



OAK RIDGE HISTORIC PRESERVATION COMMISSION MEETING
NOVEMBER 12, 2014 - 7:00 P.M.
OAK RIDGE TOWN HALL

MINUTES

Members Present

Ann Schneider, Chair
Debbie Shoenfeld, Vice Chair
Ron Simpson
Mac McAtee
Michelle Ungurait
Caroline Ruch, Alternate (Not sitting)

Staff Present

Sandra Smith, Town Clerk/HPC Staff
Bill Bruce, Planning Director
Bruce Oakley, Town Manager

1. CALL MEETING TO ORDER

Chair Ann Schneider called the meeting to order at 7:00 p.m. After introductions of Commission members and staff, Schneider read a brief statement on the purpose, duties and responsibilities of the Commission.

Schneider announced that alternate Cara Townsend had resigned from the Commission. Townsend has received a new job in Raleigh, and Schneider publicly thanked her for her service.

2. APPROVE AGENDA

Mac McAtee made a **motion** to approve the meeting agenda as amended after removing approval of the October 8, 2014, meeting minutes to give Commission members additional time to review them. **Ron Simpson** seconded the motion, and it was passed unanimously (5-0).

3. OLD BUSINESS

Schneider read a statement, which she said would apply to all COA requests being heard, regarding the responsibilities, duties and goals of the Commission. Because the Commission is quasi-judicial, Schneider said its decisions should be impartial, and that it should consider evidence, make findings of fact, and render a decision. A decision must be made within 180 days. She explained possible conflicts of interest, which can include having a fixed opinion; having communications regarding any of the cases about to be heard outside of these proceedings; having a close personal or family relationship with any of the applicants; or having a financial interest in the outcome of any of the Commission's decisions. She asked Commission members to disclose any possible conflicts so that the Commission as a whole could determine whether that Commission member should be excused from any part of the proceedings; no conflicts of interest were disclosed.

Schneider then asked that Commission members determine the eligibility of cases to be heard based on whether the application submitted appeared to be complete, whether the project falls within the scope of activities outlined in the Design Guidelines, and whether all necessary information has been submitted in order to render findings of fact and a decision. If all necessary information was not submitted, she said the Commission could disapprove a COA request and allow the applicant to reapply with additional information, or the Commission could continue the case to the next meeting. If the applications are deemed to be complete, Schneider stated that the Commission can continue discussions regarding conformance of the proposed projects to the Design Guidelines. She asked Commission members to cite specific applicable sections of the Guidelines in their discussions.

- A. Request for COA:** Oak Ridge Foundation Inc. requests a Certificate of Appropriateness for Linville Chapel on the campus of Oak Ridge Military Academy. The property is located at 2324 Oak Ridge Road, Tax Parcel 0162858, Oak Ridge Township, and is zoned PI (Public and Institutional).

Mark Overby and Irvin Angel remained sworn in from the previous meeting.

Overby told the Commission that repairs to the foundation of Linville Chapel had been discussed at the last meeting. He presented photographs taken the day of the meeting, which are hereby incorporated by reference and made a part of the minutes, to give a better indication of the appearance of the sides of the building. Overby said that the old foundation-level windows below porch level have been covered with vinyl siding, and pointed out in photos how badly the foundation is cracking above the foundation-level windows. He said the proposed project would include bricking up those windows completely, and that the landscaping around the building would prevent the windows from being seen from the road. Overby said from a financial standpoint, there was not enough money to leave the lower windows in place when repairing the foundation because of the damage around them. He said he had discussed the situation and the proposed materials with Planning Director Bill Bruce and Town Manager Bruce Oakley.

Overby said he felt that covering the foundation-level windows was not an issue because they have been covered for some time. He said the basement of the building is not finished, but is actually a dug crawl space that turns to dirt toward the front of the building. He said the area was basically a furnace room, and pointed out where a vent pipe from an old furnace could be seen coming out of one of the foundation windows. He requested permission to brick over the old, covered foundation-level windows in order to do the foundation repair work.

Debbie Shoenfeld noted the proposed solution to the foundation issues included covering the old brick fascia with new brick fascia. She said she was somewhat concerned about the space in between the old and new foundation bricks, and asked if that space would be filled with mortar. Overby said bricks would be placed over the entire foundation, including the windows, and that grout would fill the space between the old and new foundations.

Shoenfeld asked if there was any concern that the grout mixture would eventually disintegrate, and Overby said it was not supposed to. He explained that the material was not really mortar, but was more of a grout slurry that would harden once it is

put in place. He compared the material to a concrete cast that would bond to the inside and outside and anchor the new brick to the foundation. Angel said they would be also putting in a footer for the new brick foundation.

Shoenfeld asked if the grout material was porous, and Angel said it is a relatively new product that was also used to connect the new addition at Holt Hall to the historic building. Angel said that current building code requires that grout be used in every other void in block, and the maximum lift that could be done in the grout was about 6 feet. He said 500 bags of the new grout product, which was developed by a national company and used at a Home Depot demonstration, had been used on the Holt Hall addition. He added that the new product was extremely strong and impervious to water. Shoenfeld asked if it would be used in the space between the old and new foundations at Linville Chapel, and Angel said yes. He added that there would be about a 1½-inch space between the old and new foundations where the grout/mortar product would be used, and they also planned to drill into the brick and insert a structural tie between the old and new foundations. He also said the grout/mortar material was a Type S (which indicates medium strength), which Angel said was the best type of mortar mix.

Shoenfeld asked if the same type of mortar/grout would be between the old and new foundations as well as in between the bricks. Overby said there is brick there now, but that the mortar was loose. Shoenfeld clarified that there was a brick elevation and another partial brick wall would be built against it using the new polymer mortar mix. She asked if the same material would be used between the brick on the outside. Angel said no, the new mortar/grout material would not be seen from the outside, and that mortar that matched what is on the building now would be used between the outer foundation bricks. Shoenfeld asked if they felt confident that using the method proposed would make the foundation waterproof; Angel said yes, and in addition it would be able to carry a great deal of weight. He explained that the stress of the building has caused the lintels to give way above the foundation-level windows and that much of the building's weight would be transferred onto the proposed new footings.

Michelle Ungurait said that page 22 of the Guidelines talks about a couple of things she wanted to ask about. First, she asked if the repair area was smaller than 50 square feet, and Overby said no because it included the foundation all around the building. Ungurait asked about the size of the window area itself, and Overby said that was probably less than 50 square feet because there were five total windows – two on one side of the building and three on the other. Ungurait asked if Overby and Angel were giving their best effort to repairing damage to the foundation using comparable materials; Angel said absolutely yes, and said that was the driving force to doing the project. Angel added that they were concerned about the cracks that have occurred in the building above the foundation-level windows.

McAtee asked if they intended to block up the window openings and then install new brick material over the face of the windows so that the windows would not be seen and there would be no evidence that they were ever there from outside the building. Angel said yes.

Ungurait again asked if the window area to be covered was less than 50 square feet, and Overby said there were five foundation-level windows. Angel said each of the foundation windows was 4-feet-9-inches wide and 4 to 5 feet tall.

Schneider said the Commission is concerned about preservation of the building, and because there was a lot in the Historic Design Guidelines about retaining and repairing existing materials before considering replacing them, said her concern is that a big structural change was being proposed. She asked if it was known why the foundation had deteriorated, and asked if the reason was because of moisture. Angel said he would say moisture was the cause; he added that there was a lot of mortar that was no longer between the joints, but that had occurred only from the floor level down. Other than where the stress cracks could be seen, Angel said the balance of the chapel from the floor level up was in great shape and had never been painted.

Schneider said her concern was that the Commission was still unclear where the moisture problem is occurring. She asked if a conservation architect or structural engineer had been consulted, and Angel said not specifically. He added that he had worked with structural engineers for the last 60 years and knew a good deal about this type of construction. He said he would be glad to get a structural engineer's opinion, but felt confident it would be the same as what he was proposing.

Shoenfeld said she understood the mortar between the bricks has disintegrated, which is allowing water to penetrate the building and is causing more damage. Angel said that it could cause more damage over the years. Shoenfeld asked if the issue was that there was missing mortar, and Angel said yes, and the grout he had proposed using would replace what was missing. Shoenfeld said if the mortar has disintegrated, that allows moisture to the further damage to the brick, mortar or anything on the wall behind the foundation; she said she wondered if an easier repair approach might be to repoint the bricks and replace the mortar.

Overby asked Angel if the brick is the foundation or if there was something behind the brick. Angel explained that the wall is 12 inches thick and it is solid brick. Shoenfeld clarified that the foundation was solid brick, 12 inches thick, and Angel said yes. Shoenfeld said the drawing did not show that, and said she had assumed that behind the brick foundation, the wall was block or poured concrete; Overby said the foundation was not covered with brick veneer, but was made of solid brick. Angel said he was not sure blocks were made when the chapel was built. He said the bricks in the foundation are solid and do not have holes, and are not deteriorating. He explained that the mortar is protruding 1½ to 2 inches from in between the brick. He said the plan is to add an additional brick wall on the outside of the foundation, and that the grout, which would fill in the spaces where the mortar is missing, would be around 4 inches thick in some places and would fill in the spaces in the deteriorated joints.

Simpson said his understanding was that the grout slurry is thinner than conventional mortar, so it would actually find the fissures and crevices and fill them. Angel agreed, saying the grout/mortar material, which is like a plasticized material, fills every crack and crevice. In the past, building code said the maximum height wall using old-style mortar could only be built to about 8 feet tall, but using the new

material, a wall can be built to 12 feet in height. He said he witnessed a demonstration of the material at Home Depot and that it was amazing.

Schneider reiterated that her concern was for the long-term preservation of the building. She asked whether the approach being proposed – of adding an external wall and filling to the foundation – had been used on other historic buildings; Angel said not to his knowledge.

Shoenfeld pointed out the old and new foundation on the drawing included with the application, and Angel said the drawing had been changed. Shoenfeld clarified that interior of the foundation walls are solid brick and mortar. Angel agreed, but said the mortar is coming out of the foundation up to the floor level. Shoenfeld said she understood that Angel wanted to build a brick façade and tie it into the existing brick foundation, which is crumbling. She asked how that was going to hold up the building. Overby said Angel proposed going all the way through the 12 inches of brick foundation to the other side.

Angel asked if he could present a new drawing, which also showed a plan to be proposed in the future for Linville Chapel's stairs; Shoenfeld said if it better illustrated what was being proposed, she was OK with allowing Angel to introduce it. Schneider said she thought it would be difficult to introduce a new drawing during these proceedings that the Commission had not had an opportunity to review prior to the meeting. Overby said he thought it was the same drawing, but it just gave a different view.

Schneider asked for the opinions of other Commission members, and Shoenfeld said the drawing that was submitted with the application did not show the detail that she was talking about. Angel said page 2 of the new drawing, which is hereby incorporated by reference and made a part of the minutes, did show that detail. After looking at the new drawing, Shoenfeld asked if Angel was now proposing adding a capstone brick over the top of the new foundation, and Angel said yes, and that the grout material would go in between the layers of the old foundation and the new brick foundation and the bullnose/capstone brick would go on the top. Angel said every ounce and every pound added as part of the new foundation would supplement the strength of the old foundation.

Schneider asked if the cove water table brick presented on the first drawing was now going to be replaced with a cap brick, and Angel said yes, adding that the solid cap brick would further protect the foundation by shedding water away. Schneider asked if Angel knew where the water was coming from, and Angel said it was rain, particularly when it is blown by the wind.

Simpson asked if the same approach for shoring up the foundation was used on Holt Hall. Angel said the grout/mortar product was used there, and Overby said it was used to tie the existing masonry to the new part of the building. Overby said he understood that building code now requires the block cavities to be filled with grout. Simpson said the same material was used but with a different application, and Angel agreed.

Overby said he hoped the Commission would not get too bogged down about how the process would occur because they were there to discuss covering the foundation-level windows and why they felt that was needed. He said the purpose for doing so is because Linville Chapel's foundation lacks support in the area of the windows. He said the brick in the foundation is about a foot deep, and the building is settling, particularly in the areas where the windows are. He said the issue was more about repairing the building and using the foundation-level window areas for additional support; as far as the method of repairing the foundation, Overby said the Commission had discussed at the last meeting the fact that while the work is not below grade, it is below the floor level, and the repair is being proposed to keep the building from collapsing. He added that the method used would have to be approved by a building inspector as suitable for repairing the foundation and transferring the load. He said he did not want to tie up the meeting specifically going over how the foundation would be repaired when the reason they were there was more about supporting the foundation, particularly in the area of the foundation-level windows, to truly repair the foundation.

Shoenfeld said the application only specified that the foundation on the sides and rear of the building would be repaired by installing new brick over the old up the floor level and locking the old and new foundations together; she said now the Commission was being told about the windows. Overby said at the last meeting, he and Angel had been told that the foundation repair could be approved by staff, but when they attempted to do that, staff then determined the case needed to come back before the Commission because the windows would be covered.

Bruce agreed, saying that at the time, staff thought the proposed plan was to replace the brick rather than adding another layer of brick to the outside of the foundation, but Overby said he thought they were being clear. Angel said it would be nearly impossible to replace the brick in the building's foundation, and Overby agreed – particularly without supporting the entire building – because it was not simply a brick veneer, but because the brick actually was the foundation.

Schneider said the criteria in the Design Guidelines was to replace and repair, and asked if they had looked into those options. Angel said yes, adding that in their opinion the proposed plan was the best repair they could determine to fix the problem, although it was not cheap to do so, and that other alternatives would be extremely expensive. Overby said the only other alternative would be to support the building and then replace the entire foundation, which they did not have the money to do.

Ungurait asked if Angel and Overby were simply asking for permission to add brick to the area where the windows formerly were that is now covered with wood. Overby said no, and explained that what they were proposing was adding an additional layer of brick on the outside of the existing foundation, drilling and tying the old foundation to the new foundation with plates from the back side, and filling the 1½-to-2-inch gap between with the grout/mortar material to support the existing wall and create a solid new foundation. Schneider asked for clarification about whether that this would be done around the entire building at the foundation level, and Overby said yes.

Ungurait asked if the foundation-level windows would be filled in and the brick and mortar would be essentially the same as in the old foundation, so that really no aesthetic change would be made to the building. Angel said a sample of the brick had been submitted, and Overby said it would not be possible to tell the change had been made with the exception that the foundation would be a bit wider than what is there now and the drip edge (bullnose) brick would be added to the top of the new foundation at floor level.

Ungurait said they were also asking to fill in the foundation-level windows, and Overby said yes, because there was no support there. Ungurait asked if there would be any real aesthetic change to the building from the road, other than perhaps the foundation brick might appear a little newer. Angel said there were five windows in the mechanical room underneath the building. One of those windows contains a chimney, but modern heating systems do not need to be vented in that manner. He said the windows were around 4 feet wide by 4 feet tall, so the total area of the windows was about 80 square feet, which he said was really nothing.

Ungurait asked for clarification of what the applicants thought could be approved by staff versus what the Commission was deciding. Bruce explained that there are several items considered routine maintenance that allow staff to approve a COA. One of those descriptions specifies repairing or replacing 50 square feet or less of material that is visible from the street right of way. Bruce said the entire foundation is greater than 50 square feet, which would require the Commission to approve the COA, but he added that staff felt a major issue that had not been dealt with was the windows had not been addressed. He said if Angel and Overby had simply proposed replacing the existing brick and it was less than 50 square feet of total area, staff would have considered that routine maintenance and could have approved the request.

Bruce added that regardless of whether the windows were covered or not, it was originally unclear to him that there would be an extra layer of brick added, which would increase the width of the building slightly, and that staff felt that materials were not being replaced because the applicants were proposing an addition to the building. Ungurait asked if the addition of those materials was to conserve the building, and Bruce said he thought that was the case Overby and Angel were making.

McAtee asked why the Commission did not get any information about the windows prior to this time. Overby said when he spoke to Bruce about getting staff approval, Bruce said because of the windows, the case was considered a major COA. Overby said Bruce said that staff would put the COA on the Commission's agenda. Overby said that he did fill out a new COA application. Schneider said she thought she understood where the problem was. Bruce explained that on the previous drawing that was submitted, it showed what the foundation would look like once the repairs/changes were made and that the window openings were not shown because they would be covered up. Bruce added that what was not clear on the plan was that there are currently windows along the foundation on the sides of the building that would not be visible later.

Schneider said that part of what was confusing at the last meeting when the case was discussed was that the Commission did not understand the rationale for what was being proposed. She said the application form may need to be revised to make it more clear that part of the role of the applicant is to help the Commission understand what is being done, why it is being done that way, and what the impact will be. She said the information just disclosed was helpful, and she apologized for any miscommunication.

Angel said Linville Chapel was in disrepair and would need to be repaired or abandoned. With each blowing rain, the building deteriorates more, he said, because the foundation is becoming more fragile as time goes on. Angel said as far as he is concerned, the problem will have to be addressed. Overby said although there was discussion at the last meeting about the foundation, the majority of the discussion focused on the proposed changes to the porch and front stairs. He added that perhaps that was why the questions regarding the foundation did not get addressed. He said he honestly did not remember that the foundation-level windows existed, and perhaps that was where some of the confusion came in.

Schneider said she thought the Commission was ready to begin its discussions, and they would let Overby and Angel know if they had additional questions.

McAtee said everything that had been proposed was reversible, and that if a new technique or product were developed down the road, the blocks from the foundation-level windows could be removed and the new foundation-level bricks could be removed. Schneider asked if the polymer grout material could be removed, and McAtee said he thought it was possible so long as the building is supported. As far as filling the foundation-level window openings with block and then applying the new foundation material over the top of them, McAtee said the window openings would still be present because they were not talking about altering the openings. He added that he had no problem with what was being proposed.

Schneider said that being reversible is consistent and is discussed at several places in the Design Guidelines. McAtee said it might be difficult work to remove the polymer material, but that he did think it was possible. Schneider said McAtee had made an excellent point. McAtee said what was being proposed regarding bolting and tying the new and old foundations together would take some of the weight of the building off the existing brick wall and distribute it over a greater surface.

Ungurait said Schneider had started out the meeting by saying the Commission could review the proposed plan to see whether it meets the eligibility requirements, if the application is complete and if the proposal conforms to the Design Guidelines. She asked Schneider where the comments regarding the foundation had come from in the Guidelines, and Schneider said those comments relate to the preservation of the structure. Based on information presented, Ungurait said she did believe this was an incomplete application, but that she thought the Commission might have given the applicants conflicting information about what needed to be presented. She said she considered the window openings that were going to be bricked over were no longer windows now anyway. She also said that the applicants planned to use the same type of brick for the repairs, so the aesthetics of the building will not be changed other than where they must to ensure that the building is preserved. She

said if the Commission wanted to reject the application because it is incomplete, that was different.

Schneider said her concern all along was that it was unclear whether moisture contributed to the creation of the problem, but regardless of that, moisture was entering the building because of the problem. She said the Design Guidelines are based on the Department of the Interior guidelines, which recommend that a careful analysis be made of where moisture is coming from. Schneider said the moisture can come from outside or below ground, so she was concerned with whether encasing the problem in the polymer material might actually make it worse. She said preservation guidelines recommend finding out where moisture is coming from and why it is happening, and then come up with a solution that has been tested previously in historic buildings. She said her concern was with the long-term preservation of this historic building.

Schneider referred the Commission to page 13, where it says the Commission's role is to promote preservation; page 15, where it says to ensure that inappropriate changes have not been made; the tie-in to the Secretary of the Interior's standards for renovation and rehabilitation on page 14; as well as retaining and preserving an existing building whenever possible. Schneider said she understood the urgency of the repairs, and she was happy to hear the proposed changes were reversible, because that is another important principle. Schneider said in an ideal world, the windows would be replaced and the existing structure repaired, although she said she understood that would be a lot to ask of the applicants. She said sometimes blocking off windows contributes to problems because it blocks the air flow, as also stated in the Department of the Interior guidelines.

Shoenfeld said she was also happy to hear that the proposed repairs are reversible, since having an architect come in and make the repairs would be cost-prohibitive for the applicant at this point. She said she felt what was being proposed was a better alternative than having the building fall down.

Simpson said he admired the applicants for coming up with what he termed an excellent solution, and said he hoped the building inspector would determine whether the fix would be an adequate way to repair the building. He said he wished the applicant's file on the project had been as detailed and complete as what was presented in testimony at the meeting, including the explanation for using the solid, cap block as opposed to using the divided block. Simpson said in a sense, the Commission was having to supplement what was submitted with the testimony being given in terms of enforcing what was being promised would be done. He said it was important the applicants understood that the Commission had suffered some disappointments in the past in thinking it understood what an applicant was going to do and later seeing that what was done did not quite match up. That has made the Commission somewhat more aggressive in trying to nail down the details of a project, he said.

Simpson said he was not prepared to say he did not think this was a good solution, and he believed Angel was a well-qualified applicant who had presented this solution, which seems workable. Simpson said he did not have a problem other than a more complete description of the project being filed with the COA.

McAtee said he would like to have the drawings presented at the meeting added to the record.

Angel asked to make a comment, and pointed out that there is no deterioration whatsoever from moisture underneath the building, and that you could walk underneath the floor joists. He said there is no deterioration of the mortar joints under the building, and said Commission members could come and see. Schneider said it was helpful to know that the deterioration was only on the exterior of the building. Angel said he was also sure that the deterioration was caused by the blowing rain from outside the building.

McAtee asked Angel if there would still be ventilation in the basement under the building after the window openings are blocked up, the new layer of brick added to the outside, and the grout material poured between the layers of brick. Angel said yes, adding that there are currently some conventional foundation vents, but it was possible they may need to add mortar to those spaces. He said there was a building code requirement that there be so many square inches of venting per cubic foot.

With no new points raised, Schneider summarized the discussion thus far:

- The Commission had clarified what the project entailed.
- A new drawing was presented, which shows the capstone in place of the cove water table bricks.
- It has been clarified that the applicants will be bricking over the windows and over the entire lower portion of the façade to the first floor.
- The repairs are reversible, which is consistent with the Design Guidelines.
- Materials used will match the existing materials as closely as possible, which is also consistent with the Design Guidelines.
- Adequate ventilation is required by building code, which will help preserve the building; if something must be added to the exterior of the building to accommodate ventilation, a revised COA may be required.
- The applicant has demonstrated that the proposed solution will address the problems with exterior elements and will therefore preserve the building for future generations, which is a priority in the Design Guidelines.

Debbie Shoenfeld made a **motion** to approve a Certificate of Appropriateness to allow for repair of the foundation on the sides and rear by installing new brick over the old to the floor level, capping it with a solid bullnose cap brick, locking the old and new foundations together with ties and grout, and to include bricking the foundation windows for Oak Ridge Foundation Inc. for Linville Chapel on the campus of Oak Ridge Military Academy. The property is located at 2324 Oak Ridge Road, Tax Parcel 0162858, Oak Ridge Township, and is zoned PI (Public and Institutional), the scope of work as described in the COA application dated October 15, 2014, and as described in the applicants' presentation and responses to the Historic Preservation Commission in its meeting on November 12, 2014, using materials and colors as presented to the Commission. The work will include the following stipulations:

- That the construction detail and foundation wall drawing presented at the HPC's November 12, 2014, meeting be a part of the COA application, and
- That all materials will match.

Mac McAtee seconded the motion, and it was passed unanimously (5-0).

Debbie Shoenfeld made a motion to take a brief recess at 8:01 p.m. **Ron Simpson** seconded the motion, and it was passed unanimously (5-0).

Debbie Shoenfeld made a motion to reconvene the meeting at 8:05 p.m. **Mac McAtee** seconded the motion, and it was passed unanimously (5-0).

B. Town Council report. Shoenfeld drafted the report last month that was given at the Town Council meeting. It was presented by Simpson, who said there were no comments or questions from the Town Council, although there were comments in support of the effort to update the Land Use Plan. Schneider said she would present the report at the December 4 Council meeting.

C. COAs approved/reviewed at staff level.

None

D. COAs approved but not completed.

None

5. NEW BUSINESS

A. Request for COA: Marian McDougal requests a Certificate of Appropriateness for the Barrow Place subdivision plan, located on the east side of Linville Road, approximately 1,000 feet north of Scoggins Road. The property is located at 8412-8436 Linville Road, Tax Parcel 0166248, Oak Ridge Township, and is zoned RS-40, Historic District Overlay. This subdivision consists of seven lots for a total of approximately 8 acres. Surveyor: Land Solutions.

Schneider said the signature of the owner on the COA application has been received, making the application more complete. She asked if there was anything else Commission members felt was needed. McAtee said the application had nothing filled out to indicate what was being requested, and said he believed the COA application needed to be improved. Schneider suggested an item number 5 be added to the form for "Other information" in order to give the Commission a full understanding of what was being proposed by the applicant. Shoenfeld asked if the application had been signed by the owner, and Schneider said Smith had received a copy but had not distributed the signed form to the Commission.

Schneider said she believed representatives of both Land Solutions and the developer were present, and asked if either or both of them would like to present any information to the Commission. Developer Kevan Combs and Chris Rohrer of Land Solutions were sworn in by Smith.

Rohrer apologized to the Commission for not filling out the COA application better. He said there was no place on the application to address a subdivision approval, and after talking with Bruce, said he had written a letter saying they were proposing a

seven-lot subdivision on Linville Road, which he thought he had submitted. He said they were not discussing specifics about houses at this time, only whether a subdivision itself was appropriate in the Historic District; COA applications would for construction of each individual house would be submitted later.

Schneider said if a letter were submitted with a COA application, it would be good to attach that to the application. Rohrer said he thought he had sent it, but perhaps he had not. Bruce said it should have been forwarded to Commission members.

Shoenfeld asked Rohrer if he was the developer, and Rohrer said no, he was a planner with Land Solutions. McAtee asked if Rohrer had prepared the subdivision drawings, and Rohrer said yes.

Ungurait asked Rohrer what he was presenting; Rohrer said he was presenting an 8-acre parcel of land subdivided into seven lots. Ungurait asked if he was just presenting the plan, and in the future specific plans for each house would be presented to the Commission, and Rohrer said yes, but that would be up to the individual contractor who purchases a lot and decides to build a house in the subdivision.

Schneider asked for a clarification of what a flag lot was, and Rohrer said it was called a flag lot because it looked like a flag with a long, skinny access to the lot which opens up into a larger, buildable area in the back. Schneider asked if the flag lot on the plan was another lot for a house to be built on, and Rohrer said yes. He said according to the Development Ordinance, the acreage for a flag lot is calculated a little differently.

Referring to the subdivision plan, Ungurait asked about how many trees would be removed and how the look of the property would be changed. Rohrer said Oak Ridge's ordinances require them to preserve 20 percent of the total site, and the area that Combs was pointing out was where trees would be preserved, as well as along the rear of some of the other lots on the plan.

Schneider referred to the earlier HPC meeting where the Commission was asked to provide input on rezoning this property, and said the question of driveways had come up at that time. She said she recalled Bruce saying the Town was going to encourage shared driveways on this property; she noted one shared driveway between the flag lot and one other lot on the subdivision plan, and asked if any consideration was given to sharing other driveways. Rohrer said yes, but that it had not been feasible because of the slope of the parcel, which slopes from right to left. He said that when building a house, a typical construction practice is to put the driveway on the high side of the house. If that is not done, extensive grading to level out the lot is required and/or a tremendous amount of steps are required from the garage up to the first floor and retaining walls and things of that nature are needed, Rohrer said. He added that it was evaluated whether shared driveways could be used, but it was deemed to not be very effective in this situation.

Ungurait asked if they planned to remove oak trees from the tract, and McAtee referred to the area behind the tree line on the subdivision plan. Rohrer said the septic areas would be placed in the backs of houses, and the trees would be cleared

just enough to put in septic areas. McAtee asked how much footage was needed for septic areas, and Rohrer said there were many variables such as the type of soil, number of bedrooms planned, etc. McAtee asked if the land had been perked, and Rohrer said an independent soil scientist had perked it but that Guilford County Environmental Health had not. McAtee asked whether the entire parcel or each individual building lot had been tested; Rohrer said in this type of case, a soil scientist checks the entire tract to see if there is enough suitable soil for what is being proposed. He added that is so 50 lots would not be planned for a tract that only has enough suitable soil for ten building lots.

Ungurait said it was OK if Rohrer could not specifically answer, but noted that page 36 of the Design Guidelines discusses preserving the oak trees for which the Town is named.

Ungurait asked Rohrer if there was going to be any signage at the subdivision, and he said no.

Shoenfeld asked Rohrer to address the site access. She read from page 39 of the Guidelines, which say:

The visual integrity of the Oak Ridge Historic District can be preserved and enhanced by thoughtful attention given to the design of site access and parking provisions. Besides the buildings themselves, these two features are most important in shaping the character of the Historic District's streetscapes. The attractiveness of a successful design will also add to the value of a residential property or to the appeal of the businesses or institutions the facilities serve.

Shoenfeld continued reading the section under site access, which says:

Providing clear, convenient and safe access (entry/exit) to a development site for both motorists and pedestrians is a critical part of the early design process, the more so where non-vehicular access by cadets of the Oak Ridge Military Academy is concerned. The following guidelines offer ways for minimizing the impact of providing convenient site access.

- a. Avoid multiple accesses along a roadway frontage, which result in complicated or confusing traffic patterns.*
- b. Minimize traffic conflicts by consolidating vehicular entrances/exits to a site at a single location a sufficient distance away from street intersections and line-of-sight inhibiting roadway patterns such as curves and hills.*
- c. It is not appropriate to use direct individual accesses to clustered multiple development sites. Provide access by shared common entrances/exits.*

Shoenfeld said Rohrer was planning a subdivision and every driveway comes out onto Linville Road. She said the Design Guidelines specifically state that there needs to be one access, and in an area such as this, there could only be one access. Rohrer said he had also read that section of the Guidelines, but referred the Commission to page 41, which discusses residential driveways and parking. He said he deemed the

section Shoenfeld had read from page 39 applied more to commercial driveways. Shoenfeld said the area she had read from specifically mentions both residential and commercial, but Rohrer said the section on page 41 specifically addressed residential driveways and parking.

Shoenfeld said when designing a project in the Historic District, everything in the Design Guidelines is part of what must be followed. Rohrer said what is being planned is not a cluster development, and that the spacing of the structures is too far apart for shared driveways; he added that if a shared driveway was created for this development, the impervious area required would be extensive because it would have to curve around the front of some of the houses to get to the high side of the lot.

Shoenfeld asked if Rohrer was saying that a single access could not be put in because they would not be able to sell as many lots. Rohrer said that was not what he had said, but what he had said was that they had evaluated the possibility of shared driveways and it was not an appropriate design for this project. Shoenfeld asked if a single driveway could be put in with separate lots coming off of it, and Rohrer said not on this parcel.

Ungurait asked if this was actually individual homes rather than a clustered development, and Rohrer said that was correct. She referred to page 41 of the Design Guidelines, which Rohrer had pointed out earlier, which says, "The pattern of residential parking in the Oak Ridge Historic District is behind or to the side of houses that face the street." She asked if that was what Rohrer had in mind in creating the plan, and he said yes.

McAtee referred the Commission to item d. under Residential Driveways and Parking (page 41), which says, "Locate new parking areas behind houses as seen from Oak Ridge Road or Linville Road, or as unobtrusively as possible in side yards." Rohrer said that was correct, and he had planned for side-entry driveways in the subdivision. McAtee asked if Rohrer considered that to be unobtrusive in his opinion, and Rohrer said yes.

Ungurait asked if any other alternative had been considered that would be less obtrusive or if this was the only option. Rohrer said other options had not really been considered for this parcel; he added that if someone had a flat piece of property with houses clustered together, then it would be more appropriate to attempt to do shared driveways. Ungurait asked if the houses would be about 70 feet apart, and Rohrer said the approximate distance was 70 to 80 feet.

Combs said when he first placed the land under contract, he met with the neighbors and they discussed Linville Road as it exists today, including some of the district's historical houses that are located directly across the road from this tract. He said if you continue down Linville Road to Haw River, some of the spacing of the homes on 1-acre lots is nearly identical to what is proposed for this tract. He said that was the concept they were trying to capture for this subdivision. He said when the issue of shared driveway access came up, they had considered it, but when the individual lots were drawn, the amount of concrete required increased by nearly four times what is shown on the proposed plan. He said developers are always balancing

things, and that one way for them to be responsible is when considering the amount of impervious surface created. He said in his opinion, there was nothing about adding that amount of additional concrete and impervious surface that makes what he has proposed historic or in keeping with the surrounding area.

Schneider asked for clarification on whether Combs had said if shared driveways were created, more concrete would be required, and Combs said yes. He said if some kind of service road were built, the triangular pie-slice shape of this property would require the road to run parallel with Linville Road, which also would not be in keeping with the aesthetics of the area. Schneider clarified that even though there would be individual homes built, this is a subdivision. Combs said as far as zoning goes, this is a subdivision, but it is not a typical subdivision – it was simply 1-acre lots cut out of a larger piece of property; Combs said that according to the Town's development ordinance, anything under 10 acres that is subdivided constitutes a subdivision.

McAtee asked if Combs understood that this piece of property is within the Historic District, and that anything that takes place outside the district has nothing to do with what the Commission considers. Combs said he understood, but that property directly across the street to the west of this was laid out in the same manner as what he was proposing. Schneider said she was not sure that the property he was referring to was in the Historic District, and Combs said property all along this area was laid out like that.

Simpson asked why lots 6 and 7 do not go all the way to the property line; Combs said that was an access, and that the majority of the tree preservation area is a part of lot 7. Rohrer said most of the tree preservation area was actually part of lot 7, and it was not common area. Simpson asked about the dividing line between lots 3 and 7. Combs said there was 30 feet between his property and the nearest neighbor to the south.

Ungurait asked if the tree preservation area belonged to one of the lots, and Rohrer said yes, it was part of lot 7. Combs pointed out that there were also tree preservation areas designated on other lots as well. Schneider asked if calling it a tree preservation area meant that the owner could not clear-cut it, and Rohrer said that was correct. Schneider asked if that is stipulated somewhere; Simpson said when a subdivision is created, the tree preservation areas must be designated. Bruce clarified that the tree preservation area is not an easement, but it must remain in place during the construction of the home and parking. He said the idea is that once the home is given a Certificate of Occupancy, since the house and septic areas have been laid out, there is no reason to remove the trees. He added that trees could be removed in the future. Combs clarified that once the house is built and sold, the developer has no enforcement capabilities over the property owner regarding the trees.

Schneider asked if there was any reason to think about making the tree preservation area a common area, and Rohrer said if a common area is created in a subdivision, a homeowners association must also be established. The HOA would take care of issues such as sign easements and open spaces. In a small project like this one, Rohrer said it was not feasible to set up an HOA because there would be no signs or

anything like that. Combs said this will not be what is generally thought of as a subdivision, but under Oak Ridge's ordinance, it is a subdivision. Schneider said she was beginning to understand that fine line, but she was concerned about the trees because part of the Commission's role is maintaining open spaces within the Historic District. Combs said when the plats are recorded, the tree preservation areas would be designated, but that there was no way to enforce whether they are removed once the houses are sold. Schneider said that was true unless an HOA were created and the removal of the trees forbidden in the bylaws and restrictive covenants. Bruce added that each individual homeowner would need a COA to remove any trees that meet the requirements of the Design Guidelines. Combs said he did not see the need to create an HOA because the Historic District Design Guidelines are more restrictive than an HOA would be.

Simpson asked for clarification regarding driveway placement, asking if the reason shared driveways were not seen on the plan was because of the way the property slopes. Combs said yes, adding that the property slopes downward to the north. He also said that the rule of thumb is to build an attached garage on the high side of the lot.

Schneider asked if the Commission was ready to begin its discussions. Simpson said he was not sure he had much to add at this point. He said he would have preferred to see shared driveways, but he had no basis in the Design Guidelines to require the developer to adopt some unusual or onerous layout to reduce the number of houses or create some kind of oval entranceway.

Shoenfeld agreed with Simpson, saying she wished there were a better way to manipulate the driveways so they were not all lined up along Linville Road. Combs asked if he could show the Commission something for his credibility; he showed the Commission a subdivision sketch in which they tried to create a plan using shared driveways. Shoenfeld said she could see the difficulty. Simpson asked if Combs had said that plan would have increased the impervious surface, and Combs said yes. Combs said he did not mean to interrupt, but he did want the Commission to know he had tried. McAtee asked Ungurait why she objected to the shared driveway plan, and Ungurait said because it was ugly.

Schneider said she was still concerned and took the Guidelines seriously on page 39 where it says to avoid multiple accesses. She also called the Commission's attention to item f. in the same section, which says to minimize the impact on other properties by siting entrances and exits as far as safety allows from adjacent properties and "not in line-of-sight with structures on the opposite side of the main roadway." She said she was specifically thinking of the historic property across the road that will now be looking out onto six driveways. She said that was a concern to her because it does not comply with the Design Guidelines.

Schneider referred to page 48 of the Design Guidelines, saying part of the way the integrity of the Historic District is preserved is by not overwhelming or competing with existing structures. She said the setbacks shown on the plan are consistent with many other homes, which is required on page 49, and there had been some attempt to preserve open space because some of the tree line may be retained, which is also discussed on page 49.

Schneider said page 50 advises applicants to avoid sameness in shape and massing in groupings of buildings. She added that the rhythm shown on the plan is so consistent that it seems visually overwhelming. She said she was almost playing devil's advocate, but she was concerned about it. She said page 47 says being overly consistent creates a sense of monotony visually, and while looking at the plan may be different from looking at different homes built on the site, the spacing was pretty regular and it is a very abrupt change from what is in the area now. She said there are beautiful historic houses across the street, and as you go down the street and out of the Historic District, there is a lot more variation, which is in part due to the different time periods in which the homes were built; one of the inevitable shortcomings of building everything around the same time is that it all looks the same and there are a lot of subdivisions in Oak Ridge where everything looks alike, Schneider said. She said because this property is in the Historic District, these principles are particularly important to her.

Schneider continued that although Combs said this wasn't really a subdivision, it is going to look like a subdivision from what she could see – a subdivision with a lot of sameness, possible monotony, a lot access driveways leading out onto Linville Road. Schneider said she was willing to be convinced by other Commission members, but she was concerned.

Ungurait said she respectfully disagreed with Schneider, because on page 47 under Applicable to All Land Uses, it says that the guidelines for new construction and additions in this chapter are based on the philosophy that historic districts are living areas constantly growing and changing. She said what is shown on the subdivision plan gives no indication what the individual homes will look like, and that all that can be seen is a footprint designed for the use of the area. She said the developer had made an effort to create shared driveways, and had done so on lots 2 and 3.

Ungurait said she saw nothing in the Design Guidelines that would prevent the Commission from approving the subdivision plan because all the details regarding the houses to be built will have to be approved by the Commission. She said all the Commission was being asked to approve is the idea for individual houses to be built on the property. She said if individual homeowners came for approval to the Commission, they would not be required to jump through all the hoops that the Commission was making the developer do. She said she had no problem approving the subdivision, but said if it is approved, the applicants will need to thoroughly refer to the Design Guidelines and meet the requirements for principles like rhythm and proportion and for things like materials. If the builder comes before the Commission with individual house plans, she advised them to have samples, colors, etc. As for the subdivision plan, Ungurait, said she saw no reason it could not be approved.

McAtee said on page 47 under Rhythm, it says that overly consistent spacing often creates monotony, and that horizontal rhythm along a street is formed by the pattern of structures and intervening spaces. He said the horizontal rhythm shown on the plan makes the subdivision very monotonous, and he did not think it was appropriate for the Historic District.

McAtee said he had visited the site, and roughly in the area of lot 4 there is a poplar tree that is about 4 feet in diameter and beside it is a white oak that is roughly 3 feet in diameter. He said putting a septic field behind that house would cause those trees to be lost.

Combs said he had been in this line of work for about 20 years, and the 40,000-square-foot size of the lots allows a good deal of latitude to dictate where septic fields are located. He said his father-in-law, who was present at the meeting, would be living in a house on lot 6, and that Commie Johnson, who was also present, was planning to buy the other six lots in the subdivision and build the houses on them. Combs said that meant all the people who would be responsible for every brick and detail of each home and every tree that would be cut down were in the room at that time. He added that each individual house would have to have an approved COA before they could get a building permit.

McAtee commented that he was not an arborist, but said that the 4-foot diameter poplar tree probably had a root radius around it of about 75 feet; he added that what you can see of a tree is one thing, but what could kill it is something totally different. Combs said he understood. McAtee said the woods on the property were full of trees that are considered significant in the Historic District, which was anything over 8 inches in diameter. He estimated that 75 percent of the trees on the property are significant per the Historic Guidelines. McAtee said he was talking about hundreds of significant trees, and that the canopy is so heavy from the large trees that nothing is growing on the ground, and Combs said it was beautiful.

Combs told McAtee he wished he could promise to save all the trees, but that he could not. He said some septic systems might be placed in front yards, but that they would not know that until Guilford County comes out and determines that. McAtee asked if the siting of the houses on the plan was recommended for someone purchasing one of the lots, and Combs said they determined the house placement by going to Guilford County GIS and looking at the setbacks of the homes along Linville Road in and outside of the Historic District. McAtee asked if he bought a lot and wanted the house built 50 feet further back, could that be done; Combs said that would be up to the Guilford County Health Department and the Commission. McAtee asked if that meant the locations of the houses as shown on the plan were not fixed, and Combs said that was correct. He said the builder did not have the final say, but that anything built on any of the lots would come before the Commission for approval, and McAtee said he understood.

Schneider said some of the items that had been discussed illustrate that different parts of the Design Guidelines appear to conflict, but that it is important to take all parts of the Guidelines seriously and not discount their importance. She said part of the Commission's job is to anticipate what concerns others in the community might have and to protect the Historic District.

She asked if there was any additional discussion, and no issues were brought forward. She then said the Commission had noted the following:

- The proposed subdivision plan is inconsistent with the Design Guidelines regarding the site access recommendations on page 39, but was consistent

with the section on residential driveways, and that there seems to be some inconsistency in those two areas.

- The applicant had made an effort to combine driveways, but that it was difficult to do so because of the grade of the property.

Bruce asked to comment, and said he could see where the Commission would read the section on Site Access and it would be a valid assumption that it also applies to residential driveways, but he said that those guidelines were consistent with the guidelines for commercial driveways that are in the Development Ordinance in terms of sharing access and limiting commercial driveways along thoroughfares. Bruce said he had made the interpretation, which mirrored Rohrer's interpretation, that those guidelines primarily refer to commercial driveways. He said the fact that the next section clearly specifies separate guidelines for residential driveways reinforced that interpretation to him. He said he thought both he and the designer had the same thought on that, and added that the Development Ordinance would not allow one driveway to be put in and allow six lots to share it; instead, he said such a driveway would have to be built to a much higher standard, perhaps even a separate road with a cul-de-sac with lots around it. Bruce said that might create an even bigger design challenge than just a series of shared driveways because it may not be allowed by the zoning ordinance. For those reasons, Bruce said he thought it was reasonable to assume that the section of the guidelines referred to are meant to apply to commercial driveways.

Schneider said that information was helpful, and that if the language mirrors what is in the Development Ordinance, it is likely that is where it came from and explains the conflict. She then continued with the findings of the Commission:

- Trees will not be removed unless their removal is approved by the Commission, and that there are many mature trees on the property.
- There is a regular rhythm to the plan that seems to be in conflict with some of the design concepts in the Design Guidelines.

Ungurait asked to add the following:

- It is consistent with the Guidelines that the location of each individual house will have to be approved by the Commission and that the location of homes shown on the site plan may not be where the houses are actually located on the lots.

Shoenfeld asked if the lot lines were shown where they would actually be located in the subdivision, and Combs said yes. Schneider said the location of the driveway is probably not as flexible as the location of the houses due to the slope of the property, and Combs said that was correct.

Schneider said the individual homes might be designed by different architects, and could have different styles and appearances. Combs agreed, saying he thought there would be different floor plans for the houses, and the house he planned to build for his father-in-law would differ from the ones Johnson and Lee Construction planned to build on the other lots. He said Johnson and Lee had also been following what is going on and learning about the Commission through the process. Combs this had been a learning experience for all of them and that the Town and the Commission had also not been faced with this type of issue before; he added that he looked

forward to working with them and doing everything they could to make it work for everyone.

Schneider asked if Combs had said the houses would have the same floor plans, and Combs said no, that all those involved are advocates for individual design, and that they all live in Oak Ridge or the surrounding communities.

Simpson said Combs had brought up a good point, because he could not recall a circumstance similar to this. He said six of the houses would be built alongside each other and near the road, and that the Commission would be looking for indications of echoes of other residential structures in the Historic District. He said it would be a challenge to come up with designs that are harmonious but are still sufficiently different enough to be interesting.

Schneider agreed that this was going to be a learning experience for all involved in the process, and said that was why the Commission was taking this slowly and seriously. She asked if there needed to be further discussion, or if someone would like to make a motion.

Ron Simpson made a **motion** to approve the COA request by Marian McDougal for the Barrow Place subdivision plan, located on the east side of Linville Road, approximately 1,000 feet north of Scoggins Road, at 8412-8436 Linville Road, Tax Parcel 0166248, Oak Ridge Township, and zoned RS-40, Historic District Overlay. The motion is conditional upon the incorporation of the preliminary plat submitted to the Commission in two forms, and that approval is based on the information submitted that has been discussed. **Michelle Ungurait** seconded the motion, and it failed by a 2-3 vote (Simpson and Ungurait voting in favor; Schneider, McAtee and Shoenfeld voting against).

Simpson asked if Schneider would be willing to characterize the reasons for denial in the interest of full disclosure to the applicant in an effort to give him an idea of how to proceed.

McAtee said his concern was for the destruction of trees on this tract of land if the plan is approved. He said there were guidelines to protect the trees, and that was what he was standing on. McAtee said he is not an architect or land planner, but if you were to bring a road across the middle of the property along Tree Preservation Area 1 and Tree Preservation Area 2, you could have one entrance out onto Linville Road, which would eliminate the need for all the driveways. He said he thought there was a better way to do it, and with possibly with fewer hazards on the property to get it done. He said there was a better way to do it, and perhaps that the design needed to be looked at again.

Oakley pointed out that COAs must be obtained before trees could be removed, and that the proposed subdivision plan did not approve the removal of any trees. McAtee said he understood that.

Regarding the issue of rhythm, Oakley said that applied to buildings and that the lines on the subdivision plan were property lines that would not be seen. He said the plan was consistent with most of the development both within and outside the Historic District.

Ungurait asked if she could ask Commission members to specifically address where in the Guidelines they were basing the vote against the subdivision plan, so the Commission would let the applicants know where they stood; Shoenfeld said that was what they were doing. Ungurait asked about the removal of trees, and McAtee said although that was not part of what the applicant had applied for, he knew what was going to happen because it was inevitable. He said that was his opinion and the reason he voted how he did, but added that his main objection was that he thought there could be a common access somehow worked out for the property by going across one of the building lots. Combs told McAtee that the Commission was a quasi-judicial board, and said McAtee should think about that.

Schneider said she found the issue difficult, but that there was not a precedent for this in the Historic District, and that she was very concerned about setting a precedent. Oakley said a large precedent had already been set, pointing out the Merriman Farms subdivision, which has at least 15 homes, and was approved by the HPC. Shoenfeld said that property has an entrance road into that subdivision. Oakley agreed, but said that 1-acre lots that had been developed along that road. He said it was a new road, but that the precedent to develop 1-acre lots similar to the proposed development had been set in the Historic District.

Combs said it made no sense to build a road on the property and then build driveways off of it to each lot because that would create more impervious surface, more disturbance of the land, and more trees that would have to be cut down to locate the septic areas. He said that was common sense. Combs said they had studied the property and had not simply shot from the hip, but that they did the best they could with the plan. He said his opinion was that this was not the way in which a quasi-judicial board should make a decision.

Schneider said she was torn, but that she was not convinced. Combs said there was no other way to do it without more disturbance of the land and trees. In addition, he said it would not look like any other street in the Historic District.

Ungurait asked if individual lot owners came before the Commission and requested the same thing, could the Commission deny their requests. She asked if the Commission was discriminating against Combs and the others involved because they had made the request as a group. Bruce explained that the Development Ordinance states that the subdivision plan must be approved by this board. He said a major subdivision is required to get a major COA. Ungurait asked if the property owner had sold the lots to individuals, would they have to go through the same process. Simpson said that would not be allowed, and Bruce agreed. Bruce added that the property owner would be in violation of the subdivision ordinance because the property must be subdivided before individual lots could be sold, and that this plat would have to be approved before any of that could be done. Ungurait asked if HPC would have to approve the plat, and Bruce said HPC was one of the various board approvals required.

Combs said they had been going through this process of months, including planning the subdivision, meeting with neighbors, and other things. He said fortunately this was one of the projects to which he had virtually no opposition. He said he had been

before the Town Council, Planning & Zoning Board, and that he had been before HPC before on this (to get a recommendation on rezoning the property). Combs said he had never seen a situation like this, and that he was baffled. He added that, as a citizen of Oak Ridge, it was very concerning to him because he had played by the rules. He said he had done everything he had supposed to do, and that he was not trying to force the issue, but that the subdivision had been designed after reading the Town's rules and regulations and they had done the best they could in planning it. Combs said the Commission's decision was not fair to the property owner, to Rohrer, to him, or to the constituents of the Town. Combs said he had a lot of respect for Schneider, but regarding her speech at the beginning of the meeting, he said he knew what a quasi-judicial proceeding is.

Schneider said she was unsure where to go at that point. Simpson asked to comment and perhaps address McAtee's concerns about the adverse effect on the forest. He said if you look at the proposed location of the homes and the tree line on the plan, all the houses are in front of the major tree line. He said it appeared some trees may have to be removed to put in the septic systems, but added that he could not see another way to configure a subdivision on the property that would not have an even greater impact on the trees.

Simpson also said that (it was not fair) to say the Commission is against tree removal and prevent the property owner from doing anything with her land, and Schneider agreed. Simpson said you cannot prevent reasonable development of land, or at least he was not aware of any authority the Commission had that allowed them to simply require that property remain farmland or horse farms, even though the Commission might prefer that. He said that he believed that land owners have certain rights to attain the best value for their property. Simpson said he merely offered his thoughts for the Commission's consideration.

Schneider told Simpson that her concern was predicated on a concern with this development fronting a road, which makes it very different from most subdivisions. She said she was very concerned that this was going to change the character of the Historic District. While she said she understood they would try to get variety in the homes, this whole section of the road has evolved over time and this is taking a very visible portion of the road and covering it up very regularly. She said new construction is still new construction, and it is going to have a lot of similarities. She said it would all basically be built in the same time period.

Bruce mentioned that the Commission had determined by consensus a couple of months prior that this property was an appropriate location for RS-40 zoning. He said this is RS-40 zoning, with 1-acre lots meeting the requirements of the RS-40 zoning district. He said the determination of whether it was appropriate to have this number of homes at this location was made by this board and approved by the Town Council. Schneider said the zoning approval said there would be a maximum number of homes, and Bruce agreed and said there were no other conditions. Schneider wondered if it would not have been possible to vary the layout of the lots and perhaps tucked more than one of them in back and varied the amount of frontage.

Bruce said another factor that might be throwing the board is that the applicant was not required to show the proposed house or driveway locations on the subdivision plat. He said when a subdivision plat goes before the Planning & Zoning Board and HPC, it should not even have that information because it was only illustrative. When a building permit is applied for and plot plan submitted, they will show the exact location of the building and the driveway, and that it would probably not look like six boxes – which is the impression given on the submitted plan. Schneider said that was true, although the driveways are shown in regular positions. Bruce said a subdivision plan is typically just composed of the boundaries of the lots. He said he didn't mean to belabor the point, but that he wanted to mention that again.

Shoenfeld said that in the Guidelines, it talks about rhythm and spacing, and the Commission takes that to heart. She said when they look at the submitted plan, it seems to almost look like a parking lot. Oakley said again that the subdivision just showed lot lines that will not be seen, and that issues such as rhythm and spacing could still be addressed. Combs said those issues would come back before the Commission individually. He also said that they had addressed concerns at the rezoning and at the Planning & Zoning Board meeting, and he asked that things in the Town not be made so cumbersome for people who are trying to do the right thing. He said he was supposed to be closing on the property in a couple of weeks, and that he would have to make a phone call to the property owner, who would be heartbroken.

Ungurait said she respectfully asked the Commission to look at two bullet points on page 13 about what the Guidelines cannot do: Change the established land uses allowed by underlying zoning, and regulate the amount or location of growth and development within the District. She said she thought the vote to deny the COA was doing both those things because the Commission did not have enough detail now regarding rhythm or what the subdivision is going to look like beyond the fact that the developer had made his best effort despite the conflicting information in the Design Guidelines. Regarding regulating the amount or location of growth, she said it had been suggested that perhaps the developer have fewer houses or place them differently, but the plan they had before them did not violate the Guidelines. She said there were still questions about how they were going to enact the plan, but all the Commission has before it now is the subdivision plan. She said the subdivision plan does not violate the Guidelines unless you interpret that the section on driveways. Ungurait said she was applying the section on residential driveways because that is what these driveways are.

Ungurait added that there is not going to be a homeowners association, there is not going to be a sign and they are not going to create a typical subdivision. She said she considered the lots on the subdivision plan to be more like individual homes.

Schneider said her concern was placement of the driveways, which is very regular and very different from the rest of the Historic District in that area. She said if the lots were different configurations, she thought there would be more variety.

Ungurait said there were a lot of homes in the Historic District that weren't held to any kind of plan. She said this plan is making an effort to do something that she thought was valuable to the Town, and that was what she was interested in as a

member of the Commission. She said if that criterion is used, you could see that it does not devalue where the Commission is.

Shoenfeld said she realized the Guidelines could be interpreted one way or another, and she realized this is an important project. She said she hoped this plan would be applied differently than the way it is drawn on the site plan.

Simpson asked Combs about a statement he had made to the Planning & Zoning Board, of which Simpson is also a member, about why the houses would be lined up similar to how they were shown; he asked Combs to recall that for the Commission.

Combs said in all the subdivisions he creates, he tries hard not to have it where people in one house would walk out their back door and look at the front door of another house or vice versa. Without a sewer system in Oak Ridge, it is not always easy to achieve a straight line of houses, but that some alignment was good. Combs said at the least, you would want the front corner of your house aligned with the back corner of your neighbor's house for privacy purposes. He said some subdivisions are not aligned like that, which keeps some homeowners from having privacy in their own backyards.

Combs continued that house plans can vary and have offsets for where the garage sits or where the front porch is located. He said that type of detail was included in the house plan he had drawn for his father-in-law – which he said he was having many regrets about now – which has a large front porch. Those types of details give homes dimension, he said, adding that none of the houses in the subdivision would be a two-story box with straight walls all in a line. He said that takes the monotony out of it.

Combs added that he created one subdivision that has 270 houses and there are four specific floor plans that have been used probably a dozen times each, but that you could not ride down the street and tell that. He said when you change the brick, the roofing, the offsets and put them on different lots, the houses do not look the same. With a subdivision has that many homes and has restrictions of 2,800 square feet, he said there are only so many ways you can design a floor plan, so you change the elevations. Combs said he did not like tract home developments that only had a few house plans to choose from, and that was not what he did in developments he creates.

Regarding McAtee's concern about the trees, Schneider asked what happens if it is impossible to put in a septic system without taking out a 4-foot (diameter) tree. She said that might cause a COA to be denied, which might mean it was not possible to build on that lot. She asked if Combs was sure all the lots could be built on without taking down trees.

Combs said that he had said he would preserve all the trees possible, but that at no point during the meeting had he promised all trees would be saved. He said they can go to the property and mark the trees they want to save, and once the septic area is laid out and approvals granted and permits issued by Guilford County, they would know where the septic fields would be located. He said anybody would be

misleading if they said beforehand that they knew where the location of the septic fields would be.

Schneider said someone could come before the Board and ask to remove a tree, and McAtee could make the same objections that he had about tree removal earlier in the meeting – except that now it would be located on an individual lot – and Combs could be stuck with a lot without anywhere to put the septic tank. Combs laughed, and said knowing McAtee, he would probably do that.

Shoenfeld said the Commission loved trees, and Combs said he did too. Combs said he was coming to the Commission as a constituent of the Town, and he asked that the Commission – particularly McAtee – be reasonable. He said they could work together through anything and there were ways to do that. Combs said he was trying to create a good project, and that he rides down Linville Road probably 20 times a day. He said his family lives on this road.

Schneider asked Bruce to explain staff's role, and asked whether staff had seen any issues with this subdivision plan. Bruce said staff looked at the plan as presented and looked at the Guidelines and felt there was nothing obvious that jumped out that would prevent the subdivision from being approved – especially considering that specific plans for each individual lot would have to be approved.

Regarding the issue of removing trees, Bruce said an applicant is required to get a COA for removal of a mature canopy tree that is visible from the right of way. He said if someone has 10 mature trees on their lot and they need to remove two of them to accommodate a septic field, that is a decision the board will have to make as to whether that is appropriate. He added that he thought the applicant would attempt to design a system with as much preservation of the tree canopy as possible. Again, Bruce said there was nothing apparent to him that stood out as to why the subdivision plan would be denied.

Shoenfeld said the information from Oakley and Bruce after the motion was denied was important and would have helped the Commission make the decision had it been known beforehand. In lieu of that, she said she thought another motion should be made if that is possible. Oakley said someone who voted against the earlier motion could ask that the issue be reconsidered, and Smith agreed, saying it would take someone on the prevailing side to make the motion.

Debbie Shoenfeld made a **motion** to reconsider the previous motion that was denied. **Mac McAtee** seconded the motion.

Schneider asked that Shoenfeld reiterate the basis for the motion, and Shoenfeld said she thought the concern about site access looking congested might not look as disruptive with different elevations. Shoenfeld added that when she thinks of the rhythm of the property, she thinks in terms of the property and the structures that will be on each lot, and that by varying plans, elevations and construction techniques, it would probably not be as monotonous.

Schneider said she guessed she would agree, but that she was very concerned about the Historic District, these individual lots, and how this subdivision will change the

landscape. She said her change of heart on the matter was that despite her desire to maintain a more open look in this area and more consistency with the rest of the Historic District, she could see that the Commission would effectively be denying the property owner the right to develop the land. She said she realized Combs had put a good deal of time and effort into the project, and that she took it that he had done so in good faith. She said that she would like to think there was a better way, one that was more consistent with the Historic District, but based on staff input, she was accepting that this was the best solution for this particular piece of land. She said she would defer her concerns to the individual lots.

McAtee said he had listened to Combs, other members of the Commission, and staff, and particularly the common-sense things said by Ungurait, and that he was also going to reconsider his opinion.

Schneider asked if the same motion could be voted on from before, and Smith said the Commission first needed to vote on the motion to reconsider the earlier decision.

Schneider called for a vote, and the motion to reconsider the matter passed unanimously (5-0).

Schneider then asked if they could then reconsider the same motion to approve the subdivision plan that was made earlier in the meeting, and Oakley said yes.

Schneider called for a vote to approve the motion as stated earlier in the meeting to approve the subdivision plan, and it was passed unanimously (5-0).

- B. Request for COA:** The Town of Oak Ridge requests a Certificate of Appropriateness for Oak Ridge Town Park, Phase II. The property is located at 6231 Lisa Drive, Tax Parcel 0165115, Oak Ridge Township, and is zoned PI (Public and Institutional), Historic District Overlay. The project includes construction of an amphitheater, restroom and connecting walkways.

Terry Lannon, Town of Oak Ridge Parks and Recreation Director, said the project was a scaled-down version of construction of Phase II, and it included construction of an amphitheater, additional restroom and connecting trails between the three. All the materials shown in the drawings and photos, which are hereby incorporated by reference and made a part of the minutes, were ones that had been previously approved by HPC and included the brick, fascia board, shingles and other materials. Lannon said the Town prides itself in its consistency in the use of materials, signage and construction styles. He said he would be glad to answer any questions from the Commission.

Shoenfeld said she understood the amphitheater and additional restroom would essentially not be seen (from the right of way); Lannon agreed, saying if someone looked really hard, they might be able to see glimpses of them. He said the amphitheater would be invisible from Lisa Drive, but there was a slight chance you might be able to see the top of the roof from Linville Road. He said it would be difficult to determine that now until the finished grade and roof peak height are decided upon. He said the restroom would not be visible from Linville Road because

of the shelter and playground. Cryptomeria has been used as a screening material around the park maintenance building, and there was a slight chance that you might be able to catch a glimpse of the restroom from the maintenance building area, but that neither of the structures would be in highly visible areas. S

hoenfeld said people were accustomed to seeing the restrooms and playground from the road. She said she understood the same types of materials and basically the same types of construction, and Lannon said that was correct, and that they tried to make everything in the park consistent as far as styles, materials and colors.

Ungurait asked about tree removal and said it seemed the only trees that would be removed needed to be removed anyway. Lannon said that was correct, and said that along the proposed walkway between the restroom and the amphitheater, there were two trees that were greater than 8 inches in diameter, and one was an oak tree that was already dead. McAtee said no COA was needed to remove a dead tree, and Lannon said he had learned that since he had the tree photos emailed to the Commission. He said there was also a poplar roughly in the middle of the trail that looks something like a king's crown because of the splintering at the top. He said it must have been split at one time because it has a lot of suckers growing out of the top of it. He said those were the only trees 8-inch caliper or greater trees that needed to be removed.

Schneider asked if there were any additional questions, and said she thought this was exciting for the Town to be in this phase of park development. She said she had no concerns, and she was appreciative of how carefully the elements had been sited and planned, and for the sample materials that have been provided.

McAtee said he did not think the Commission needed samples of materials because it was possible to see what would be used. Smith pointed out a sample brick and shingle that had been submitted for the Commission's review.

Ungurait said her questions had been addressed, and Shoenfeld had no questions. Simpson said he had no concerns provided the materials used were consistent with what is currently used in the park.

Schneider said the Commission had established:

- There was consistency in the materials to be used.
- There were no concerns about sight lines.
- The construction will take place in the Historic District, but it is in the park, where there is a clear precedent for these types of structures and they have been very thoughtfully tucked back among the trees.
- There have been no elements determined to be incongruent with the Design Guidelines.

Debbie Shoenfeld made a **motion** to approve the Certificate of Appropriateness to allow for the proposed park expansion as detailed in the drawings in the request by the Town of Oak Ridge for Oak Ridge Town Park, Phase II. The property is located at 6231 Lisa Drive, Tax Parcel 0165115, Oak Ridge Township, and is zoned PI (Public and Institutional), with no stipulations according to the plans as submitted and materials provided. **Mac McAtee** seconded the motion, and it was passed unanimously (5-0).

In light of the time, McAtee asked if it might be possible to forego the other items on the agenda other than citizen comments, and Schneider agreed.

Ron Simpson made a **motion** to dispense with the other items on the agenda and pick back up at Item 7, Citizen Comments. **Mac McAtee** seconded the motion, and it was passed unanimously (5-0).

7. CITIZEN COMMENTS

None

8. ADJOURNMENT

Mac McAtee made a **motion** to adjourn the meeting at 9:36 p.m. **Debbie Shoenfeld** seconded the motion, and it was passed unanimously (5-0).

Respectfully Submitted:


Sandra B. Smith, CMC, Town Clerk


Ann Schneider, Chair