



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#13-1192

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee Feldman, ICMA-CM, City Manager

DATE: September 17, 2013

TITLE: QUASI-JUDICIAL - De Novo Hearing of Historic Preservation Board –
Case 5H13, Lauderdale Beach Hotel - 101 S. Fort Lauderdale Boulevard
#203.

Recommendation

It is recommended that the City Commission approve two Certificates of Appropriateness (COA) for alteration to install signage on east side of the façade of the building, install after-the-fact awning over doorway, and install wrap around awnings over windows on southeast corner of the building.

Background

On August 20, 2013 the City Commission approved a deferral of this item to allow time for the applicant and the representative from the Broward Trust for Historic Preservation (BTHP) to meet with Commissioner Trantalis to discuss options to moving forward. As a result of this meeting (held on September 10, 2013) staff has been informed that the applicant and the BTHP have come to an agreement regarding the placement, style and color of the existing awnings as well as the location and style of signage associated with the site. Pat Rathburn (representative of the BTHP) has drafted a Mediated Settlement Agreement (attached as **Exhibit 1**).

Staff, in conjunction with the City Attorney's Office recommends the following regarding the proposed Mediated Settlement Agreement:

1. The whereas clauses regarding the easement recorded between the Las Olas Beach Club and the Broward Trust for Historic Preservation should be clarified to indicate that this is a private easement and that the City of Fort Lauderdale is not a party to the easement and there is no City or legal requirement that this easement be enforced by the City of Fort Lauderdale.
2. The agreement should be amended to clarify that this item was brought to the City Commission through the City Commission Request for Review (CRR) provision of the ULDR (by the district Commissioner) and not through the appeal provision as indicated in the agreement.

3. Clarification should be included that indicates this is a private agreement between the Broward Trust for Historic Preservation and the applicant and that the City of Fort Lauderdale is not a party to this easement and any provision to enforce the requirements of the agreement are between the two parties indicated in the agreement. Therefore, any reference to the City enforcing this agreement through its Code Enforcement Board or adopting this private MSA should be deleted.

The City Commission shall review the record of the HPB and the same standards and criteria applicable to the two COAs shall be applied, Sections 47-24.11.C.3.c.i and 47-24.11.C.3.c.ii. The Historic Consultant's memorandum, HPB application and the March 4, 2013 HPB minutes are attached as **Exhibits 2, 3, and 4** respectively.

Following the de novo hearing, the City Commission shall introduce a motion approving, approving with conditions or denying the decision of the HPB.

Staff recommends approval of both COAs based on the findings that the criterions specified in the Consultant's memorandum have been met.

The following is a brief history on the background of this item:

On March 4, 2013, Historic Preservation Board (HPB minutes attached as **Exhibit 4**)

- Approved COA for proposed signage 6-3
- Denied after-the-fact COA to install shade canopies 4-5

On April 2, 2013 the City Clerk received a letter of intent from Commissioner Trantalis, to place this item on an upcoming City Commission Agenda (letter attached as **Exhibit 5**).

On the April 2, 2013, the City Commission voted 5-0 to set a de novo hearing for May 7, 2013 (City Commission minutes attached as **Exhibit 6**).

On May 7, 2013 item deferred to June 4, 2013

On June 4, 2013 item deferred to June 13, 2013

On June 18, 2013 item deferred to August 20, 2013

On August 20, 2013 item deferred to September 17, 2013 to allow for a meeting between the interested parties and the district Commissioner.

The Lauderdale Beach Hotel, designed by Architect Roy M. France, was built in 1936 and helped kick-start the beach economy in the late 1930s. A portion of the hotel was designated as a historic landmark circa 2002 to preserve the façade, the original lobby, the north and south facing elevations and the 1937 clock tower. On June 24, 2004, the

developer granted a façade preservation easement to the BTHP as part of a settlement agreement to assist in preserving and maintaining the façade structure. The City is neither the grantor of grantee under the easement, which was recorded on April 11, 2005, attached as **Exhibit 7**. The City Attorney's Office (CAO) has advised that the preservation easement specifically provides that if the owner disregards the BTHP instructions regarding repairs or maintenance of the façade structure that BTHP shall be empowered to institute legal action for specific performance. The City's past practice has been to not enforce private easements that the City is not a party to and that already provide a specific remedy at law. Based on the foregoing, the CAO advised the HPB that the Broward Trust could submit testimony regarding the easement for the record, but the Board should base their decision on the criteria governed by the Unified Land Development Regulations (ULDR) for a COA (refer to **Exhibit 4** – HPB minutes).

Resource Impact

There is no fiscal impact associated with this action.

Attachments

- Exhibit 1 – Proposed Mediated Settlement Agreement (BTHP and Applicant)
- Exhibit 2 – Consultant Memorandum
- Exhibit 3 – HPB 5H13 Application
- Exhibit 4 – March 4, 2013 HPB Minutes
- Exhibit 5 – Letter of intent for CRR – Commissioner Trantalis
- Exhibit 6 – April 2, 2013 CC Minutes
- Exhibit 7 – Preservation Easement
- Exhibit 8 – Appeal De Novo Hearing – Approving COAs
- Exhibit 9 – Appeal De Novo Hearing – Denying COAs

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