

**MINUTES OF THE REGULAR MEETING OF THE
SANFORD HISTORIC PRESERVATION COMMISSION
WEST END CONFERENCE ROOM
7:00 PM, MONDAY, JULY 23, 2012
SANFORD MUNICIPAL BUILDING**

In accordance with General Statutes the Public Hearing was advertised, once a week for two successive calendar weeks prior to the meeting date.

Roll Call:

Commissioners Present: David Nestor, Ash Worboys, Cheryl Myers, Carla G Thomann, John Sheuring, John Lipscomb, & Shannon Gurwitch

Commissioners Absent:

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

Government Official Present: Councilman Sam Gaskins

ORGANIZATIONAL MEETING

Chairman Gurwitch convened the organizational meeting of the Sanford Historic Preservation Commission for the purpose of electing officers. David Nestor nominated Shannon Gurwitch for chairman; seconded by Cheryl Myers. There being no other nominations the nominations were closed; Shannon Gurwitch was elected by unanimous vote. Cheryl Myers nominated David Nestor as Vice-chair; there being no other nominations the nominations were closed; David Nestor was elected by unanimous vote. David Nestor nominated Bruno Pursche as Board Clerk; Bruno Pursche was elected by unanimous vote.

APPROVAL OF THE AGENDA FOR JULY 23, 2012

Chairman Shannon Gurwitch called the meeting to order. Board Clerk, Bruno Pursche called the roll. Chairman Gurwitch asked for approval of the agenda. Commissioner Nestor moved to approve the agenda. Seconded by Commissioner Sheuring, the motion passed unanimously. Chairman Gurwitch entertained a motion to remove item 3 approval of June, 2012 minutes since minutes were not available; Commissioner Nestor moved and seconded by Commissioner Myers and passed unanimously

There was no Public Comment.

PUBLIC HEARING:

5a. Continuation of COA-11-73 – Application by Michael 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 (503 and 0 Summitt Drive property were combined on December 6, 2011 per recordation at the Register of Deeds Office Lee County, NC)

The applicant was not present at the public hearing.

Ms Whitmore presented background and information regarding COA-11-73; it was requested of the Humphreys' to provide additional information in the form of photographs of the surrounding properties and of this side area so they could collect enough information to make a decision which he failed to do. No further information was received to make a decision on this case. Chairman Gurwitch had notified the Humphreys' by E-mail this morning asking for the information to act on this COA. Attorney Patterson advised the Commission that the burden of proof is on the applicant in these quasi-judicial hearings. Chairman Gurwitch explained that in this particular case and in the interest of fairness, the applicant was given additional time to submit the information asked for, but he did not come to the next meeting. At the last meeting this Commission decided that if the information asked for was not submitted by the July 2012 meeting, the board would act on this COA.

Chairman Gurwitch closed the public hearing.

FINDING OF FACT: Commissioner Nestor moved that the Historic Preservation Commission find that the proposed project COA-11-73, at 503 Summitt Drive owned by Michael and Nancy Humphrey, at this point in time will be denied due to lack of evidence; that the Humphrey's did not provide us with adequate representation of their project for us to move with an approval of the project. Seconded by John Sheuring and passed unanimously.

FINAL MOTION: Based on the preceding finding of fact, Commissioner Nestor moved that the Historic Preservation Commission deny a Certificate of Appropriateness to Michael and Nancy Humphrey, at 503 & 0 Summitt Drive for the proposals as shown in COA-11-73. Seconded by John Lipscomb and passed unanimously.

5b. Continuation of COA-12-37 Application by Martin Shapter, owner of 513 Summitt Drive who wishes to remove the original curved entrance brick step and pour a larger concrete step in its place.

Ms. Whitmore, Staff, presented information for Mr. Shapter, with his permission, since he was out of town and could not be at this meeting. Ms. Whitmore submitted pictures of all the houses in the historic district on Summitt with concrete and brick steps (Exhibits C through O included by reference). The step is not very deep; it is very difficult to enter and exit the door, he wishes to increase the size of the step and use concrete for the construction. Chairman Gurwitch asked if there was any information which had been requested at the previous meeting regarding the difference in cost from a contractor who does this kind of masonry work. No additional information was available. Ms. Whitmore stated that Mr. Shapter had agreed to continue his COA to the August meeting.

Chairman Gurwitch closed the Public Hearing.

Commissioner Nestor moved to continue COA-12-37 application by Martin Shapter, owner of 513 Summitt Drive, and in which he can come here and present his case at the next meeting and do the research which was asked of him originally. Seconded by Commissioner Myers and passed unanimously.

5c. COA-12-45 Application by Jerry Stevens owner of 410 West Chisholm Street who has erected two (2) sections of a privacy fence, in excess of 42 inches in height screening a metal frame shelter, that is in disrepair from view.

Liz Whitmore, staff, Jerry Stevens and Bob Stevens were give the oath and there were no conflicts of interest for the COA which was being heard.

Ms. Whitmore presented the information regarding COA-12-45 and the installation of a privacy fence to block the view of a shelter that is in disrepair Exhibit A, B, C, and D (Included by reference). Mr. Jerry Steven stated that the fence was put up not knowing the regulations. The fence was put up in an effort to improve the appearance of the site. The fence is made of treated lumber with 2X4's stuck in the ground; you only see one side of the hedge, if you go down the other side the neighbor has a fence just like it. None of the neighbors have complained about this fence and no one had any objection to the fence. He threw himself at the mercy of the Commission and asked them to approve it as is. The fence is approximately six feet tall and sits halfway between the rear and front plane of the house. Mr. Bob Stevens presented a petition signed by the neighbors not objecting to the fence (marked as Exhibit 1 included by reference). These people did look at and had no objection; we have a fence around our whole yard that has been there for thirty years, this fence matches that. This shelter was originally verbally approved by Ms. Whitmore; storms over time tore the shelter up and Bob Stevens put this fence up. He felt it was more appropriate and shielded the shelter. There are a lot of children in our area, a bus stop on the corner, and a lot of theft; so this fence was put up for privacy and public safety. Mr. Bob Stevens referred to Exhibit C, looking at the front of the house; looking at the circle, this exactly matches the fence which has been in existence for thirty years.

Chairman Gurwitch closed the public hearing.

FINDING OF FACT: Commissioner Myers moved that the Historic Preservation Commission find as fact that the after the fact proposed project COA-12-45, 410 W Chisholm Street, if done in accordance with the decision by the Historic Preservation Commission, is congruous with the character of the district, for the reasons of materials, architectural detailing, appurtenant features and that the height of fence is congruous with backyard fences according to our guidelines; the placement, although not according to current guidelines is constructed for safety as well as privacy and screening of the older structure, it's also 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 Sheuring and passed unanimously.

FINAL MOTION: Based on the preceding findings of fact, Commissioner Myers moved that the Historic Preservation Commission grant a Certificate of Appropriateness for the after the fact COA to Jerry Stevens and approve the proposal as shown in COA-12-45, 410 W Chisholm Street. Seconded by Commissioner Sheuring and passed unanimously.

5d. COA-12-46 Application by Ms Pearlle Hooper owner of 300 N Gulf Street who wishes to

install a picket fence at the rear and side of the property in excess of 42 inches in height.

Liz Whitmore, staff, and Matt Sakurada were given the oath.

There being no conflict of interest issues; Ms Whitmore presented the information regarding COA-12-46 at 300 N Gulf Street and the installation of a picket fence in excess of forty-two (42) inches in height extending from the fence located on the common property line of 312 Green Street located in the rear yard of 300 N Gulf (items on page 10 through 14 of the application and Exhibits A, B, C, and D) included by reference. Ms Whitmore noted that the applicant Pearlie Hooper was present, but that she wanted Matt Sakurada to speak on her behalf. Attorney Patterson advised the board regarding legal precedence at quasi-judicial hearings that only an attorney can represent someone; or it is considered the unauthorized practice of law; however, the City of Sanford has allowed people to have a spokesman, if the board approves it.

Chairman Gurwitch entertained a motion for Mr. Sakurada to act as Ms. Hooper's spokes person; Commissioner Sheuring so moved, seconded by Commissioner Lipscomb and passed unanimously.

Mr. Sakurada spoke for Ms. Hooper that she wanted to put a fence between 300 N Gulf Street and 312 Green Street to enclose her backyard; it would be like the fence which is between the houses. Mr. Sakurada stated the posts would be made of cut plywood and concreted into the ground.

Chairman Gurwitch closed the public hearing.

FINDING OF FACT: Chairman Sheuring moved that the Historic Preservation Commission find as fact that the proposed project COA-12-46, 300 N Gulf Street, if constructed in accordance with the plans reviewed is congruous with the character of the district, for the reasons that the materials, patterns, textures and colors, architectural detailing, appurtenant features and fixtures are for the following reasons because the materials match the properties adjacent to this property, the architectural detailing being made of wood is along the same design as the house next door, the feature and fixtures of wood are identical to the design of the house next door, 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 Thomann and passed unanimously.

FINAL MOTION: Based on the preceding finding of fact, Commissioner Sheuring moved that the Historic Preservation Commission grant a Certificate of Appropriateness to Ms. Pearlie Hooper and approve the proposal as shown in COA-12-46, 300 N Gulf Street. Seconded by Commissioner Myers and passed unanimously.

OLD BUSINESS:

6a. Rosemont McIver Park Historic District Guidelines Final Draft (Review Chapters 1-3)

There was a review of the guidelines with corrections to Chapter 1 - 3; Attorney Patterson commented that the committee may have wanted to include a philosophy statement but is not necessary; suggested to change to possible mission statement. Chairman Gurwitch noted that it is not the goal to rewrite the guidelines but to fine tune it for issues that arise down the line. Commissioner Nestor had some concerns on page 5d - regarding this board giving technical design advice; change that to "general non-specific advice when appropriate." No changes to page 6. Page

7, 1/3 down on page re-evaluate for minors; all minor works COA's are valid for 6 months, which may be extended by staff for additional 6 month period when the work is started; once the one year deadline is past for an approved COA, any further work will require a new approved application to complete the project. A discussion ensued regarding the last sentence on page 7 - the applicant or legal representation is required to be present during the HPC meeting; if they cannot attend a representative may speak for him provided the applicant must be present to answer questions or provide information. There was a discussion regarding this evenings meeting, that the applicant was available with a spokesperson, which was different from Mr. Humphrey where additional information was required and he failed to respond. The last paragraph page 7 is changed to read "Failure of owner/applicant or legal representative to attend HPC meeting may result in denial of COA." No changes to page 8. Page 9 - A major work COA is good for 12 months and may be extended for an additional year. Added to page 9 - deleted a paragraph and added "The inspection department should be contacted to determine whether a permit is required for repairs or improvements to houses in the Historic District." Section B-1 page nine was moved to private property. Infrastructure maintenance in right of way would be considered routine and does not need a COA. Page 11 B-2 must reflect the previous change on page 7 regarding criteria for minor work. Page 10 item 9-Erect temporary signs in accordance with the Unified Development Ordinance. There was a discussion regarding cooperation between public works and Historic Preservation Commission staff when work is required in the historic district. The list in the matrix is explicit to routine and minor work; anything not listed is major work.

At 9:00 PM Chairman Gurwitsch entertained a motion to only deal with Chapters 1 and 2 of the guideline draft. Commissioner Sheuring moved to only review Chapters 1 and 2 of the draft guidelines. Seconded by Commissioner Myers and passed unanimously.

Commissioner Myers cited comment by Vic Czar 5. (B2-a-2), Ms. Whitmore explained that public works contracts for tree removal in the right of way not the property owner. A property owner would have to apply for a COA to remove a tree, and the city would most likely remove a tree in the right of way; the city will not remove a healthy tree or the owner would have to pay for it. No changes to page 12. There was a discussion regarding Page 13 did not reflect any emergency work; fixing something due to damage by an act of nature; Attorney Patterson suggested the following wording, "In case of an emergency situation an owner may secure their property, and as soon as possible an owner should contact the City Preservation Officer for an appropriate COA" and was concurred with by the commission. All after the fact COA applications for minor work must be reviewed by the commission, was added to page 12. Page 14d Attorney Patterson recommended dropping the time requirement, on disagreeing with staff's approval and recall the COA to be heard before the commission. A discussion continued on how to handle COA's approved in error. Chairman Gurwitsch does not feel it is appropriate to penalize the property owner for the staff's mistake.

Chairman Gurwitsch entertained a motion to remove the paragraph requiring staff approved COA's in error to come before the commission. Commissioner Myers moved and Seconded by Commissioner Lipscomb. The motion carried with a 4 for - 3 against vote. Commissioners Lipscomb, Myers, Worboys and Chairman Gurwitsch voted for the motion; Commissioners Nestor, Sheuring, and Thomann voted against the motion.

Ms. Whitmore addressed the appeal process; she writes the decision letter, the petitioner has 30 days to appeal according to the UDO after the decision is filed in the Historic Preservation Office.

NEW BUSINESS:

Chairman Gurwitch requested that commissioners review Chapters 3, 4, and 5a & b before the next meeting, which will be to page 35 and e-mail suggestions or concerns.

Staff provided updates on minor approved COA's (see list included by reference). COA-12-51 has not been approved and public works will not allow it.

ADJOURNMENT:

Commissioner Sheuring made a motion to adjourn. Seconded by Commissioner Myers, the motion passed unanimously. The meeting adjourned at 9:30 PM.

Adopted this _____ day of _____

Respectfully submitted,

Chair, Shannon Gurwitch

ATTEST: _____
Clerk, Bruno Pursche