



Guilford County Historic Preservation Commission

Regular Public Meeting

April 16, 2024

6:00 p.m.

Carolyn Q. Coleman Conference Room
Old Guilford County Courthouse
301 W. Market St., Greensboro, NC

AGENDA

- A.** Call to Order
- B.** Roll Call
- C.** Agenda Amendments
- D.** Approval of the February 20, 2024, Minutes
- E.** Old Business:
- F.** New Business:
 - Evidentiary Hearing Items:
 - Public Hearing Items:
 - Non-Public Hearing Items:
- G.** Other Business
 - a. Consideration of Rules of Procedure Changes (recommendation to County BOCC for adoption)
- H.** Adjournment

Next Scheduled Meeting – May 21, 2024

NOTICE OF REGULAR PUBLIC MEETING OF THE GUILFORD COUNTY HISTORIC PRESERVATION COMMISSION AND NOTICE OF POSSIBLE QUORUM

April 16, 2024

6:00 p.m.

**Carolyn Q. Coleman Conference Room
Old Guilford County Courthouse
301 W. Market St., Greensboro, NC**

- A. Approval of the February 20, 2024, Minutes
- B. Old Business:
- C. New Business:
- D. Other Business
 - a. Consideration of Rules of Procedure Changes (recommendation to County BOCC for adoption)
- E. Adjournment*

*Following adjournment will be a possible quorum of members present to celebrate the retirement of Deputy Planning Director Kaye Graybeal.

The hearing items are available for review in the Guilford County Planning and Development Department located at 400 West Market Street, Independence Building, 5th floor, Greensboro, NC. Questions may be directed to staff at (336)641-3491 or at jsnyder@guilfordcountync.gov

Per S.L. 207-210 and Guilford County Ordinance Chapter 17: Electronic Notice section 17-1(a), Guilford County is permitted to publish its legal notices on the Guilford County Electronic Legal Notices website at <https://legalnotices.guilfordcountync.gov/Default.aspx>.

**Guilford County Historic Preservation Commission
Regular Public Meeting
February 20, 2024
6:00 p.m.
John McAdoo Room, 3rd Floor, Truist Building
201 W. Market St., Greensboro, NC
MINUTES**

A. Call to Order

Chair Payne opened the meeting at 6:00 o'clock p.m. and thanked everyone for attending

B. Roll Call

There was a Roll Call and the following members were present: Jane Payne; David Horth; Terri Hammond; David Millsaps; Louis Galyon, Keisha Hadden; Raoul Cardona-Torres; Sean Dowell and Jerry Nix.

One member was absent: Justin Cunnoles

C. Agenda Amendments

None

Mr. Dowell suggested that each member introduce themselves and give a short background so the new members would have a better idea of the valuable input gathered from each member. Chair Payne felt that was a good idea.

Sean Dowell stated that he has been on this Commission and Vice Chair since late last year. He is a commercial real estate broker and developer doing historic, mixed-use properties around the state of North Carolina, among other things. Local clients that he has aided included Mini-Olan Mill and in Gibsonville, Hardin Street Mill and Graham, Print Works Mill here in Greensboro. He has been part of 8 or 10 larger historic rehabs around the state. He just got Erwin Mills sold and that was about M1.080,000 feet study list building. He represents Gibsonville.

Jane Payne stated that she is Chair of the HPC and she is a former paralegal with Brooks Pierce law firm and she is now retired. She represents Jamestown.

Jerry Nix stated that he is glad to be back home. Previously, he had served on the Commission for 30+ years. He worked for a theatrical stage rigging equipment company. Anything that is on a stage they had the curtains made and had to go through all the mechanics that raise and lower them, from elementary schools to Tanager Center. His mother was one of the first people on this Commission during the bi-centennial that they were doing landmarks for Guilford County, trying to identify those and they came up with the 1979 inventory, which was needed to start this Commission in 1980. He is at-large.

Abigail Pittman stated that she is unsure how long she has been on the Commission, and Ms. Payne stated probably as long as she has, which is about 20-22 years. She is an Urban Planner and has had a strong interest in historic preservation. She represents High Point.

Louis (Buzz) Galyon stated that he a former Dean and Professor at App State and a Greensboro resident and was on the Board for PGI long before they moved from Greensboro. His family has a couple of historic museums, one is the Mud House Plantation in Maryland and the other is the Stafford House in Kernersville, along with the slave cemetery they are curating in Kernersville. His interest are in historic preservation runs in the family.

Terri Hammond stated that she represents Oak Ridge. She and her husband have restored the Sanders-Blaylock House in Oak Ridge. She has also been on the Commission for about 20 years also.

Judi Decker, owner of Triad Reporting & Typing Services and has worked for the City, County and other governmental entities, recording meetings and providing summary minutes since 1994.

Justin Snyder, Guilford County Senior Planner, and was staff to the Hillsborough Historic District Commission for about 5 years. He has taken over for Kaye Graybeal, Deputy Director for the Department, who is retiring. Please bear with him as he learns the ropes of his new job. He has an interest in historic preservation among other thing, long-range planning definitely holds his interest more than current planning does.

Keisha Hadden stated that this is her first night on the Board and she comes in with a background as a research scientist for vegetable seed company for 20 years and then she taught college botany and biology, plant pathology for several years and then she moved to Greensboro about 6 years ago. She lives in Fisher Park in an historic house and she grew up in an historic house and has lived in several throughout her life and has an interest there. She is President of the Neighborhood Board and for the past 5 years her responsibility has been the COAs through the City for the neighborhood.

David Horth stated that he has been on the Commission for about 5 years. He retired after 30 years as Innovation Director for the Center for Creative Leadership. Her appointment to this Commission was as a result of his being Chairman what was originally called, "The Aycock Historic District", and was the one that lead the change of name to "The Dunleith Historic District."

Raoul Cardona who is originally from Puerto Rico and he came to High Point after working for a pharmaceutical company and he has been in the pharmaceutical industry for 35 years. He has traveled over the globe and he had the chance to live in Rome for 2 years and he appreciates the history. When they came back they bought a historic house, The Mendenhall-Blair house, and he has had a rough introduction to these meetings 4 years ago and he quickly learned how important the house was and in many ways. They had a developer that wanted to buy the property and there was only one condition, that they could not destroy the house. At the end, they were able to save the house and he glad for that. This experience gave him a chance to join the Committee and when there was a vacancy, he joined. They love the house and the history and he will protect and love the house for many years to come.

David Millsaps stated that he lives a couple of blocks from here and has been on the Board for about a year. He used to watch "This Old House" on TV and the late 1980s he bought a house from the Neighborhood Association on Rankin Place that had been rescued by the neighborhood. There was a period of time in which the world was changing and manufacturing and those kinds of things were going, so he and his wife decided to go into business. This year he will be celebrating 30 years of working on old places and enjoying the pieces of opening up a space and seeing or touching something that no one had seen for about 100 years. He is sort of the "carpenter" of this group.

Chair Payne thanked everyone for sharing. She stated that there is such a diverse group gathered and she feels that is very important.

D. Approval of the December 19, 2023, Minutes

Ms. Hammond pointed out that there was a double-up in Item D, where it says, "of the". The correction was noted and will be corrected.

Mr. Dowell moved approval of the December 19, 2023 minutes, as amended, seconded by Ms. Millsaps. The Commission voted unanimously (9-0) in favor of the motion. (Ayes: Payne, Pittman, Millsaps, Hammons, Galyon, Nix, Horth, Cardona, and Hadden. Nays: None.)

E. Old Business:

None

F. New Business:**Public Hearing Items:****Evidentiary Hearing Items:**

1. Certificate of Appropriateness application to make several interior changes and to remove a non-functioning chimney at the Grimsley Fry House, 408 Fisher Park Circle, Greensboro, NC 27401.

David Millsaps stated that he is involved in this house so he will recuse himself from this matter.

Justin Snyder stated that any member has a known close business relationship, or may otherwise benefit from the outcome of the decision, they should also recuse themselves. Additionally, if anyone has had any ex-parte communication or external communications outside of this hearing, please disclose that prior to the item being heard. There were no other recusals for this item.

Justin Snyder gave the **Staff Report**, as follows:

The current owners, Al and Lavelle Overby, are requesting several interior changes and removal of a non-functional side/rear brick chimney at the Grimsley Fry House, located at 408 Fisher Park Circle in Greensboro, NC, Tax Parcel #1964. The elevations and architectural plans in the enclosed application package which show the work to be done.

Exterior Changes Proposed:

1. The applicants request approval to remove the existing brick service chimney on the south elevation of the roof at the rear of the home. The applicants state in their narrative that the existing chimney does not connect to any interior fireplaces, and it is not in use for any type of ventilation. Due to the elevation of the home relative to the street and existing vegetation, the chimney is also not visible from the street. The applicants also state that removal of the chimney would allow room for a larger vanity and linen cabinets in the bathroom, and it would also facilitate a kitchen renovation which will be a future phase of work.

Interior Changes Proposed:

1. The applicants request approval to renovate the existing interior upstairs hall bathroom. Per the applicants' narrative, the current bathroom appears to be a remodel completed approximately 30 years ago, and they state in their narrative that the remodel did not retain any fixtures, finishes, or layout characteristics original to the house. Therefore, they request permission to remove all existing bathroom fixtures, cabinetry, and tile finishes. Photos are provided in the application package for reference. In addition, the applicants wish

to remove the shower walls and an interior wall, which does not appear to be load-bearing. They also propose to remove the entry door from the bathroom to the attic stair hall and to close the door opening. The new bathroom proposed would feature a steam shower, freestanding tub, double-sink vanity, and built-in linen cabinets. While final fixture and finish selections have not yet been made, the applicants have provided examples of the intended design direction, which would include hexagonal mosaic tile on the floor, subway tile on the walls, and vintage-inspired fixtures. Staff would recommend that if the Commission is comfortable approving the work, that they allow staff to approve the new fixtures and designs as a minor work.

2. The second part of the interior work proposed by the applicants is a request to remove the cased opening at the hallway/stair landing and to remove the wall for the purpose of extending the hallway to the attic stairs. Per the applicants' narrative, the history of the cased opening in the hallway has been a subject of debate. While the existing casing matches other doorways upstairs, and the floor shows no obvious signs of a previous widening, the width of the opening and its location bisecting the rear landing is 'unusual.' They propose to completely remove the opening, wall-to-wall and up to the ceiling, and to extend the crown moulding in the hallway into this new landing space, which currently has no crown. They also propose to remove a wall and closet cabinet to extend the hallway to the attic stair hall and balcony door. Currently, the attic can only be accessed through the bathroom or an adjacent bedroom. Crown moulding would then be extended into this stair hallway, and the existing tile floor would be removed and replaced with wood flooring to match existing. Finally, the door from the bedroom to the stair hallway would be removed and the opening would be walled to increase privacy and furniture placement options in the bedroom.

Note that per the applicants' narrative, "All original doors and trim material to be removed will be saved for potential reuse in future phases of the project. Bricks from the service chimney to be removed will be saved for incorporation into a future landscape feature."

Background Information for the Project:

1. The landmark designation includes the interior and exterior of the home and the lot.
2. It was designated as a historic landmark in September of 1984.
3. The architecture for the home is Colonial Revival, and the home dates to approximately 1915.
4. The current chimney appears to be non-functional.
5. Numerous interior renovations have been made to the property, including an interior bathroom remodel with modern materials.
6. The applicant proposes repurposing all doors, trim, and chimney bricks where possible to maintain historic integrity of the materials.

The Secretary of the Interior's Standards for Rehabilitation:

The Standards (Department of Interior Regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

The Standards for Rehabilitation are as follows:

- A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
- Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Chair Payne asked if there was anyone wishing to speak on this application.

Mr. Dowell stated that this property is already on the National Register, when they did RHPC interior and exterior designations, were any of these elements designated in what they had prior? Justin Snyder responded that he did not think anything was specifically designated, as far as these features go, were designated. He stated that it was designated in 1984 and that was the early years of the Commission. The house was designated on the interior and exterior and at that point, they did not go in and specifically point out which mouldings or doors or anything was to be designated. It was just, as a whole. He does not think anything has been done since 1984 to the interior of the house.

Al Overby and Lavelle Overby came to the Speaker's stand for their testimony in this matter. Mr. Overby stated that he is very involved in the community and runs a CEO peer group for CEOs here in the area. He is the current Chairman of the Board at the Business School at UNCG and on the Endowment Board so he spends a lot of time at the University. He just renovated a warehouse off of Oakland Avenue, which was an old chemical company that he restored with his cousin to a classic storage facility.

Lavelle Overby stated that grew up in northwestern Pennsylvania and came to Greensboro to go to college in 1987. They then moved to Michigan and while there, they lived in the 3rd largest historic district in the country, Heritage Hill and is located in Grand Rapids, Michigan. Currently, they live in the Starmount neighborhood and the home they now live in is pretty architecturally significant as the architect was Edward Lowenstein and is a modernist home. Her heart really lies in an older home and they wanted to be close to downtown. They hope this is their forever home. In regard to the proposed changes, the first project would be the chimney and there is not a sister chimney and it used to service the wood stove in the kitchen and that will not be re-installed. Inside the house, the brick for the chimney cannot be seen, but it takes up a lot of prime space that could be used for a cabinet in the bathroom and would provide storage needs on the inside. The goal is to get this part of the renovations done so they can move into the upstairs of the house while the downstairs is being done.

Mr. Horth stated that, looking at the elevations, if that chimney is taken out, he could not figure out where it was inside the house that would make a difference. Ms. Overby stated that looking at the picture of the bathroom and the kitchen, you can see the location of the chimney on the interior. Ms. Overby pointed out that the chimney is no longer operational or in use and serves no purpose. The plans indicate the location of the chimney in the kitchen and in the bathroom.

Ms. Pittman asked if there would still be access to the attic? Mr. Overby stated that, currently, you have to access the attic from coming from the back bedroom or the bathroom, and they do not think that wall was original to the house.

Jesse Arnette, representing the applicants, 3312, Wyrick Drive, stated that he is the designer for this project. He is also the Chair of the Greensboro Historic Preservation Commission and a member of the Board of Trustees for Preservation Greensboro Development Fund and he has been working on historic homes, professionally, for well over a decade and has taken a lot of his projects through the Greensboro HPC and this is his first time with the County HPC. In response to a question, he stated that there have only been three previous owners in the house's history. Mr. Overby stated that the Grimsleys built the house in 1907 and then in 1937, the Frys bought the house and lived there for about 40 years.

Justin Snyder pointed out that the records on the house are probably available through the Greensboro HPC and Mike Cowhig has those records. The renovations in 1984 would have gone through the Greensboro HPC guidelines.

Ms. Hammond stated that he did not have a problem with removing the chimney on the interior bathroom and kitchen area, all the way to the basement, but asked if there was any way to build some kind of support in the attic so that they could leave the top of the chimney on the roof? Mr. Arnette stated that, theoretically, it is possible to do that, but it would be much more of a structural challenge to suspend that type of weight, while removing the interior sections. It would require them to do a whole lot more work to distribute that weight all the way down to the foundation. He pointed out that their feeling about this chimney is that it is not functional and is not a character-defining feature of the house and not connected to any kind of fireplace and is not a primary chimney and is not at all visible from the street. Removal has many more benefits for the proposed interior changes, especially in the bathroom and then in the kitchen.

Ms. Overby stated she would like to address the archway in the hallway. Mr. Arnette stated that they would like to remove that archway and the small wing walls that come out on either side all the way up to the ceiling, just to create a larger landing space at the top of the rear stairs. They don't know if this was an original feature, but there is no clear evidence that it was expanded over time, but it is unusual.

Mr. Dowell asked which features were character-defining, in general. Ms. Overby stated that they feel the only character-defining features would be the fireplaces.

Chair Payne asked if there was anyone else that would like to speak on the proposed project.

Linda Lane, 805 Magnolia Street, stated that she is the Committee Chair for the Fisher Park Neighborhood Association, and she is a professional interior designer with National Certifications and is a former City HPC member for multiple terms. After careful review of the documents submitted for this COA and site visits, the FPNA, supports a portion of the total request and they are outlined in Page 9, of the COA and summarized.

- 1) Kitchens and Baths are the most removed parts of a historic home. Helping to modernize the lifestyles of its occupants. The current bath was updated in the early 1980s and represents that period. The proposed design in this COA seems to be a thoughtful and sensitive approach in creating a period bathroom with modern-day amenities. The Fisher Park COA Committee supports this plan.
- 2) The status of this property as a County landmark and on the National Historic Registry is significant, and its condition is excellent for its age. Clearly, the past owners took pride in a carefully maintained this handsome property over many years. They do not support the removal of the chimney. It is build with the same standard of materials as the other chimneys, regardless of its original purpose. Also, given that the chimney is visible from the sidewalk facing the south elevation, the interior footprint within the house I minimal and its overall condition is good, they believe it is not sufficient reasoning to warrant the total demolition.
- 3) They support only the following: (1) Remove the linen closet only into the common hallway with a cased opening to match others. (2) Add continuous flooring into the small hallway where attic stairs ascend to connect spaces. (3) Close the opening into the bath from the hallway and continue base trim to follow the original. (4) Approve the closure of the bedroom door into the attic stairway landing area, and match all existing trim features, as well. They do not support the removal of the cased opening in the second hallway to the 10.6' ceiling frame, as this is a modernist approach and element, nor adding a large crown to match the hall crown into the attic staircase landing area, where space behind the hall wall. The crown in the second floor hallway looks newly added and not original in scale to the period.

That is the opinion from the Neighborhood Association.

Justin Snyder stated that basically what happens is, when it is designated a Landmark as part of the inter-local agreements with each individual town, they give up the right to review and they give that right to the Commission. Guilford County is offering the tax credit in exchange for the ability to have control over the designated elements of the property.

Chair Payne stated that the Public portion of the meeting would now be closed and the Commission members would have their discussion.

Discussion:

Mr. Dowell stated that now the Commission will debate the merits and what they have seen. Evidence will be based on Finding of Fact in order to make their decision, which would be denial, approval, approval with conditions or asking for more information. In this National Register District,, Fisher Park District, which was designated in 1992, this was specifically designated for a couple of features that the National Parks thought defined this home historically. The functional hipped roof on the garages was designated as a character-defining feature, as were stairs at the property. National Parks saw those features as highly important. They also noted that this being one of the early Urban Planning Neighborhoods, exterior features and outside integrity elements

were very important. This is a Colonial Revival home and composes 130 of 670 houses, so it is 19% of the inventory.

Ms. Pittman stated that she would like to see two motions made, one for the chimney and then one for the interior changes proposed.

Ms. Hammond stated that she feels the chimney was original to the house, because her house has one and it was built in 1911. She would be in favor of keeping the exterior of the chimney and eliminating it on the interior. Mr. Galyon stated that he leans toward agreeing with the FPNA because they have done their homework and they have invested their time in this. Mr. Horth stated that he would keep the chimney on the exterior and supported in some way on the interior. Mr. Nix stated that he is torn because he is concerned about keeping the roof alignment and this chimney is an character-defining exterior feature. Mr. Cordona stated that he thinks to provide a balance for a family to take care of the house for the next 30 years, its important, so the proposal is well thought out in terms of the interior and the chimney is part of the original design. Ms. Pittman stated that she can support the interior changes, but she is torn about the chimney.

Motion Regarding Chimney:

Mr. Dowell moved that the Guilford County Historic Preservation Commission, because this chimney is in good condition, and an historic part of the original fabric and is character-defining, the Commission is not comfortable with the chimney's removal on the exterior, which is visible and part of what makes this property historic, but the Commission would be comfortable with non-visible interior changes being made, i.e. things behind the walls and not visible from the exterior chimney area.

Therefore, the exterior elements are saved and interior elements would be de-designated. The HPC compromises and insists that the exterior stay the same, but the interior can be de-designated. The HPC sees the exterior as a historical element that is character-defining, visible to the public in good condition, hence, no reasonable removal request, and part of why this house is unique, de-designating the interior of the chimney only in order for the applicant to be able to make renovations on the inside they would like to make. The HPC compromises and insists that the exterior stay in place but that the interior chimney only can be de-designated. HPC sees the exterior as a historical element that is character-defining, visible to the public, in good condition, hence, no reasonable removal request, and part of why this house is unique, seconded by Mr. Horth. The Commission voted (8-0-1), in favor of the motion. (Ayes: Payne, Pittman, Hammond, Galyon, Dowell, Nix, Horth, Cardona, Hadden. Nays: None. Recused: Millsaps.)

Ms. Pittman wanted to be clear that the de-designating of the interior of the chimney and not the whole house.

Discussion Regarding Interior:

Mr. Horth stated that one of the things the neighborhood was worried about was the interior wall being taken down but that wall does not have any evidence that it has historic notes. Ms. Pittman stated that she was not in support of it because she heard evidence that it was a 1984 renovation and isn't original to the house, anyway. Mr. Nix stated that he has no problem with the plans for interior changes, as submitted by the applicant. Mr. Horth stated that he supports the application in regard to the interior renovations. Ms. Hadden stated that she, also, does not oppose the proposed interior changes. Mr. Dowell stated that he is hearing that the Commission members feel that the bathroom is a prior renovation and is not historic and no evidence that the casements were historic, due to the fact that it's the only casements in the house and that because this is a 2nd floor, non-primary location, and a bathroom which changes are expected, anyway, the Commission is amenable to granting the request.

Ms. Hammond asked a question regarding the door from the primary bedroom and wanted to know the reason for that. Mr. Arnett responded that there is already access to that bedroom from the main hallway, and it's possible that the doorway was added at a later time to create that direct connection to the bathroom, they really don't know. The functional reason for eliminating it now is it will make the room more private and more appropriate as a primary bedroom. Also, there is very little closet space and removing that door allows the placement of more storage space. Mr. Dowell asked for a list of the changes, again, on the interior.

Motion Regarding Interior Changes:

Mr. Horth moved that the proposed interior changes, two (2), on the proposal, are accepted by the Commission and the Findings of Fact that none of the items that are asked to be removed are designated historic items, therefore, all of the items required to make this a habitable bathroom and bedroom space, should be accepted. Mr. Dowell added that this was a prior, 1980s renovation that is being updated and the majority of the proposed changes were not original to the house. Therefore, the Commission voted (8-0-1), in favor of the motion. (Ayes: Payne, Pittman, Hammond, Galyon, Dowell, Nix, Horth, Cardona, Hadden. Nays: None. Recused: Millsaps.)

G. Non-Public Hearing Items:

None

H. Other Business

Justin Snyder reported that Kaye Graybeal is retiring, but she may appear at some meetings from time-to-time. It was wonderful having her as staff for so long to this Board and she was good mentorship for him.

Ms. Hadden asked when the City, Stefan-Leigh or Mike, would have said, "And the Staff thinks this . . .". Justin Snyder responded that staff does not make recommendations. He used to deal with the Historic District Commission, but because they had specific guidelines or standards, as they are called now, written exactly for that district, but because this Commission's are so broad-ranging because of the Secretary of Interior Standards, he basically puts applicable standards in the Staff Report and lets the Commission make their own Findings of Fact and their own decisions.

Mr. Dowell added that they definitely need to justify what and why and not set precedence because each case is unique but the next person may want to do the same type of renovation work and the Commission needs to make sure it is appropriate to the situation.

Justin Snyder stated that his role is more advisory for procedural issues to make sure the Commission does not run afoul of the State Statute.

Mr. Nix stated that he would like to bring up a couple of things that need to be discussed. The first item is, this Commission is now about 40 years old and a lot of the slides that were taken for the interiors and exteriors of these houses and buildings were taken and when he went off the Commission, at that time they were just starting to discuss it, but a lot of the slides are becoming cloudy and deteriorating. Something needs to be done about saving these slides, either making new ones or put them on a different type of record, i.e., CDs, because there are going to be times when they are going to need to go back to those slides or something new to be shown on the screen here for the Commissioner members to review. That is history and in the past 40 years, a

lot of things have changed. Somehow, that needs to be put in the budget to either put it on more slides or CDs or some type of future video for safe keeping.

Justin Snyder stated that he could make that request. It would help if the Chair and/or Vice Chair create a letter and sign it, with a specific request on behalf of the Commission if the Commission feels that they want to do that. He cannot guarantee that it would be in the budget. He advised that the budget is already about 99% done. They started many months ago, working on it.

After a short discussion and several members felt that it was a good idea, Mr. Horth moved that they propose that the County put in the budget so that the slides of the historically designated properties are maintained to perpetuity, seconded by Mr. Cardona. Therefore, the Commission voted (9-0), unanimously, in favor of the motion. (Ayes: Payne, Pittman, Hammond, Galyon, Dowell, Nix, Horth, Cardona, Millsaps, Hadden. Nays: None.)

Mr. Dowell stated that each city that participates here, pays annually for this Commission, so whether the County can put it in their budget or not, ideally, in the payment of fees to be a part of this could be done that way. Justin Snyder stated that he is not an expert on the budget, but he would certainly check into that.

Ms. Hammond asked if Mr. Nix had any idea how many slides would be involved? Mr. Nix stated that they used to be in binders and when a property was designated, they needed exterior shot of the property, the inside and it could be anywhere from 10 to 20 per property, depending on how big the structure is. Ms. Hammond said it would probably be about 2,000 or more slides involved. Chair Payne suggested that they find out how much it would cost, just to see if it was feasible to ask that it be added to the budget. Justin Snyder stated that digitizing the slides would be ideal for keeping the slides safe. Mr. Horth stated that he had some slides restored before and they actually improved the quality of the original slide.

Mr. Nix added that many years ago this was an educational Commission and they would go into the schools and business meetings and make presentations with these slides and talk about what the Commission does. They also made about 3 or 4 8-track tapes and someone from UNCG did that for them and one was on brick structures in Guilford County and one was log structures, one on railroads, and one on Greek Revival Architecture and there may have been another one. When these copies were made, they were given to every school in Guilford County in the Library so that students would have access to that information. Now, those 8-track tapes need to be transferred over to a CD or something.

Mr. Nix stated that the next item to think about, when he was asked to become a member this time, Justin sent him a file of the County website and it had all of the historic properties that have been designated on that and you could click on Whitsett and it would show what has been designated, and Greensboro and so forth. He clicked on Whitsett and the first thing he saw was the John Bell Outhouse and the picture was of a rock house that was two blocks down the road and had nothing to do with the John Bell Outhouse. He then clicked on the D.P. Foust House and it just had Foust House and Sedalia Post Office. He knows it's the D.P. Foust House and it should have been distinguished. Then he pulled up the W.R. Smith House in Whitsett and they had it listed as ??? Acres built by a recent, about --- maybe by the Smith family. That came directly out of the 1979 inventory. Since that time, the house has been moved and its on the National Register and its been listed as an Historic Designation, and it has none of the history on it.

Mr. Dowell stated that the digitizing could make that website updated.

Mr. Nix stated that he just stopped searching and he doesn't know how many other mistakes are on there. There needs to be some staff person or someone to maintain that site better.

Justin Snyder noted that staff time is very, very limited with their current work-loads. He doesn't know who he could find to do that kind of work. Mr. Nix stated that maybe a student could do it. Justin Snyder stated that the Commission members are very welcome to find people to do this and work with staff, as well.

I. Adjournment

There being no further business before the Commission, the meeting was adjourned at 8:16 o'clock p.m.

Next Scheduled Meeting – March 19, 2024

Respectfully submitted,

February 29, 2024

Triad Reporting & Typing Services

Guilford County Historic Preservation Commission Rules of Procedure

~~Approved by HPC May 17, 2022 Revised March 5, 2024~~

Adopted by the County Board of Commissioners

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GUILFORD COUNTY HISTORIC PRESERVATION COMMISSION RULES OF PROCEDURE

Section 1. Purpose of the Rules of Procedure and Duties of the Historic Preservation Commission

1.1. Purpose of the Rules of Procedure

To establish procedures for organizing and conducting the business of the Historic Preservation Commission in executing its duties and responsibilities.

1.2. Duties of the Historic Preservation Commission

There is hereby created, pursuant to G.S. § 160D-303 a Guilford County Historic Preservation Commission (hereinafter referred to as HPC). The powers and duties of the HPC shall be those listed in Article 2, Administration, Section 2.6, of the Guilford County Unified Development Ordinance (hereinafter referred to as UDO).

1.3 Jurisdiction

The HPC's jurisdiction for approval of Certificates of Appropriateness within designated Historic Districts shall be delineated on the official zoning map.

Section 2. General Governing Statutes, Ordinances and Rules

The HPC is governed by the applicable provisions of the NC General Statutes 160D, Article 19; the current UDO and all amendments thereto; other relevant policies established by the Guilford County Board of Commissioners (hereinafter referred to as BOC); and by these Rules to the extent that they do not conflict with the law. The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Commission in all cases to which they are applicable, and in which they are not inconsistent with applicable law and these rules. Additionally, the Guilford County Historic Preservation Commission shall operate in accordance with the Guilford County Board of Commissioners' Resolution Establishing Policy and Procedures for Appointments [to County Boards, Commissions, Committees and Councils], as well as by any other resolutions of the Board of County Commissioners relating to historic preservation in Guilford County. Furthermore, the HPC may also consult the most recent edition of *Suggested Procedural Rules for Local Appointed Boards*, published by the University of North Carolina School of Government. In instances where the HPC conducts quasi-judicial proceedings (i.e., Certificates of Appropriateness), the HPC will operate according to provisions of North Carolina General Statute 160D-406.

All Board members shall become thoroughly familiar with the provisions of the statutes

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concerning historic preservation.

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Section 3. Organization of the Historic Preservation Commission

3.1. Membership

The HPC shall be made up of eleven (11) members (collectively, "members").

3.1.1. Residency, Appointment and Qualification of Members

All members shall be residents of the County and shall be appointed by the Guilford County BOC. Members representing Town or City jurisdictions shall be recommended by the pertinent governing body and appointed by the BOC. Members shall be trained in the fields of architecture; history; planning; archaeology or a related discipline; or have demonstrated experience or interest in preservation of historic structures.

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3.1.2. Quorum

A quorum of the HPC shall consist of a majority of the set membership, excluding vacant seats, but not excluding absentees. A quorum must be present for the HPC to take any official action.

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3.2. Term of Office

Members' four (4)-year terms of office are set by the BOC and the City and Town Councils of participating jurisdictions. Members may be appointed to fill an unexpired term of a previous member. Member terms should be staggered such that a similar number of members are appointed or reappointed each year. The terms of all members shall not expire at the same time. Terms are limited to two (2) consecutive four (4)-year terms; except, however, consecutive terms exceeding two (2) may be served if the incumbent is re-appointed by the BOC to represent a different jurisdiction. Additionally, the BOC may waive the two (2)-term limit at their-its discretion.

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3.3. Officers

3.3.1. Election of Officers

~~The HPC shall elect from its membership a Chair and Vice Chair. Election of officers shall occur as the last item of business before adjournment of the December meeting in each calendar year. Should the regularly scheduled meeting not be held for any reason, then the next regularly scheduled meeting shall include the election of officers as an agenda item in accordance with these Rules of Procedure. The HPC shall elect one of its members to serve as Chair and preside over the meetings and one member to serve as Vice Chair. The candidate for each office receiving a majority vote of the HPC members present shall be declared elected. Vacancies in these offices may be filled for the unexpired terms only. The newly elected officers shall assume their duties at the July meeting following the election or at the next regular or called meeting of the HPC if the election is conducted in July or later.~~ Voting may be done by acclamation (if only one member is nominated), show of hands, voice, or secret ballot and a majority vote.

3.3.2. Chair

~~The Chair shall be elected by the HPC from among its members and shall have the following duties:~~

~~1. The Chair shall serve and preside over the Commission's meetings for a term of one year, beginning as of the first meeting of January, and may be re-elected.~~

2. The Chair shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the Commission in session at the time.

3. The Chair shall appoint any committees found necessary to investigate any matter before the Commission.

4. On all Quasi-Judicial matters (e.g., Certificates of Appropriateness), the Chair or any member acting as Chair is authorized to administer oaths to witnesses in any matter coming before the Commission. Additionally, the Commission through the Chair, or in the Chair's absence, anyone acting as Chair, may subpoena witnesses and compel the production of evidence. The Chair shall issue requested subpoenas he/she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to question or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Commission.

5. The Chair shall perform such other duties as may be directed by a majority of the Commission.

6. In the absence of the Chair, the Vice Chair shall preside. In the absence of both the Chair and Vice Chair, the members present shall elect a temporary Chair. The Chair's term of office shall be one (1) year, ending on June 30, but the incumbent shall be eligible for re-election. The Chair shall preside at all meetings, supervise the affairs of the Board, call special meetings as necessary, and subject to these rules, shall decide all points of procedure unless otherwise directed by a majority vote of the members. The Chair shall have the same voting privileges as any other member.

3.3.3. Vice Chair

The Vice-Chair shall be elected by the HPC from among its members and shall have the following duties:

1. The Vice-Chair shall serve for a term of one year, beginning as of the first meeting of January, and may be re-elected.

2. The Vice-Chair shall preside in the absence of the Chair, fill any unexpired

term of the Chair, and assume all duties and responsibilities delegated by the Chair.

3. In the event the office of Chair becomes vacant, the Vice-Chair shall serve the unexpired term of the Chair and a Vice-Chair shall be elected to serve the unexpired term of the former Vice-Chair.

4. The Vice-Chair shall perform such other duties as may be directed by a majority of the Commission. The Vice Chair's term of office shall be one (1) year, ending on June 30, but the incumbent shall be eligible for reelection. The Vice Chair shall preside at any meeting in the absence of the Chair and shall exercise all duties of the Chair.

3.4. Staff Assistance

3.4.1. Secretary

The Planning Director shall serve as Secretary to the HPC and may designate a Planning Department staff member for that purpose. The Secretary, subject to the direction of the Chair, shall have the following duties:

1. The Secretary shall keep all minutes and records of the HPC, provide notice of the regular and special meetings to members, and any other such duties normally carried out by the Secretary. The minutes shall show the record of all important facts pertaining to every meeting and hearing, every resolution acted upon by the Commission, and all votes of Commission members upon any resolution or upon the final determination of any question, indicating the names of members abstaining from voting.

2. The Secretary shall conduct all correspondence of the Commission, and generally supervise the clerical work of the Commission and its *ad hoc* committees.

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3. The Secretary shall not be eligible to vote.

-

4. On all quasi-judicial (e.g., Certificates of Appropriateness) matters, the Secretary to the HPC may also administer oaths to all witnesses.

~~A staff member of the Planning and Development Department, assigned and supervised by the Planning and Development Director (hereinafter, Director), shall serve as Secretary to the HPC. The Secretary's primary duties are to assure preparation of minutes of the meetings, maintain attendance and other official records of the HPC, and to certify and file signed decisions of the HPC, but may include other clerical and administrative duties as assigned by the Director or designee.~~

3.4.2. Additional Staff Support

The Director or designee shall provide professional and technical support to the HPC, which may include preparation of meeting materials, presentations, recommendations, conducting official correspondence, and other staff support as requested by the HPC and determined appropriate by the Director or designee.

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3.5. Special Committees

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Special committees may be established by a majority vote of the HPC to assist in studying specific issues. Special committee members shall be appointed by the Chair or a designated member. Special committees may contain persons who are not members of the HPC. The HPC may not delegate its official powers and duties to a special committee.

3.6. Attendance

Persons accepting appointment to the HPC have made a commitment to serve the citizens of Guilford County. Applicants coming before the HPC deserve a full complement of members to be present to review and recommend/decide matters. Consistent attendance at meetings of the HPC is expected.

3.6.1. Reporting Absences

~~A member~~Any member who anticipates not being able to attend a meeting of the HPC must contact the Secretary upon receipt of the agenda (or earlier, if possible) and indicate the reason for the absence. In the event of an unforeseen emergency or illness, notification to the Secretary shall be given as early as is feasible.

3.6.2 Approved Absences

Absences due to sickness, death in the family, or other emergencies of a similar nature, as well as unexpected/unplanned work-related obligations, shall be regarded as approved absences and shall not affect the member's status on the HPC. In the event of a long-term illness or other situation resulting in a prolonged absence, the member may be replaced by the BOC.

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3.6.3. Attendance Requirement

A member who misses three (3) consecutive regular meetings 33% or more of the regular meetings held in a fiscal year due to unapproved absences loses status as a voting member until reinstated by the BOC and may be replaced by the BOC. Attendance records shall be periodically reviewed by the Director, who shall inform the member of any noncompliance with the attendance requirement.

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3.6.4. Absence of Officers

In the absence of both the Chair and Vice Chair, the HPC membership in attendance shall vote to determine an acting Chair for the meeting.

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3.7. Vacancies

3.7.1. Filling Vacancies

A vacancy in the office of Chair shall be filled by the Vice Chair, succeeding to the office for the remainder of the unexpired one-year term of the Chair. A vacancy in the office of Vice Chair shall be filled by election of a new Vice Chair from the membership for the remainder of the one-year unexpired term of the Vice Chair. Member vacancies shall be filled by a new member appointed by the governing body to fill the remainder of the unexpired term.

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3.7.2. Member Continuing Service Beyond Term

Members completing a term of office, who have not been reappointed and for whose seat a new appointment has not been made by the governing body, may continue to serve until reappointment or a new appointment is made.

3.8. Resignations and Removal

3.8.1. Resignation

A. HPC members who choose to resign before the expiration of their term must notify the Director or designee in writing (letter or email). This notice shall include the date upon which the resignation is effective, which should be at least thirty (30) days from the date of the notice.

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B. If a member of the HPC relocates their residence outside of the County, the relocation constitutes a resignation effective upon the date of the move.

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C. The Director shall promptly inform the County Clerk of any vacancy on the HPC.

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3.8.2. Removal

A. HPC members may be removed by the governing body for cause, including but not limited to documented violation of these Rules.

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B. The HPC may, by unanimous vote of the other members, recommend that a member be removed for cause and a replacement be appointed by the BOC. Such a recommendation shall be communicated in writing by the Director to the jurisdiction's governing body, to the BOC, and to the HPC member in question.

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Section 4. Meeting Structure

4.1. Open Meetings

It is the public policy of North Carolina that the hearings, deliberations, and actions of public bodies that administer the legislative, ~~policy-making~~ policymaking, quasi-judicial, administrative and advisory functions of political subdivisions conducting the people's business, be conducted openly. Therefore, all official meetings of the HPC, with a very few exceptions that are allowed by state law, shall be open to the public, and any person is entitled to attend. The public's right to attend such meeting does not necessarily entitle the public to participate in the meeting. An official meeting means a gathering together at any time or place, or the simultaneous communication by conference telephone or other electronic means, of a majority of the members of the HPC for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business that is within the jurisdiction, real or

apparent, of the HPC.

4.2. Regular Meetings

4.2.1. Date, Time, and Place

Regular meetings of the HPC ~~shall~~will typically be held on the third Tuesday of each month at 6:00 p.m. Regular meetings may be established at an alternate time and date at the discretion of the HPC, as approved by the Chair, due to holidays or other reasons. The meetings shall be held in a location within the County as properly and legally advertised.

4.2.2. Meeting Schedule

Regular meetings for the calendar year shall be made available to the public in paper or electronic format and posted on the Department's website. Changes in the regular meeting schedule shall follow the notice requirements of North Carolina law.

4.2.3. Meeting Notice

Notices of meetings shall be provided in accordance with the notice requirements of current North Carolina law.

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4.3. Special Meetings

A special meeting of the HPC may be called at any time by the Chair or by a majority of the membership. Notice of the date, time and place of the special meeting, along with the purpose of the meeting, shall be provided by the Director to each member at least forty-eight (48) hours in advance of the meeting. Only those items of business specified in the Notice may be transacted at the special meeting. The Notice must be posted on the Planning & Development Department website and shall comply with all other applicable notice requirements of North Carolina law.

4.4. Continued Meetings

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Any regular or special meeting may be continued or postponed to another specific date, time and place without additional public notice by a majority vote of the HPC, in accordance with the deferral and continuance provisions of the Unified Development Ordinance, as applicable, and these Rules.

4.5. Cancellation of Meetings

Whenever there is no business for the HPC, the Director or designee may recommend that the Chair cancel a meeting with the presence of good cause, including a known lack of a quorum. Notice shall be given by the Director or designee at least twenty-four (24) hours before the meeting is scheduled to take place to all members and the press, applicants and other interested persons. In the case of severe weather, notice of cancellation shall be given at the earliest practical time.

4.6. Agendas and Meeting Order of Business

4.6.1 Agendas

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Meeting Agendas and appropriate materials and reports shall be prepared by the Director and distributed to all members. No business may be considered by the HPC unless such item properly appears on the Agenda. A matter of business not subject to public notice requirements may be discussed as a non-agenda item if the HPC approves for consideration.

4.6.2 Meeting Order of Business

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- Call to Order
- Roll Call
- Agenda Amendments
- Approval of Minutes of Previous Meeting(s)
- Chair's Remarks and Instructions
- Old Business (continued cases; items previously discussed for which action was held or delayed; or work session items)
- New Business
- Announcements
- Adjournment

The order of the Agenda may be changed if there is no objection by any of the members.

4.7 Hearings

4.7.1 Application Submittal

In accordance with the Unified Development Ordinance, the Director or designee shall establish specific submittal requirements and review schedules for applications heard by the HPC.

4.7.2 Attendance by Applicant

The Director or designee shall notify the applicant of the date, place and time of the hearing in accordance with the public notification requirements of the Unified Development Ordinance. The applicant, or a knowledgeable representative delegated to and authorized by the applicant in writing, is expected to attend the hearing to support the application. This attendee should be capable of addressing issues and answering questions. If no one is present to represent the application, the HPC may, in its discretion, continue the hearing to its next regular meeting. Should a property owner be an LLC or incorporated business entity, they shall be represented by an attorney authorized to practice law in the State of North Carolina.-

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4.7.3 Type of Hearing

The HPC follows a quasi-judicial, evidentiary hearing process for formal review of Certificates of Appropriateness, which requires all testimony to be sworn, and which requires the HPC to conclude certain findings of fact before approving a Certificate of Appropriateness.

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4.7.4 Hearing Procedure

The HPC shall conduct its hearings in accordance with the quasi-judicial, evidentiary hearing procedures of the Unified Development Ordinance outlined below:

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- Chair announces the item from the Agenda
- Swear-in or affirm witnesses
- Hear staff presentation and recommendation
- Hear applicant testimony
- Hear testimony from the public (for and against the application)
- Rebuttal/cross-examination of proponents/opponents
- Summary of the evidence by the Chair or by such persons appointed by the Chair
- Closing of testimony from the public by the Chair
- HPC asks questions of staff, applicant, persons who have testified
- Deliberation and decision

4.7.5 Evidence

A. In considering applications, witnesses may be called, and factual evidence may be submitted; however, the HPC is not bound by all the rules of evidence followed in judicial proceedings. Evidence upon which decisions are based should be material (directly related to the matter and likely to influence the decision), substantial (of real value, worth or importance) and competent (having legal capacity or qualification).

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B. The HPC may, in its discretion, view the premises and obtain facts concerning any application before arriving at a decision. All decisions of the HPC shall be supported by appropriate Findings of Fact. Findings of Fact may not be based on hearsay evidence. Hearsay is a statement not made at the hearing that the proponent seeks to have admitted as evidence of the truth of the matter asserted in that statement.

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C. The HPC, in order to make a defensible decision, should not rely on the opinion testimony of laymen to support a finding that requires information from those with expertise in the matter.

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4.8 Public Testimony

The Chair may limit repetitive testimony on any item and may restrict anyone from making inappropriate or malicious remarks or remarks not pertinent to the matter under consideration.

4.9. Advisory Review by Historic Preservation Commission

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For larger or more complex projects, such as new construction or certain accessory structures, an Advisory Review by the HPC is offered. The purpose of an Advisory Review is to provide helpful feedback to the applicant early in the design process.

There is no fee for this review. Projects that would benefit from an Advisory Review include but are not limited to:

- construction of an addition
- construction of accessory structure greater than 120 sq. ft. or 2 stories
- new construction
- relocation of a structure
- alternatives to original materials

4.9.1 Scheduling an Advisory Review

Advisory Reviews are held at the end of a regularly scheduled HPC public meeting which begin at 6:00 p.m. and occur on the third Tuesday of every month. An Advisory Review request form and required materials must be submitted according to the same application submittal deadlines as for formal Certificate of Appropriateness applications. Advisory Review submittals are advertised along with the regular HPC public meeting agenda.

4.9.2 Completing an Advisory Review

An Advisory Review request form must be completed, signed and submitted with drawings depicting a minimum of overall dimensions and design to the conceptual level (preferably printable at 8.5" x 11"). The Secretary may request that the following materials be included:

- site plan indicating proposed building footprint and setbacks with dimensions if known;
- photographs of the proposed site for any relocation of a structure including available historic photos and aerials;
- photographs of each façade of an existing structure; labeled with name of property, situs address, and viewpoint keyed to the site plan;
- elevation drawings of new construction/changed façades as needed with *at least overall* dimensions (drawings depicting three-dimensional views and physical models are optional);
- specifications and/or samples for materials, architectural details, and elements such as windows and doors (for applications to relocate a structure, provide information on proposed revisions to the structure that would result from the relocation); and
- while not required, a 3-D or modeling study of a streetscape if infill construction is proposed in a Historic District is helpful in the HPC's review.

4.9.3 Advisory Review Public Meeting

Although it is the goal of the HPC to provide comments that will help to result in a project that will be approved, comments provided during the Advisory Review are not binding, and the final decision of the HPC shall not be based on these comments. The informal review format is as follows:

- Staff will make a brief presentation (5 minutes) identifying aspects of the project that should be addressed by the HPC.
- Applicant will make a presentation (5 minutes) describing the project.
- The HPC will consider whether or not the project is consistent with the applicable Review Standards and the Secretary of Interior's Standards and provide reasons to the applicant.
- The HPC Chair will summarize aspects that were identified as not meeting applicable Review Standards and the Secretary of Interior's Standards.

Section 5. Conducting Business

5.1. General Expectations of Members

- Be generally familiar with the laws and ordinances relating to the work of the HPC, and with these Rules of Procedure;
- Be prepared for meetings by examining the information provided in the meeting packet, consulting staff with questions, and visiting each site to observe from right-of-way;
- Ask questions as appropriate during the hearing and actively participate in deliberations;
- Consider all information on each matter as presented to the HPC to make an informed decision; and
- Make a decision in a fair, ethical, consistent and non-arbitrary manner.

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5.2. General Conduct of Members

When quasi-judicial decisions (e.g., Certificates of Appropriateness) are being considered, Commission members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself/herself, the remaining members shall by majority vote rule on the objection. Members of the Commission shall request to be recused from discussion, citing a conflict consistent with G.S. 160D-109(b) or 160D-109(d) when the Commission is sitting as a quasi-judicial Commission. Upon such a request, the Commission shall vote on the recusal. Members of the HPC participating in a hearing and making a decision or a recommendation are expected to act in accordance with the following:

5.2.1. No Prejudice

Members shall consider the application/request without prejudice.

5.2.2. No Commitment Prior to Review

Members shall take no public position on an application or on any proposed condition prior to the meeting at which the application is heard.

5.2.3. No Deliberation or Formulation of Decision Prior to Meeting

Members shall refrain from deliberation with other members or formulation of a judgment or decision prior to the meeting at which the application is heard.

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5.2.4. No Ex-Parte Communication

No HPC member shall, in any manner, discuss any Certificate of Appropriateness application with the applicant, other HPC members, or any other parties prior to the HPC's deliberations on the matter during the hearing. The HPC's quasi-judicial procedures are designed to ensure that all information and discussions regarding the matter under consideration take place during the HPC's evidentiary hearing, so that all parties hear the same testimony at the same time, and so that persons giving testimony can be questioned in person by the HPC and by opposing parties. Any communication regarding a pending application that does occur outside of the hearing must be fully disclosed by the member or members involved before the start of the appropriate hearing. Members may, however, seek or receive explanatory information or clarification pertaining to the application from the Director or designee prior to the hearing. Any such explanation or clarification shall be provided by the Director or designee to *a//* members.

5.2.5. Acknowledgement of Relationship or Association with an Applicant or Other Party

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Members ~~should~~shall, prior to or at the beginning of the public hearing, disclose any past or present close familial [spouse, parent, child, brother, sister, grandparent, or grandchild (and step, half, and in-law relationships)], business or associational relationship with an applicant or other party to the matter when any of the following circumstances occur:

- A. When the member is the applicant before the HPC;
- B. When the member owns property within close proximity of the subject property (this shall be interpreted as being within the required notification area); or
- C. When the member has a financial interest in the subject property or

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improvements to be undertaken thereon.

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5.3. Violation of Due Process / Conflict of Interest

- A member shall not participate in or vote on any matter that has a substantial and readily identifiable financial impact on the member, nor participate in or vote on any matter in a way that would violate the applicant's or an affected person's constitutional right to an impartial decision-maker.
- A member should not convey an opinion about a quasi-judicial decision by the HPC to any person or agency, including the press, until after the fifteen (15)-day appeal period has expired and the decision has not been appealed.
- Members should consult the Director or designee regarding situations that may be considered an actual or perceived conflict of interest. If a member has a conflict of interest regarding any matter before the HPC, the member should inform the Director or designee as soon as possible in advance of the meeting to allow time for an alternate member to be contacted to participate as the regular member's replacement if necessary.

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5.3.1. Recusal (Excuse from Participation)

No Commission member shall take part in any hearings, consideration, determination or vote concerning a property in which the Commission member or a close relative (spouse, parent, child, brother, sister, grandparent, or grandchild, including the step, half, and in-law relationships):

A. Is the applicant before the Commission;

B. Owns property within close proximity of the subject property (this shall be interpreted as being within the required notification area); or

C. Has a financial interest in the subject property or improvements to be undertaken thereon.

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In addition, a Commission member may request a vote of the Commission excusing the member from taking part in any hearing, consideration, determination or vote concerning a property in which a business associate or employer of the Commission member:

A. Is the applicant before the Commission or;

B. Owns property within close proximity of the subject property (this shall be

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- interpreted as being within the required notification area); or
- C. Has a financial interest in the subject property or improvements to be undertaken thereon.

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When a Commission member concludes that a matter before the Commission involves or could involve a conflict of interest on his or her part or his or her voting might not be in the public interest, he/she should promptly inform the Commission Chair. The Commission member then refrains from any discussion or comment on the particular case and abstains from voting. If a member realizes at the meeting that he or she may have a conflict of interest concerning a matter on the agenda, a request for recusal must be made immediately before the start of the hearing and must be voted on (recognized) by the HPC for the record. A member with a recognized conflict of interest relative to any matter shall not participate in the hearing, deliberation or voting on the matter. A recused member shall physically vacate his or her seat while the matter is being considered. If there is a challenge to a member's participation in a matter due to an alleged conflict of interest, the member shall be given the opportunity to request recusal or to refute the allegation. The remaining members of the HPC shall then, by majority, vote in order to decide the issue.

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5.4. Motions

The HPC shall proceed in all matters by motion. Any member, including the Chair, may make or second a motion. A motion may be amended by any member, subject to the agreement of the member who made the motion. A motion may be withdrawn by the member making the motion at any time before a vote. Unless withdrawn, all seconded motions must be voted upon. A motion that does not receive a second fails automatically and is not voted upon.

5.4.1. Substantive and Substitute Motions

Substantive motions are non-procedural motions that result in final disposition of the matter under consideration. The HPC motions are:

- Approval as submitted (no changes to the application)
- Approval as amended (with specific conditions or additions stated)
- Denial

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All substantive motions are debatable and require a majority vote of members present to approve. While a substantive motion is pending, meaning that it has been seconded but not voted upon, a substitute motion regarding the same issue may be introduced. If seconded, the substitute motion shall be voted upon first. If the substitute motion is approved, the original motion is automatically deemed denied. If the substitute motion

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fails, then the original motion is voted upon, or another substitute motion can be made.
Only one substitute motion can be under consideration at a time.

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5.4.2 Procedural Motions

Procedural motions in the collective provide a structure for conducting the business of the HPC and promote propriety of behavior. Below are procedural motions that may be utilized in meetings of the HPC:

- Approval of minutes
- Postpone consideration (to a date and time certain, with reasons stated)
- Take a recess (a short break)
- Call the question (to end discussion among HPC members)
- Refer to committee (where an appropriate committee exists)
- Re-open public testimony (after the Chair has closed it)
- Reconsider (re-open a case decided at the same meeting)
- Adjourn
- Excuse from participation (recuse) (voluntary - exclusion from participation in a matter)
- Remove from participation (involuntary - when an objection to participation is raised by another HPC member or a party to the matter and is found to be valid by the HPC)
- To consider an item not on the meeting agenda (if not subject to evidentiary notice requirements)
- To change the order of agenda items (when the Chair does not have unanimous consent).

All procedural motions are open to discussion with the exception of a motion to recess, adjourn or call the question, which are all voted on immediately. All motions require a majority vote of the members present.

5.5. Deliberation

When a motion is introduced and seconded, the Chair should state the motion for the purpose of clarity and understanding, and then open the floor for discussion by the HPC members. The member who introduced the motion is entitled to speak first, and all members should be given the opportunity to speak. Any member may move to call the question when it appears that deliberations are concluded, or there is an impasse. A majority vote will then end deliberations. A vote is then taken on the original motion.

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5.6. Decisions

Provided a quorum is present, all decisions of the HPC shall be made by a majority of the members present.

5.6.1. Qualification to Vote

No HPC member shall vote on any matter before the HPC unless that member shall have attended the previous deliberations on such matter or shall otherwise have the approval of the Chair to vote on such matter. The Chair's approval shall be contingent on the assurance by the member that the member has read or reviewed all material distributed to the HPC related to the matter, including any material presented by the applicant during the previous deliberations and the minutes of any meeting at which the matter was discussed.

5.6.2. Voting

Forms of decisions:

A. No member attending the presentation and hearing on a matter shall be excused from voting except for cause by majority vote of the HPC.

B. A failure to vote by a member who is physically present at the hearing, or who has withdrawn without having been excused or recused by the HPC, shall be recorded as an affirmative vote.

C. A tie vote constitutes disapproval of the motion.

D. The method of voting shall be decided upon by the Chair, and may be by show of hands, "yes" or "no", or roll call. Any member may motion for a roll call vote on a matter, which shall require a majority vote to conduct.

5.6.3. Certificate of Appropriateness Decisions

Certificate of Appropriateness (COA) decisions shall be certified and filed by the Director or designee and communicated to the applicant in writing within ten (10) business days of the decision. Decisions regarding COA applications must be based on whether the proposed activity is congruous with the special character of the historic district or historic landmark. Notification shall include any instructions or conditions relative to the action taken.

A. If an application for a COA is approved, the Secretary shall transmit to the applicant a COA in memo form clearly describing the nature of the work which

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has been approved. Also, a copy of the COA shall be provided to the City or Town permits/ inspections department and notification given to the County Tax Supervisor.

- B.** For properties within historic districts, the Secretary shall attach a placard form of a COA to be displayed on the property.
- C.** If an application or Certificate of Appropriateness is denied, a copy of the minutes of the meeting and written reasons for denial shall be made available to the applicant.

5.6.4 Expiration of Decisions

A COA shall expire and become null and void if construction, any approved change, relocation, or demolition has not commenced for projects approved by the COA within 1 year (365 days) of its issuance.

Section 6. Record-Keeping

The minutes of all meetings and other records of the HPC shall be maintained by the Secretary or other designee of the Director. Minutes of meetings shall be prepared by the Secretary or designee and should be transmitted to the HPC prior to the next regular meeting. Minutes are not official until approved by the HPC, at which time they become the official public record of the HPC's actions.

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6.1. Minute Contents:

Minutes shall include the following:

- Date, time and place of the meeting
- Names of members in attendance and names of absent members
- Names of staff members in attendance
- Names and addresses of owner(s), agent(s), applicant(s) and others that spoke on each matter
- A summary of evidence presented to the HPC on each matter
- A summary of the discussion on each matter
- The wording of each motion or resolution, including which members made the member seconded the motion; and
- All votes of the HPC.

All application records and supporting materials are to be retained electronically by the Director in accordance with North Carolina records retention rules.

Section 7. Rehearing of Denied Applications

The HPC has no legal authority or jurisdiction to hear the same matter a second time. Therefore, if an applicant desires to submit a second application regarding a previously denied request, the applicant must first appear before the HPC to present evidence that there has been a substantial change in the application, relevant ordinance provisions, evidence or material site conditions in the matter that presents new issues, hence allowing a second application to be heard as an entirely new proceeding. If the HPC determines no substantial change exists, it shall deny a rehearing on the matter. If the HPC determines that there has been a substantial change, it shall thereupon treat a subsequent application in the same manner as any other application.

Section 8. Modifications to Applications

An approved or pending application for a COA may be modified by a written request from the applicant to the HPC. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or other drawings, where necessary. If the HPC finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall notify affected property owners following the procedures set out in Section 4 of these Rules before taking action on the modification. The HPC shall thereupon treat the request in the same manner as any other application as outlined in Section 4 of these Rules.

Section 9. Appeals

An appeal ~~from an HPC decision shall be~~ ~~may be~~ taken to the ~~Board~~Board of Adjustment. ~~Appeals from the HPC~~ 1) ~~may be taken~~ ~~may be requested~~ -by any aggrieved party, 2) ~~shall be taken~~ ~~shall be requested in accordance with procedures outlined in the UDO~~ -within fifteen (15) days after the decision of the HPC, and 3) shall be in the nature of certiorari. ~~Any appeal from the Board~~Board of Adjustment's decision in any such case shall be heard by the Superior Court of Guilford County.

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Section 10. Amendment of the Rules of Procedure

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of a majority of members present, provided a quorum of members exists, and provided that the amendment to be voted on was presented in writing and entered into the minutes at a regular or special meeting preceding the meeting at which the vote is taken. Amendments adopted as above shall become effective at the next regular meeting of the HPC, ~~following any required review and/or~~ approval by the BOC.

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