



TOWN OF DAVIDSON
HISTORIC PRESERVATION COMMISSION
7:00PM Board Room in Town Hall at 216 S Main St, Davidson, NC

June 19, 2019

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- I. CALL TO ORDER**
 - II. SILENT ROLL CALL**
 - III. CHANGES TO THE AGENDA**
 - IV. REVIEW/APPROVAL OF THE MINUTES**
 - (a) Minutes 2019 May 15
 - V. NEW BUSINESS**
 - VI. OLD BUSINESS**
 - VII. OTHER ITEMS**
 - (a) Historic Preservation Updates
 - (b) Minor Works List Discussion
 - VIII. ADJOURN**



Agenda Title:

Summary:

ATTACHMENTS:

Description	Upload Date	Type
☐ Minutes 2019 May 15	6/7/2019	Exhibit

Meeting Minutes

Historic Preservation Commission

Town of Davidson, NC
May 15, 2019

A regular meeting of the Town of Davidson *Historic Preservation Commission* was held in the Town Hall, Board Room, 216 S. Main St.

Call to Order: 7:00 p.m.

Silent Roll Call and Determination of Quorum:

Members Present signified by ☒:

<input checked="" type="checkbox"/> Bruce Barteldt, Chair	<input checked="" type="checkbox"/> Brian Bumann	<input checked="" type="checkbox"/> Jeff Osman
<input checked="" type="checkbox"/> Tom Goodwin	<input checked="" type="checkbox"/> Bob Sipp	
<input type="checkbox"/> Mike Kessler	<input checked="" type="checkbox"/> EB Dyer	
<input checked="" type="checkbox"/> John Burgess	<input checked="" type="checkbox"/> Lorraine Degree	

Town Staff Present: Lindsay Laird (Planner) and Cindy Reid (Town Attorney)

Changes to the Agenda: None.

Review/Approval of the Minutes:

A motion was made (TG) to approve the revised meeting minutes of March 27, 2019 and the meeting minutes of April 17, 2019. It was seconded (BS) and approved unanimously.

Consent Item: None.

Old Business:

1. Certified Local Government Model Ordinance Discussion

The CLG Model Ordinance Subcommittee met at the end of April to finalize a list of questions to be discussed with the Board of Commissioners. The draft list of CLG model ordinance questions were brought back before the HPC for review. There were no revisions requested by the HPC. The subcommittee will report back to the HPC after meeting with Board of Commissioners.

No further action was taken on this discussion item.

New Business: None

Other Items:

1. Quasi-Judicial Process Discussion

Town Attorney Cindy Reid held a question and answer session with the HPC on the quasi-judicial process. The following questions were discussed:

- **In general, how should HPC members conduct themselves outside of a COA hearing?**

The COA process is a quasi-judicial process and, as such, the law's emphasis is on ensuring a fair decision-making process for those directly involved. Quasi-judicial decisions involve determining contested facts and applying existing standards that require application of some judgment. Applicants and those directly involved such as neighbors have a constitutional right to a fair hearing. One of the essential elements of a fair trial is the opportunity to review and rebut all the evidence being considered. All of the decision makers review the same evidence and have the same opportunity to ask questions of witnesses. Courts have concluded that board members must not gather evidence outside of a hearing, often referred to as "ex-parte" contact. Undisclosed ex-parte communications can create bias or unfairness that could be grounds for judicial invalidation of the decision. It is not unusual for a board member to have had casual conversations about the case before the hearing, but these conversations should be disclosed prior to the hearing. Extensive conversations about the case with anyone should be avoided. The applicant has a right to know and rebut what is being said about his/her case and conversations outside the hearing should be completely avoided, or minimized, and disclosed if they occur. The same rule applies to meetings with staff about the case. It is acceptable to discuss the ordinance requirements with staff, but the facts of the case should not be discussed. The staff analysis should be available to the applicant and all directly involved parties.

- **How does the HPC verify that a witness providing evidence at a COA hearing has standing?**

Persons who would be directly and substantially affected by the decision have *a right* to participate in the hearing. These persons include neighbors whose property values or enjoyment of their property will be adversely affected. These persons are also "parties" and have the constitutional right to present evidence and cross examine witnesses. Persons who are not parties do not have a constitutional right to participate in the hearing. However, the problem is that these hearings are not conducted with the formality of a court proceeding. Most of the time, staff summarizes the application and applicable standards, the applicant summarizes its case, and any neighbors present are recognized to give their comments. At this point, "parties" have not been designated and the legal standing, or right, to participate is seldom raised. The Board should really be more concerned with gathering competent evidence than identifying "parties" or addressing standing. A person, such as a citizen who lives a couple miles away, may have competent evidence but is not a "party", nor does he/she have "standing" to appeal a decision. Given the informality of the hearing, and the emphasis on gathering evidence, it is better to let a person who may not have standing, or be a party, offer testimony with a warning that it needs to be relevant and that opinions about the ordinance and policy suggestions are not appropriate. If the person provides irrelevant information, it is important to note in the findings that the board did not rely on this testimony in making its decision.

- **How should the HPC conduct business for unofficial items to be discussed at a meeting that are not part of a hearing (i.e. a COA) within the quasi-judicial process?**

These items can be discussed at the beginning or end of a meeting, but the Board should be clear that the discussion does not involve a request for issuance of a

COA. Issues that be may relevant, even if remote, to a COA in the future should not be discussed in a non-quasi- judicial setting.

- **Are FYI reviews by the HPC permitted within the quasi-judicial process?**

No, the FYI review is not subject to a quasi- judicial process because no decision is being made. If the subject matter of the FYI discussion may later require a COA determination, the HPC board should not hear FYI facts outside a quasi-judicial process.

- **Does the HPC require an ETJ member similar to the Board of Adjustment? – I do not believe this requirement is in the HPC Rules of Procedure**

I am not sure about this. I agree it is not in the Rules of Procedure, but a blog by the SOG seems to suggest that an ETJ member is required. I'll research it further.

- **How are commission members protected?**

The HPC is protected under the town's insurance policy. Individual HPC members are not liable for commission decisions.

Adjourn: A motion was made to adjourn (TG), seconded (LD), and approved unanimously. The meeting was adjourned at 8:47 p.m.

Approval of Minutes:

Date: _____ By: _____

Please note: This is a summary of the meeting and not to be considered a complete transcript.



Agenda Title:

Summary:



Agenda Title:

Summary:

ATTACHMENTS:

Description	Upload Date	Type
❏ Minor Works List Memo 2017	6/7/2019	Cover Memo
❏ Minor Works List Draft 2017	6/7/2019	Exhibit



MEMO

TO: Design Review Board
FROM: Chad Hall, Senior Planner
DATE: May 17, 2017
SUBJECT: Notes on DRAFT Historic Guidelines Work Lists

DRB:

A DRAFT version of the Basic Work, Normal Maintenance, Minor Work and Major Work lists accompany this memo. Please note that there will be other changes in the Historic District Guidelines document that relate to these lists and how they are used, but these draft lists are being provided for your early review and input.

The compose the lists, several historic guidelines and work lists from towns and cities throughout North Carolina were reviewed; this collection of lists included “sister cities” such as Pinehurst and lists from bigger cities that have experienced more issues, such as the historic districts in Asheville, Winston-Salem and Raleigh. Commercial historic guidelines, such as Aberdeen and Black Mountain were also studied.

This draft – intentionally – has some duplication and contradiction from list to list where the same language and/or a slight adjustment to the language occurs. This is intended for your review and debate on various topics. Also, there was not enough consistency amongst other communities to decisively place every item in only one list, but I did try to minimize duplication as much as practical.

To assist in your review of these lists, please note the following:

- **Black text** language is proposed;
- **Blue text** is very similar language from another municipality that may be more clear and concise, so I have added it as an option to replace the preceding text in black;
- **Orange text** are thoughts that I had while composing the lists; sometimes the text may be suggestive of a change and sometimes it may just list an item, so I/we can determine if that topic is adequately covered and the work item is in the appropriate list.

One key consideration in reviewing these lists is that staff cannot deny a project; if an item is submitted that conforms to the Ordinance and Guidelines, staff may approve. However, if there is question or concern, staff can only forward the request to the Historic Preservation Commission.

I look forward to our discussion about these lists in the near future.
Chad

Description of Projects

Changes made to a property within the Local Historic District fall into one of the following categories. The nature of the work will determine whether the change requires staff or Commission approval. *Not every project requires a property owner to obtain a COA. There are three (or four) basic levels of projects: Routine Maintenance, Minor Work, and Major Work. The following will give a brief definition of each and indicate whether a COA is required.*

Basic Work as defined in the Design Guidelines does not require the issuance of a Certificate of Appropriateness. A Local Historic District application is encouraged but is not required (the application helps to keep records accurate for any changes to the property).

Normal maintenance as defined in the Design Guidelines does not require the issuance of a Certificate of Appropriateness. A Local Historic District application is required. However, the property owner shall receive written approval from the Town Planner or designee so long as the project is consistent with existing circumstances on the lot and/or structure. At the Town Planner or designee's discretion, an application for Normal Maintenance may be forwarded to the HPC if the work is questionable as to whether it is consistent with the Guidelines.

Combine Basic and Normal into one category: Routine Maintenance? Most communities do.

Minor work projects as defined in the Design Guidelines are reviewed by the Town Planner or designee. If staff approves the application, the Certificate of Appropriateness may be issued; a placard must be displayed on site during the course of the work. If staff does not approve the application or if the work is questionable as to whether it is consistent with the Guidelines, then the application will be heard at the next HPC meeting as a regular agenda item. At the Town Planner or designee's discretion, an application for Normal Maintenance or Minor Work may be forwarded to the HPC.

Major work projects as defined in the Guidelines shall be reviewed by the Davidson Historic Preservation Commission and - if approved - will be issued a Certificate of Appropriateness. All other regulations of the Town of Davidson and the State of North Carolina apply. In order to obtain a Certificate of Appropriateness for major work, an application must be properly completed and filed with the Davidson Historic Preservation Commission staff.

Basic Work

Basic work requires no approval from the Village Planner or Historic Preservation Commission. A Local Historic Application is not required, but encouraged. Basic Work includes, but is not limited to the following:

- Replacement of broken or damaged glass, as long as the replacement matches the original;
- Caulking and weather stripping;
- Minor landscaping, including vegetable and flower gardens, shrubbery, and planting single yard trees;
- Installation of or the in-kind repair or replacement of gutters and downspouts **as long as the color matches the house trim color**;
- Installation of address numbers and mailboxes that are compatible with the neighborhood;
- Repair of existing street and/or yard lighting;
- Installation of foundation vents and replacement of access doors; **Installation of metal foundation vents on the side and rear of the building and replacement of foundation wall access doors located in areas of low visibility**;
- Repairs to walks and patios, as long as the replacement matches the original; **Repair to walks, driveways, patios, and decks, as long as the repair matches the original in location, material, size, shape, color, and texture**;
- The general display of merchandise along business fronts;
- Installation of life safety equipment (i.e. Automated External Defibrillators, fire extinguishers, etc.) or items for special events (i.e. tents, displays, storage pods, etc.) that is compatible with the historic district;
- Replacement of mechanical equipment, including HVAC units;
- Removal of existing fencing;
- Removal of dead or diseased trees in the side and rear yard (must submit tree removal permit with Town of Davidson Public Works department).

Normal Maintenance

Normal Maintenance or repair does not require a Certificate of Appropriateness where no change is made to the appearance of a building or grounds. The Town Planner or designee shall be contacted by the property owner and a written approval must be received in order to conduct normal maintenance. These changes do not have to go before the Davidson Historic Preservation Commission. A Local Historic Application is required. Normal maintenance includes, but is not limited to the following:

- Painting in-kind of wood siding. Masonry should only be painted if there is evidence that the surface was originally painted;
- Repairs to existing wood or cast iron fences as long as the repair matches the original in location, material, size, shape, and color;
- Repairs to walks, patios, fences and driveways as long as replacement materials match the original or existing materials in detail and color;
- Replacement of existing residential shutters and awnings as long as replacement materials match the original or existing materials in detail and color;
- Replacement of small amounts of missing or deteriorated siding, trim, porch flooring, steps, etc., as long as the replacement matches the original or existing materials in location, design, size, shape, texture, and material, and provided such work does not damage or eliminate prominent architectural features. For siding and porch flooring, approximately fifty (50) square feet or less will be considered Routine Maintenance;
- Repair or replacement of asphalt, fiberglass, or composite roof coverings with a material of similar texture and general appearance;
- Repair of wood, slate, tile, or metal roof coverings where there is no change in design, dimension, detail, color, texture, and materials;
- Repair of existing stone, brick, or stucco walls as long as the repair matches the original in material, size, shape, and color;
- Repair of masonry foundations where the original foundation material is retained or where new material matches the original in location, design, color, mortar strength, tooling and bonding patterns, width of joints, material, and appearance;
- Repointing and other masonry repairs when the color and composition of the mortar matches the original and new brick or stone matches the original as closely as possible;
- Replacement of doors and windows compatible to the style, material, size, and color;
- Replacement of missing details: Replacement of missing or deteriorated siding and trim, porch floors, ceilings, columns and balustrade or other architectural details, with new materials that are identical to the original details;
- Removal of dead or diseased trees along the **street front** only;
- Minor landscaping, such as the installation of trees, large variety shrubbery, and vegetable and/or flower gardens that affect 25% or less of front yard area from building face or 50% or less of total side and rear yard area;
- Minor pruning of trees and shrubbery and the removal of trees less than four (4) inches in diameter, measured four and one-half (4½) feet above ground level;
- Replacement of gutters and downspouts **where there is a change in color, material or design**;

- Complete removal of artificial siding when the original siding is to be repaired and repainted;
- Installation of storm windows and doors. Storm doors should be the “full-view” type;
- Installation of window air-conditioners **on the side? and rear of the building**;
- Installation of mechanical equipment, such as heating and air-conditioning units, and television or satellite systems which are completely screened from view with shrubbery or located in areas of low visibility;
- Temporary placement of signs, such as real estate, political, etc.

If combining into Basic and Normal into a Routine sections, here is the proposed intro paragraph:

*Routine Maintenance items are types of exterior work that focus on keeping a property in good condition. Such projects include any repair where no change is made to the appearance of the structure or site. Repair of features or conditions as soon as they become apparent can prevent severe deterioration and loss of original character and material. It is highly suggested that property owners conduct routine inspections of a property and take preventative steps to alleviate the necessity of more intense and larger repairs, rehabilitations, or restorations. Routine Maintenance of a property does **not** require approval from the Commission or staff unless it will change the exterior appearance.*

Routine maintenance or repair does not require a certificate of appropriateness where no change is made to the appearance of a building or grounds. The property owner may make changes, which fall into the following categories without application to the Historic Resources Commission:

Minor Work

Intro version A:

Minor Work projects require a Certificate of Appropriateness. **A Local Historic Application is required.** However, minor work projects can be approved by the Town Planner or designee if the proposed work is consistent with the Town of Davidson Design Guidelines. The Town Planner or designee may meet with the property owner at the site if necessary and determine if the proposed work is major or minor. If the proposed work is indeed minor and approved, a Certificate of Appropriateness **shall/will** be issued. If the Town Planner or designee does not approve the proposed work, an application for a Certificate of Appropriateness will need to be presented to the Historic Preservation Commission for review. Minor Work projects are not considered to have a material effect on other properties and therefore the Town of Davidson does not require that the adjacent property owners be notified. Minor work includes various projects in which the visual character of the structure or ground is not substantially changed.

Intro Version B:

Minor Work projects are types of exterior work that are more substantial than Routine Maintenance, but where the visual character of a structure or site is not significantly altered. Minor Work projects are eligible for staff review and approval, provided that the work meets all relevant current policies adopted by the Commission and the specifications of the *Davidson Local Historic District Overlay Design Guidelines*.

Staff has the discretion to refer **any** Minor Work project to the Commission for **any** reason. Staff must refer Minor Work projects to the Commission if the changes involve alteration, addition, or removals that are substantial, that do not meet the *Guidelines*, or are of a precedent-setting nature. Staff does not have the authority to deny a Minor Work project or approve an after-the-fact Minor Work project.

Before a Minor Work project can be reviewed, a Minor Work Certificate of Appropriateness application must first be filed with Commission staff. Staff will review the application and issue a Minor Work COA, **if approved**. Staff will brief the Commission each month on Minor Works approved during the previous month.

Minor work includes, but is not limited to the following:

- New roof coverings: Replacement roofing that is a different material or color;
- Installation of new mechanical and utility equipment including but not limited to, heating and air conditioning units that are screened from view with shrubbery or appropriate fencing that meets or exceeds the Davidson Planning Ordinance;
- Light fixtures (**attached???**), that are in keeping with the neighborhood and are historic in appearance;
- Removal of siding covering original material: Total removal of asbestos (which must have an asbestos report submitted to the building inspector), asphalt, or other artificial siding when the original siding beneath is to be repaired and repainted or stained;
- New parking areas (**so we should have guidelines for these**), walks, and driveways;

- Addition of shutters and awnings which do not include signage;
- Fences and walls that meet the guidelines; Construction or repair of fences or retaining walls, except construction of fences or walls in front yards;
- Addition of decks and patios on non-street facing facades?;
- Installation of a permanent or temporary handicapped ramp and exterior fire exits;
- Landscaping projects: Removal of trees 4" DBH and larger, construction of walkways, driveways or other landscape structures such as but not limited to arbors, pergolas, etc. visible from the primary public right of way;
- Construction of an arbor, water feature (not including pools), pergola and/or trellis;
- Temporary, portable and permanent new and replacement signage that meets the standards;
- Screening in of an existing porch that is not visible from the street front(s);
- Accessory structures and buildings that are architecturally compatible and of similar materials to the principal building; NOTE: Pools, per DPO, are "accessory structures"
- Installation of metal roofs;
- Replacement or new installation of windows and doors that is compatible with the existing or original window(s) and/or door(s);
- Resurfacing buildings with material that is compatible or similar to the original siding;
- Publication dispensers in non-residential areas;
- Resurface porch with a material that is compatible or similar to the original or existing flooring...in design and appearance???
- Need more clarity/info on landscape, tree removal, etc.;
- Removal of deteriorated accessory buildings, which are not original to the site or otherwise historically significant;
- Construction of small utility buildings, playhouses or playground equipment (or other minor construction) that are inconspicuously located in the rear yard (or not easily visible from a primary ROW);
- Installation of skylights or solar panels which are flush mounted and inconspicuously located on non-primary façades;
- Construction of decks not visible from a public right-of-way;
- Replacement of exterior stairs, landings and steps, when there is no change to the original design;
- Change in gutters...from original???
- Signs?
- Shutters?
- Awnings?
- Fences? On corner lots?
- Mail kiosks (prefab?)
- Extension, renewal or change to a previously issued minor Certificate of Appropriateness.

Major Work

Major Work projects must be approved by the Davidson Historic Preservation Commission. **A Local Historic Application is required.** In general, these are projects which involve a change in the appearance of a building or landscape, and are more substantial in nature than minor work projects. **They include changes from the original design or material, or replacement, alteration, or removal of an original feature. Major Work projects require a COA from the Commission.**

Major works include, but are not limited to, the following:

- New residential or commercial construction;
- Additions not considered to be minor;
- Demolition;
- Removal or demolition of any structural part of a building except as authorized under minor works;
- Moving of buildings, including accessory structures;
- Changes to roof lines;
- Resurfacing buildings with material that is not compatible or similar to the original siding;
- Replacement or new installation of windows and doors that is not compatible with the existing or original window(s) and/or door(s);
- Replacement of architectural details when there will be a change in design or materials from the original or existing details;
- Removal of healthy tree(s) in the yard(s) along the street front on private property that is greater than 4" DBH;
- Installation of long-term (1 year or greater) or potentially long-term structures or features that may not be permanently affixed (i.e. modular units, etc.);
- Discovery of any archaeological resource on the site; or
- Minor work items not approved by the Village Planner.
- **New (Res) Acc structure over 650 SF. All commercial accessory structures?**
- **Parking lots?**
- **Exterior Fire exits?**
- **Fences and retaining walls in front yard?**
- **Decks visible from public ROW?**
-