

MINUTES

Town of Southern Pines Historic District Commission Regular Meeting October 13, 2022 at 4:00 PM

The Town of Southern Pines Historic District Commission held its regular meeting on Thursday, October 13, 2022, at 4:00 PM at the E.S. Douglass Community Center, 1185 W. Pennsylvania Avenue, Southern Pines, North Carolina.

Members present: Chair Molly Goodman, Elizabeth Oettinger, Robert Brown and Lane West.

Member Robert Anderson was absent.

Staff members present: Mac McCarley, Town Attorney, Pamela Graham, Principal Planner, and Cindy Williams, Secretary to the Board.

Chair Goodman called the meeting to order at 4:00 PM.

APPROVAL OF MINUTES:

Robert Brown made a motion, which was seconded by Elizabeth Oettinger, to approve the Minutes of the September 8, 2022 meeting. The motion carried unanimously.

PUBLIC HEARINGS:

HD-11-22: Certificate of Appropriateness - Major Work for the demolition of two structures located at 275 S. Bennett Street (continued from September 8, 2022)

Town Attorney Mac McCarley qualified the Commission members.

Robert Brown made a motion, which was seconded by Elizabeth Oettinger, to resume the public hearing. The motion carried unanimously.

Ms. Graham stated that the first public hearing on the application was held in June 2022 and continued to the September meeting and further continued to the October meeting. The original application included the demolition of structures located at 275 S. Bennett Street and 155 W. Massachusetts Avenue and the new construction of a hotel. The application has been modified to limit the request to demolish the two structures located at 275 S. Bennett Street.

Ms. Graham entered her Power Point presentation regarding the application into the record as Exhibit 1, her staff report as Exhibit 2, and a letter dated October 7, 2022 from Jeff Adolphsen, Senior Restoration Specialist with the State Historic Preservation Office, as Exhibit 3.

Ms. Graham stated that the property consists of .86 acres. The assessed value of the land is \$472,100 and the value of the buildings is \$117,420 and the tax record states that the primary

structure consists of 3,570 square feet. The tax record indicates that the main structure was built in 1920. However, the Town's Historic Buildings Inventory that was produced in 1981 includes some additional research and that document provides a construction date of 1896. There is a small outbuilding of approximately 360 square feet that is shown in the tax record to have been built in 1950. The most comprehensive available information on the 275 S. Bennett Street property is provided in Southern Pines' Historic Buildings Inventory composed by Ann C. Alexander and published in 1981. This document describes the property as follows:

"Hayes House – Built 1896. This large house was built for E.B. Hodgkins, superintendent of the J. Van Lindley Orchards. After changing ownership a few times, it was acquired in 1912 by active merchants Mr. and Mrs. Claude Hayes. Mr. Hayes owned a popular bookstore on Broad Street, while Mrs. Hayes established a women's clothes shop...both became long-lived Southern Pines institutions. Hayes' daughter inherited the house and donated it to the Sandhills Community College. Although the house retains its L-shape and its large lot setting, it has been moderately remodeled with the removal of the wrap-around porch, the alteration of the window sash and the addition of stucco surface. The house was recently sold at public auction, and plans call for the structure to be used as a restaurant."

Ms. Graham stated that it is now believed that the wraparound porch has been retained but has been enclosed.

During their September 8, 2022 public hearing, the Commission voted to invoke NCGS 160D-947 to request technical assistance with the application from the NC Historic Preservation Office (HPO) and continued the public hearing to allow time for HPO to review the application and provide a summary of its findings.

Ms. Graham stated that on October 4, 2022, Mr. Alan Jordan, the property owner, allowed she and Mr. Jeff Adolphsen to access to the primary structure. Mr. Adolphsen conducted an inspection of the property and provided his findings, which are intended to provide guidance but are not binding on the Commission and should not be considered as an official ruling on how the Commission should decide the application. The Commission may not deny the request for a Certificate of Appropriateness, but can approve it with an effective date that includes a delay.

Mr. Jordan stated that he purchased the property approximately 30 years ago and he will be one of the partners in the hotel project as the landowner if it moves forward but he is not interested in demolishing the structure if there are any alternatives. He has been searching for a piece of property where the house can be moved.

Robert Brown asked if there is any particular urgency to the demolition.

Mr. Jordan responded no, and if it takes a year that is okay. The hotel is more of a concept than a reality at this point. He has spoken with virtually all of the downtown merchants and they all seem in favor of a hotel and feel that it being within walking distance would be good for everybody.

Chair Goodman stated that the Commission could only consider the demolition and not the potential hotel at the present time.

Elizabeth Oettinger stated that she was under the impression that Mr. Jordan did not care if the property was developed as a hotel.

Mr. Jordan responded that if the hotel does not work out he would consider developing apartments or townhomes if the structure is demolished or moved.

Chair Goodman asked Mr. Jordan if he had considered rehabilitating the structure.

Mr. Jordan responded that he did not know how the house could be incorporated in the hotel.

Ms. Oettinger asked if the structure could remain in its current location.

Mr. Jordan responded that the financial difference is huge given the value of the land.

Lane West inquired about Mr. Jordan's relationship with the other hotel partners.

Mr. Jordan responded that John Sandlin and Gail Wallace are the developers and the hotel was entirely Dr. Clifton Cameron's idea. He knew that hotels were allowed in the CB zoning district when he bought the property.

Mr. West asked Mr. Jordan if anyone has looked at the financial burden or revenue potential if the building was renovated.

Mr. Jordan responded that it could not be renovated for use as a hotel. The building itself is very sound and does not need to be restored.

Ms. Goodman stated that if the Commission chooses to delay the demolition, one of its tasks will be to work with Mr. Jordan to find a means of preserving or relocating the building and asked Mr. Jordan if that was agreeable.

Mr. Jordan responded that he had no problem with that whatsoever.

Town Attorney Mac McCarley asked Mr. Jordan if he was objecting to a delay.

Mr. Jordan responded that he did not object to the delay. He would like to be completely comfortable that he has done everything he can possibly do in an effort to preserve the building, if at all possible.

Ms. Leslie Brians, 1000 N. Poplar Street, Aberdeen, stated that she was present to provide expert testimony regarding the building located at 275 S. Bennett Street as a Federally Certified Historic Architecture and Preservation specialist with a MARCH from Texas A&M University, a BA in Historic Preservation from the University of Mary Washington, the Executive Director of the Pines

Preservation Guild and a former member of the Historic District Commission. Ms. Brians stated that the Pines Preservation Guild believes that the Commission can utilize the 365-day demolition delay to find a solution that would not only adhere to the Historic District Design Guidelines, but would also preserve a historic building in the district and encourage sensitive new infill development. She has conducted a visual inspection of the building at 275 S. Bennett Street via public right-of-way and concurs with the evidence found by the state that the building is not only sound, but appears to be an excellent candidate for rehabilitation and adaptive reuse. The incorporation of this building into a proposed new design is completely possible and should be encouraged as stated in the Historic District Design Guidelines. The adaptive reuse of historic structures into boutique hotels is a widely accepted standard in the industry.

If the possibilities for incorporating the Hayes House into a new hotel design are exhausted, the building appears to be in good enough condition to be moved and the Pines Preservation Guild would request access to walk through the Hayes House with a certified and insured house mover to get a better idea of how this home could be moved and at what cost. They, along with Preservation North Carolina, could then begin the search for a buyer to move the building to another site, preferably within either the local or National Historic District in Southern Pines as noted in the state's letter. Although vacant lots within the local Historic District are few and far between, there are some vacant properties within the National Historic District, which would allow the home to retain its national status.

While not ideal, the last option for this building should be salvage and not demolition. There are several valuable, irreplaceable historic materials within the Hayes House as the state notes in its report. A further evaluation by a salvage company and her organization would provide a better analysis of the historic materials inside the building and their salvageability.

It is well documented that demolition of existing structures adds unneeded waste to our landfills and it is a final, irreversible act that should be reserved for when all other avenues have been exhausted.

Chair Goodman asked Ms. Brians if she had reached out to the property owner and Ms. Brians responded that she would be doing so immediately following the public hearing.

Ms. Graham entered Ms. Brian's PowerPoint presentation into the record as Exhibit 4.

Discussion ensued among the Commission members.

Ms. Oettinger asked Ms. Graham why the Commission is not allowed to deny the Certificate of Appropriateness and Ms. Graham responded that the General Statutes prohibit the Commission from denying a demolition request in the Historic District. It does allow the option of delaying the demolition for 365 days or less to allow time for these negotiations and other alternatives to be explored.

Chair Goodman closed the public hearing.

HISTORIC DISTRICT COMMISSION ACTION:

Elizabeth Oettinger made a motion, which was seconded by Lane West, that as a finding of fact the application was complete and that the facts submitted were relevant to the case because the request for a Certificate of Appropriateness - Major Work has met the specified submittal requirements as required in the Town of Southern Pines Unified Development Ordinance. The motion carried by a 4-0 vote.

Elizabeth Oettinger made a motion, which was seconded by Lane West, that as a finding of fact the application to demolish structures at 275 S. Bennett Street does not comply with Section 2.28.10 Criteria for a Certificate of Appropriateness – Major Work, Criteria (C) 1-3 in that:

- a. *Work is not compatible and appropriate in preserving, retaining, repairing, or restoring the defining historic character of the property and the district. Specifically, the work is not considered compatible in terms of material, design, dimensions, mass, scale, orientation, color and other applicable considerations. This motion is supported by the following specifics in the proposal being considered:*
 - i. The structure was built in the 1890's.
 - ii. It is a Folk Victorian structure.
 - iii. The letter from the State Historic Preservation Office supports preservation of the structure.
- b. *Work does damage or remove significant character defining features of the building and will adversely affect its contribution to the larger historic district. This motion is supported by the following specifics in the proposal being considered:*
 - i. The architect and builder was T.S. Burgess, who also built other buildings in the Historic District.
 - ii. The structure is Folk Victorian.
 - iii. The structure contributes to the overall character of the Historic District.
- c. *Work is not consistent with the adopted Design Guidelines for the Historic District because of the following:*
 - i. item no. 2 of the Secretary of Interior Standards for Rehabilitation;
 - ii. item no. 4 of the Secretary of Interior Standards for Rehabilitation; and
 - iii. item no. 5 of the Secretary of Interior Standards for Rehabilitation.
- d. *The building and/or site have special significance or value toward maintaining the character of the district because of the following:*
 - i. item no. 5 of the Secretary of Interior Standards for Rehabilitation; and
 - ii. the 1890's build date.

e. *The owner of the property will not suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property should the proposed demolition be delayed. This finding is based on the following information:*

- i. The owner has presented no evidence that he would suffer extreme hardship or deprivation of all beneficial use or return from the property.
- ii. The owner did not object to a delay.

Therefore Elizabeth Oettinger made a motion, which was seconded by Robert Brown, that, because the structures have been determined to have particular significance or value toward maintaining the character of the Historic District, to approve HD-11-22 with regard to the demolition of the structures at 275 S. Bennett Street with an effective date 365 days from this date, during which time the Commission shall negotiate with the owner and any other parties in an effort to find a means of preserving the building. The motion carried by a 4-0 vote.

HD-15-22 Certificate of Appropriateness - Major Work; 140 SW Broad Street

Town Attorney Mac McCarley qualified the Commission members.

Pamela Graham entered staff report HD-15-22 into the record as Exhibit 1, her PowerPoint presentation as Exhibit 2 and the applicant's PowerPoint presentation as Exhibit 3 and stated that the request was to repurpose or convert a dying sycamore tree located in the Town's right-of-way near 140 SW Broad Street into a Little Free Library®. The sycamore tree was taken down to a height of approximately 12 ft. in 2019 after it was deemed to be no longer viable by Mr. Jeff Grey, the Town's Certified Arborist, after being damaged by bacterial leaf scorch, which is a condition that blocks water movement from the tree's roots upward to the crown. The decision was made to remove the crown of the tree to eliminate the possibility of large limbs causing damage to buildings or vehicles, or potentially falling on pedestrians on the adjacent sidewalk as the tree is located in a highly walkable portion of downtown on a block that is lined with restaurants and retail shops. Mr. Grey estimated the tree to be approximately 75 years old.

The applicant has proposed modifications to the tree which include carving a sizeable cavity into the tree to accommodate book shelves, that will be entirely visible from the public right-of-way. The opening will face the sidewalk for convenient access and will include a roof with a generous overhang, interior and exterior solar lighting, whimsical but sturdy hardware, a glass door fashioned from multi-paned windows framed with wood or a synthetic material with polycarbonate (Lexan) in lieu of glass, shelving, an aluminum registration plate identifying the project as a Little Free Library®, a short awning/dormer described as being the same cedar shake material as the roof or metal over the door for protection from elements.

Ms. Graham listed the applicable criteria for review by the Commission and how those criteria have been addressed by the applicant.

Attorney Nick Robinson, present on behalf of the applicant, stated that the only question before the Commission was whether the factors that are set forth in the UDO for approval of a Certificate of Appropriateness for a Major Work have been met.

Mr. Robinson introduced Ms. Suzanne Coleman, present on behalf of Welcome Southern Pines, Inc.

Ms. Coleman stated that she walks downtown often and when she read that the sycamore tree needed to come down she approached Town Manager Reagan Parsons about converting the tree, which is almost a century old, into a Little Free Library®. After receiving his approval, she went before the Town of Southern Pines Appearance Commission to receive input prior to applying for a Certificate of Appropriateness. The library is going to primarily be for children so they want to make it as magical and whimsical as possible. They want to have several doors in it so that little ones can open their own door instead of a big door that swings open.

Mr. Robinson stated that he typically represents developers in public hearings in Southern Pines but he did not want to miss this opportunity because he does enjoy pro bono work but he also wanted to represent a project that Ms. Coleman spoke to without being opposed.

Mr. Robinson qualified Jeff Grey, Town Arborist, as an expert witness in the field of arboriculture.

Mr. Robinson: Have you worked physically with this tree?

Mr. Grey: I have worked with the tree for the past 33 years, along with all of the other trees in town, especially the ones downtown. Unfortunately, this tree became sick and they ended up having to take it down and this will provide a way to save it. He conducted boring tests on it and he did not see anything of concern with regard to rot so everything is pretty sturdy. Sycamore is a great wood for building furniture and houses because it is a tough wood.

Mr. Robinson: You did some borings in the center of the tree and through the tree to make sure that if we do this project the tree will be structurally viable?

Mr. Grey: Correct.

Mr. Robinson: One of the factors that they do need to examine is factor #9, which is structural conditions and soundness. Do you have an opinion based on your expertise and your knowledge of this particular tree and this project about whether the project if built as proposed will be structurally sound?

Mr. Grey: Yes. I see no reason for it not to be.

Mr. Robinson: Do you have an opinion as to whether or not the presence of the Little Free Library® would have a negative impact on either pedestrian or vehicular traffic?

Mr. Grey: The tree has not been in the way for 80 years or so, so it should be okay.

Mr. Robinson: In your opinion, based on your review, do you think this project meets the requirements that you have reviewed for a Certificate of Appropriateness?

Mr. Grey: I do.

Elizabeth Oettinger inquired about the new growth that has occurred since the tree was cut down.

Mr. Grey responded that the new growth is water sprouts. They grow when you make major cuts on most any tree but are not a viable part of the tree. They break off very easily.

Ms. Oettinger asked if there would be any reason to keep them and incorporate them into the design.

Mr. Grey responded that they are not viable branches and may or may not last. More than likely they would end up with the same disease that took over the whole tree. They will be shaved off because they are kind of a nuisance.

Ms. Oettinger asked if it would be possible to use the portions of the tree that were cut down in the design.

Mr. Grey responded that he is not sure of the whereabouts of the sections of the trunk.

Ms. Coleman stated that they had hoped to use them for some supplemental purpose.

Lane West inquired about the life expectancy of the remaining portion of the tree.

Mr. Grey responded that unless something drastic happens he could see it lasting ten years or more as long as it is maintained properly.

Ms. Coleman stated that when the Building & Grounds Department cut down the tree they applied a sealant and when the opening for the cabinet is cut out a sealant will be applied to protect it from mildew, rot and insects as much as possible.

Mr. West asked if ongoing maintenance will be required.

Ms. Coleman responded that once the sealant is applied and the cabinet is inserted and the roof put on it there should not be anything else that would need to be done.

Mr. Robinson qualified Mr. Vince Zucchini as an expert witness in the field of landscape architecture.

Mr. Robinson asked Mr. Zucchini to walk the Commission through his role in the project.

Mr. Zucchini stated that after seeing the examples of other Little Free Libraries® he created a conceptual rendering for this project.

Mr. Robinson: Have you familiarized yourself with UDO §2.28.10 which sets out the 11 factors for determination with regard to a Certificate of Appropriateness?

Mr. Zucchini: I have.

Mr. Robinson: Ms. Graham pointed out that a few of the factors are not applicable, but did you hear her summary of the ways in which the factors that are applicable?

Mr. Zucchini: I did and I agree.

Mr. Robinson: With regard to factors 3, 4, 5, 6, 8, 9 and 10?

Mr. Zucchini: Yes.

Mr. Robinson: In your expert opinion and having heard what Ms. Graham stated and having reviewed it yourself, does this project satisfy factors 3, 4, 5, 6, 8, 9 and 10?

Mr. Zucchini: Yes.

Mr. Robinson: Do you have an expert opinion regarding whether this project is compatible and appropriate in terms of material, design, dimension, mass, scale, orientation, color and other applicable considerations within the Historic District of Southern Pines?

Mr. Zucchini: Yes, and particularly that it is a historic tree and it is and has been well loved by many people.

Mr. Robinson: Do you think that the material, design, dimensions, etcetera make it compatible with the area?

Mr. Zucchini: Yes.

Mr. Robinson stated that he felt that substantial, competent and material evidence to support the application to justify the approval of the proposed Certificate of Appropriateness had been entered into the record. The first criteria being that the *work is compatible and appropriate in preserving, retaining, repairing or restoring the defining historic character of a property and the district. Specifically, the work is considered compatible and appropriate in terms of material, design, dimensions, mass, scale, orientation, color and other applicable considerations.* In this case they are talking about the design of a library in the tree and there is expert testimony in the record to support that it is compatible in that way.

The second criteria is that the *work does not damage or remove significant character defining features of the building and will not adversely affect its contribution to the larger historic district.*

This project is clearly not going to damage or remove any significant character-defining features of the building since there is no building involved and the testimony from the expert witnesses is that it will not adversely affect its contribution of the tree to the larger historic district.

The last criteria, which is whether or not the *work is consistent with the adopted design guidelines for the historic district*. Given the unusual nature of the request he looked for guidelines that might apply to a Little Free Library®. This project will definitely create a softening of the built environment, it will create a physical barrier from traffic and create a pleasurable pedestrian experience and retain the historic composition of a valuable sycamore tree. The Landscape Guidelines also call for attempting to avoid a monoculture or single variety of street tree. This will be a unique street tree for sure in Southern Pines.

Mr. Robinson stated that all three of the criteria for the findings have been met.

Robert Brown stated that he thought there were already two free libraries downtown.

Ms. Coleman responded that there is only one small free library in the downtown park currently and it is not dedicated to children. It has mostly adult books and it is at a higher level so children cannot reach inside by themselves.

Mr. Brown asked who will be responsible for maintaining the library.

Ms. Coleman responded that if you register as part of the Little Free Library® program you have to provide a steward and that steward is the organization that will maintain the library. Initially the Welcome Center volunteers will maintain it but they would also like to get the restaurants involved that will benefit from the library being there, especially Betsy's Crepes.

Chair Goodman asked if the Commission could view the rendering as conceptual at this stage and defer to staff to approve any changes.

Ms. Graham responded that it is possible that any insignificant changes could be approved at the staff level but if they go beyond that they would have to come back to the Commission for approval.

Ms. Coleman asked what would be considered a significant change.

Ms. Graham responded that it may be something defined in the UDO or the Design Guidelines but if she already knows that changes to what has been presented are in the works, such as the color of the door or the materials, then the applicant should let them know now.

Mr. Robinson stated that there is what appears to be a cement step in front of the library but they noticed that the tree is very close to the bricks so there is not really room for a step nor really a need for it so it is very likely that they will want to replace that step with some kind of wooden cover for the root area as opposed to cement or stone in the final design.

Ms. Oettinger asked if they would be required to use an approved Historic District paint color.

Mr. Graham responded yes, and it is a very broad pallet.

Ms. Coleman said she thought the biggest change was the step. She included the picture of her leaning against the side of the tree in the application to show that the tree is so close to the sidewalk that no one would have to step on the roots, which was their concern. They might have to build a step over the roots on the sides but the tree is close enough to the sidewalk that they believe people could just open the door without stepping on the roots or needing a step.

Chair Goodman asked if they still planned to have the solar collector.

Ms. Coleman responded yes, that they would love to have a lantern that turns on at night, especially during the winter, and individual lights that will light up the interior as well.

Chair Goodman closed the public hearing.

Discussion regarding the findings of fact ensued.

Chair Goodman reopened the public hearing to allow Mr. Robinson to provide the facts.

Mr. Robinson provided the facts in response to findings of fact #1.

Chair Goodman closed the public hearing.

HISTORIC DISTRICT COMMISSION ACTION:

Elizabeth Oettinger made a motion, seconded by Robert Brown and approved by unanimous vote, that as a finding of fact the application is complete and that the facts submitted are relevant to the case because the request for a Certificate of Appropriateness - Major Work has met the specified submittal requirements as required in the Town of Southern Pines Unified Development Ordinance.

Elizabeth Oettinger made a motion, which was seconded by Lane West, that as a finding of fact the application complies with Section 2.28.10 Criteria for a Certificate of Appropriateness – Major Work, Criteria (C) 1-3 in that:

1. *Work is compatible and appropriate in preserving, retaining, repairing, or restoring the defining historic character of a property and the district. Specifically, the work is considered compatible and appropriate in terms of material, design, dimensions, mass, scale, orientation, color and other applicable considerations. This motion is supported by the following specifics in the proposal being considered:*
 - a. The descriptions provided by staff in the staff report
 - b. The expert witness testimony from the landscape architect

- c. The expert witness testimony from the arborist.
2. *Work does not damage or remove significant character defining features of the building and will not adversely affect its contribution to the larger historic district. This motion is supported by the following specifics in the proposal being considered:*
 - a. No building is involved.
 - b. Expert witness testimony from the landscape architect.
 - c. Expert witness testimony from the arborist.
3. *Work is consistent with the adopted design guidelines for the historic district, including the following:*
 - a. The landscape features and design support this as it is a softening of the environment.
 - b. It is valuable to the streetscape and provides a safe and pleasurable pedestrian experience.
 - c. It is unique.

The motion carried unanimously.

Elizabeth Oettinger therefore made a motion, which was seconded by Robert Brown, to approve HD-15-22 with the following conditions:

1. Materials related to construction of the stoop must be approved by staff
2. Pursuant to the UDO and the Design Guidelines, any significant changes may need to return to the Commission for approval.

The motion carried unanimously.

UNFINISHED BUSINESS:

No unfinished business was discussed.

NEW BUSINESS:

Following discussion it was decided that future meetings would be held at the Community Development Building instead of the E.S. Douglass Community Center.

PUBLIC COMMENT:

Suzanne Coleman thanked the Commission.

Molly Goodman made a motion, which was seconded by Elizabeth Oettinger, to adjourn the meeting. The motion carried.

The meeting adjourned at 7:00 PM.

Respectfully submitted:

Cindy Williams
Secretary to the Historic District Commission