



# Historic Resources Commission

## Meeting Agenda

November 12, 2019 at 6:00pm  
Council Chambers, 201 S Main St

1. Pledge of Allegiance and opening invocation
2. Approve minutes of the October 8, 2019 meeting
3. COA 1925 Camper Art Installation, Jennifer Talley
4. Affirmative Maintenance Update
5. Discuss Black/White paint colors as a minor COA
6. Discuss Grant Process
7. City Council Updates, Melody Wiggins
8. Additional items
9. Adjourn

The next Historic Resources Commission meeting will be held on **December 10, 2019**.

A complete agenda packet is available at [www.cityofgraham.com](http://www.cityofgraham.com)

HISTORIC RESOURCES COMMISSION  
Tuesday, October 9, 2019

The Historic Resources Commission held a called meeting on Tuesday, October 8, 2019, at 6:00 p.m. in the Council Chambers of the Graham Municipal Building. Commission Members present were Cary Worthy, Elaine Murrin, Jeanette Beaudry, Grace Baldwin, Carla Smith and William Copeland. Staff member present was Alexa Powell City Planner and Debbie Jolly Zoning/Inspection Technician.

Chair Cary Worthy called the meeting to order.

10. Pledge of Allegiance and moment of silence to remember Helen Sharpe that was on our board that passed away.
11. Approve minutes of the September 10, 2019 meeting. Jeanette Beaudry made a motion to approve and William Copeland seconded. All voted aye. Cary asked people to sign up to provide testimony or evidence on behalf of a COA item.
12. COA 1921 – Alamance Art Sculpture – Lisa Pennington – 206 Arbor Dr. Alexa presented the projected to the commission. Lisa Pennington gave her proposal of the Embracing Peace by Steward Johnson to the commission on where the statue would be place and the signs. a motion to approve COA 1820 with the Metal Roof. Jeanette Beaudry seconded. All voted Aye.
13. COA 1922 –Colonial Hardware Mural-Jennifer Talley 808 Sideview Dr. Alexa Powell gave an overview of the project for the 10x10 mural. Jennifer Talley presented her project to the commission. The commission had a brief discussion about the mural. Jeanette Beaudry I have thoroughly researched the application and all other documents related to COA 1922 and I am familiar with the property in question. And I find that if produced in accordance with the plans submitted, the mural will be Compatible with the character of the mid-nineteenth century Courthouse Square Historic District. I move to Approve the application for COA 1922 for the property located at 104 E. Elm St. as submitted because it does meet the following criteria. Seconded by Grace Baldwin. All vote Aye.
14. COA 1924 – Sternberg Painting, Alexa Powell presented to the commission. Fredrick Sternberg 38 SW Court Sq. 105 S. Main St - Explained his project and why he wanted to leave it the same color. The commission ask question and had a brief discussion about this project. Cary Worthy made a motion to approve COA 1924 the proposed changes are [or] are compatible with the character of the district for the reasons that the color of architectural detailing is in harmony with our design guidelines and the character of the overall district and adjoining properties as proposed. Jeanette Beaudry seconded. 4-2 vote passed Elaine Murrin and Carla Smith opposed.

15. Awarding of 2019-2020 Façade Grants - Total Funds Requested is \$22,666.69. Total work being proposed is \$125,423.81.

1. Furniture Mart - 135 S. Main St., Paul Crotts  
\$33,874.00
2. Asiano Facade – 20 SW Court Sq., Jason Cox  
\$49,979.00
3. Paris Building Cleaning – 24 NW Court Sq., Chuck Talley  
\$26,237.44
4. Colonial Hardware Mural – 104 E. Elm St. Chuck Talley  
\$5,600.00
5. State Farm Painting Awning and Doors – 9 NE. Court Sq., Troy Woodard  
\$3,575.00
6. Sternberg Painting – 38 SW Court Square, Fred Sternberg  
\$6,158.37

All the applicants answered questions concerning their façade renovations on the properties they were requesting grant funds. After some discussion, the Commission decided to distribute the funds as follows: Motion made by Jeanette Beaudry to approve the following totals. Seconded by William Copeland. All voted Aye.

Paul Crotts 135 S. Main St Furniture Mart	\$4,500.00
Jason Cox 20 SW Court Sq, Facade	\$4,500.00
State Farm Painting Awning & Doors Troy Woodard	\$1,700.00
Sternberg 22-28 NW Court Sq.	\$3,000.00
Colonial Hardware Mural	\$1,300.00

16. City Council Updates- No update.

17. Additional Item- Future training date.

18. Adjourn William Copeland made a motion to adjourn. Carla Smith Seconded.

With no further business the meeting was adjourned.

Respectfully submitted,  
Debbie Jolly



## Application for a CERTIFICATE OF APPROPRIATENESS

P.O. Drawer 357  
201 South Main Street  
Graham, NC 27253  
(336) 570-6705  
Fax (336) 570-6703  
www.cityofgraham.com

The Historic Resources Commission (HRC) processes applications for Certificates of Appropriateness for (1) any changes in the external appearance of existing structures; (2) design of new structures; and (3) demolition of existing structures, within locally designated historic districts or landmarks. Regulations for Certificates of Appropriateness can be found in Article IV, Division 10, Historic Resources, of the Development Ordinance.

### Property

Street Address: 13 SE Court Sq, Graham

Property Owner: Court Square Development Group

### Project

General description of each modification or improvement:

Use 2 vintage campers as an art installation. We have a Halloween festival and we would like to use the campers for display for the event and then we will move them to an off-site location.

If a site plan is required, has it been submitted? ☒ Yes ☐ No

Is there any approval pending by any other regulatory or administrative authority which may have a bearing on the proposed project? ☒ Yes ☐ No If yes, please specify:

**HISTORIC COMMISSION**

**EXHIBITS:** This application must be accompanied by sketches, drawings, photographs, specifications, descriptions, etc. of the proposed project, which must be sufficiently detailed for the Commission to evaluate the proposal. See the back of this application for a checklist of required exhibits. There are 5 for signs, 6 for minor alterations, and 10 for new construction, additions or major alterations.

### Applicant

Name: Court Square Development Group

☒ Property Owner ☐ Lessee ☐ Other

Mailing Address: PO BOX 872

City, State, Zip: GRAHAM, NC 27253

Phone # (336) 229-4225

Email: GRAHAMCINEMA@TRIADBIZ.RR.COM

I, the applicant, hereby make application for a Certificate of Appropriateness for a ☐ Sign ☐ Minor Alteration ☐ New Construction, Addition or Major Alteration

I, the applicant, understand that this application cannot be processed unless and until it is complete, including all required exhibits, and it has been submitted at least 10 calendar days before the Commission meeting.

William Talley 10/4/19  
Signature of Applicant Date

William Talley 10/4/19  
Signature of Owner, when applicable Date

### Representation at HRC Meeting

Who will represent the applicant at the HRC meeting?  
Should have the authority to commit the applicant to make changes that may be suggested or required by the Commission.

Name: WILLIAM TALLEY

Relationship to Applicant: OWNER

Phone # (336) 229-4225

Email: CHUCKTALLEY21@HOTMAIL.COM

FOR OFFICE USE ONLY	
Received by: <u>AP</u>	Remarks:
Received date: <u>10/7/19</u>	<u>COA 1925</u>
Tax Map #	
HRC date: <u>11/2/19</u>	







# STAFF REPORT

Prepared by Alexa Powell, Planner

## Camper Art Installation (COA 1925)

**Type of Request:** Certificate of Appropriateness

### Meeting Dates

Historic Resources Commission  
on November 12, 2019

### Location

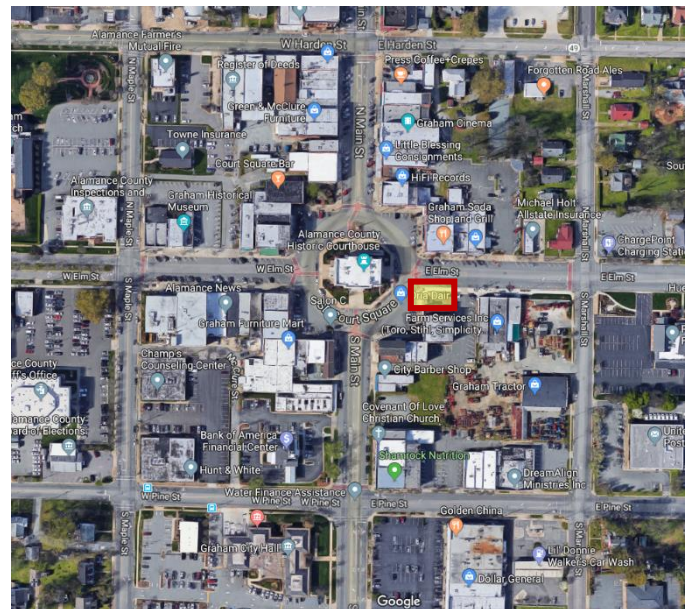
13 SE Court Square  
Graham, NC 27253  
GPIN: 8884148360

### Summary

The applicant is requesting approval of a Certificate of Appropriateness (COA) for 2 Campers to be placed on the empty lot located in court square across from the Soda Shop. The applicants stated purpose for these campers is as an art installation for display through the Halloween Festival. The applicant also indicated the campers are to be removed to an off-site location following this event. These campers have been in place since prior to the Slice of Summer event held June 22, 2019.

A formal complaint was filled with the City. In response to this communication with the City, the property owner filled this COA application. As a result, all action by the City was halted pending further review of this COA and a final determination by the HRC.

While there are no specific sections in the HRC Design Guidelines that address art it was felt by the City Attorney that it was appropriate to bring this item before the Commission for review. As previously discussed, Art is considered a form of free speech which is protected under the First Amendment of the Constitution. However, Staff advises that Commission members review this application on the basis of whether or not it affects the character of the district in the proposed location. Please see the map of the proposed location. Attached is the COA application along with images of the proposed art.



### Special Significance

This parcel does not currently contain any buildings of significance. While the property is identified as being part of the district the parcel does not have a structure listed on the Design Guidelines Inventory of Properties Map.

## **Conformity to the *Historic Resources Handbook & Other Applicable Policies***

### **Historic Resources Handbook;**

#### **Appendix A. Historic District Design Guidelines for Signs**

- Signs should be compatible with the structure in size, scale, style, material, and graphics.

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### **Motion Language:**

I have thoroughly researched the application and all other documents related to COA 1925 and I am familiar with the property in question.

#### **Finding of Fact:**

And I find that if produced in accordance with the plans submitted, the campers will be Compatible [or] Incompatible with the character of the mid-nineteenth century Courthouse Square Historic District.

#### **Motion to Grant/Deny COA:**

I move to Approve [or] Approve with conditions [or] Deny the application for COA 1925 for the property located at 13 SE Court Sq. as submitted because it does [or] does not meet the following criteria:

The proposed change(s) does [or] does not meet the **Historic Resources Design Guidelines**. The proposed changes are [or] are not compatible with the character of the district.



# STAFF REPORT

Prepared by Alexa Powell, Planner

## Affirmative Maintenance Ordinance (HRC1902)

**Type of Request:** Text Amendment

### Meeting Dates

Historic Resources Commission Meeting on November 12, 2019

### Summary

In March, the HRC received a citizen request to look into drafting an Affirmative Maintenance Ordinance to prevent the demolition by neglect of historic properties located in the Court Square Historic District. The HRC made a formal request for staff to look into what could be done with regard to this issue.

Affirmative Maintenance Ordinances are intended to protect important historic resources from falling into disrepair and eventually becoming uninhabitable due to poor maintenance by property owners.



Ex. Raleigh Historic District

Tonight's report is based on Staff's research and at this point is purely educational. Included in this report is information about the legality of such requirements, the language used by other North Carolina municipalities, enforcement mechanisms, and the effectiveness of these policies. The North Carolina General Assembly, according to NCGS 160A-400.14(b), has given the governing board of any municipality the authority to enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district provided the ordinance has safeguards to protect property owners from undue economic hardship. This gives the local government clear legal authority to amend the ordinance to this effect. Therefore, as an advisory board, the HRC could make a recommendation for City Council to consider adopting an Affirmative Maintenance Provision within the Development Ordinance. Staff has reached out to NCSHPO, other NC Municipalities, and other preservation experts on this topic. Below are the responses as well as additional research. Due to the complexity of this issue, if the HRC would like to pursue such a text amendment, the Commission may wish to identify a small task force to work through some of the critical details. Such details include:

- Standards for what level of deterioration triggers enforcement under the ordinance
- Process for investigation, notice, hearing, and decision
- Standards for evidence and determination of economic hardship
- Remedies and appeals

If there is interest in pursuing this policy, the above processes should be ironed out prior to approaching City Council with a recommendation.

### Legal Authority

#### § 160A-400.14. Delay in demolition of landmarks and buildings within historic district.

(b) The governing board of any municipality may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

### Pros/Cons

Pros	Cons
Economic Development. Protects historic properties from falling into disrepair.	Cost to private property owner to make repairs may be burdensome. However, law requires safeguards be in place to protect citizens from undue economic hardship.
Proactive approach to reduce likelihood that important historic resources deteriorate to the point they are condemned and must be demolished.	May not save property and instead spur a property owner to file a demolition permit in order to avoid meeting the standards identified in the ordinance.
Preserves property for the enjoyment of future generations.	Concern from owners about their right to do as they wish with their private property. Ordinance must not violate constitutional rights.
Maintains the historic character and integrity of the district.	Potential legal challenges. Absentee ownership may prove difficult to prosecute.
Engages residents to report historic properties that are in violation.	Requires significant staff time to implement this type of program.
Neighborhood revitalization. Mitigates potential harm to surrounding property values.	Challenges with enforcement and the process for implementation.
Improves the aesthetic character of the community.	Mixed effectiveness. However, there are a few success stories.

Sustainable development. More energy and resources are not expended in the demolition and construction of a new building.	
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## Examples - Effectiveness of Policies

**Raleigh**  
**Before**



**After**



**Before**



**After**



The city of Raleigh amended a vast majority of their ordinance and included demolition by neglect as one of the amendments, rather than making it a single amendment, in order to avoid negative attention.

Hillsborough, NC

<https://openorangenc.org/buildings/colonial-inn-orange-hotel-corbinton-inn-occoneechee-hotel>

See timeline of events. There is a very long process from notification of violation to resolution.

Washington, NC

[http://www.carolinacoastonline.com/news\\_times/article\\_43366848-689d-11e7-a299-73f5615f50b0.html](http://www.carolinacoastonline.com/news_times/article_43366848-689d-11e7-a299-73f5615f50b0.html)

“Since 2016, [the planner] has taken on 19 dilapidated structures in Washington’s historic district, first working with the property owners by setting a timeline...Of the 19 cases she’s had, nine are no longer candidates for demolition by neglect and work is ongoing on the rest.”

### Other Municipalities Language & Process

Municipality	Population	Language	Enforcement
Raleigh	464,758	<a href="https://rhdc.org/preservation-services/demolition-neglect">https://rhdc.org/preservation-services/demolition-neglect</a>	Complaint to Planning Director +Inspector Investigation/Report + Letter + HRC + BOA (Appeals)
Hillsborough	5,945	<a href="https://assets.hillsboroughnc.gov/media/documents/public/unified-development-ordinance-section-8.pdf">https://assets.hillsboroughnc.gov/media/documents/public/unified-development-ordinance-section-8.pdf</a>	Complaint to Planning Director + Inspector Investigation/Report + Letter + HRC + BOA (Appeals)
Washington	9,571	<a href="https://library.municode.com/nc/washington/codes/code_of_ordinances?nodeId=PTIICOOR_CH40Z_O_ARTXVSPDI_S40-387PRDENEBUSTHIDI">https://library.municode.com/nc/washington/codes/code_of_ordinances?nodeId=PTIICOOR_CH40Z_O_ARTXVSPDI_S40-387PRDENEBUSTHIDI</a>	Planning Director or designee + HRC + BOA (Appeals)
Hendersonville	13,954	<a href="https://library.municode.com/nc/hendersonville/codes/code_of_ordinances">https://library.municode.com/nc/hendersonville/codes/code_of_ordinances</a>	HRC files a petition with Zoning Admin. Zoning Admin + HRC + BOA (Appeals)

		<a href="#">ordinances?nodeId=PTIICOR_C H28HIPR ARTVIDENE</a>	
New Bern	29,590	<a href="https://library.municode.com/nc/new_bern/codes/code_of_ordinances?nodeId=PTIICOR_APXALA_US_ARTXXINEBEHIDI_S15-429PRDENEPUSTWILODEHIDI">https://library.municode.com/nc/new_bern/codes/code_of_ordinances?nodeId=PTIICOR_APXALA_US_ARTXXINEBEHIDI_S15-429PRDENEPUSTWILODEHIDI</a>	Chief Building Inspector + BOA (Appeals)
Goldsboro	35,197	<a href="http://www.goldsboronc.gov/wp-content/uploads/UDO-Section-5-Zoning.pdf">http://www.goldsboronc.gov/wp-content/uploads/UDO-Section-5-Zoning.pdf</a> (Page 5-107)	Chief Building Inspector or designee + BOA (Appeals)
Fayetteville	209,889	<a href="https://fayettevillenc.gov/home/showdocument?id=3211">https://fayettevillenc.gov/home/showdocument?id=3211</a> (Page 71)	Building Inspector + HRC + BOA (Appeals)
Durham	267,743	<a href="https://durham.municipal.codes/UDO/3.18.2">https://durham.municipal.codes/UDO/3.18.2</a>	Planning Director or designee + HRC + BOA (Appeals)

#### Other Resources:

Coates Cannons

<https://canons.sog.unc.edu/tortoise-hare-demolition-historic-districts/>

<https://canons.sog.unc.edu/demolition-and-code-enforcement-involving-historic-districts-and-landmarks/>

#### National Trust for Historic Preservation

<https://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=ccd565f7-27f1-fcd7-f3a9-351b5a7b645b&forceDialog=1>

<https://pdfs.semanticscholar.org/626b/7811a879f833ed51bc641cbec35258669c9a.pdf>

#### Listserv Responses:

Hi Morgan,

Emily Rebert with Washington, Dan Becker, and I all gave a joint presentation on this topic at last year's staff workshop. I have attached a copy of my talking points, my presentation, and our ordinance on Prevention of Demolition by neglect as well as a specific case example for you. In this case, the owner was totally unresponsive until the very last moment before we got bids and approval to tear down the house, at which point he began making the required repairs. The biggest take away from me, however, is that you should not proceed with use of this ordinance as an enforcement tool unless you are willing to potentially lose the resource, since an owner can just apply to the HDC to demo the resource, which cannot be denied by your HDC except in cases of resources of statewide significance. Your final determination may also be that the resource is dilapidated and must be demolished, which is an unintended consequence of the process in extreme cases, unfortunately.

Minimum housing code and/or building and fire safety code violations will give your Demolition by Neglect ordinance more teeth from an enforcement perspective, but they should only be used once all other enforcement tools should have been exhausted. If you are at the point where you have exhausted all resources and made every attempt to get the owner to comply, and if you have resorted to using minimum housing hearings due to non-compliance, then you would send notice of the hearing to the property owner and residents within the specified range of the property notifying them of the hearing



and the specific violations being heard. Your Planning Director may be the person holding the hearing, or it could be a Board, depending on how your Ordinance is written. Once the evidence and testimony have been heard, the Director or Board would then issue a written order on whether the resource is dilapidated (costs of repairs exceed 50% of the taxable value of the structure), or if it can be reasonably repaired (cost of repairs are less than 50% of the taxable value). If dilapidated, an order to demolish may be issued as a bluff as a final means of achieving compliance. However, if the owner still makes no attempt at compliance, you will need to follow through by getting approval from your Town Board and HDC to demolish the structure and lien the property. It is not a fun process, and there is always the possibility of appeals and litigation, which can get VERY expensive. Thus, you need to decide up front how far you are willing to take the process.

To summarize, the process will be based on your Prevention of Demolition by Neglect ordinance as written, as well as your procedures for enforcement, with the possibility of using minimum housing and safety codes to supplement enforcement. Those steps will be typically:

1. Attempt to get voluntary resolution by communicating directly with property owners.
2. Issue NOVs for violations if there is no response from the owners.
3. If still no compliance, issue a final NOV giving them a certain date by which to comply and what the potential consequences will be if they don't comply by the date given.
4. Advise your jurisdiction's attorney of the potential consequences and issues in case it goes to litigation.
5. If still no compliance with your final NOV, then assemble evidence, make a timeline of events and contact with the owners, and schedule a minimum housing hearing.
6. Notify adjacent property owners, as well as the property owner of the resource in violation, per your ordinance requirements.
7. Itemize the deficiencies and get estimates for repairs and obtain the taxable value of the structure from your tax assessor.
8. Conduct the minimum housing hearing.
9. Director or Board (whoever conducts the meeting by ordinance) hears testimony from enforcement officers, building inspectors, fire marshal, neighbors, property owner, etc. and then closes the public hearing and renders a decision in writing to the property owner.
10. If repairs are less than half of the taxable value of the building, ask Town Board for permission to get bids for repairs in case of non-voluntary compliance. Then issue a formal notice to property owner to make the specified repairs by a certain date, or notify them that the government will make the repairs for them and lien the property for the cost of the repairs.
11. If repairs are greater than half of the taxable value of the building, ask Town Board for permission to get bids for demolition, and get HDC permission to demolish the resource, in case of non-voluntary compliance. Then issue a formal notice to property owner to make the specified repairs by a certain date, or notify them that the government will demolish the structure and lien the property for the cost of demolition.
12. If appealed to the Board of Adjustment, consult your attorney, as you will want representation to justify your findings and decisions, and to ensure that a decision is not overturned based on procedural grounds. Also, there is potential that the process could lead to superior court as an appeal to a denial of an appeal by the Board of Adjustment.
13. If not appealed, then after the deadline given, either do the repairs or demolish the structure, depending on your decision from the hearing.
14. File a lien according to your jurisdiction's procedures.

Sincerely,

Justin Snyder  
Justin Snyder, CZO  
Planner  
Town of Hillsborough, NC  
(919) 296-9473

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**Staff Recommendations**

*The HRC should consider how it would like to proceed, the HRC may choose not to pursue an Affirmative Maintenance Ordinance at this time or to move forward with drafting recommendations to City Council. If The decision is made to move forward, Staff would suggest creating a task force to draft potential language, craft procedures, and seek additional research before reporting back to the full Commission at a subsequent HRC meeting for further discussion.*

# STAFF REPORT

Prepared by Alexa Powell, Planner

## Black & White Paint as a Minor COA (HRC1903)

**Type of Request:** Text Amendment

### Meeting Dates

Historic Resources Commission Meeting on November 12, 2019

### Summary

At its last meeting, several HRC members requested for there to be discussion about a text amendment to allow Black and White to be included as colors that could be approved administratively as a minor COA in addition to the Sherwin Williams Historic colors. If the Commission is interested in making such a text amendment they may wish to consider the following language.

### Motion Language:

I make a motion to amend the Historic Resources Handbook, Minor Work Section, to add Black (SW6993) or similar colors, or White (SW7757) or similar colors to the list of Sherwin Williams Historic paint colors that may be approved as a minor COA.

