing to be addressed in sixty days. She further addressed COA 11-74, according to staff these are after the fact COA's for the yard sidewalk light, repair of brick on garage, planting of evergreens in the ROW, or mounting of a mirror on the fence adjacent to Vance Street. Mr. Humphrey believed he did not need COA's for the two seventeen foot poles installed in the back yard. He used the two poles to hang a tarp between him and his neighbor due to their adversarial relationship, but one of the poles does have a camera mounted. The circa 1925 signage was approved by COA 7-8 years ago; the other mirrors and signs are more for decoration. Mr. Humphrey called out Commissioner Atkins for real estate signs not getting a COA every time one is put up; Mr. Bridwell stated that kind of temporary signage is exempted and allowed in the UDO. There was a discussion about plantings in the ROW, which have been there a year, and no one has asked Mr. Humphrey to move them. Mr. Humphrey addressed lack of action by staff on COA's submitted by his wife and did not respond until eleven days later. Chairman Gurwitch responded that the board has no control over City employees and their actions. Sam Gaskins addressed Mr. Humphrey in regards to an employee's response that they did not have time; he further explained that he has office hours scheduled

regardless, he asks for people to make an appointment so time can be allotted. Mr. Humphrey interrupted Mr. Gaskins at which time Mr. Gaskins admonished Mr. Humphrey verbally for his disrespect.

Chairman Gurwitch gaveled the meeting back to order; and stated that this board can not address any staff issues; but to rule on issues regarding these two COA's which were submitted after the fact.

Chairman Gurwitch closed the open hearing.

Chairman Gurwitch referenced page 4 of the attachment for COA 11-72; the chair feels that there is no concrete evidence on either side. The one light should be considered approved by default; the other two poles in her opinion need to have a COA submitted. Chairman Gurwitch referenced page 7 of the attachment for COA 11-74; there was a discussion among the commissioners regarding the yard light and brick repair on the garage. Each issue addressed will have to be ruled on.

Commissioner Nestor moved that the light pole in COA 11-72 be approved by default and the other two poles require a COA application. Seconded by Commissioner Lane and passed unanimously.

Commissioner Nestor moved that the yard light in COA 11-74 (one light was put in replacing the two that were damaged by vandalism) is considered maintenance and no further action is needed. Seconded by Commissioner Myers; there was discussion by Commissioner Atkins that if anyone else in the district were to say that David Montgomery (staff) said "I can do this;" he has a feeling it would not be approved so quickly. Possibly the board may be fatigued from the long meeting and be considered amateurish (unprofessional). **The motion passed with a 4 for and 1 against vote; Commissioner Atkins voted against the motion.**

Chairman Gurwitch referenced page 8 of the attachment for the brick garage repair, exhibit EM-4.

Commissioner Nestor moved that the repairs to the garage be considered maintenance under COA 11-74. Seconded by Commissioner Atkins and passed unanimously.

Chairman Gurwitch referenced page 9 of the attachment for the planting of evergreen shrubs (exhibit L-12) and the 18" X 24" mirror (exhibit L-9). There was a discussion regarding plantings and landscaping referencing the Matrix in the guidelines. Attorney Patterson addressed that these plantings are not on his property but in the ROW, which requires approval by the Public Works Director. Obstructions in the ROW can be removed by the City street crews.

Commissioner Nestor moved that the plantings and planters be considered minor work and be referred back to Staff for approval. Seconded by Commissioner Myers and passed unanimously.

Commissioner Nestor moved that the 18" X 24" mirror and the signage be considered minor work. Seconded by Commissioner Lane and passed unanimously.

Mr. Humphrey made a statement regarding the planters in the ROW, and that there are many

plantings in the ROW throughout the historic district.

Commissioner Gurwitch had the record reflect that in the future hearsay approval by staff would be unacceptable; be sure that whatever guidance we give our citizens, give it to them in writing. Mr. Humphrey made a final statement before the board and Chairman Gurwitch responded that the board dealt fairly with his issues and that is why most of his requests were approved with the information that was provided.

ADJOURNMENT:

Commissioner Lane made a motion to adjourn. Seconded by Commissioner Atkins, the motion passed unanimously. The meeting adjourned at 10:46 PM.

Adopted this _____ day of _____

Chair, Shannon Gurwitch

ATTEST: _____
Clerk, Bruno Pursche