

**HISTORIC PRESERVATION BOARD
CITY OF FORT LAUDERDALE
MONDAY, SEPTEMBER 15, 2008 - 5:00 P.M.
CITY HALL FIRST FLOOR CONFERENCE ROOM
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance 6/2008 through 5/2009</u>	
		<u>Present</u>	<u>Absent</u>
Susan Jordan, Chair	P	3	0
Nolan Haan, Vice Chair	P	3	0
Jay Adams	A	1	2
Andy Cole [5:10]	P	2	1
Beauregard Cummings	P	3	0
Joyce Gardner	P	3	0
Mary-Jane Graff	A	2	1
Marie Harrison	P	3	0
Daryl Jolly	A	2	1
Susan McClellan	P	2	1
Robert Prager	P	3	0

City Staff

Assistant City Attorney Carrie Sarver
Pat Garbe Morillo, Staff Liaison to the HPB
Michael Ciesielski, Planner II, Planning and Zoning Department
Merrilyn Rathbun, Fort Lauderdale Historical Society, Consultant to HPB
B. Chiapetta, ProtoType Recording Secretary

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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 Jordan called the meeting of the Historic Preservation Board to order at 5:01 p.m.

Chair Jordan announced that there would be a change to the agenda: Mr. Dave Baber from the Broward County Historical Commission, would give his presentation regarding: Ad-Valorem Tax Incentives first. Ms. Sarver advised the Board that changes to the agenda required a motion.

Motion made by Mr. Haan, seconded by Ms. Gardner, to hear Mr. Baber's presentation before the cases on the agenda. In a roll call vote, Board unanimously approved.

Approval of Minutes of August 2008 Meeting

Motion made by Ms. Gardner, seconded by Ms. Harrison, to approve the minutes of the Board's August 2008 meeting. In a roll call vote, Board unanimously approved.

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

I. Cases

1) Case No. 19-H-07

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Applicant: Broward Trust for Historic Preservation
Owners: Starwood Asset Management (Building), and Carol, Timothy Patrick Alber (Land)
Address: 1140 Sea Breeze Blvd.
Request: Historic Designation of the Yankee Clipper Hotel
Zoned: RMH-25
Legal: Subdivision of Harbor Beach Portion of Unit One Plat Book 26 Page 32 B Parcel X.

Deferred from June 2, 2008, to September 15, 2008

Ms. Morillo reported the applicant was requesting a deferral until the Board's December 1, 2008 meeting.

Motion made by Ms. McClellan, seconded by Mr. Prager, to defer this case to the Board's December 1, 2008 the meeting. In a roll call vote, motion passed 8 – 0.

2) **Case No. 7-H-08-SB**

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Applicant: John and Terry Behal
Owner: John and Terry Behal
Location: 1008 SW 2nd Court
Request: Certificate of Appropriateness for Alteration

- Remove Existing Aluminum Siding
- Cover Narrow Gage wood with Stucco

Zoned: RML-25
Legal: Waverly Place 2-19 D, Lots 28 to 30, 31, W 5.30 of N 50 & N ½ of Vacant Alley Abutting above Lot of Block 112.

Deferred from August 7, 2008, to September 15, 2008

Ms. Morillo announced this was a request for a Certificate of Appropriateness (COA) for Alteration for 1) Removal of existing aluminum siding and 2) Application of stucco.

Ms. Morillo advised the Board to consider the SBHD Material and Design Guidelines as indicated in Section 47-17.7. of the ULDR, as well as the General criteria for a COA in Section 47-24.11.C.3.c.i. a through f, and the additional criteria for alterations in Section 47-24.11.C.3.c.ii, when deciding whether to grant a COA for the Alterations.

Ms. Rathbun stated the house was shown on the 1928 Sanborn Fire Insurance Map for the City of Fort Lauderdale. It was not listed on the Florida Master Site File, but it was considered historic within the SBHD.

Ms. Rathbun informed the Board that the applicants were requesting a COA to remove existing aluminum siding, which was a type of siding not approved in the SBHD, and to cover the original wood siding with stucco. She pointed out that the applicants had not addressed the possibility of restoring the original siding.

Section 47-24.11. Historic designation of landmarks, landmark site or buildings and certificate of appropriateness.

C. Certificate of appropriateness.

3. Alterations, new construction or relocation.

c. Criteria.

i. General. In approving or denying applications for certificates of appropriateness for alterations, new construction, demolition or relocation, the historic preservation board shall use the following general criteria and additional guidelines for alterations, new construction, relocations and demolitions as provided in subsections C.3.c.ii, iii, and iv, and C.4:

a) The effect of the proposed work on the landmark or the property upon which such work is to be done;

- c) The extent to which the historic, architectural, or archeological significance, architectural style, design, arrangement, texture, materials and color of the landmark or the property will be affected;
- e) Whether the plans may be reasonably carried out by the applicant;
- f) Whether the plans comply with the "United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

United States Secretary of the Interior's Standards for Rehabilitation

Not Recommended

Removing or radically changing wood features which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Ms. Rathbun remarked that this type of 1920s building with a flat roof and parapet often had original stucco cladding; however examples of this type with original wood siding were built. She noted the applicant did not plan to change the wood siding of the two porches.

Section 47-17.7 Material and design guidelines

B. Materials and designs

1. Exterior building walls

a. Materials and finish.

i. stucco: smooth

Ms. Rathbun advised that stucco was an approved material in the SBHD, but the Board should consider whether this was an appropriate application.

Mr. Brian Kitchens, representative of the owners, asked if the wood siding defined the historical significance of the house. Chair Jordan explained that the problem she had with the proposal was the applicant's intent to cover the wood. Mr. Kitchens asked if the Board would approve the application if they agreed to restore the original wood siding. Mr. Haan said the Board could approve the removal of the aluminum siding with the condition that the applicant then restores the wood.

Mr. Kitchens said he had consulted the guidelines, and agreed to keep as much of the original wood as possible, and any pieces that required replacement would be replaced with the same type of siding as the original.

Motion made by Mr. Haan, seconded by Ms. McClellan, to approve the COA for alteration to remove the aluminum siding on the main body of the house and to restore the original siding pursuant to Ms. Rathbun's citations. In a roll call vote, motion passed 8 – 0.

3) Case No. 6-H-08

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Applicant: Jessica Orndoff, Paterson Fence
Owner: Mc Victoria, LLC/ Daniel J. McCarty
Location: 711 NE 17 Road
Request: Certificate of Appropriateness for Alteration

- Remove Existing Fence on West Side of Property
- Installation of New Fence on West Side of Property

Zoned: RCS-15
Legal: Victoria Courts, Lot 9, Block 2 and part of the east 1/2 of Vacated Walk and Park Abutting on the West., P.B. 9, P49.

Ms. Morillo stated this was a request for a Certificate of Appropriateness (COA) for Alteration to remove an existing fence and replace it with a new one.

In addition to considering Section 47-19.5 of the ULDR, Ms. Morillo advised the Board to consider the general criteria for a COA in Section 47-24.11.C. 3 a through c when deciding whether to grant a COA for Alterations.

Ms. Rathbun stated the applicant was requesting a COA to replace an existing six-foot high board-on-board wood fence at the west side (rear) of his property with a six-foot high vertical shadowbox fence.

Sec. 47-24.11. Historic designation of landmarks, landmark site or buildings and certificate of appropriateness.

C. Certificate of appropriateness.

3. Alterations, new construction or relocation.

c. Criteria.

i. General. In approving or denying applications for certificates of appropriateness for alterations, new construction, demolition or relocation, the historic preservation board shall use the following general criteria and additional guidelines for alterations, new construction, relocations and demolitions as provided in subsections C.3.c.ii, iii, and iv, and C.4:

a) The effect of the proposed work on the landmark or the property upon which such work is to be done;

b) The relationship between such work and other structures on the landmark site or other property in the historic district;

Ms. Rathbun advised the Board that this property was part of the Victoria Courts multiple property designation in the City of Fort Lauderdale. It was built circa 1926-28 by Victoria Park developer Alfred Kuhn. Ms. Rathbun explained that originally, The Courts covered two city blocks. Today, only structures on one-half block, between Northeast 17th Avenue and 17th Road, remained. This house at 711 Northeast 17th

Road did not appear on the FSMF, but it was part of the local designation and any alteration was subject to review by the HPB.

Ms. Rathbun stated the material and style of the proposed fence appeared to be appropriate for the historic property, but the applicant should make clear exactly what the new fence would match.

Chair Jordan recused herself from this case and Vice Chair Haan took her place as Chair.

Mr. Dan McCarty, owner, explained they wanted to replace the fence on the west side of the property that was approximately 20 years old. He said the new fence would match the current fence as closely as possible. He clarified that they had received the shadow box fence graphic from the City, and said they did not intend to use that style, but would match the existing fence.

Ms. Jessica Orndoff, the fence contractor's representative, said they had originally intended to use the shadowbox fence, until she had met with the Historical Board. Mr. McCarty confirmed that the adjacent property owner would see the "good" side of the fence.

Mr. Haan opened the public hearing.

Mr. Peter Bianchi, attorney for the adjacent property owner, said they had filed a lawsuit to enjoin Mc Victoria from destroying "our" fence. He explained the reason the applicant could not find a permit for the original construction of the fence was because that permit had been granted to the adjacent property. Mr. Bianchi agreed Mc Victoria owned lot 9, and referred to a copy of the 1926 plat depicting lots 14 and 9, and drew the Board's attention to the fact that there was a walk platted in between the two properties. He explained that this walk was not a "walk reserved" which was a walk reserved by the plat, but was never developed. He illustrated the difference on plats between walks that were "reserved" and those that were not.

Mr. Bianchi continued that the permit for the fence was granted in October 1989 to the previous owner of Lot 14 and in 1992 that lot was deeded to the current owner [his clients]. When the City granted the use, it was prior to a certain ordinance. On November 7, the City entered ordinance C89-130, which stated that "The below described walk reserve and park are hereby vacated, abandoned and closed and shall no longer constitute a public right of way." Section 2 of the ordinance indicated that "The above described walk reserve and park are to be retained as a utilities easement." Mr. Bianchi assumed the City would retain the walk.

Mr. Bianchi said the ordinance did not donate this property to lot owners on block two of Victoria Courts and of the 16 property titles he had examined, two thirds of the property examiners had determined that this did not constitute a donation of the 3 feet of property.

Mr. Bianchi claimed the applicant had provided a property description, which did not match the deed. He said the applicant was attempting to obtain 3 feet of what was platted as a walk. Mr. Bianchi said when the applicant stated he would erect the fence three inches from his property line, he meant the property line indicated on his survey, which Mr. Bianchi claimed to did not match the property appraiser's legal description or the platted description. Mr. Bianchi then posited that if the Historic Preservation Board declared the *lots* historic then this property was outside of the planted lot. He added that this fence had been permitted to the owner of Lot 14 in 1989, before historic designation, and it was not for this Board to alter the status quo.

Mr. Haan referred to the application's property description, which included, "the east one half of vacated walk and park." Mr. Bianchi said this was not correct. He said the prior deeds for this property had a completely different addition. The 1990 deed indicated it was the west one half of a walk reserved; a 1998 deed indicated it was the east one half of a walk [not a walk reserved].

Mr. Bianchi said when the property was declared a historic site; it was done with the existing fence in its current position. He said there was now a dispute between the two owners regarding whom, if anyone owned the line in between. He continued that his client did not claim to own this property, but simply said this was a public walk that was abandoned, but retained by the City for a utilities easement. Mr. Haan noted that Mr. Bianchi's client had erected a fence to include 6 feet of the walkway. Mr. Bianchi agreed his client had done this, but said his client did not claim ownership of the walk.

Mr. Bianchi stated that while his client did not claim title to that property, the fence belonged to his client, and the Board could not direct someone to destroy his client's property. Ms. Haan asked if Mr. Bianchi's client maintained the landscaping near the fence. Mr. Bianchi replied that his clients maintained the landscaping and the fence; he added that the fence was contiguous to the fence surrounding lot 14, not the fence on lot 9.

Ms. Sarver said it was the City's position that it was not the board's responsibility to decide who was the rightful owner of the land; this should be left up to the courts. She said the Board had four choices: approve the application; deny the application; approve contingent upon the outcome of the lawsuit; defer it to a date certain.

Ms. Sarver advised the Board that if they heard the case, they should to make their decision based solely upon the criteria without consideration of the dispute of title. She reminded the Board that just because the City had issued a permit 19 years ago, that did not give that owner rightful title. The applicant in this case had submitted a sealed survey and met the requirements to appear before the Board.

Mr. Bianchi said there was a 2007 survey from Mc Victoria, and there were surveys and a plat that showed a different property line. He suggested the Board maintain the status quo and let a court decide.

Mr. Prager said that since he could not tell whether or not the survey was correct, he could not approve a COA from an applicant who had submitted something that might not be accurate. He was therefore inclined to defer or decline the application.

Ms. Gardner asked the location of the existing fence. Mr. Bianchi said the existing fence extended "all the way to the platted backyard of lot 9." He clarified that this was to the eastern edge of lot 9, per the 1989 permit. His client's position was the walkway was City property, and they were permitted to use the property.

Mr. Haan asked Ms. Saver if this were determined to be City land, could the Board give permission for anyone to build the fence on that 6 feet. Ms. Sarver said it was the City's position that this was not City land; when a walk was vacated, three feet would go to each abutting landowner. This was to be argued in the courts, and was not within the purview of the Historic Preservation Board.

Mr. Cummings said he was not comfortable taking action until the court had decided the question, and recommended deferral.

Ms. McClellan said she too was not comfortable making a decision tonight.

Mr. McCarty said they had waited 30 days so the City Attorney could review the boundary issues in question and issue an opinion to the Board as to whether or not their claim the property was valid. He reminded the Board that Ms. Sarver had informed them that as far as the City was concerned the applicant's claim was valid. Mr. McCarty informed the Board that the same issue had come up two houses down. A pool had been installed, and the fence located within this 3-foot area to match the new boundary, and the HPB had approved this unanimously in February 2007.

Mr. McCarty noted that it was "hard to go through this process when you're facing the Chairman of the committee who is the person who has a problem with the fence" [meaning Chair Jordan]. He asked the Board to make a determination and make it subject to the decision of the court.

Ms. Sarver stated, "The City did not find anything to the contrary that there was any agreement in the history that was recorded that showed otherwise that the property was not in favor of the applicant." This was the City's position. She said, "It wasn't that this was his property, it's just that we couldn't find anything that said it wasn't his property and therefore by the fact that he submitted to our Planning and Zoning Department a sealed survey and that got signed off, he met the requirements, and that's why he's here before you. So we didn't say, render an opinion that this is his property, but there was just nothing in the record to show that all 6 feet went to the Jordans."

Mr. Haan said he was also not comfortable rendering a decision until this was resolved.

Mr. Pat Jordan, owner of lot 14, said there was no legal justification for this. He presented photos of his side of the fence and the landscaping and said, "This is our historic setting that will be destroyed once that fence is moved, which cost us thousands of dollars and 20 years. We've repaired that fence for 20 years. He's...owned the house for 11 months." Ms. Sarver reiterated that all of these questions of ownership were for a court to decide.

There being no members of the public wishing to address this item, Mr. Haan closed the public hearing and brought the discussion back to the Board.

Mr. Prager remarked that the Jordans' landscaping was "pretty amazing and pretty old and pretty beautiful" and the Board was being asked to consider allowing this to be torn down. He reiterated he was not comfortable making a decision.

Motion made by Ms. Harrison, seconded by Ms. McClellan that this case be deferred until after the parties had gone to court.

Ms. Sarver said the motion must be made to a date certain.

Mr. Haan asked if the Board consensus of opinion was to wait until the legal outcome was determined. The Board concurred.

Ms. Sarver advised the Board that in order to take into consideration the applicant's due process rights, the Board should defer to a date certain.

Mr. Haan said the Board could defer to the next meeting and continue the case each monthly meeting until this was resolved in court.

Ms. Harrison **amended** her motion to defer the case until the Board's October 6, 2008 meaning.

Mr. Prager noted the nuisance it could be to applicants when cases returned month after month and were deferred month after month, and suggested deferring to November.

Mr. McCarty said he would agree to a month-to-month deferment. He said he would call Ms. Morillo each month to request the case be put on the Board's next available agenda.

In a roll call vote, with Chair Jordan abstaining, motion **passed** 7 – 0.

III. For the Good of the City

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Presentation by Dave Baber,
Administrator and Preservation Officer
for the Broward County Historical Commission,
Regarding: Ad-Valorem Tax Incentives.

[This item was heard out of order]

Mr. Dave Baber, Administrator and Preservation Officer for the Broward County Historical Commission, informed the Board that in the mid 1990s, residents had voted to

allow counties and municipalities to create an ad valorem tax exemption on historic buildings and the State Legislature had passed the statutes detailing how this would be implemented. Mr. Baber said each jurisdiction was required to pass an ordinance to meet its own needs. He pointed out that each jurisdiction could only exempt taxes it imposed on a property. In order to be eligible for the exemption a property must be on the National Register of Historic Places or be locally designated.

Mr. Baber stated there were two types of tax exemptions:

- Exemptions associated with historic property improvements
- Exemptions for historic properties used commercially or for non-profit purposes

Mr. Baber explained that the exemption associated with improvements specified that the tax assessment value of the improvements would be eligible for exemption for up to 10 years, up to 100% of the value. Mr. Baber clarified that it was not the actual cost of the improvements, but the property appraiser's assessment of the value of the improvements. To ensure a homeowner received the exemptions, improvements must be pre-approved to ensure they met the Secretary of the Interior standards and met the needs of the local historic preservation program. Mr. Baber explained that this pre-approval would be given by the local jurisdiction if it was a Certified Local Government; otherwise it would be given by the State Historic Preservation Office. Final approval of the exemption was given by the local governing body. Mr. Baber added that a preservation covenant was required on the property for the duration of the exemption.

Mr. Baber informed the Board that historic properties used commercially or for non-profit purposes could obtain an automatic exemption for up to 50% of the value of the property, whether or not it was improved. This exemption lasted forever, as long as the owner did not alter the building or demolish it. Mr. Baber explained that this was the only type of exemption that had been granted in Broward County so far. This exemption was approved by the property appraiser and was a very simple process.

Mr. Baber showed before and after photos of buildings that had been granted exemptions in Sarasota County and a chart listing tax exemptions granted in Sarasota County prior to 2004. Mr. Baber pointed out that from 1989 to 2003, there had been \$8.2 million invested in properties that sought exemptions, and the exempted value was 3.4 million, providing a total of \$14,000 in tax relief. Even though this was not a large amount, Mr. Baber noted that it had increased interest in preservation, because people felt the County was in partnership with them.

Mr. Haan asked about buildings located within historic districts. Mr. Baber said every building in an historic district was designated as part of the district, so they would all be eligible. Mr. Haan said there was not always agreement in the City regarding this; sometimes a distinction was made between houses that were locally designated and

houses that were contributing in the historic district. Mr. Baber said in his experience, a building contributing to a district was designated.

Mr. Haan asked where in the process state approval was obtained. Mr. Baber said the County had interpreted the State statute to say that the County could not approve it, only the state could. In Sarasota, which was a Certified Local Government, it was approved by the Preservation Board. He advised the City to work with the City Attorney when creating the ordinance to ensure that the Historic Preservation Board had a say on the improvements.

Board Discussion

Ms. Gardner asked why the Board must defer to a date certain. Ms. Sarver explained that this was not a Board rule; it was City practice that for notice purposes the Board should defer to a date certain.

Mr. Prager asked how the Board could move the Certified Local Government Process forward. Ms. Morillo recommended Board members contacted their commissioners. She explained actions the City was taking to pursue this. They must add a clause in the code that there was a delay for demolition, and they must convince the City Manager that they needed these rules and procedures passed, which were elements not yet in the code.

Ms. Sarver explained that the delay in demolition clause was a Stay Order that would allow additional time for other options to be considered. Ms. Morillo said the City Manager must direct the legal department to write the code amendment. Ms. Sarver confirmed that the City Manager must direct staff to work on this. She believed Ms. Morillo was in the process of working with the City Manager's office to get the green light to work on this and present it to the City Commission.

Ms. Morillo said she had a meeting scheduled with Kathleen Gunn, Assistant City Manager, today, but Ms. Gunn had canceled the meeting. Ms. Sarver believed Ms. Gunn intended to meet with the City Manager on Wednesday. Mr. Prager said he would inquire about this at the next HPB meeting. Ms. Morillo informed the Board that the application was ready to go.

Ms. Morillo explained the proposed code amendment: "The Board can either approve a demolition or they can not approve it and it goes to appeal, or there can be a demolition delay period. In this case, the Board may grant a Certificate of Appropriateness for demolition, which may contain a delayed effective date. The effective date will be determined by the Board based on the relative significance of the resource and the probable time required to arrange a possible alternative to demolition. The Board may delay demolition for up to three or six months, whatever. During the demolition delay period, the Board may take such steps, as it deems necessary to preserve the resource.

Such steps may include, but are not limited to: consultations with community groups, public agencies and interested citizens, recommendations for acquisitions of the property by public or private bodies or agencies, and exploration of the possibility of moving the resource.”

Mr. Prager asked if the only requirement was that the City Manager must ask the City attorney to read this and approve it. Ms. Sarver said, “The City Manager, in his defense, has hundreds and hundreds of items every week, so he has to get briefed on it and the Assistant City Manager has to look at all the variables and see if this truly is in the best interest of the City regarding how much staff time is going to be used, regarding how much money in grants we might receive, regarding – it needs to be investigated time-wise about three to six months that Pat was speaking about. “

Mr. Prager said, “I just want to say ‘Aw come on.’”

Ms. Sarver said several other legal issues came up regarding property rights. Mr. Prager remarked that this was not original thinking; it had already been done. Ms. Morillo confirmed that this was a requirement to get the CLG. Mr. Haan said, “Every other city in Florida who has received a CLG has passed this particular paragraph, but the City of Fort Lauderdale wants to study its consequences. That’s pretty ridiculous.”

Ms. Morillo said this had been going on for 10 years. Chair Jordan said, “It is certainly time.”

Ms. Sarver reminded the Board that Mr. Haan had asked at the last meeting if the City could carve out a section of Sailboat Bend and change the zoning so it would no longer be historic. She referred the Board to the part of code section 47-24.11.B.9 that discussed amendments and rescissions which stated, “The designation of any landmark and landmark site, historic building, or historic district may be amended or rescinded through the same procedure utilized for the original designation.” Ms. Sarver pointed out that any action in this regard must come before the HPB for approval.

Ms. Sarver was unsure if an individual property owner could request his property be carved out and no longer designated. Ms. Morillo said in a case such as this, the property would need to be deemed no longer contributing to the district. Mr. Haan remembered that the old Post Office had been designated H-1 and the City had not come to the HPB, had changed the zoning and demolished the property.

There being no further business to come before the Board, the meeting was adjourned at 6:41 p.m.

Chairman,

Susan Jordan, 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 Services