

**HISTORIC PRESERVATION BOARD  
CITY OF FORT LAUDERDALE  
MONDAY, DECEMBER 7, 2009 - 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 6/2009 through 5/2010</b>	
		<b><u>Present</u></b>	<b><u>Absent</u></b>
Nolan Haan, Chair	P	6	0
Susan McClellan, Vice Chair	P	6	0
Beauregard Cummings	A	4	2
Matthew DeFelice	P	1	0
Joyce Gardner	A	4	2
Marie Harrison	P	4	1
Daryl Jolly	A	3	3
Robert Prager	P	5	1
Robert Rojas	P	4	0
Scott Strawbridge	P	1	0

**City Staff**

Assistant City Attorney Carrie Sarver  
Pat Garbe-Morillo, Planning and Zoning Department  
Merrilyn Rathbun, Fort Lauderdale Historical Society, Consultant to HPB  
J. Opperlee, ProtoType Recording Secretary

**Guests**

Mayor Jack Seiler

**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 Haan called the meeting of the Historic Preservation Board to order at 5:00 p.m.

**Board members disclosed communications they had regarding cases.**

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

### **Approval of Minutes of November 2009 Meeting**

Mr. Rojas requested a change to the first page of the minutes. He said he had reviewed the November minutes, when he categorically denied a remark Mr. Cummings had accused him of having made.

Mr. Strawbridge said he had read the verbatim transcript of the meeting, and Mr. Rojas had not made the comment. Dr. Atlas, a representative of a civic association, had made reference to poking a bear in a cave and upsetting the balance of power in the neighborhood. Mr. Strawbridge said he found these comments "remarkably offensive."

Chair Haan wanted to remove the entire paragraph, but Ms. Sarver stated it must remain, because it had been stated, however falsely. She advised the Board could correct the statement, but not remove it.

**Motion** made by Ms. McClellan, seconded by Mr. Rojas, to approve the minutes of the Board's November 2009 meetings as amended, to reflect that the comments Mr. Cummings had attributed to Mr. Rojas had been made by a member of the public. In a voice vote, Board approved unanimously.

Mr. Morillo introduced new Board members Scott Strawbridge and Matthew DeFelice.

## **I. Cases**

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### **1. Case: 11 H 09**

**Applicant: Arlen Erdmann/Peele Dixie Water Treatment Plant**

**Owner:** City of Fort Lauderdale

**Request:** \*\* Certificate of Appropriateness for Alteration

- Repair and Replacement of West Wall of Lime Building

**Legal Description:** NW ¼ of the SW ¼ of the NW ¼ of Section 18, Twnshp 50 range 42E, less the R/W for SR # 7

**Address:** 1500 State Road # 7

**General Location:** East side of State Road # 7, South of Davie Blvd. and north of River Land Drive

**District:** 3

Ms. Morillo stated this was a request for a Certificate of Appropriateness for Alteration to repair and replace existing wall fabric. In addition to considering the General criteria for a COA in Section 47-24.11.C.3.c.i. a-c, Ms. Morillo advised the Board to consider the additional guidelines for alterations in Section 47-24.11.C.3.c.ii.a-h when deciding whether to grant a COA for Alteration.

Ms. Rathbun informed the Board that the Peel Dixie Water Treatment Plant was an individually designated property in the City of Fort Lauderdale and was likely eligible for the National Register of Historic Places. She explained that the applicant was requesting a COA to replace a wall on the Lime Building, which had been damaged during Hurricane Wilma.

As per the applicant's description of the project, Ms. Rathbun stated portions of the south, east and north walls on the third story of the Lime building needed repairs to the blocks and existing tie columns. Some block must be replaced and two additional tie columns would be installed to meet the Florida Building Code.

Ms. Rathbun said the applicant had stated the repairs were necessary because the structure was not safe in its present state. She added that the wall to be repaired was not visible from the street.

Ms. Rathbun advised the Board to consider the following in making their decision:

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;
  - 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;

Ms. Rathbun reported that the repairs to the resource met the criteria.

Mr. Tom Terrell, Facilities Manager for the City of Fort Lauderdale, explained that the portion of wall had been damaged in hurricane Wilma. They were requesting not to replace the windows because columns would be installed there. Mr. Terrell informed the Board that the wall and stucco would look the same when the work was finished, but the “fake” window would be gone.

Mr. Terrell displayed an aerial photo of the property and photos of the interior and exterior walls.

Mr. Terrell explained to Mr. Strawbridge that the alteration was filling in the window areas. He stated the drawings had been submitted with the application.

Ms. McClellan thought it would be appropriate to maintain the reveals for where the windows used to be, as the wall looked today, instead of applying stucco uniformly.

William Pitcher from PBS&J Engineering explained that a structural column was needed to add strength to the existing wall, and the column would be located very close to where the windows had been. Installing a new window would be cost prohibitive, and installing a new “fake” window would necessitate a new sill and lintel, and would be expensive as well. They had thought that since the window would not be functional, it was not worth the bother or expense. He recommended applying stucco to match the rest of the wall where the window used to be.

Mr. Prager wanted to maintain the fake window, and Mr. Terrell agreed this was possible. Ms. McClellan recommended recessing the opening with a new sill and lintel to suggest there had been a window there, and re-applying the stucco to match.

Ms. Rathbun remarked that the window was a matter of aesthetics, not of history, since this was a newer building, younger than the National Register eligible part of the property.

Mr. Strawbridge asked if this building was contributing or non-contributing. He said the applicant was requesting to build something that was not documented on the plans, and he felt they needed something documented in the plans, or they should determine that the building was not contributing.

Mr. DeFelice understood that a portion of the property was potentially eligible for designation and the portion to be repaired was not part of that. Ms. Rathbun explained that the building that faced State Road 7 was built in the 1920s and was the eligible portion. The repair was to a later addition to the building that was non-contributing.

Mr. Strawbridge wondered if the Board had any jurisdiction over a building that was non-contributing. Chair Haan noted that the entire site was designated historic, and therefore a Certificate of Appropriateness was required.

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

**Motion** made by Mr. Strawbridge to approve. Motion died for lack of a second.

**Motion** made by Mr. Prager to approve, with the modification that the recess indicating the former windows remain.

Mr. Strawbridge felt if the Board would alter the plans, the applicant should amend his drawings to reflect the change so it would be documented. Chair Haan stated the Board could give approval with conditions. Mr. Strawbridge said the approval should come with adequate documentation. He did not think a verbal condition was "responsible stewardship." Chair Haan said the Board's minutes would indicate their conditions. Mr. Strawbridge said, "I think you've left the future with a very vague relic of the past; and it is part of the reason why we have these lacks of clarity in analyzing the past at this point."

Ms. McClellan pointed out that the witnesses had sworn to uphold what was determined at the meeting. She believed that the document provided by the applicant was enough for the Board to approve Mr. Prager's motion.

Mr. Prager clarified his **motion**, indicating that the window areas should duplicate what was currently there as closely as possible. Ms. McClellan seconded the motion.

Mr. Terrell agreed it would be possible to reproduce the current look of the old windows.

Mr. Strawbridge wanted the applicant to return to the Board with a set of as-built drawings that could be put in the record. Mr. Terrell said he now needed to modify the bid specification and the drawings, and agreed to provide the as-built drawings to the Board liaison.

Ms. Rathbun confirmed that the Board had approved requests with modification in the past. Chair Haan asked if an applicant had ever returned to the Board to request a COA based on the Board's modifications, but Ms. Rathbun could not recall this ever happening.

Mr. Strawbridge said the ordinance indicated that plans could not be modified without re-applying for the COA. He pointed out that the Board was going to approve plans that did not reflect the record, and he wanted to note that this was not in accord with the code.

Mr. Terrell confirmed that he would modify the plans to reflect the Board's request. Chair Haan stated Mr. Terrell did not need to bring the plans back to the Board for re-approval with their requested modifications.

Ms. Morillo informed the Board that when she issued the Certificate of Appropriateness, she wrote all of the Board's conditions on the Certificate and on the plans when she stamped them. These were sent to the Building Department.

Ms. Sarver advised the Board to vote on the motion out of respect for the applicant's time. She acknowledged that there was some confusion regarding the code now, but she assured the Board that her office was addressing this. Ms. Sarver explained that this application was before the Board because Sailboat Bend was the only district that had administrative approval for repairs.

Mr. Terrell confirmed for Mr. Rojas that the windows they were discussing were just recesses where windows originally were installed that had been concrete blocked in.

Mr. Rojas asked if trompe l'oeil or molding could be used to more closely give the appearance of the original windows. Mr. Terrell said they could use molding or architectural foam to create the window reveals and paint them to match the other windows.

Ms. Sarver explained to the Board the process of calling the question.

**Motion** made by Mr. Prager, seconded by Ms. McClellan, to call the question. In a roll call vote, motion passed unanimously.

In a roll call vote on Mr. Prager's **motion**, motion passed 4 – 3 with Mr. Rojas, Mr. DeFelice and Mr. Strawbridge opposed.

## II. For the Good of the City

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Ms. Morillo announced that the Dr. Kennedy Homes case would be heard by the City Commission in a de novo hearing on January 20, 2010.

Ms. Morillo stated the Certified Local Government seminar would be held in February in either Fort Lauderdale or Hollywood.

Ms. Morillo informed the Board that things were looking up for the Judge Shippey House, but Ms. Sarver stated the clerk's office had received a letter from the applicant's attorney that he intended to appeal the decision.

Chair Haan said the City Attorney had given his opinion that a house in an historic neighborhood that was not individually designated did not have protection; the Board contended that the house did have protection because it was a contributing structure in an historic neighborhood. Chair Haan had subsequently heard that Mr. Stewart had "admitted that maybe he wasn't quite right about that." Chair Haan asked Ms. Sarver if a change of Mr. Stewart's position could be transmitted to the City Commission.

Ms. Sarver was unaware of any conversation, but knew Mr. Stewart had stated that just because a building was in an historic district did not mean it was "contributing." She did not like using the word "contributing" because the code did not define it. Ms. Sarver said the City Commission had directed staff to modify the historic preservation ordinance, and they were in the process of doing this now. They would make the process clearer and more streamlined.

Ms. Sarver confirmed that for any building in the Sailboat Bend Historic District, any alteration other than minor repairs must be presented to the HPB for a Certificate of Appropriateness.

Ms. Sarver referred to the Shippey case, and remarked that the applicant's attorney had applied the code incorrectly, and this had caused confusion. Charles Jordan had also indicated that everything in the Sailboat Bend Historic Study was part of the City code. This was untrue, and had added additional confusion to the case.

Chair Haan explained that only four structures in Sailboat Bend were individually designated: The Westside School, the Fire Station, the Alber House and the Swing Bridge. The rest of the neighborhood had been designated by resolution as an historic district; it was not necessary to individually designate the houses. Ms. Sarver said she was investigating whether the properties were automatically historic sites because they were located within an historic district.

Mayor Jack Seiler said he had been an attorney for 21 years and in elected office for 17 years, and in his time as an elected official, he had never seen such confusion regarding an ordinance. He advised that the City Attorney's Office was working to

tighten and strengthen the ordinance, and he asked the Board to stay active in that process. Mayor Seiler said he believed in historic preservation, but believed the ordinance must be clear to avoid misunderstandings of the meanings and definitions.

Mayor Seiler realized that Board members would disagree, but hoped that they could maintain decorum and respect for each other's opinions.

Mayor Seiler wished everyone a happy holiday season.

Chair Haan asked about the City Commission's reversal of the HPB's decision regarding Kennedy Homes. Mayor Seiler said he had asked where in the record was a reference to a Certificate of Appropriateness for an Alteration, and Ms. Rathbun had stated there was no reference and she had no opinion on that. This had been the basis for Mayor Seiler's reversal. Mayor Seiler commended Ms. Rathbun for her honesty and truthfulness when testifying before the Commission.

Chair Haan said Vice Mayor Roberts had indicated he could not see how the Commission could uphold the HPB's decision because of the vagueness and confusion of the code.

Mayor Seiler reiterated that the ordinance must be tightened up so that the rules that applied to buying, building and renovating were clear. He remarked that the current lull in development was an opportunity to fix the ordinance once and for all.

Ms. Sarver stated her office could bring something back to the HPB in January regarding the ordinance for discussion and input.

Mr. Strawbridge apologized for his assertive behavior and stated his motive was the improvement of the code. He said he had been involved in complex litigation regarding historic preservation since he was a kid and he believed litigation resulted from the lack of clarity in the code. Mr. Strawbridge felt that the HPB and City Commission tended to make subjective, rather than objective, decisions because of the tools they had available.

Mr. Strawbridge reported that Bonnet House had been named one of the 11 most endangered properties in the United States by The National Trust. The reason was rampant over-development and unchecked regulations. Mr. Strawbridge said Fort Lauderdale was a "laughing stock" because of their historic preservation code.

Mr. Strawbridge stated they could not continue to do things just because it was how they had always been done. It was time to improve the code. Mr. Strawbridge said he recognized that property owners had rights, and he had seen "the conduct of this Board trample all over the rights of many, many of those people...it has been a wanton, chaotic, subjective process..."



Chair Haan suggested that perhaps the Board should cease to operate until the ordinance was amended. Mayor Seiler encouraged the Board to continue to be involved in the process.

Mr. DeFelice said he had been embarrassed to be on the Board that evening because it had not seemed very professional. He hoped that there would be less antagonism next month.

### **III. Communication to the City Commission**

None

There being no further business to come before the Board, the meeting was adjourned at 6:42 p.m.

Chairman,

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Nolan Haan, Chair

Attest:

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ProtoType Inc, Recording Secretary

The City of Fort Lauderdale maintains a [Website](http://ci.ftlaud.fl.us/documents/hpb/hpbagenda.htm) 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