



City of New Smyrna Beach

Historic New Smyrna Beach Preservation Commission

Ronald Sayyah
Nancy Ryan
Virginia Schow
Carol M. Edelberg
Jean Mayo
NoraJane Gillespie

November 2, 2011

THIS IS YOUR OFFICIAL NOTIFICATION of the regular meeting of the Historic New Smyrna Beach Preservation Commission to be held on Wednesday, November 9, 2011 at 5:30 p.m. at 210 Sams Avenue, New Smyrna Beach, Florida, for consideration of the following agenda:

1. Roll Call
2. Approval of Minutes
 - October 12, 2011
3. Public Participation – In accordance with the City Commission Resolution #11-89, a three-minute limitation is in effect unless otherwise granted by the HPC
4. Discussion – Demolition by Neglect Ordinance
5. Discussion – Review of 2012 Donnadine Miller Memorial Historic Preservation Award Application
6. Discussion – Local Landmark Suggestions
7. Comments from Commission Members and City Staff
 - December 2011 Meeting
 - HPC Goals
8. Adjournment

Respectfully Submitted,

Ron Sayyah, Chairperson

Historic New Smyrna Beach Preservation Commission

1 HISTORIC NEW SMYRNA BEACH
2 PRESERVATION COMMISSION (HPC)
3 MINUTES
4 SEPTEMBER 14, 2011
5 COMMISSION CHAMBERS
6 210 SAMS AVENUE, NEW SMYRNA BEACH, FLORIDA
7

8 Chair Ronald Sayyah called the October 12, 2011 meeting to order at 5:30 p.m.
9

10 Answering to roll call:
11 Ronald Sayyah – Chair
12 Nancy Ryan – Vice-Chair
13 Jean Mayo
14 Virginia Schow
15 Carol Edelberg
16

17 Also present were staff members Gail Henrikson, Planning Manager, Kevin
18 Jameson, Planner, Dot Moore and Sarah Miller from the Florida Public Archaeology
19 Network.
20

21 **APPROVAL OF MINUTES**
22

23 **Motion by Jean Mayo, seconded by Virginia Schow, to approve the minutes of**
24 **the regular meetings held August 10, 2011 and September 14, 2011 as**
25 **amended. Motion passed unanimously on a voice vote, 5-0.**
26

27 **PUBLIC PARTICIPATION**
28

29 In accordance with the City Commission Resolution #11-89, a three-minute limitation
30 is in effect unless otherwise granted by the HPC.
31

32 Dot Moore, 4725 Lingo Grove Road, Edgewater, addressed the Board. Ms. Moore
33 informed the Board that monitoring work at the old police station site on U.S. 1 had
34 been completed and that no artifacts related to the Turnbull Colony had been found.
35

36 Ms. Moore stated that Phase II of the Orange Street streetscape project would be
37 beginning next week. She stated that there would be an archaeologist on-site to
38 monitor the work.
39

40 **PRESENTATION – SARAH E. MILLER, FLORIDA PUBLIC ARCHAEOLOGY**
41 **NETWORK**
42

43 Sarah Miller, Public Archaeologist, Northeast Regional Center, Florida Public
44 Archaeology Network (FPAN), addressed the Board. She stated that FPAN had
45 three major goals: 1) Outreach to students in grades K-12; 2) Provide technical
46 assistance to local governments; and 3) Assist the State Division of Historic
47 Resources. Ms. Miller detailed some of the work that she and FPAN had been
48 involved in around the state.
49

HISTORIC NEW SMYRNA BEACH PRESERVATION COMMISSION MINUTES
OCTOBER 12, 2011

50 Ms. Miller stated that in addition to the above services, FPAN could provide letters of
51 support for grant applications and could conduct teacher training workshops. In
52 addition, Ms. Miller advised the Board of an upcoming seminar in Ponce Inlet related
53 to historic cemetery preservation.
54

55 **DISCUSSION – TIMEFRAMES FOR EXPANSION OF HISTORIC DISTRICTS**

56
57 Mr. Jameson addressed the Board and explained the draft schedule that staff had
58 prepared for expansion of the existing National Register and local historic districts.
59 He asked the Board for input on the proposed schedules and whether the Board had
60 any recommendations or revisions.
61

62 The Board did not have any further recommendations or revisions to the proposed
63 schedule.
64

65 **DISCUSSION – REVIEW OF REVISED HPC GOALS AND WORK ITEMS**

66
67 Mr. Jameson addressed the Board. He stated that the list of HPC goals had been
68 updated based upon discussion at the September meeting. He stated that the
69 revisions had been presented for informational purposes only and asked the Board
70 whether there were any additional recommendations or revisions.
71

72 The Board did not have any further recommendations or revisions to the list of goals.
73

74 **COMMENTS FROM COMMISSION MEMBERS AND CITY STAFF**

75
76 None.
77

78 **ADJOURNMENT**

79
80 Being no further business, the meeting adjourned at 6:20 p.m.
81
82



Interoffice Memorandum City of New Smyrna Beach

To: Historic New Smyrna Beach Preservation Commission
From: Kevin Jameson, Planner
Subject: Demolition by Neglect
Date: November 9, 2011

BACKGROUND

The Historic New Smyrna Beach Preservation Commission (HPC) has been having on-going discussions regarding historic buildings that are experiencing demolition by neglect. At previous meetings, staff and the Board members presented information on how other municipalities address this issue and possible funding sources available to assist property owners with maintaining and repairing their historic structures.

FINDINGS

Staff from the Planning, Building, and City Attorney departments have been working to develop procedures to address properties that are undergoing demolition by neglect.

Under the current Code of Ordinances the responsibilities for demolition by neglect are split between the Historic Preservation Commission, Building Department and Code Enforcement, and the Building Trades Board under regulations regarding unsafe and dilapidated structures. These responsibilities are as follows:

Historic Preservation Commission

Under Section 50.12(l) the Historic Preservation Commission may institute proceedings they deem necessary and appropriate to obtain compliance with the City Regulations regarding decay, deterioration and structural defects for properties within the historic districts.

Building Department and Code Enforcement

The City Code Enforcement Officer and Chief Building Official have the authority to notice properties for negligence under Sections 50.12(K) & 50.12(l) and Sections 26.791- 26.800 of the Code of Ordinances.

Building Trades Board

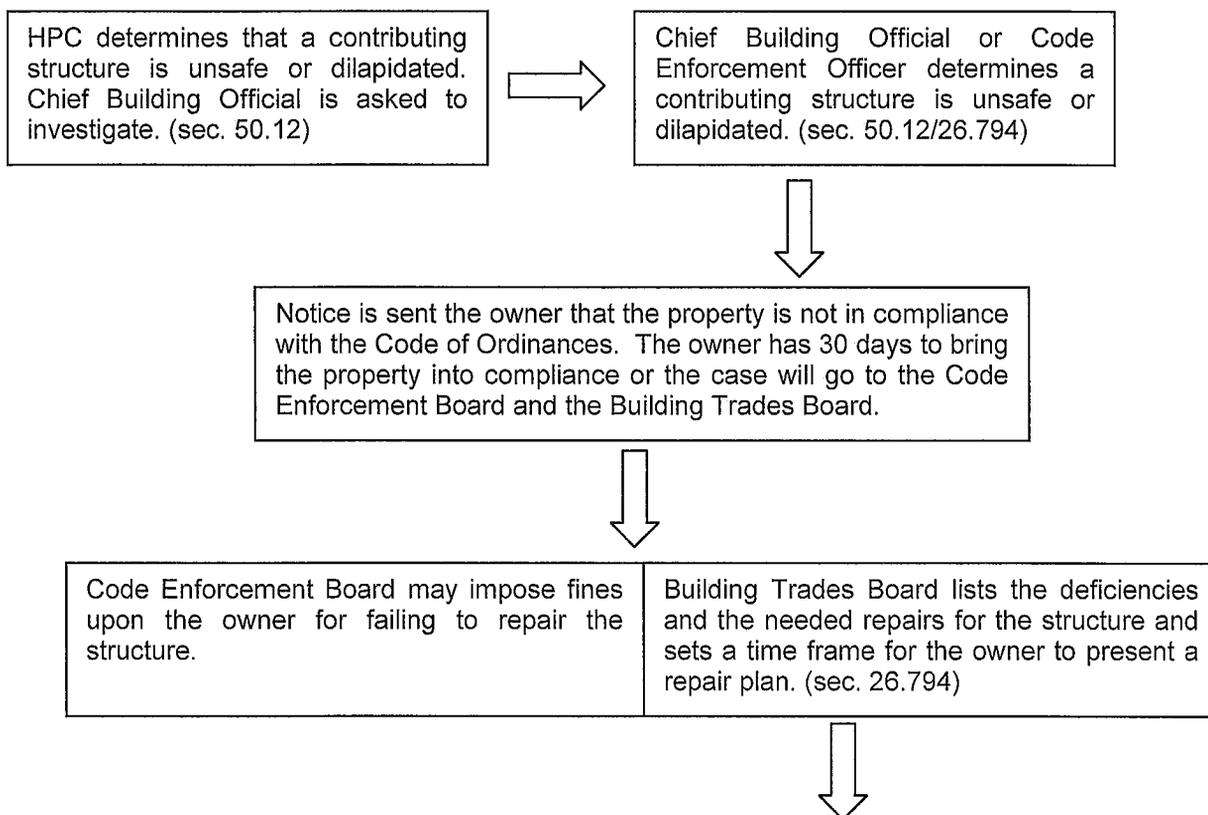
Under Chapter 26, Article X, the Building Trades Board has the authority to issue a determination on a property that has been found to be unsafe or dilapidated. The owner has 30 days to address the issues in the notice or the Building Trades Board may conduct a condemnation hearing. Following a condemnation hearing the

Building Trades Board may require a property owner to take actions required to correct the unsafe or dilapidated conditions. If the conditions are not corrected the Building Trades Board may have the City take the corrective action and bill the property owner for the work done.

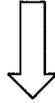
The City's Chief Building Official has proposed a concept that would allow the City to make repairs to condemned, but salvageable contributing structures by converting the money set aside for demolition to a fund that would be used to make the repairs. The determination of whether a condemned building would be salvageable would be made by the Building Trades Board. The repair plan would need to be reviewed by the HPC for historic appropriateness. This would require revision of the Code of Ordinances Sections 26.799 and 50.12 (both sections are attached to this memo).

In order to determine what structures are currently dilapidated and if structures are deteriorating in a future, an initial inventory of the contributing structures is recommended. For this inventory the contributing structures within the historic districts would be surveyed, graded for condition and any deterioration issues would be noted.

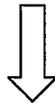
The conceptual procedure for addressing dilapidated contributing structures is presented below.



If the repair plan is not submitted to the Building Trades Board, the Board condemns the property and forwards the condemnation case to the Historic Preservation Commission for demolition approval. (sec. 50.12)



The HPC may approve the demolition request, delay the demolition, or request that the Building Trades Board convert the funds set aside for demolition into a grant to be used to repair the contributing structure.
(Requires Code change to sec. 50.12/chapter 26, art. X)



The Building Trades Board converts the demolition funds to a repair grant for addressing the needed repairs. The City would use the funds to make repairs in a manner deemed appropriate by the HPC.
(Requires Code change to sec. 50.12/chapter 26, art. X)



The HPC would review the planned repairs on the contributing structure for appropriateness. When the repairs are deemed appropriate the repairs could begin.
(Requires Code change to sec. 50.12/chapter 26, art. X)

ACTION REQUESTED

Staff seeks the HPC's input on the above recommendations. A draft of the proposed amendments to the Code of Ordinances would then be brought back to the HPC at its next meeting for a formal recommendation to the City Commission.

New Smyrna Beach Code of Ordinances, Chapter 50

Sec. 50-12. - Historic building demolition.

(a) *Historic Building Demolition Ordinance.* This section shall be known and cited as the City of New Smyrna Beach Historic Building Demolition Ordinance.

(b) *Finding.* It is the finding of the City Commission of the City of New Smyrna Beach, Florida, that New Smyrna Beach contains many important historical buildings. Further, in the preservation and understanding of the importance of the historic buildings within New Smyrna Beach there is a direct relationship to the economic well-being of the city and the present and future needs, public health, safety, morals and general welfare of the citizens of the incorporated area of New Smyrna Beach, Florida, as well as visitors to and residents of New Smyrna Beach.

(c) *Purpose.* This section is adopted for the purpose of preserving and protecting significant buildings within the city, which constitute or reflect distinctive features of the architectural, cultural, political, economic, or social history of the city; to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, relocate or restore such buildings rather than demolish them.

(d) *Definitions.* For the purpose of this section, certain words and terms used herein shall be interpreted to have the meanings as defined below. Where words or terms are not defined in this section, they shall assume the meaning as indicated in Webster's Ninth New Collegiate Dictionary. Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive. The word "used" or "occupied" includes the words "intended, designated or arranged to be used or occupied." The word "land" includes the word "marsh," "water" or "swamp."

Building. Any combination of materials capable and intended of being used as a shelter for persons for residential or non-residential purposes.

Commission. The Historic New Smyrna Beach Preservation Commission.

Contributing building. A building recognized as a contributing building within one of the city's National Register of Historic Places historic districts as noted on attached maps labeled as exhibits A and B.

Demolition. The act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction.

Removing portions of a building that destroy the original character of the building also constitutes demolition.

Demolition by neglect. The absence of work in maintaining, repairing, or securing a contributing building or structure in a historic district that results in deterioration of an exterior feature of the building or structure or the loss of the structural integrity of the building or structure.

Demolition permit. The permit issued by the city building department as required by the state building code for the demolition or removal of a building or structure.

Significant building. Any building within the city which the commission determines, as provided in section 50-12(g), to be in the public interest to be preserved or rehabilitated, and whose demolition would be detrimental to the historical and/or architectural heritage and resources of the city.

(e) *Regulated buildings.* This section applies to all contributing buildings within the city's two National Register of Historic Places historic districts as shown on exhibits A* and B*.

(f) *Notice.* Notice of a public hearing to consider any proposal to demolish a contributing building as indicated in section 50-12(e) shall be made by the commission staff in a New Smyrna Beach newspaper of general circulation in the city at least 30 days prior to the hearing. The owner or authorized representative of the owner of the building proposed for demolition shall notify all property owners within 150 feet of the subject property of the proposed public hearing. The notice shall be sent by United States Postal Service certified mail "return receipt requested" to each property owner no less than 15 days prior to the advertised public hearing and shall indicate the property address of the building proposed for demolition and location, date and time of the public hearing.

(g) *Commission review.* The commission shall review any application for demolition of a contributing building within the city's National Register of Historic Places Historic District at its next public hearing with notice given as provided in section 50-12(f) to determine whether the building is historically significant as defined in this section. The commission shall also consider information submitted by the applicant, as provided in sections 50-12(g) and (h). The commission shall not consider the request until the applicant has provided the information as outlined in sections 50-12(h) and (i) to explain why the building is not considered significant or if significant, why it should be demolished. The commission shall issue no demolition approval until the applicant has demonstrated that no other feasible alternative to demolition can be found. The commission may ask interested individuals and organizations for assistance in seeking an alternative to demolition.

EXHIBIT A

The building shall be considered historically significant if one or more of the following criteria are declared to be met by the commission:

- (1) The building is historically or architecturally significant in terms of its period, style, method of building construction or use of indigenous materials; or
- (2) The building is a significant reminder of the cultural, or architectural history of the city, state or nation; or
- (3) The building is associated with a significant local, state or national event; or
- (4) The building is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the city, state or nation; or
- (5) The building is one of a the few remaining examples of its period, style, or method of construction; or
- (6) The building is identified with a person who significantly contributed to the development of the city, state or nation; or
- (7) The building is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the city, state or nation; or
- (8) The building value is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance; or
- (9) The building character is in a geographically definable area possessing a significant concentration or continuity of buildings united in past events or aesthetically by plan or physical development; or
- (10) The building character is in an established and geographically definable neighborhood united in culture, architectural style or physical plan and development.

(h) *Demolition of significant buildings.* If the commission finds that the building is historically significant the commission may, nevertheless, grant a demolition approval if it finds that one of the following circumstances is met:

- (1) *Undue economic hardship.* In any instance where there is a claim of undue economic hardship, the property owner shall submit to the commission prior to the public hearing a report indicating the economic

hardship and why the demolition should be allowed. The report shall include the following:

- a. The amount paid for the property, the date of purchase and the party from whom purchased;
- b. The assessed value of the land and improvements thereon, according to the two most recent assessments;
- c. Real estate taxes for the previous two years;
- d. Annual debt service, or mortgage payments, if any, for the previous two years;
- e. All appraisals (if any) obtained within the previous two years by the owner(s) or applicant(s) in connection with the purchase, financing or ownership of the property;
- f. Any listing of the property for sale or rent, price asked and offers received, if any; and
- g. Any consideration by the owner as to profitable adaptive uses for the property, including but not limited to possible fair market rents for the property if it were rented or leased in its current condition.

The commission may require that an applicant furnish such additional information as the commission believes is relevant to the commission's determination of any alleged undue economic hardship. The commission may also require, in appropriate circumstances, that information be furnished under oath.

In the event that any of the required information is not reasonable available to the property owner and cannot be obtained by the property owner, the property owner shall file with his/her/their affidavit a statement of the information which cannot be obtained and the reasons why such information cannot be reasonable obtained. Where such unobtainable information concerns required financial information, the property owner will submit a statement describing estimates which be as accurate as feasible.

(2) *Building condition.* In any instance where there is a claim the building is not structurally sound and/or suitable for restoration, the applicant shall provide a written report signed by a licensed engineer or architect with experience in historic building restoration stating that the building is structurally unsound and unsuitable for restoration. The commission shall review the credentials of the licensed engineer or architect signing the report and shall find them experienced in historic restorations before the

report is accepted. The applicant shall allow members of the commission and commission staff to inspect the interior and exterior of the building.

Lack of alternative to demolition. In any instance where there is a claim of no other alternative to demolition, the applicant shall provide written documentation of attempts to sell the building at a reasonable and comparable amount or to offer it without charge to purchasers willing to move the building to another location and preserve, rehabilitate, relocate or restore the building. A reasonable and comparable sales price shall be indicated by providing evidence such as recent appraisals, comparable values of properties similar to the building proposed to be demolished or other evidence the commission deems acceptable.

(i) *Conditions of demolition approval.* If the commission grants demolition approval for a historical building as provided in section 50-12(g), the commission shall condition approval on one or more of the following requirements:

(1) The commission shall require the applicant to provide a written and pictorial record of the building's history and architectural features for archival purposes, approved by the city. The record should include a narrative accompanied by relevant photographs, drawings, maps, and copies of original documents; or

(2) The commission shall require the applicant to design the replacement building(s) to meet the requirements of the Historic Preservation Design Guidelines for New Smyrna Beach and submit drawings of the proposed work, photographs of existing buildings or structures on adjacent properties and information about the building materials to be used for commission approval; or

(3) The commission may require that the owner allow archaeological study of the property before and/or during demolition if the property falls within the area demonstrated to have a medium or high probability to contain archaeological resources; or

(4) The commission may require that the owner allow salvage activities of the historic building provided the commission finds that there are salvageable materials within the building. Commission staff shall provide evidence to demonstrate that salvageable materials are within or on the building to be demolished; or

(5) The commission may require that the owner of a historically significant building meet any other condition that is reasonable to mitigate the demolition of the historic building.

(j) *Demolition delay.* Should the commission determine that a building is historically significant and does not meet at least one of the circumstances allowing demolition of a historically significant structure, the commission shall provide for a demolition delay effective date of up to 120 days from the date of the application. The purpose for the delay is for the commission staff to invite the owner of record of the building to participate in an investigation of alternatives to demolition including, but not limited to, incorporation of the building into the future development of the site; adaptive reuse of the building; utilization of financial incentives to rehabilitate the building; seeking a new owner willing to purchase and preserve, restore or rehabilitate the building; or moving the building. The city will provide the applicant resource assistance including but not limited to potential grant sources, tax relief measures, possible lenders, and available insurers. Once the delay period has ended and if the owner is still seeking demolition of the historically significant structure, the owner shall appear before the commission at a meeting adhering to the notice requirements of section 50-12(f) and present a case as to why the demolition should be granted. The commission shall again consider the reasons for demolition of a historically significant building as indicated in section 50-12(h). The commission shall approve the demolition provided the conditions of section 50-12(i) subsections (1) through (4) are complied with.

(k) *Demolition by neglect.* The owner of a contributing building or structure within an historic district shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings and structures designated as contributing or significant and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings or structures shall be preserved against such decay and deterioration and free from structural defects through prompt corrections of any of the following defects:

- (1) Facades that may fall and injure persons or property;
- (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that sag, split or buckle due to defective material or deterioration;
- (4) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors;

(5) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering; or

(6) Any fault or defect in the building that renders it not properly watertight or structurally unsafe.

(l) *Non-compliance.*

(1) The commission, building official and code enforcement officer are each authorized to institute any and all proceedings in law or equity, as they deem necessary and appropriate to obtain compliance with the requirements of this section, or to prevent a violation thereof.

(2) No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this section for a period of 22 months after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located and all abutting parcels of land under common ownership or control on or subsequent to the date this section was approved.

(3) Upon a determination of the commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the building official and/or code enforcement officer.

(4) Anyone who demolishes a building or structure identified in section 50-12(e) without first obtaining, and complying fully with the provisions of, a demolition permit shall be subject to a fine of up to \$5,000.00.

(m) *Appeals to the city commission.* Within 15 days of the commission decision, any affected person may appeal to the city commission any decision of the commission on an application for a demolition. The city commission shall approve, approve with conditions, or disapprove the application within 60 days after receiving the appeal. The city commission shall only approve the demolition of a contributing building if they determine that the request complies with subsections (g)—(j) of this section.

(n) *Withholding of demolition permit.* The demolition permit shall be withheld until the procedural requirements of subsections (f) through (j) inclusive have been satisfied.

New Smyrna Beach, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 26 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE X. - UNSAFE OR DILAPIDATED STRUCTURES >> ARTICLE X. - UNSAFE OR DILAPIDATED STRUCTURES [37]

- Sec. 26-791. - Definitions.
- Sec. 26-792. - Applicability.
- Sec. 26-793. - Enforcement official.
- Sec. 26-794. - Purpose.
- Sec. 26-795. - Conditions; nuisance.
- Sec. 26-796. - Notice of determination.
- Sec. 26-797. - Condemnation by city building trades board.
- Sec. 26-798. - Notice of condemnation.
- Sec. 26-799. - Repairs after condemnation.
- Sec. 26-800. - Structure or property presenting condition of imminent danger.
- Secs. 26-801—26-899. - Reserved.

Sec. 26-791. - Definitions.

Board means the Building Trades Board of the City of New Smyrna Beach.

Building means any structure used or intended for supporting or sheltering any use or occupancy. The word building includes the word structure.

Building official means the chief building official of the City of New Smyrna Beach or his duly authorized representative.

Building Trades Board means the building trades examining board as created by section 26-326.

Owner means any person, group of persons, firm or firms, joint venture, corporation or corporations, or any other legal entity having legal title to the real property on which a building or structure is subject to the terms of this article.

Person aggrieved means a person whose legal right is invaded by a decision complained of, or whose pecuniary interest is directly affected by a decision. The person's interest must be specific and personal, not common to all members of the community.

Structure means anything constructed or erected on the ground or attached to anything constructed or erected on the ground.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-792. - Applicability.

This article shall be applicable to the City of New Smyrna Beach.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-793. - Enforcement official.

The building official is hereby designated as the investigating and enforcing official pursuant to the provisions of this article. The building official is hereby directed and empowered to inspect land on which the building exists, to receive all complaints of a violation of this chapter, and to enter upon any real property in the conduct of official business pursuant to this article. The building official shall be responsible for providing all notices to affected property owners required by this article and to take such other action as is reasonably necessary to accomplish the purpose of this article.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-794. - Purpose.

- (a) There exist in the city, structures that are or may become unsafe or dilapidated due to lack of maintenance or damage caused by weather, fire, vandalism, vermin, insects, or other conditions. Such structures constitute a menace to the health, safety, welfare, and reasonable comfort of city citizens. The existence of such structures, if not remedied, creates blighted areas, curtails investments and tax revenues, and impairs economic values.
- (b) All buildings or structures of any kind, including all electrical, gas, mechanical, or plumbing systems, which are unsafe or unsanitary, which constitute a fire hazard, or which are dangerous to human life or a hazard to safety or health, shall be abated by repair and rehabilitation or by demolition, in accordance with this article.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-795. - Conditions; nuisance.

- (a) A structure is unsafe or dilapidated when any of the following conditions exist:
 - (1) The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.

EXHIBIT B

- (2) The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
 - (3) The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
 - (4) The structure is so dilapidated, decayed, unsafe, unsanitary, or so utterly fails to provide the amenities necessary for health, safety, or general welfare.
 - (5) The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
 - (6) The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.
- (b) A structure that is unsafe or dilapidated constitutes a nuisance. No person shall permit an unsafe or dilapidated structure to exist on property under his ownership or control.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-796. - Notice of determination.

- (a) Upon identification of a structure as unsafe or dilapidated, a notice shall be sent to the owner of the structure as listed on the most recent available tax rolls, directing that it be repaired or demolished. The notice shall contain the following information:
- (1) The name of the person upon whom the notice is served.
 - (2) The street address of the structure and the legal description of the property on which it is located.
 - (3) That the structure has been determined to be unsafe or dilapidated, and the conditions upon which the determination is based.
 - (4) If repairs or alterations will remedy the conditions, the nature and extent of the repairs or alterations necessary.

EXHIBIT B

- (5) If the conditions are of such a character that repairs or alterations are not feasible or reasonably expected to remedy the conditions, notice that the structure must be demolished.
 - (6) That, within 30 days from the mailing date of the notice, a complete building permit application for necessary repairs must be submitted and repairs commenced or the structure must be demolished.
- (b) If the conditions are not remedied within 30 days after the notice of determination is sent or a building permit for repairs is not applied for and repairs completed within a reasonable period of time, the property shall be referred to the building trades board to conduct a condemnation public hearing concerning the subject property. The owner or owners shall be notified in writing by the building official at least ten days prior to the hearing of the time, place and purpose of the public hearing. Also, said notice shall be posted on the structure at least ten days prior to the hearing. Failure of any person to receive notice shall not invalidate any proceeding under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with date and place of posting shall be by affidavit of the person posting the property. Attached to the affidavit shall be a copy of the notice posted.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-797. - Condemnation by city building trades board.

- (a) If the owner of any structure has failed to remedy unsafe or dilapidated conditions within 30 days after sending the notice of such conditions as provided in section 26-796, the city building trades board may consider condemning the structure.
- (b) Each case before the board shall be presented by the building official or other city staff. The city attorney shall advise the board and not act as the prosecutor of the case. In the event that the building official needs legal assistance in prosecution of the case, the building official shall contact the city attorney and the city attorney shall retain outside counsel to assist the building official. At the hearing, the board shall proceed to hear evidence and testimony on the cases before the board. All testimony shall be under oath and shall be recorded. The board shall take testimony from the building official or city staff, the property owner and other witnesses called by either the city staff or the property owner. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- (c) The action of the board shall constitute final administrative action.

EXHIBIT B

- (d) Upon finding that any structure is unsafe or dilapidated in accordance with subsection 26-796(a), the city building trades board may adopt a order of condemnation, requiring the owner to remedy the conditions by repair or removal by a date not less than 20 days and not more than 60 days thereafter, and providing that failure of the owner to do so will result in the city taking action to remedy the conditions and charging all expenses of the action against the property.
- (e) If the conditions are not remedied within the time established, the city may take whatever action is determined necessary and appropriate to remedy the conditions, including vacating, fencing, securing, demolishing; and/or removing the unsafe or dilapidated structure. The city shall assess all costs associated with the action against the real property. The assessment shall constitute a lien upon the property to the same extent and character as a lien for special assessments and with the same rights of collection, foreclosure, and sale. The lien shall be superior to all others except taxes and shall accrue interest at the rate of eight percent per annum until paid.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-798. - Notice of condemnation.

- (a) A certified copy of the order of condemnation as provided in section 26-797, together with a copy of the notice of determination containing information as provided in subsection 26-796(a), shall be served either personally or by certified mail, postage prepaid, return receipt requested, on each owner as listed on the most recent available tax rolls; and
- (b) A copy of the order of condemnation shall be posted on the structure following the adoption of an order of condemnation; and
- (c) A copy of the order of condemnation shall be posted at city hall for a period of 20 days following its adoption.
- (d) Failure of any person to receive actual notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and place of its posting.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-799. - Repairs after condemnation.

EXHIBIT B

After the building trades board has condemned a structure as provided in this article, no building permit application shall be accepted or permit issued for repairs of the structure except as follows and with a time certain to complete the repairs:

- (a) The city shall review any application for a permit to repair a condemned structure and shall determine whether repairs are feasible.
- (b) If the proposed repairs are not reasonably expected to resolve the conditions or are otherwise not feasible, the permit shall be denied.
- (c) If the repairs are feasible and are reasonably expected to resolve the conditions, a permit may be issued only upon written agreement of the owner or authorized agent specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.

(Ord. No. 26-10, § 1 , 5-25-2010)

Sec. 26-800. - Structure or property presenting condition of imminent danger.

- (a) A structure or property presents a condition of imminent danger to human life or health when:
 - (1) Due to structurally unsound conditions, a person entering the structure or a portion of the structure is likely to suffer physical injury, and the structure or unsound portion is not completely secured against access;
 - (2) Due to structurally unsound conditions, any portion of the structure is likely to fall, be carried by the wind, or otherwise detach or move and in doing so cause physical injury or damage to a person on the property or to a person or property nearby; or
 - (3) The condition of the property is such that it harbors or is inhabited by pests, vermin, or other organisms injurious to human health, the presence of which constitute an immediate hazard to people or property in the vicinity.
- (b) Upon receipt of information that any structure or property or portion of the structure or property is an imminent danger to human life or health, an inspection of the structure or property shall be conducted promptly to determine whether an imminent danger exists.
- (c) Upon determination that an imminent danger exists, the owner, as determined from the tax rolls or other information immediately available to the city, and any occupant, shall be notified of the imminent danger presented by the unsafe

EXHIBIT B

conditions. Notification shall be in writing provided by hand delivery or by registered letter to the most recent known address. In addition, notice of the unsafe conditions and imminent danger shall be posted on the property. If the owner cannot be determined or located, posting of the property shall constitute notice to the owner. The notice shall require that, within five days, the unsafe conditions be corrected or the occupants vacate the premises and the structure, building, or unsafe portion of the structure or building is demolished and removed. Corrective actions may include demolition and removal of structures, removal of building debris, fencing of the property, securing of windows and doors, removal of occupants, or any other action determined appropriate and sufficient to protect the public from injury by the unsafe conditions.

- (d) If the unsafe conditions have not been corrected or removed within five days after the receipt of notice by the owner and occupant or the posting of the property if the owner cannot be located, the city may correct the unsafe conditions by demolition and removal of structures, removal of building debris, fencing of the property, securing of windows and doors, removal of occupants, and/or any other action determined appropriate to protect the public.
- (e) Any costs incurred by the city to correct unsafe conditions pursuant to this section shall be assessed and charged to the owner of the property and shall constitute a lien provided in section 26-797(e).

(Ord. No. 26-10, § 1 , 5-25-2010)

Secs. 26-801—26-899. - Reserved.

FOOTNOTE(S):

(37) Editor's note— Ord. No. 26-10, § 1, adopted May 25, 2010, repealed the former Art. X, §§ 26-791—26-805, and enacted a new Art. X as set out herein. The former Art. X pertained to similar subject matter and derived from Ord. No. 11-02, § 1, 9-17-2002. (Back)

(37) Cross reference— Administration, ch. 2; environment, ch. 38; fire prevention and protection, ch. 42; historic preservation, ch. 50 (Back)

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Interoffice Memorandum City of New Smyrna Beach

To: Historic New Smyrna Beach Preservation Commission Members
From: Gail Henrikson, AICP, Planning Manager *GAH*
Subject: 2012 DONNADINE MILLER HISTORIC PRESERVATION AWARDS
Date: October 31, 2011

For the past several years, the City has used the same application form and criteria for the Historic Preservation Awards. Staff has revised the application, including the review criteria. The draft revised application is included with this memo.

NEXT STEPS

Staff is requesting input from the Board on the following items:

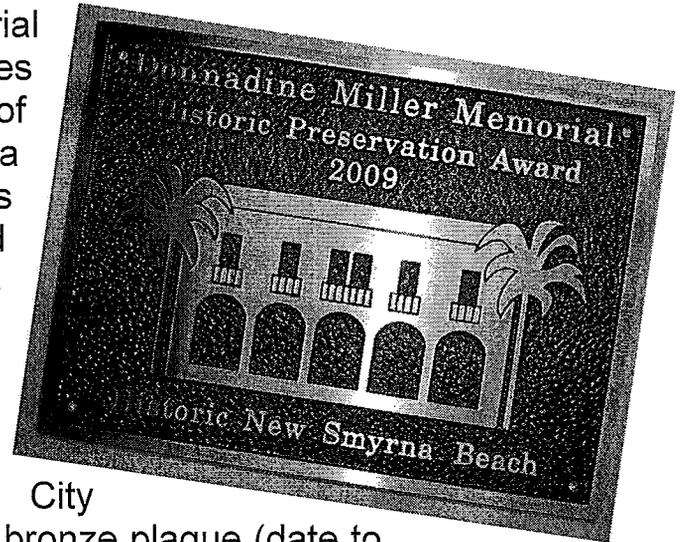
1. Are there are corrections, additions and/or deletions to the application?
2. Should additional criteria be added or should proposed criteria be removed?
3. Does the Board want to create a preservation award for persons involved in preservation/archaeological work?
4. Should there be a separate award for archaeological work?

Donnadine Miller Memorial Historic Preservation Award

Submission Deadline: January 9, 2012

The annual Donnadine Miller Memorial Historical Preservation Award promotes the awareness and appreciation of buildings and sites in New Smyrna Beach that contribute to the City's heritage and character. This award program reflects New Smyrna Beach's pride in its past. The Historic New Smyrna Beach Preservation Commission will select the winner based on the attached evaluation criteria, and the Mayor and City

Commission will present the award, a bronze plaque (date to be announced), to coincide with the celebration of Florida Heritage Week in March 2012. Nominations are accepted in both the residential and non-residential categories.



Nominations should be submitted no later than 5:00 p.m. on Monday, January 9, 2012.

Submit nominations to:
Preservation Awards Coordinator
210 Sams Avenue
New Smyrna Beach, FL 32168
386-424-2132

- Nomination forms available at:**
- www.cityofnsb.com
 - City Hall, 210 Sams Avenue
 - New Smyrna Museum of History, 120 Sams Avenue

Donnadine Miller Memorial Historic Preservation Award Nomination Form

Residential

Non-Residential

Building Address:

Year Built: _____

Architectural Style (e.g. Vernacular/Spanish Eclectic/Craftsman): **(Please include a photograph of the front of the building.)**

Description of the history of the building or site and why it is significant (attach additional sheets, if necessary):

Nominator: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail Address: _____

(OVER)

Release Authority

The undersigned gives to the City of New Smyrna Beach the absolute and unqualified right to use in whole or in part, in whatever manner the City may desire, all submitted material.

Release authorized by:

SIGNATURE OF OWNER

PRINT OR TYPE NAME

I am interested in having my building designated as a local landmark (**not** required for historic preservation award consideration)

Evaluation Criteria

Historic Significance

30

- Promotes and reflects the historic nature of New Smyrna Beach
- Reflects the original architecture
- Use of appropriate materials/colors

Community Significance

20

- Maintains and/or enhances aesthetics of the city, thus helping create civic pride and the prosperity and welfare of the City
- Promotes sustainability and "green" design while preserving the historic character of the resource

Charm

10

- Aesthetic Value
- Use of native landscape material

Interoffice Memorandum City of New Smyrna Beach

To: Historic New Smyrna Beach Preservation Commission Members
From: Gail Henrikson, AICP, Planning Manager 
Subject: **RECOMMENDATIONS FOR LOCAL LANDMARKS**
Date: November 2, 2011

One of the items on the HPC's list of goals and projects is to designate at least one local landmark each year. The last local landmark was designated in 2006 (701 Magnolia Street). As a Certified Local Government, the City and the HPC should be promoting and encouraging the designation of local landmarks within the City. Currently, there are seven locally-designated landmarks within the City:

- Black Heritage Museum (formerly known as St. Rita's Church) – Approved April 26, 1994
- Chamber of Commerce – Approved December 19, 1995
- Old Stone Wharf – Approved February 13, 1996
- Indian River Lodge – Approved August 16, 200 (Demolished)
- Connor Library – Approved October 22, 2002
- 120 Sams Avenue (Museum) – Approved April 27, 2004
- 701 Magnolia Street – Approved June 13, 2006

Additionally, in 1974, the City Commission declared the Turnbull Canal on the north side of Canal Street between Myrtle Avenue and Milford Place a Historic Memorial.

The Goals, Objectives and Policies in the Historic Preservation Element of the City's *Comprehensive Plan* also encourages the City to designate at least one local landmark each year.

ACTION REQUIRED

Staff is requesting that the Board members each bring a list to the November meeting of at least two possible properties that could be considered for designation as a local landmark.

HISTORIC PRESERVATION COMMISSION (HPC) 2012 MEETING SCHEDULE

MEETING DATES

HPC: 2ND Wednesday of each month at 9:00 a.m.

PLANNING AND ZONING BOARD: 1ST Monday of each month at 5:30 p.m., unless otherwise indicated

MEETING LOCATION

City Commission Chambers, 210 Sams Avenue, New Smyrna Beach

DEMOLITION SUBMITTAL DEADLINE	HISTORIC PRESERVATION COMMISSION MEETING DATE
Nov. 18, 2011	Jan. 11, 2012
Dec. 16, 2011	Feb. 8, 2012
Jan. 20, 2012	Mar. 14, 2012
Feb. 17, 2012	April 11, 2012
Mar. 16, 2012	May 9, 2012
April 20, 2012	June 13, 2012
May 18, 2012	July 11, 2012
Jun. 15, 2012	Aug. 8, 2012
July 20, 2012	Sept. 12, 2012
Aug. 17, 2012	Oct. 10, 2012
Sept. 21, 2012	Nov. 14, 2012
Oct. 19, 2012	Dec. 12, 2012
Nov. 16, 2012	Jan. 9, 2013
Dec. 21, 2012	Feb. 13, 2013
Jan. 18, 2013	Mar. 13, 2013
ALL DEADLINES ARE SUBJECT TO CHANGE DEPENDENT UPON STAFF WORKLOAD AND PROJECT COMPLEXITY.	
Public Notice Ads are posted 30 days prior to the scheduled meeting.	