

**HISTORIC PRESERVATION BOARD  
CITY OF FORT LAUDERDALE  
MONDAY, OCTOBER 4, 2010 - 5:00 P.M.  
CITY HALL FIRST FLOOR COMMISSION CHAMBER  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

<b><u>Board Members</u></b>	<b><u>Attendance</u></b>	<b>Cumulative Attendance 6/2010 through 5/2011</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
Susan McClellan, Chair	P	5	0
Matthew DeFelice, Vice Chair	P	5	0
Beauregard Cummings	A	1	4
Joyce Gardner	A	1	4
Mary Jane Graff	A	3	1
Marie Harrison	A	3	2
Daryl Jolly	A	1	4
David Kyner	A	4	1
Phillip Morgan	P	4	0
Robert Prager	A	3	2
Scott Strawbridge	P	3	2

**City Staff**

Assistant City Attorney Carrie Sarver  
Merrilyn Rathbun, Fort Lauderdale Historical Society, Consultant to HPB  
Pat Garbe-Morillo, Planning and Zoning Department  
Anthony Fajardo, Historic Preservation Board Liaison  
J. Opperlee, ProtoType Inc.

**Communication to the City Commission**

None

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**Purpose:** Implement the City's historic preservation regulations, which promote the cultural, economic, educational and general welfare of the people of the City and of the

public generally through the preservation and protection of historically or architecturally worthy structures.

### **Call to Order**

Chair McClellan called the meeting of the Historic Preservation Board to order at 5:05 p.m.

All members of the public wishing to address the Board on any item were sworn in.

### **Approval of Minutes of September 2010 Meeting**

The Board lacked a quorum and could not vote on this item.

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1. **Proposed Amendments to the Historic Preservation Ordinance** **6T10**

**Sections under review:** 47-24.11.C, *Certificate of appropriateness*

\* NOTE: The preceding list is not inclusive of all ULDR sections that are being reviewed for amendments, but rather a list of the sections that are anticipated to be discussed at the September 13, 2010 meeting. (This item is not quasi-judicial)

District: All districts

Ms. Sarver explained that the Board would discuss the proposed changes and provide their input but no vote could be taken since they lacked a quorum. She said the final version would be brought back to the Board for their "final blessing."

Mr. Fajardo introduced Michele Williams, PhD, Archeologist from FAU.

Mr. Fajardo explained to Mr. DeFelice that they were looking at Section 47-24, the Historic Preservation ordinance. Once they had reviewed this, they would look at the Sailboat Bend ordinance. Mr. DeFelice said he had specific questions about the Certificate of Appropriateness (COA) requirements, and whether these were for designated property or property within a district.

Mr. Strawbridge believed there was other work for the Board to do. He reminded the Board that for almost three years, the Bonnet House had been listed as one of the 11 most endangered properties in the State and in the Country. He said the reason was the City's zoning code, because of what was allowed to go on around the property. Mr. Strawbridge felt it was the desire of the preservationists to keep things as loose as possible so they could be as subjective as possible, but at the end of the day, things were too subjective and too vague, which made them subject to challenge.

Mr. Fajardo advised Board members to bring up anything they felt needed to be addressed and staff would look into it.

Mr. Fajardo explained that after the Board discussed the revisions, staff would create a final document with the proposed revisions for their discussion and approval. It must then be presented to the Planning and Zoning Board (P&Z) as the Local Planning Agency to make a recommendation to the City Commission. It would then be presented to the City Commission for two readings and their vote.

Chair McClellan was concerned that after the HPB approved the revisions, the P&Z would recommend other changes that the HPB would not approve. Ms. Sarver explained that the P&Z would forward a recommendation. She acknowledged that staff or the City Attorney might have a concern about some of the HPB's recommendations, in which case they would inform the City Commission about their concern(s). Mr. Fajardo believed that P&Z would rely on the HPB and the work group's expertise regarding the recommendations.

Mr. Fajardo advised Mr. Strawbridge to provide him with any recommendations outside the COA and Sailboat Bend guidelines; he would provide them to the work group and legal staff to review. Mr. Baber agreed there were other areas in the code that had impact on historic resources, even though they were not part of the designation and COA process.

Mr. Strawbridge related that a controversy in Miami regarding Vizcaya had resulted in the creation of a parametric three-dimensional description of what was on and off limits in the view shed. He said this was a very serious issue at Bonnet House. He felt if the City created one of these descriptions it would save the City and Bonnet House a couple hundred thousand dollars each year. Mr. Strawbridge remarked that it had been "patently unfair to the property owners on both sides of the equation." He said they should be looking at their resources citywide, looking at zoning and development threats immediately around those resources and seeing if there were ways to subtly adjust the code. Mr. Strawbridge asked staff to create a list of individually designated properties. He said he would look at the surrounding zoning and the prevailing development patterns to see if there was anything they could do to further protect the individual designated properties.

Mr. Baber said it would also be helpful to create a list of what had generally impacted resources in order to figure out where flaws in the code occurred and where they needed to be fixed.

Ms. Morillo informed Mr. Strawbridge that on the City website there was a list of every individually designated site, as well as the historic districts, with maps and historic boundaries.

### **Discussion of individual Ordinance Sections**

#### 47-24.11.C. Certificate of Appropriateness

Change the Section numbering to 47-24.11.G

#### 47-24.11.G.1.a.v

Mr. Strawbridge said he wanted to understand the parameters behind "an interior alteration that is visible from the exterior." Mr. Baber is referred to work on interiors that affected the exterior view. He explained that exterior view referred to the view from the public right-of-way. Dr. Williams said this was based on alteration of *structure*, not items such as curtains or paint.

Mr. Strawbridge felt this was not appropriate for a private single-family residence; it encroached upon what a person might want to do with his own home and would be subject to challenge.

Mr. DeFelice referred to the definition of alteration they had drafted, "Any act or process that changes any exterior architectural appearance or feature of an historic resource." Ms. Plummer noted that paint color was not regulated on the interior or exterior of a property. Mr. Strawbridge suggested changing the wording to "an interior *structural* alteration that is visible from the exterior." The Board agreed to this change.

Dr. Williams suggested that wherever the word archaeological appeared in the ordinance that the word paleontological should be mentioned as well.

Mr. DeFelice recalled that the Board had discussed requiring a Certificate To Dig (CTD) and he wanted the Board to consider how to insert language for whether it was a COA for archaeological sites or whether it was a CTD. He added that there were archaeological zones that were not specifically identified in this ordinance, and these should be subject to a CTD or COA. Dr. Williams had spoken to some people about this issue and been advised that a COA often reflected the importance of an archaeological site within an historic property. There was another level of Certificate To Dig for places that were not recognized as historic districts or historically significant properties and those that may be high probability archaeological sites.

Mr. Baber noted that a COA was specifically for designated property but a Certificate To Dig could be for an archaeological site on a designated property or it could be an undesignated site. There was therefore a question of where mention of this belonged. He stated it should be referenced under the COAs, where there was discussion of archaeological resources on designated sites. Dr. Williams said Miami-Dade County listed this under a separate "Certificate To Dig " section of their ordinance. This took effect when there was any digging on the site: new construction, filling, digging, removal of trees or any other activity that may alter or reveal archaeological or paleontological sites.

Mr. Baber asked staff to determine if it was appropriate to include this in the part of the code that dealt with designated properties or if it should be elsewhere. Mr. Fajardo agreed to review the Miami-Dade County code.

Mr. DeFelice wondered if this should or should not be in this section of their code. Ms. Sarver said staff and the City Attorney's office would determine where in the code it should be located. Mr. Jordan said the work group had discussed this and the model ordinance they had begun with had included a section on Certificate To Dig. He believed it should be included in this ordinance and be under the purview of the HPB. Mr. Baber remarked that in the Miami-Dade ordinance, it clearly fell under the purview of the Preservation Board.

47-24.11.G.1.d

Chair McClellan suggested editing the language to read "...when interior *structural* alterations are visible from the exterior." Mr. Fajardo agreed to add the word structural wherever it was appropriate.

47-24.11.G.1.b

Mr. Strawbridge asked if there was a call-up provision. Mr. Fajardo believed this was in the table of development permits and procedures. Mr. Strawbridge just wanted to ensure that issuance of a Certificate of Appropriateness was subject to Board call-up. Mr. Jordan said the work group had advocated a 15-day call up for Board members.

47-24.11.G.3.b.v

Mr. Morgan took issue with the use of the word "clearly," because he did not know the standard by which "clearly" would be judged. The Board agreed to delete this word here and in 47-24.11.G.3.b.vi.

Regarding the Historic Preservation Officer, Mr. Baber said the ordinance stipulated that, "The City Manager shall provide adequate professional staff for the operational support of the Board and the Historical Preservation Program, including but not limited to a professional Historic Preservation Officer and support staff." Mr. Strawbridge stated this was mandatory language for a Certified Local Government. Mr. Fajardo said the City currently did not employ an Historic Preservation Officer. He said there would

be issues the City Commission would need to consider regarding any new positions considering the current budget situation. Mr. Jordan said it was the work group's intention that this title would be created so that there would be focus on historic preservation. Mr. Baber explained that even though the City had an Historic Board Liaison, this was not a professional term like Historic Preservation Officer. Chair McClellan pointed out that the CLG language included a definition of an Historic Preservation Officer. Since CLG status allowed the City to apply for certain funds, they should adopt the definition included in the CLG status.

47-24.11.G.3.c.i.c)

Mr. DeFelice suggested removing the reference to color, since the Board had already agreed that colors were not generally considered.

Dr. Williams advised that the term "archaeological significance" was a standard that Board did not want to be required to meet. She said there were more appropriate terms that could be used. Mr. DeFelice said he wanted to participate with the work group regarding these nuances. Ms. Sarver cautioned that two Board members could not meet with the work group at the same time.

47-24.11.G.3.c.i.b)

Mr. Baber suggested changing the language to read: "The proposed work shall not have a negative impact on other historic resources on the site or other contributing resources, noncontributing resources or vacant land if it is located within a historic district."

Mr. Strawbridge asked how work could have a negative impact on vacant lot or a noncontributing resource. Mr. Baber explained that work on one lot had an impact on the neighboring lots. A building being constructed could change the overall fabric of the street. Even if the adjacent property was a vacant lot, construction could affect what might later be built there.

Ms. Plummer explained that noncontributing resources, by definition, were located within historic districts. Mr. Strawbridge pointed out that there were noncontributing resources outside historic districts on a site; Bonnet House had 15 buildings, some of which were contributing and some of which were not. He asked if it was this Board's job to determine that within an individual site. Mr. Jordan said they should; even if it was a noncontributing resource they should consider the impact of the new construction on that noncontributing resource.

47-24.11.G.3.c.i.e)

Mr. Strawbridge asked what type of demonstration was being discussed: economic, engineering? Mr. Baber said this was a re-wording, and suggested that it applied if someone presented a design that was outlandish or did not meet the zoning code. Mr. Morgan said this put an additional burden on the applicant. Mr. Fajardo explained that similar language had been in the code for some time but applicants had not addressed

it. Mr. Baber said it gave the Board the latitude to ask how a project could be done. Mr. Jordan said there was a possibility that demolition might be part of a project and if that project was not feasible, the Board should consider that. Mr. Strawbridge cautioned against using this language. He said he would prefer the way this was handled in Hollywood, which was to require plans, engineering certificates and a pro forma budget when requesting a demolition permit. Mr. Strawbridge was particularly concerned about the "reasonably carried out" language, which he felt could be argued about by Board members.

47-24.11.G.3.c.i.f)

Mr. Strawbridge said this applied to when the Board was reviewing new construction and he could not understand how the Standards for the Treatment of Historic Properties related to new construction. Mr. Rathbun explained that some of the Secretary of the Interior's standards would be applied to new construction, and additions to historic buildings.

47-24.11.G.3.c.iii.a)

Mr. Morgan asked about the language, "The heights of the proposed building shall be no taller than those buildings to which it is visually adjacent. In no case shall the proposed building be higher than other historic buildings of the same use and type located within the historic district." Mr. Baber explained that the intent of the first sentence was that the proposed building would be no taller than buildings one could see from it or that could see it. In no case should it be taller than any other in the historic district. Mr. Baber thought perhaps the language should be changed from "to which it is visually adjacent" to "within the view shed." This would recognize the variety of a streetscape. Mr. Baber clarified that adjacent had previously been defined as other buildings within the historic district. Mr. Morgan stated, "You are establishing a height limitation based upon existing structures." Ms. Sarver wanted clarification on adjacent distance. Mr. Baber said it should be within the view shed within the district. He agreed to work on this language and bring it back to the Board.

Mr. Strawbridge feared that this would create dozens of existing nonconforming buildings that could not be rebuilt if damaged more than 50%. He also questioned if this was something Sailboat Bend residents wanted for their district, and recommended it be put before the general membership. Mr. Strawbridge felt it was ridiculous to say one could not build above one story in a residential setting. Mr. Baber asked what compatible meant. Mr. Strawbridge said this meant "texture in a neighborhood, it means that they can be visually compatible. If it depends on the design."

Mr. Jordan said this was a matter of clarifying language everyone had argued about to make it less subjective. Mr. Fajardo agreed with Mr. Strawbridge that this could become an issue, especially if a resident disagreed. Ms. Plummer remarked that there were two sides to this story. For example, town homes had been built on Las Olas

Boulevard next to historic properties that had destroyed the property value of the historic house.

Mr. Strawbridge listed several buildings taller than one story and asked if these could be rebuilt if they were damaged in hurricane. Mr. Baber said this was an interesting conversation, and noted that the same determination would need to be made with the existing ordinance. Mr. Strawbridge asked what was bad about having one building taller than another. Mr. Baber said this changed the character of the street. Mr. DeFelice reminded Mr. Strawbridge of the letter had been sent to Mayor Seiler from the Perrys describing how their one-story home was now in the dark due to new three-story homes that had been constructed on either side. Mr. DeFelice said Bonnet House was in the same situation. Mr. Baber acknowledged that what was extreme next to a 50-foot lot was different compared to what was extreme next to a 35-acre lot.

Mr. Baber thought this language was fairly consistent with the new ULDR language for neighborhood compatibility. He recommended looking at this language to make it consistent with that. Mr. Baber said this had been written as general language that would be appropriate in any historic district. Hr noted every historic district was different, and this would be applied to whatever was appropriate in that district.

Mr. Strawbridge said this language would "set the bar that historic houses are the tallest in the neighborhood." Mr. DeFelice stated, "Isn't that what you're trying to preserve? I'm not sure what the argument that you keep making is. The idea is to create continuity and space, and I don't understand what the argument that you're trying to propose is." Mr. Strawbridge said, "Well, I think you have to strike a blend with property rights." Ms. Plummer felt this did not concern property rights; it concerned preservation. Mr. Strawbridge said, "That's where we get the disconnect here, because property rights are very much a part of this." He said they were writing law that created those rights. Mr. DeFelice stated, "It's your right to purchase a property outside the district."

Ms. Plummer said in light of their discussion, the work group would revisit this language.

#### 47-24.11.G.4

Mr. Baber said Dr. Williams had asked the work group to look at the demolitions section to add some protection for archaeological resources that might be underneath demolished buildings. Dr. Williams would attend the next work group meeting and suggest some language, so they would bring this back to the Board.

Mr. Strawbridge pointed out the language indicating that a Certificate of Appropriateness for demolition would not be issued until, "...all other permits or approvals required by the City of Fort Lauderdale or any other jurisdiction for the redevelopment of the subject site are issued." Mr. Baber clarified that approval of the COA would be a prerequisite for other permits and processes, but it would not be issued until all other permits were in place. For instance, if a project failed in some other way,

the building would not be demolished before the owner had approval to redevelop the site. Mr. Jordan explained that currently, an owner could demolish a structure before plans for redevelopment were approved. Chair McClellan said the intent was to stop demolition before the entire project went through the permitting process.

Mr. Strawbridge asked what effect this could have on the Unsafe Structures Board. Ms. Sarver said there was a conflict when the Unsafe Structures Board wanted to demolish a property and the request must first be brought to the HPB. Mr. Baber said they had not yet finished the language on Unsafe Structures, demolition by neglect and natural disaster damage. The language they drafted for Unsafe Structures would override this and address that concern.

47-24.11.G.4.c.i.c)

Mr. Strawbridge did not agree with striking the language, "...or redevelopment project..." He felt the language should be, "The demolition and redevelopment project..." He noted that a standalone demolition could not be argued to be a benefit to the community; it must be associated with a redevelopment project to demonstrate benefit. Mr. Baber argued there were times when demolition of a dilapidated, unsafe building was beneficial.

Mr. Strawbridge suggested changing the language back to, "...or redevelopment project..." Mr. Baber said, "If it's a good redevelopment project, but you're losing a major historic resource, that's not appropriate." Ms. Plummer agreed, and noted that in the historic district, contributing and noncontributing resources were defined and it was determined that the structures were for the public good, any other redevelopment project could be built elsewhere. Mr. DeFelice agreed, and said since this was the criteria for demolition he saw no reason to consider redevelopment.

Mr. Fajardo reminded the Board that there were multiple COAs under one request. If the Board was considering a COA for demolition and redevelopment, they would look at the COA for new construction.

Mr. Baber noted that the request must meet one of either a), b) or c), unlike other criteria were all must be met. Section 47-24.11.G.4.c.ii.a) indicated that the COA would be guided by additional guidelines.

47-24.11.G.4.c.i.b)

Mr. DeFelice pointed out that a property was not the same as a site or a building. He noted that the language in 47-24.11.G.4.c.ii.c) excluded archaeological sites. Mr. DeFelice thought "unique location" was the closest the language came to anything archaeological. He stated location was the key to understanding the significance regarding archaeological and paleontological sites because there was no record. He wanted to revisit this language to include archaeological and paleontological sites.

Mr. Baber said the definition of historic resource was "A building, structure, object, site, or other real or personal property of historic, architectural or archaeological value." He acknowledged they should add paleontological. Mr. Baber agreed that Mr. DeFelice and Dr. Williams should review the work group's edits.

47-24.11.G.4.c.i.e)

Mr. Strawbridge recommended that a structural engineer or architect's signed sealed report regarding the condition of the existing building should be required. He suggested the work group examine the Hollywood ordinance regarding demolition, because this was done very well. Mr. Jordan remarked that a property owner could always find an engineer who would certify that property could not be rebuilt. Mr. Strawbridge said the City could have an on-call engineering consultant the applicant could pay for the report. Mr. Fajardo said there was already language in the code that described how this could work and he agreed to send this to Mr. Strawbridge.

47-24.11.G.5.c

Mr. Fajardo confirmed for Mr. Strawbridge that the economic hardship appeal process started with the HPB. Mr. Jordan said the Board had handled two appeals on the same property, the Clark House. He noted that most economic hardship was self-imposed by an owner's years and years of deferred maintenance. Mr. Jordan could not remember a time when an economic hardship appeal had ever been successful. Mr. Strawbridge felt they should consider removing this unless there was case law requiring it. Mr. Baber thought removing it might open the door for a "takings" case. Ms. Sarver said she would look into this. Mr. Jordan said they should not be considering economic hardship when dealing with whether or not an historic resource should be demolished.

**2. For the Good of the City**

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Ms. Sarver said she had looked into the possibility of the HPB granting an annual award and discovered this was not currently within their purview. She recommended the Board request that authority from the City Commission. They should also determine whether the Board or the City Commission would select the recipient. Prior to presenting it to the Commission, the Board should determine criteria, categories, etc.

Ms. Morillo announced that she and Miss Rathbun had completed the survey reports of the four neighborhoods: Central Beach, Sailboat Bend, Beverly Heights, and Colee Hammock, and these had been submitted to the City Attorney's office for review.

Ms. Morillo reminded the Board of the historic designation conference on October 15 at 8 A.M.

Mr. Jordan announced that the Trust for Historic Sailboat Bend was helping to sponsor the fourth annual DOCOMOMO event. It would begin at the Westside School/ Broward

County Historical Commission and would include walking tours and a boat tour, lunch and a get-together afterwards. Mr. Baber explained that DOCOMOMO stood for Documenting Conservation of the Modern Movement.

Ms. Plummer said they were concerned about the Shippey house, which was still undergoing demolition by neglect. They were concerned that the City was not fining the property for the code violations, because they could find no record of this. Ms. Sarver agreed to look into this and report back to the Board.

**3. Communication to the City Commission**

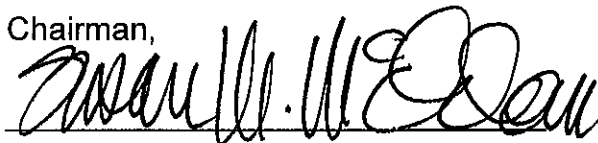
None.

There being no further business to come before the Board, the meeting was adjourned at 7:57 p.m.

**Next Meeting**

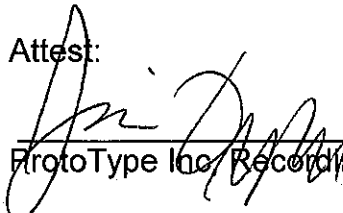
The Board's next meeting was scheduled for November 1, 2010.

Chairman,



Susan McClellan, ~~Vice~~ Chair

Attest:

  
ProtoType Inc. Recording Secretary

The City of Fort Lauderdale maintains a Website for the Historic Preservation Board Meeting Agendas and Results: <http://ci.ftlaud.fl.us/documents/hpb/hpbagenda.htm>

Minutes prepared by: J. Opperlee, ProtoType Inc.