



TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

LANDMARKS PRESERVATION COMMISSION

WEDNESDAY, DECEMBER 15, 1999

AT THE TOWN COUNCIL CHAMBERS, 360 SOUTH COUNTY ROAD, PALM BEACH

I Call to Order: The meeting was called to order at 9:03 a.m. by Chairman Jeffery W. Smith.

II Roll Call:

PRESENT: Jeffery W. Smith, Chairman
Elizabeth Dowdle, Secretary
Sari M. Wilkey, Member
Ann Vanneck, Member
Ann Blades, Member (arrived 9:06 a.m.)
Nikita Zukov, Alternate Member
Judy Hoffman, Alternate Member
Jack Pyms, Alternate Member
John C. Randolph, Town Attorney
Robert L. Moore, Director of Planning, Zoning & Building
Timothy M. Frank, Planner/Projects Coordinator

ABSENT: Eugene Pandula, Vice Chairman (Unexcused)

RECORDING SECRETARY: Cynthia M. Delp

Let the record show that a court reporter, Ms. Jane Pastore, was present relative to the Landmark Designation hearing for 120 Casa Bendita.

III Approval of the Minutes of the November 17, 1999 Meeting:

MOTION BY MRS. DOWDLE FOR APPROVAL OF THE MINUTES AS MAILED.

MOTION SECONDED BY MRS. WILKEY.

MOTION CARRIED UNANIMOUSLY.

IV Administration of the Oath to all persons who wish to testify:

Mrs. Delp administered the oath to all those present who wished to testify today.

V Public Hearings:

As Items A & B were related to the same property, Item B was called first due to new circumstances.

B. Application for Certificate of Appropriateness # 29-99

Demolition

Owner: Palm Beach Land Investments

Applicant: Denise & William Meyer

Address: 334 El Vedado Road

Architect: Robert Henry

Project Description: Request approval of demolition of this single family residence, if necessary to alleviate structural problems, install new auger cast pile foundation system and reconstruct residence, using CBS construction, to match the plans which were previously approved by the Landmarks Preservation Commission, and other associated changes as presented.

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION.

Mrs. Vanneck stated she visited the site.

Mr. Smith stated he spoke with Frank Chopin and Polly Earl relative to this project.

Mr. Frank stated that the owner is requesting that this item be removed from the agenda. At the last meeting, an informal discussion was held which included possible demolition of the house. Upon hearing this, the LPC asked the owner to investigate alternative methods to build up the existing foundation instead of demolishing. The owner has, indeed, found alternative measures to be taken to secure the structure, and would like to return to the original approvals already granted by the LPC for restoration of the existing structure.

Attorney Frank Chopin, present on behalf of a neighbor, was prepared to offer technical engineering to allow for the preservation of the existing structure, i.e., alternatives to demolition. He noted that it has been suggested that a certain amount of demolition has already occurred at the site which was not approved by the LPC. He looked for some assurances from the LPC that no more demolition would occur which might ultimately lead to a request for undesignation as a landmark. Mr. Frank responded that he looked at the original LPC approved drawings, and removal of the garage and enlargement of it was shown on the plans. Mrs. Vanneck, who had visited the site, stated that other than the garage building itself, only the bay window on the west side has been removed.

MOTION BY MRS. DOWDLE TO REMOVE "ITEM B". FROM THE AGENDA, ASKING STAFF TO REVIEW THE SITE FOR COMPLIANCE WITH LPC APPROVALS.

MOTION SECONDED BY MRS. WILKEY.

MOTION CARRIED UNANIMOUSLY.

Dec 99

A. Application for Certificate of Appropriateness #25-99, (deferred from Oct., & Nov. 99) Landscape/hardscape

Owner/Applicant: Mr. and Mrs. William Meyer

Address: 334 El Vedado Road

Architect: Jeff Blakely, Landscape Architect

Project Description: Request approval of landscape and hardscape to include driveway, dock and seawall, and other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATIONS: As stated in Item B.

There was a motion at the October meeting for approval of the project as presented, with the proviso that the applicant returns with an elevation of the front gates, and with the proviso

**that the piers are removed, and that the path leading to the driveway is done in cast stone.
There was a motion at the November meeting for deferral to the December meeting.**

① Mrs. Meyer stated that she was not prepared at this time to continue with this aspect of the project and requested a deferral to the spring.

MOTION BY MRS. DOWDLE FOR DEFERRAL TO THE MAY, 2000 MEETING.
MOTION SECONDED BY MRS. VANNECK.
MOTION CARRIED UNANIMOUSLY.

- C. Application for Certificate of Appropriateness #26-99, (deferred from Oct. & Nov. 1999) Enclose loggia & alcove, & miscellaneous changes
Owner/Applicant: Mr. and Mrs. Jacques Cohen
Address: 137 El Vedado Road
Architect: The Lang Architectural Group
Project Description: Request approval of the following:
1. Remove fireplace and construct HVAC closet
 2. Enclose existing loggia with curtain wall glazing
 3. Enclose alcove to existing guest bedroom with curtain wall framing
 4. Fenestration changes throughout, changing style, size & number of openings
 5. New wood casement windows to be installed throughout
 6. Other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION: None declared

① **There was a motion at the October meeting for deferral to the November meeting.
At the November meeting, there was a motion for approval of the project, with the proviso that the divided lites on the french doors, the east elevation balconies, and the glazing of the loggia be deferred to the December meeting.**

As no one was in attendance to present the continuation of this project, the following motion was made:

MOTION BY MRS. VANNECK TO MOVE THIS ITEM TO THE END OF THE AGENDA.
MOTION SECONDED BY MRS. DOWDLE.
MOTION CARRIED UNANIMOUSLY.

This item was re-called after the Designation Hearings. Architect Don Lang was present in response to the motion for deferral made last month. He presented two schemes for the east elevation, as shown on Sheets A.05 and A.06 of the plans. The french doors now are four divisions rather than three. As for the balconies, two options were presented: One with individual small balconies at each second floor french door, and the other with one continuous balcony to serve both french doors. Further details were presented for the loggia glazing as was requested.

MOTION BY MR. ZUKOV FOR APPROVAL OF SCHEME B WITH THE SINGLE BALCONY, THE REVISED DIVIDED LITES FOR THE FRENCH DOORS (4 DIVISIONS RATHER THAN 3), AND THE LOGGIA GLAZING AS PRESENTED.

① MOTION SECONDED BY MRS. HOFFMAN.
MOTION CARRIED UNANIMOUSLY.

D. Application for Certificate of Appropriateness #30-99,

Roof change and add door

Owner/Applicant: Royal Poinciana Chapel Trustees, Inc.

Address: 58 Cocoanut Row

Architect: Michael Johnson

Project Description: Request approval of removal of shed roof and replacement with a hip roof, and to provide emergency egress adjacent to center stair at north side of building, and other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION.

Architect Michael Johnson presented this request for changes to the Seagull Cottage. First, he stated that the applicant is requesting deletion of the egress door on the north side of the building, which was proposed. So, the amended request is to replace the existing shed roof and replace it with a hip roof, and extend the walls up, together with adding a pair of doors and a balcony railing. These changes will effectively be an addition to the structure. Mr. Johnson stated that the changes will provide for better egress within the building and will provide usable space as a Sunday School office.

During review of the elevations, Mr. Smith questioned why a gable roof is not the roof design of choice, as it would be more historically accurate. The entrance is celebrated as it exists, but not as proposed. Mrs. Vanneck commented that the proposed design changes the character of the cottage. Mrs. Wilkey commented that the proposed balcony detracts from the entrance. Mr. Smith, though not opposed to an addition to the structure, asked Mr. Johnson to do a careful study of what was there originally.

MOTION BY MRS. VANNECK FOR DEFERRAL TO THE JANUARY MEETING.
MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.

E. Application for Certificate of Appropriateness #31-99,

Landscape lighting (*Voting Conflict for Mr. Smith*)

Owner/Applicant: Mr. and Mrs. Dudley Moore

Address: 220 El Bravo Way

Architect: Smith Architectural Group

Project Description: Request approval of landscape lighting and other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION: None declared

Mr. Smith re-stated his previous Conflict of Interest with respect to this project, and passed the gavel to Mrs. Dowdle.

Mr. Mario Nievera, Landscape Architect, reviewed the lighting plan for this property. He noted that the landscape plan had been previously approved. He explained that although the roadway is lined with Royal Palms, only those at the entranceway will be illuminated. Other lighting will occur in the parking area, along the garden paths, at hedges, etc. Both up lights and down lights will be used in applicable locations. The lighting, as a whole, will have minimal impact to the neighbors, and in fact, certain areas will only be illuminated when guests are expected. The LPC commended Mr. Nievera's lighting design.

MOTION BY MRS. VANNECK FOR APPROVAL OF THE LIGHTING PLAN AS PRESENTED.
MOTION SECONDED BY MRS. WILKEY.
MOTION CARRIED UNANIMOUSLY.

- F. Application for Certificate of Appropriateness #32-99,
 Redevelopment of parcel east of South Ocean Boulevard
 Owner/Applicant: Mar-a-Lago Club, L.C.
 Address: 1100 South Ocean Boulevard
 Architect: REG Architects, Inc.
 Project Description: Redevelopment of parcel east of South Ocean Boulevard,
 as follows:
1. Two, two story buildings
 2. Pool
 3. Smaller spa pool
 4. Fountains
 5. Pool deck
 6. Stairs and ramp to lower beach
 7. Landscaping
 8. Other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION

Mrs. Wilkey: Visited the architect's office and reviewed the plans

Mr. Zukov: Visited the architect's office and reviewed the plans

Mr. Smith: Spoke to Mr. Royce, saw the model, and spoke to the architect and Project Manager

Mrs. Delp administered the oath to all those who wished to testify and were not previously sworn. Mr. Ray Royce, Attorney for the applicant, Mr. Rick Gonzalez, Architect for the project, Mr. Wes Blackman, Director of Projects at the Mar-a-Lago Club, and Mr. Steve Kvarnberg of Krent Wieland Landscape Architects were on hand to present this project.

Mr. Royce stated that the Town Council, last spring, approved the construction of certain cabana buildings on the east side of South Ocean Boulevard, subject to a series of conditions. The applicant has also met with the National Trust for Historic Preservation relative to the view easement to the ocean. The National Trust was adamant that the proposed cabana buildings be located at the extreme north and south ends of the beach parcel to preserve that view easement. It was noted that the beach parcel is not landmarked, but the Town Council felt it was appropriate that this proposal be reviewed by the LPC. The Town Council has already approved the site plan which establishes the number of buildings, their location, height, etc. It is aesthetic approval which is being sought from the LPC.

Mr. Wes Blackman showed a model of the entire site which demonstrates the master plan for the site. The model comprises approximately six years of work relative to the conversion of Mar-a-Lago from a private residence to a club. He stated that the critical view is from the east window of the house across South Ocean Boulevard to the ocean. Thus, the pool (100' in length) has been placed in this view line to ensure an unobstructed view. All access to the beach parcel is through an existing tunnel to the beach property. There is a turn out approved at the north 100' of the property. The west wall will remain in place. The seawall will remain on the east or ocean edge of the property. A wall to the south was built by the Bath and Tennis Club, and a new wall to the north will be constructed and is, in fact, the subject of a variance. So, all four sides of the property have significant physical and visual barriers to isolate the property. The southern two story building consists of a first floor snack bar, and one cabana on the second floor. The northern L-shaped

building has eleven cabanas on the first floor and two large cabanas on the second floor. The pool is in the center of the parcel. There is a spa pool to the northwest of the main pool, and a small recreation area in front of the L-shaped building. Mr. Blackman noted, for the record, that the landscaping will be presented to the north and south neighbors first, so, today's landscape review was for feedback only.

Architect Rick Gonzalez continued with the presentation and he distributed a conceptual design booklet for reference. He showed an aerial view of the site with the proposed beach amenities inserted, preserving the view to the ocean as well as the privacy of the neighbors. As to the architectural design of the buildings, Mr. Gonzalez stated an attempt was made to tie it in to the main house without mimicking it. In their study, three designs were contemplated: 1) Stucco finish; 2) Mar-a-Lago style stucco and cast stone or 3) to "dress it up" in all cast stone. The all cast stone option was chosen to give the cabanas some dignity, taking cues from the main house, i.e., randomness, balconies, roof details, "ins and outs." Both buildings are oriented inward. Water elements are found in the centrally located pool, the small fountain located near the tunnel opening to provide water sounds, and another small fountain at the other end of the parcel to provide water sounds. Building A at the south end of the parcel has about 2,000 square feet. It houses a snack bar on the first floor, but no cooking will be done there. All food will be brought from the main house. One large cabana will be placed on the second floor. This building has a loggia overlooking the pool, and HRS required bath facilities. Building B, at the north end has 4,800 square feet. Each of the 11 cabanas on the ground floor of Building B is approximately 9'6" x 10' with a small bath in each. Some of the cabanas have balconies. Two large cabanas are found on the second floor. To accommodate the neighbor to the north and to preserve their views, the building was cut back by about 15' on the second floor. Both north and south neighbors will be accommodated by the opaque windows on the second floors of Building A & B. Another requirement of the neighbor to the north was that the rooftop of Building B must be 4' lower than the north neighbor's rooftop, and this has been achieved. The property wall to the north requires a variance from the Town Council for height, and the Club has promised to build whatever type of wall the neighbor wants.

Mr. Steve Kvarnberg of Krent Wieland Design gave an informal landscape presentation. The approach being used is one that would not upstage the landscaping of the main house. The landscape palette is typical of what lies along the beach and the neighboring properties. Many coconut palms, sea grapes, and silver buttonwoods will be used as they are very tolerant to the ocean conditions. First and foremost, attempts will be made to nestle the cabana buildings within the landscape, and to buffer the property from the neighbors to the north and south. Again, the center of the property will be kept as open as possible to preserve the vista from the house. The 100' long pool is appropriately centrally located and is appropriately sized for a club facility. Contrary to the smaller pool at the main house, this proposed pool will more easily permit exercise and laps.

State approvals have been obtained for wooden ramps and stairs down to the beach. There is an existing seawall on the beach parcel, but a concrete cap will be added to the wall. Footprints of the buildings were given as follows: 1200 sq. ft. for Building A, 2900 sq. ft. for Building B, 3000 sq. ft. for the pool, and 2800 sq. ft. for the decking.

Mr. Smith offered some comments: Questioned the use of a chimney matching the main house; stone beach houses look too massive; grass shown would not survive in this location; the cabanas are accessed from the rear; no covered walk to get to the cabanas as a protection from the sun; too many french doors facing the road; the overuse of french doors on the buildings makes them look too commercial; too many balconies facing west; windows and doors are mahogany and will not

hold up. Mr. Blackman responded that the rear accesses to the cabanas are for housekeeping needs. French doors facing the road will allow for cross ventilation and light. It was noted that the cabanas will not be air conditioned. Paddle fans and cross ventilation will provide cooling.

At this point, let the record reflect a corrected square footage for each of the buildings: Building A has 1195 (1st fl) and 1458 (2nd fl) for a total of 2653 sq. ft.; and Building B has 2868 (1st fl) and 2960 (2nd fl) for a total of 5828 sq. ft., as stated by Mr. Gonzalez. Building A is 25' high and Building B is 24'10" high.

Mrs. Vanneck also felt that the stone, as the material of choice, is very heavy and massive. It is too commercial looking and does not relate to the main house too well. She questioned the use of the milky wash to opaque the windows. She complimented the applicant on a great first presentation, but felt that more work needs to be done.

Mrs. Hoffman commented that it looks like a beach hotel with cabanas which are too large.

In summary, Mr. Smith stated that the main concerns are the appearance from South Ocean Boulevard, and the commercial look of the proposed design. He asked the applicant to make the buildings look like cabanas, and to consider a more appropriate material than stone. Hearing all of the commissioners comments, Mr. Blackman offered to return next month, and he invited the members to make an appointment to see the property on an individual basis. The LPC thanked the applicant for a great presentation.

MOTION BY MRS. VANNECK FOR DEFERRAL TO THE JANUARY MEETING.

MOTION SECONDED BY MRS. BLADES.

MOTION CARRIED UNANIMOUSLY.

At this point, 10:37 a.m., there was a short recess. The meeting re-convened at 10:42 a.m.

Mr. Royce, after the break, asked if there were any other questions or comments relative to the Mar-a-Lago project, as it is their desire to bring the project to conclusion at the January meeting. Mrs. Vanneck asked the applicant to consider stucco or wood, together with whimsy, to achieve a new design. Mrs. Dowdle reiterated that the stone is too heavy for cabanas, and stucco would be more appropriate. Mr. Royce noted, however, that DEP guidelines may prohibit the use of wood, as has been suggested, due to windload requirements.

VI Landmark Designations

Please note that the landmark designations are done partially in paraphrase, but primarily verbatim. Verbatim portions are noted with the speaker's name at the left margin.

Item 1: 120 Casa Bendita

Owner: Mr. Leonard and Ms. Sophie Davis

Deferred from the November, 1999 meeting.

Mr. Frank stated that proof of publication and proper legal service were achieved with respect to this hearing. Mr. Frank noted that this property meets the following criteria for designation as a landmark of the Town of Palm Beach:

- (a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.

- (c) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (d) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

MRS. JANE DAY, STAFF PRESERVATION CONSULTANT: Mr. Chairman, Members of the Commission, Good morning. The first property I bring to you this morning is really a portion of what was originally one of the grand estates of the Town of Palm Beach. What I'm describing in the report is a garden wall that is positioned along the west end of a reflecting pool, and patterned with a Spanish horse trough found at the Alhambra in Granada, Spain, and a cloistered outdoor garden room. Just for your reference, the drawing that I have on the slide right now and it is also in the Designation Report, shows how that wall and that garden room were positioned on the original estate. This was part of the real estate brochure from the 1960's, when the house was up for sale. The house has since been demolished. I'm just going to walk over for a second and point out those features to you. This is the garden wall, the walled garden, and then this is the wall at the end of what was originally the pool, but now there is a reflecting pool and a driveway that now runs across that particular architectural feature. The estate, itself, was called Casa Bendita and it was designed in 1921 by Addison Mizner for John S. Phipps. Phipps was the son of Henry Phipps, one of the original founders and partners with Andrew Carnegie. The family had vacationed in Palm Beach from as early as the Flagler era, and when this house was built, it took two years to construct. Mizner, as I said, was the architect. Lightbown was the contractor and the landscape architect was a firm called Clark and excuse me, Clarke and De Gottrau were the landscape architects. The house, itself, took two years to complete and it originally cost about \$150,000. Upon completion, Casa Bendita was so grand that it was sometimes called Phipps Castle. This was during the height of the Boom Times period in the Town of Palm Beach, and it served as the setting for, as Don Curl says in his book on Addison Mizner, some of Palm Beach's most notable social events including *tableaux vivants* staged by Florenz Ziegfeld and Joseph Urban. Later, the house was also used for the Palm Beach Flower Show in 1931, and it was noted in the local press that the cloistered garden was one of Palm Beach's beauty spots. This isn't a particularly good slide. I took it from a photograph, but it shows how the wall is positioned today with a reflecting pool over it. It is no longer a swimming pool. Tim, if maybe we could have some lights down, maybe we could see this a little better. Patterned after a trough in Alhambra in Granada, Spain, this is how the wall was originally positioned with a pool in the front of it...a swimming pool as part of the estate...one of two pools on the estate. The other was on the beachfront. When I visited the estate some time ago, Mrs. Davis asked me about the Coat of Arms. She didn't know anything about it, and we did some research on that at Florida Atlantic University and found that the double eagle was from the house of John of Austria. The eagle, although originally associated with Greek and Roman gods in Classical iconography, was used then, in Christianity for the symbol of Saint John. Charlemagne then took the double eagle as his personal symbol in 800 A.D. when he founded the Holy Roman Empire, and as the empire grew, the double headed eagle replaced a single version to symbolize his dominion over both the eastern and western portions of his realm. Under the eagle on this wall are the Castilian Coat of Arms and the personal Coat of Arms of Ferdinand and Isabel of Spain. The wall is constructed of quarry stone and is 20' high. Although we can't prove it, there are many people that believe that Mizner saw this particular feature in Granada when he visited Spain in 1921. This is an aerial that shows the new construction that is to the beach side of the estate, but also shows how the outdoor cloistered room relates to the Davis property, which is the house that's over to the left hand side of your screen, with the white roof. This is the cloistered garden room. This photograph is taken from the west looking east and shows a fountain...the fountain in the foreground is new construction. The fountain through the archway is original to the architectural feature. There

is statuary around the interior of the space, and here, again, is that fountain. The landscaping has changed over time, but I handed out to you a photograph from a 1931 newspaper article...it didn't reproduce well enough to put it in your report, but I wanted you to have it to show that the fountain is really very much as it was in 1931 when the Garden Show had their function at the site. Here, again, is an aerial of that garden room with the new construction to the east of it. And the other thing that I would like to say about this is that everything remained intact on this estate until 1961, at which point the house was demolished. This was eighteen years before the landmark program started in the Town of Palm Beach, so there was nothing in place that could save the original estate. What we have here, both in this wall and in the outdoor cloistered garden room, are the only remnants of what was one of the most magnificent estates, by all the historical evidence, in the Town of Palm Beach. Other building permits in the Town indicate that the private driveway, the bridge, and the reflecting pool were added to the area in 1975, at which time the plans say that the wall was repaired and refurbished. In 1979, a greenhouse was constructed on the site, but both of these projects were carried out with great respect for what Mizner originally did and planned on the site. If you have any questions....this is a little bit unusual, because I am not dealing with a house, per se, but as I said earlier, I believe that these particular architectural features are the last remains of what was once one of Palm Beach's great estates.

MR. SMITH: Thank you. I think at this point we should move that the Designation Report be made a part of the record.

MOTION BY MRS. DOWDLE THAT THE DESIGNATION REPORT BE MADE PART OF THE RECORD.

MOTION SECONDED BY MRS. WILKEY.
MOTION CARRIED UNANIMOUSLY.

Mrs. Delp administered the oath to Mr. James Brindell and Mr. Eugene Lawrence as they were not previously sworn.

Mr. Smith stated, for the record, that he had met with Mr. Davis and Mr. Brindell and he visited the site.

MR. JAMES BRINDELL, ATTORNEY FOR THE PROPERTY OWNER: Good morning. My name is Jim Brindell and I am here on behalf of Mr. and Mrs. Davis. Mr. Davis is here today to observe this proceeding, and Mr. Lawrence is here and he will address some issues in a moment when we get to this point. I want to start by telling you that Mr. and Mrs. Davis respectfully object to the proposed designation. They consider it a taking of a significant portion of property that has a significant value to it which we'll talk about in a minute. I also want to remind you that Mr. and Mrs. Davis did make a proposal to the Landmarks Commission several months ago initially to give the wall, the horse trough wall, to the Town to be put someplace where the public can actually see it, because you can't see it. It turned out that there is a deed restriction on that wall to the favor of the neighbor to the west of it, to the effect that it can't be moved without that neighbor's agreement. That isn't to say that at some point in the future that neighbor might not, in fact, agree to have it moved, but we don't control that. We discovered we don't control that. Nevertheless, we did indicate Mr. and Mrs. Davis are willing to allow that wall to be landmarked, provided the balance of the parcel under consideration is not landmarked, and that proposal is still available to the Town if you wish to pursue that. It's important to note that when the Phipps Estate was torn down it was part of a subdivision process in which lots were ultimately sold off and the street, Casa Bendita, was created and a whole number of lots were created and sold, and homes developed on those lots over

time. The Davis's, after acquiring their property which had been...or part of it had been part of the original Phipps Estate, also then acquired this particular subject parcel which is comprised of a portion of Lot 7 and all of Lot 8 of the Casa Bendita subdivision. They, at that time, were a stand alone...was a stand alone parcel comprised of two of those lots or portions of those lots. And so they then acquired that as part of their property. The Designation Report says that the garden room and wall is a fragment of the Phipps Estate, a reminder of the great estate. I would suggest to you that better reminders of the Phipps Estate are the many fine photographs that exist of that estate and the many fine articles that describe events that may have...that did occur at that estate. The garden room area itself and the horse trough wall I don't think tell you much really about...you can't really see the Phipps Estate by looking at those objects. The Mizner house, as your report indicates, was designed in 1921, and built over about two years, which I guess would have been 1920, '21, '22, '23, something like that. The report notes also on Page 7 that in looking at the garden wall area...let me back up and say the horse trough wall and the garden patio, the walled patio, as they called it then, we're trying to make it sound more like it's a room now, but the patio was built in 1928 apparently, some five or six years later. Although the implication is that Mizner designed this...I say implication of your report...I am not at all satisfied that you can conclude that Mizner actually designed this garden. In 1928, Mr. Mizner was deeply involved in his Boca Raton projects which the year later failed, and resulted ultimately, as a lot of the world failed at that point economically, and really ultimately lead to the demise, the early demise of the man. I think it's questionable that he would have diverted his attention back here to something in the midst of this huge project he was doing in Boca Raton. That is the resort and these canal-front properties he was developing down there. There is a reference in the report about statuary...the fountain in the middle and the statuary. Mr. Davis and his wife actually installed that little statue which, I think, is a \$200, \$100 statue. So, it's not only not original, but it's not particularly grand in terms of value. We looked at a couple of ...at this project or this property from two or three different ways. First of all, about the garden itself...is there anything special about that? And I want to put a couple of boards of photographs up here to help you see some of this a little bit better. The first series of photographs are looking at the gate up to the Davis house off of Casa Bendita, for two purposes...one, you can see a little bit of the garden area back here, but not much. You really can't see the horse trough wall at all from the street. It's down here at the west end of the property. You then can see a similar photograph to the one that Jane Day showed you, which is the west....looking from the west to the east to that sort of ...what is the west portico to the garden area. And then photograph 4 is looking sort of from that portico area west across this series of little reflecting water ponds to the horse trough wall. And there are a couple of important things about that that I want to emphasize a bit later. And she showed you on the original plan, there was an 80' swimming pool, a rectangular swimming pool here that came off of the horse trough wall. Water from the pool was fed in some cycled way from that wall from the fountain wall. The water was generated there. That is gone. There was lawn around that pool. You can see it was on a direct access through the portico here in the west. You can see through there the fountain that she showed you that's in the middle, and then on the very east side, where she showed you the picture of the statue, there is a similar portico there which is no longer open, but at the time it was open. So this whole area was designed as kind of one continuum of space from the horse trough wall to the outdoor swimming pool, the grassed area and the view all the way up to the ocean. That's gone now. There is a house...this next series of photographs shows you the garden inside, but there is a house now to the east. The east portico has been closed up because there is a house there. So you no longer have access or view to the ocean through there, and of course, as I showed you here, the pool, the original swimming pool is gone. You have this kind of multi-level, more modern, quite modern stepped reflecting pond area, and then you have, if you can see in here, there is a driveway that now bisects this area north-south which further interrupts that whole continuum of space. These truly are remnants. There is really nothing left of this portion of the property that reflects what it was like before except these remnants. I think this is very similar to a house that's

been altered so much that while it may have had merit at one time, it doesn't have that merit any longer because it doesn't have the original integrity that was part of that design. Secondly, of course, this isn't a house. This is just accessory features to what was there. It is no longer there and hasn't been there for obviously since 1961, I believe. So, and then if you look at the photographs of the garden, the interior of the garden, except for the fountain, has changed a good bit in terms of landscaping. There is nothing special about the landscaping. This is not the original landscaping, nor the original landscape pattern that was in the garden at the time. So that's no longer there either. I asked Jeff Blakely, who is a State of Florida Registered Landscape Architect, whom I think most of you probably know, who does a lot of work in Palm Beach, to look at this garden area from the standpoint of a landscape architect and its value from that point of view. And I have a report from him that I would like to put in the record. First of all, let me give one to your clerk here. I have some extras if you all want to see them, but what Jeff states is that, and I'll just read through parts of it here, not every single word, but he did go out and review it. He's looked at the designation criteria and his statement is there is nothing distinguished about the design of the garden space, planting areas, walkways and fountain area which are unique, special or reflective of a particular period of time or work of a renowned landscape architect. The current planting program for the garden was done in 1978 for the Davis's by Robert Neal, who, by the way, was a very fine landscape architect. But he says there is nothing particularly special about this particular Neal project either that merits landscaping (meant landmarking) on that basis. And he points out that the planting material which exists in the garden was not planted in the 20's, but rather is reflective of plantings done by the current owners. It says originally the garden was part of a continuum of related spaces...this is what I was telling you about a minute ago... with the horse trough wall on the west end. That was linked to the west garden wall by a rectangular swimming pool and grass area, and that area and the garden were linked to the ocean by open doorways through the west and east walls of the garden. The ocean is no longer visible from the garden, and it talks about the new house that's there, and the driveway that bisects it. It says...consequently, the original relationship of spaces between the garden, the ocean, the swimming pool, and the horse trough wall no longer exists. So, his opinion is that the garden does not embody any distinguishing characteristics of a landscape architectural type, nor is it any longer an example of a garden inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship, but rather a pastiche of unrelated elements. So, I'd like to put that into the record as Exhibit A. The next exhibit, to help understand what Mr. Lawrence will talk to you about, is part of a survey, but it's of a whole property, the Davis property, but it's the part that relates to the parcels that are the subject of this particular designation proceeding. And I would like to give you each a copy of this so you can better understand this. And what you'll see when you look at this is that the garden wall area and the porticos essentially occupy what remains in the Davis ownership of Lot 7. The other part of Lot 7 is part of the parcel immediately to the east now, and then all of Lot 8 runs essentially from the portico west to the horse trough wall, in essence. And that we'd like to put in as Exhibit B. Did you put this in the record?

MRS. JANE DAY: Yes, I did.

MR. BRINDELL: O.K. This photograph that Jane provided to you of the garden areas that existed in 1931 was also a photograph that I had, but since that's in the record, I will just leave that and not duplicate that. I would like to put also in the record as Exhibit ...I guess this would now be...this will actually be my Exhibit D. I'm going to get to C in just a minute. This is a copy...I think you have this on slide.

MRS. DAY: That's in the record in the Designation Report.

MR. BRINDELL: O.K. Alright. This is the photograph that's in the report that shows the original swimming pool that was there and the kind of informal grassed area and trees that were around that area which don't exist anymore. And it's a very different type of physical setting now than existed at the time that this was originally constructed, which of course goes to the current integrity of all that space. With that, I'd like to ask Gene Lawrence to come forward. I asked Gene to look at the garden, wall and porticos from an architectural point of view, and it so happens that Gene has some experience with the Phipps Estate because he did the architectural work on the Bessemer Building on Royal Palm Way, and I'll let him tell you what's relevant about that to why we're here today because it turns out there is a very interesting connection there. But I asked him to look at this and to tell me what he could about the design of the wall, the garden wall, and the porticos, and particularly in relationship to the Phipps Estate. That is the real backbone of why we're really here... the part that doesn't exist anymore. You all, I'm sure, know Gene. He's been here, an architect here, in Town for over 30 years. He's on the Zoning Commission, appears here regularly, University of Florida graduate, what else do you need to say, I guess.

MR. EUGENE LAWRENCE, ARCHITECT, TESTIFYING FOR THE OWNER: We first got involved with this when we did the Bessemer Trust Building which is on Royal Palm Way, on the south side of Royal Palm Way. Bessemer Trust is owned by the Phipps family, and even though Casa Bendita had been destroyed,...A. We wanted a traditional building; and B. We thought it would be nice if we could get some architectural forms that were reminiscent of what was at Casa Bendita. And we did study these two colonnades. The second floor colonnade, which is an Ionic capital with a bracket, and the first floor colonnade, which is a Corinthian column with a surround,...we picked up the tower and the balustrade, sort of a double balustrade. This is how we wound up with these forms at the Trust which the family thought that was a nice relationship. It is how we got involved with Casa Bendita, and when Jim asked us to look at the porticos which are there, if you can see that, you'll notice that the arches...there are three identical arches here...with engaged pilasters, no capitals...Jim, you had another board...but, and then you'll notice here too that the baluster is a different balustrade. These are some photographs. You see the engaged pilaster here with the arch. There is no capital, and it is just a different architectural vocabulary in the portico and in the main building. We don't know if that was an intention, but there is a significant difference between the architectural vocabulary in the main building and in these architectural features here.

MR. BRINDELL: The point of that, of course, is that if again, these were accessory structures, and if they are to have some reflection for us who are here today of what was there before on the real estate, it is not the same. It doesn't reflect the architecture of that at all. The fact that there was a garden that was attached to it, well that is apparently a fact, but I don't think that justifies it being landmarked. I also asked Gene, and the reason I handed out that little portion of the survey, to look at the area of the two lots to determine what, how those parcels, how those lots stacked up against the zoning criteria for lot area, and length and width dimensions, and I'll let him tell you about that.

MR. LAWRENCE: Essentially, the parcel that is in question here is about 40,000 square feet totally. There are two lots, 7 & 8. A portion of Lot 7 apparently was sold to the oceanfront property, however, even so, Lot 7 complies with all the current R-B zoning criteria, except for the frontage. It's 95 feet, and the code requires it to be 100 feet. But it's 14,500 square feet. Lot 8 is 25,000 square feet. So, what it comes down to is either you might get a variance for the 5' for the width because it complies with everything else, or you can take the 5' from Lot 8 and make it two conforming R-B lots. If the garden is designated, that occupies the bulk of Lot 7. So, if they would be two lots, if the designation is there, you could not use Lot 7 for any building purpose.

MR. BRINDELL: The significance of that, I think, is this. We have approximately almost 40,000

square feet there when the minimum lot size is 10 (meant 10,000). To give you an example of the impact of that financially, for example, by rendering Lot 7 essentially undevelopable, you make it only capable of being incorporated into a very large parcel which would be part of Lot 8. In November of 1998, 117 Casa Bendita, which is actually right across the street from this sold for \$2,530,000. There is 18,795 square feet there. So, my point is we are not talking about an insignificant financial impact by rendering this piece of property not buildable by virtue of landmarking this remnant garden, a remnant garden that architecturally doesn't even reflect the elements that were in the house. That's really the reason that we're here. And that, I think, is quite a severe action...would be quite a severe action by the government in terms of intruding into the Davis's rights with respect to the use of that property. Obviously, those two parcels could be slightly reconfigured so that you could actually have two legal parcels of land there that size-wise would actually be reflective of the majority of the lots that are on Casa Bendita, as opposed to having this rather huge interior lot that you would then create as a result of landmarking this, in effect....which we think is not justified. As I stated earlier, there was a proposal and it still is on the table to allow the Town to landmark, without resistance, the wall, the horse trough wall, which by the way, is only a replica. That is exactly how it is described in the newspaper accounts. I hope you don't get the impression that that's an original wall that was brought here. I don't think anybody's representing that. It was not, but it's a copy. It's not even an original composition, if you will, using elements from that. It's a copy, and it's certainly not unique wall, I don't think. It's other places in the world, I think a number of places in Spain it is replicated, and that's really all it was...was intended to be that. But anyway, the Davis's are quite willing to allow that to occur, because you can see as a practical matter, it would not interfere with the ability to use the lots, the area of the lots at some future time or by the Davis's themselves. Again, the space that the garden area and wall are part of has been drastically disturbed and changed and modified over time. It is not the same space it used to be. This is truly a remnant that doesn't really reflect anything other than the fact that these people had a garden that had a wall on three sides with some nice porticos. But to use the government power to restrict the use of this property just for that, we think, is totally unjustified, and we ask that you not do that. We would certainly invite you to take the Davis's offer of landmarking the wall, but keep in mind the covenant and restriction that exists on that now does not run to the benefit of the town. It's only between the two private parties, so landmarking the wall would give the town some significant benefit, if it sees that the wall is important, in terms of having some actual control over that. Mr. Davis, is there anything else you want us to say? O.K. Thank you.

MR. SMITH: Any comments from the commission members?

MRS. WILKEY: Could I ask Mr. Brindell a question? Much has been done about or talked about taking of property recently in connection with the beach rights and other things that are happening in town, but if there is a deed restriction on that property by the neighbor on the west...

MR. BRINDELL: I mislead you then. It's only the wall itself. It's not the lots. The deed restriction is not on the lots. It's just on the wall at the west end of the property, what's called the horse trough wall, not the garden area. If you look in your Designation Report, at the little drawing in the back that Jane put up on the...why don't you put that up so we make sure it's clear where that is. The horse trough wall is right here. That is all that is subject to a deed restriction. The people who have the benefit of that restriction live where this tennis court was. They live there now. The deed restriction does not cover all of this. It just covers the wall.

MRS. WILKEY: And then one other comment and then I've said enough...according to our Landmarks Ordinance for the Town of Palm Beach, one of the things that we actually look for is that in properties that we would like to landmark is to foster the civic pride and the beauty and the

notable accomplishments of the past, and another one is to protect and enhance the Town's attractions to residents and visitors, and even though these walls don't have the same architectural elements as the house had, that is not to say that they are not worthy of being preserved for the enjoyment of the Town.

MR. BRINDELL: Well, you're talking about the enjoyment of the Town. The photographs I put up there earlier show you you really can't see much of any of this from any public street for certain.

MRS. WILKEY: But it's still there.

MR. BRINDELL: Well, it may be there, but most people will never know it's there. 99% of the people in town wouldn't even know it was there and never will know it was there.

MRS. WILKEY: Well, that may be true, but there are properties that we landmark that have huge hedges in front of them. We may not be able to see all of it, but they are there for the preservation and enjoyment.

MR. BRINDELL: Well, hopefully, those properties have met the criteria to deserve that level of imposition of government power, but I don't think this little remnant garden area does that for the reasons that I stated.

MR. ZUKOV: If the wall is preserved, you would be able to subdivide the rest of the property?

MR. BRINDELL: Sure. Yeah, it would just be a restriction. It would just mean you couldn't do something that would interfere with the wall, and it's down at the west end of the property...which is not to say that at some point in time, the owner on the west side would not agree to have the wall moved someplace where it could actually be seen and enjoyed by the public. That was our original proposal.

MR. ZUKOV: So, it's the garden that you don't want?

MR. BRINDELL: Exactly because you can see that when you look at the map of the survey, if you restrict the garden, you lose that entire lot. That lot only needs...area-wise it meets the minimum area requirements for a stand alone lot. It just has a width dimension which could be cured very easily from the other lot without....and the other lot would still meet all the minimum dimensions.

MR. ZUKOV: And you would be in agreement of letting us landmark the wall?

MR. BRINDELL: Yes.

MRS. WILKEY: What about the fountain that you can see...the original fountain that is still there. On which parcel is that fountain?

MR. BRINDELL: Seven.

MRS. WILKEY: Seven. Parcel Seven. Right. So, we have the wall with the arches. We have the fountain, and then we have the wall further to the east. Am I correct?

MR. BRINDELL: Yes. That's correct.

MRS. WILKEY: Well, it seems to me that it's the three elements that we're worried about, not just one.

① MR. SMITH: Let me ask you a question, Jim. I quickly did some notes here when you were speaking, and you said that Lot 7 had approximately 14,000 square feet?

MR. BRINDELL: That was Gene's analysis, I believe. Yes. 14, 544.

MR. SMITH: O.K. And lot 8 has about 25,000 square feet?

MR. LAWRENCE: Correct.

MR. SMITH: Together, combined they are 39,000 square feet?

MR. BRINDELL: 39,500.

MR. SMITH: 39,500. Now if a house was to be built...if that was sold as one piece, and you were going to build a house, the minimum requirement in R-B, and I know that this would jump you up to the R-A or R-AA standards, would require...the minimum would be 40% landscaping, and 40% of 39,000 is over 15, 000 square feet, which totally renders Lot 7 useless anyhow. I mean that much area would be useless in just green space.

MR. LAWRENCE: If it was one parcel.

① MR. SMITH: If it was one parcel, and it was purchased as one parcel. Correct? Was it purchased as one parcel?

MR. BRINDELL: It was at one time, yes. Yes, you could certainly build one house on there, a very large house. I think it's a bit out of scale with the majority of the houses on that street except at the very end.

MR. SMITH: The majority of the houses on that street are very large as I recall. I know the one to the east is 12,000 square feet.

MR. BRINDELL: That's on the ocean. But the point is that you have two...you have a parcel of land here that you can end up with two lots that meet all the minimum requirements for a lot, and if you landmark this, you render one of those useless other than being attached to the other one. And the Davis's object to that. They think that is a very severe imposition by the government on what is otherwise a very valuable piece of property, two valuable pieces of property.

MR. FRANK: How is it rendered useless?

MR. BRINDELL: Because if you landmark 7, you can't build a house in it. You have to have it attached to 8 essentially.

MR. FRANK: Why can't you?

① MRS. WILKEY: It was purchased as one piece of property. I assume Mr. Davis purchased this because it was such a beautiful piece of property.

MR. BRINDELL: I don't know actually why Mr. Davis...it may have been just because it was an option. He wanted to complete it and have an access there for his driveway from Casa Bendita. That is his main driveway. It isn't, by the way, the only physical way to get to his property. There are two other streets you can access his property from, but that's the one he chose and purchasing the property allowed him to do that. In other words, you don't render...if these two parcels were sold off, and he doesn't have a contract. He doesn't have it on the market. We're just talking about the affect here of landmarking and what it is for him and his heirs and somebody else who subsequently buys the property. Even if you...the balance of his property would not be rendered non-conforming if these two lots were sold. It would not. It meets all the other requirements and has access.

MRS. DOWDLE: Thank you. Could I have a question for the staff please? Could you describe to me exactly what it is we are landmarking...just those individual elements or the whole garden? Jane or Tim?

MR. FRANK: Well, basically, we would be recommending landmarking the entire property. Essentially, I guess why I was asking the question is that I believe that the highest and best use of any property, and the key word is use, is single family dwelling unit. I think that some sort of a single family dwelling unit could be developed on both of these parcels. I don't believe that there is anything...you know, the term was used "rendered useless." I don't think that a single family house, even though it's sub-standard in terms, or even if it's not maxed out, and I think those of us in here know that the Town often doesn't allow full maximization according to the code of the lots in question... is rendering a parcel useless. I believe that everybody knows here what the key elements are. They are the wall and the sunken garden, but I believe that construction can take place on these parcels in the vicinity of this without upsetting the integrity of the landmarking and that's why we would recommend landmarking the entire parcel so this commission has control over it. But rendering a parcel useless and talking in terms of a taking and so forth,...I just don't believe that. I don't believe that...I believe that the highest and best use is a single family...the highest and best use of these parcels is single family development, and I haven't seen any evidence, at least, that will show me that that cannot occur here, and I haven't heard it from Mr. Lawrence.

MRS. DOWDLE: This is one parcel. This address, 120 Casa Bendita, is the one parcel.

MRS. DAY: Correct.

MRS. WILKEY: That's 7 & 8 together.

MRS. DAY: I don't know the legalities of whether or not it could ever be subdivided. The other thing that I would like to say, just in a quick consultation with Mr. Randolph, I asked him if you elected to just designate the horse trough wall, then that parcel, even if there was new construction, would come to the Landmarks Commission for the review of that new structure, rather than going to the Architectural Review Commission because it would impact a historic landmark in the Town of Palm Beach. So you should be aware of that. You would have the jurisdiction as to what to say over new construction that would go on that Parcel 8.

MR. BRINDELL: That's quite different than saying that effectively you can't build a house on Parcel 7, which is in effect what would happen here if you landmarked the whole thing. I didn't say you couldn't build a house on the two parcels. You could. A house, but it would end up on Lot 8.

MRS. DOWDLE: Under the current regulations, you couldn't build a house anyway without going to a quasi-judicial board and get a variance on 7 for the width. You're non-conforming.

MR. BRINDELL: I think we could sell off the appropriate square footages from Lot 8 to Lot 7 and have two valid lots.

MRS. DOWDLE: So, you're still talking about re-combining something at some point.

MR. BRINDELL: But we're entitled to do that, I believe. There's nothing wrong with that.

MRS. DOWDLE: Right. But you have a non-conforming lot. You have one lot, essentially, now. You've got one parcel.

MR. BRINDELL: No, we have the ability for two legal lots clearly. It's not like we have a non-conforming lot we can't cure. One of the things you have to do when you ask for that type of variance is to show you can cure it by acquiring the land. We can cure that.

MRS. DOWDLE: So, they'd be recombined.

MRS. HOFFMAN: I have a financial question. Would the price for two lots be higher than the price for one large parcel? In other words, by dividing it into two lots are you going to get more money than you would for one large lot?

MRS. DOWDLE: I believe so.

MR. MOORE: I think there is an argument on both sides of that, and I'm not sure how relevant it really is to what you're going to be looking at...the value of the gardens and the value of the wall, but just for the record, since we are making a record, it's one parcel now under one ownership. It's two lots. They have the legal right to sell one of the lots. One of the problems is that in doing so they cannot render the other lot non-conforming when they sell. So, their only advantage...the only way they can do this and Mr. Brindell did bring this up, was to deed 5' of the larger lot to Lot 7, I think it is, and therefore, they could take 7 and 5' of 8, and render both lots as legitimate lots. They would undergo no Town Council action if they were minimum size lots. They would come before either the Architectural Commission or this commission.

MRS. HOFFMAN: I understand that, but I was just wondering if this were landmarked, and they couldn't legally divide it into two lots, would that be a financial hardship? Is there a difference in the price for two lots...legal lots...than one large parcel?

MR. MOORE: I think that that would be dependent upon what the market was dictating. Some folks would tell you that the value of a 40,000 square foot piece of property in the R-B Zoning District far exceeds what the value of two lots would be because of the larger home that could be built within the regulations, both....

MR. BRINDELL: And some would tell you otherwise too. Some would tell you otherwise.

MR. MOORE: That's right. Some would...

MR. BRINDELL: Neither Mr. Moore or I are property appraisers.

MR. MOORE: That is correct.

MR. BRINDELL: Let me offer one thing, if I might here, that might make some difference to you,

I hope. Again, you can see from the photographs, you really can't see into any of this effectively. The public is not going to enjoy it and I really think it's fair to say 99% of the public won't even know it's there if you designate it. So, I don't know what...it's not like, and I'm just using this as an argument, because I don't subscribe to this very well either. It's like knowing we have a national park. At least we know it's there. We know Yosemite's there. We all have some idea where it is and we know it exists. They're not going to know this exists. Mr. Davis, though, is quite willing...he tried to offer the wall to be moved and would be glad to have that done and maybe that can be done if somebody could approach his neighbor to do that. He would also be happy to let you take the fountain and put it in a public space where people could enjoy it with some proper reflection of who...that this is something that is a remnant of that estate, that people could actually sit around and enjoy. Nobody is going to enjoy it here except the owner of this property.

MR. ZUKOV: I think that is a wonderful idea. Take the fountain and put it somewhere where everybody can see it.

MRS. BLADES: Has there been any sort of feasibility study about doing that...of moving the wall?

MR. BRINDELL: No, I mean we just...this is just kind of an offshoot of this conversation this morning. He'd be happy to do that.

MRS. HOFFMAN: I don't think it's fair for us to put a financial burden on something by landmarking it.

MR. ZUKOV: Absolutely.

MRS. HOFFMAN: I think that's taking away a person's property rights. I think what Mr. Davis proposes is very good.

MR. FRANK: Mr. Chairman, may I? I believe the door has been opened here because they're talking about a re-subdivision or re-platting of two lots that exist already. One of them is substandard in accordance with our code. And since that door has been opened, I'm just offering the opinion...now, we're talking about takings here, and I don't think we should be talking about takings, but we are talking about takings. It's been brought up by Mr. Brindell and it's been brought up by commission members now. I believe that this can be re-configured. There can be two lots and there can be two houses and I don't see the denial of any property rights, and I haven't heard any testimony from Mr. Lawrence that this can't happen.

MR. BRINDELL: Well, how would you build...how would you build a house on the

MR. FRANK: I'd do exactly as you suggest, although I wouldn't take 5'. I'd move the parcel A lot line over further to the west and I'd make a lot large enough to build a small single family house on it, and I'd put a larger single family house on the pool, which you've already stated is not original. You've went through great lengths in your testimony to point out that the pool is gone, and this isn't a house and so forth. Well, essentially, I agree with you. This isn't a house. This is a lot, and I believe that with some ingenuity and some architectural design, this lot can be subdivided in a manner where it can be developed into two single family houses without affecting the appurtenances that the Landmark Commission is looking at right now.

MR. BRINDELL: I respectfully disagree. With the setback requirements that you have from the cul de sac, which cuts into this one lot substantially, Lot 7, by the time you do that, which is 30' around

there, you meet all your other setbacks; you have to leave this garden in place. I think you're going to have a shotgun house sitting over here which I don't think is something you're going to want. And I don't think it's something the Davis's are going to want or anybody else would want.

MR. FRANK: Well, it doesn't matter because like I said...

MR. RANDOLPH: You have to let him really finish his comments before you...

MR. BRINDELL: I just don't think that makes any sense. And the bottom line here is that I don't think you've got something here that's worthy of being landmarked to the point of subjecting this property to the imposition of control that you're proposing to do. Mr. Davis has offered to let you landmark the wall, and take the pool...take that fountain area. I mean I think that's a very nice thing for him to do, and I think you get something out in the public there where the public can see it at least...they can't even see the horse trough wall now either, but maybe someday you could.

MR. ZUKOV: I think it's a very fair offer that I think you should take the pool out of there and landmark the wall.

MRS. WILKEY: You can't remove it. There is a deed restriction on it.

MR. BRINDELL: No, on the wall, not the pool, not the fountain in the garden...there is not.

MR. MOORE: Mr. Chairman, if I might, and I'm not sure we're going to continue the discussion, but because we do have a court reporter and we are making a record, I think it would be best if the staff and the property owner address their questions through you so we can finish the questions. Mr. Frank was not finished with his statement when Mr. Brindell decided to react to his statement, and then Mr. Frank had to defer to Mr. Brindell, and he would like to finish his statement. But I think it would be better for all concerned if we went through you because of the court reporter.

MR. SMITH: Thank you, Bob. Mr. Frank, would you like to finish your statement? And then I'd like to go into executive session and get comments from each commission member.

MR. FRANK: Yes, just to close off my statement was that I believe that...I further believe that the size of the house, or the square footage or the value of the house is not the concern here. As I said in my initial statement that the highest and best use of the property is what's at stake here. That's what's important, and development of a single family dwelling unit is the highest and best use and I pointed out that I didn't hear anything from Mr. Lawrence that said that these two lots could not be subdivided in a manner where that couldn't happen. Thank you.

MR. SMITH: Thank you. O.K. We'll go into executive session.

MR. BRINDELL: Could I ask him one question, please, since we are well...I think I'm entitled to ask him one question. Have you analyzed this to come up with that conclusion.

MR. FRANK: I haven't analyzed it, but I've walked the site, and I've got the general feel for the site.

MR. BRINDELL: But did you lay out a house scheme on it?

MR. FRANK: I did not.

MOTION BY MRS. DOWDLE THAT 120 CASA BENDITA BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. WILKEY.

MR. SMITH: Can we get comments from the commission members?

MRS. VANNECK: Well, let me put my foot in my mouth again. I think that there is a lot of talent in this town as far as architectural qualities, and I have to say that I could envision someone building a house on Lot 7, given a little extra square lottage. It would have to be somebody who's really interested, but you could incorporate the wall, you could incorporate your cloisters and make an incredible home. So, I don't believe that you need to see that as a restriction, necessarily. It's something that someone with imagination could do. I've always thought that Greece, Rome, they all have these wonderful remnants of buildings and they are remnants. They are not there. They can't be used, but wouldn't we be so much poorer without them. And we're poorer without the main estate, but we're not looking at that. We're looking at the garden, and I don't think that it is unfeasible to build a home.

MR. ZUKOV: I totally disagree with that statement. I feel that imposing on this individual the entire garden and this small fountain which could easily be moved for the enjoyment of all of us, rather than just hidden away, I think this fountain could be moved, could be enjoyed by the rest of the town, and not be an imposition. The wall, I think, should be landmarked.

MR. SMITH: Thank you. Any other comments?

MRS. HOFFMAN: I would agree.

MR. SMITH: Anyone else?

MRS. DAY: I have a comment.

MR. SMITH: We're in executive session. We have a motion on the floor. Cindy, will you please call the roll?

MRS. DOWDLE:	YES
MRS. WILKEY:	YES
MRS. VANNECK:	YES
MRS. BLADES:	YES
MR. ZUKOV:	NO
MRS. HOFFMAN:	NO
MR. SMITH:	YES

MR. SMITH: MOTION CARRIES. Thank you.

MR. BRINDELL: Thank you.

Item 2: 216 Pendleton Avenue

Owner: Mr. Paul B. Dickey Jr.

Mr. Frank stated that proof of publication and proper legal service had been achieved relative to this hearing. Mr. Frank testified that it is the staff's recommendation that this property meets the following criteria for landmark designation:

- (a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (c) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (d) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Mr. Frank stated that the owner was present earlier, but had to leave. However, the owner is happy to have the property landmarked.

MRS. JANE DAY: 216 Pendleton Avenue is a Monterey style building. It was designed by Gustav Maass in 1936, and was built by E.U. Roddy Inc. The photograph that I have for you up on the screen is while the house was undergoing a recent renovation. Mr. Dickey came to the Landmarks Commission for the approvals on that, and this is a tax abatement project. The only changes that have been done to the house since it was originally built, except for upkeep, have been the addition in the rear of a porch in 1956 with jalousie windows. That still remains. This house contributes to the street of Pendleton Avenue and is compatible with its neighbors. It's representative of what was happening in the town in the 1930s, and is an example of the work of Gustav Maass during that time period. Are there any questions about the report?

MOTION BY MRS. DOWDLE THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.

Mr. Smith called for any other witnesses who wished to testify. There were none.

MOTION BY MRS. VANNECK THAT THE PROPERTY AT 216 PENDLETON AVENUE BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.

VII Other Business:

A. Distribution of Designation Report(s) for January meeting
These reports will be mailed to the commission members as they were not ready today.

① (b) Casa Rosada, 323 Brazilian Avenue, Relocation of entry - informal review
Mr. Tony Solo indicated that the ingress/egress to the property has become a problem. The entry gates were situated on the west side of the property, and it has been pointed out that because of the positioning of the entry gates, it would be possible on too many occasions for one of the property owners at this site to block access to the other. This has proved to be detrimental in attempts to market the property, as if one neighbor blocks the other's access, a tow truck might have to be involved. Therefore, the proposal is to move the gates eastward, closer to the landmarked wall, approximately 5' from the end of the landmarked wall. Moving the gates would also require relocation of the air conditioning units. Mr. Solo noted that the project is too far along to make changes to the design of the residences at his point. Various suggestions were made to the applicant, i.e., making the gates wrought iron instead of wood, or painting the wooden gate to match the wall so it disappears. Of course, the commission advocated the neighbors working together to avoid access problems, but failing neighborly cooperation, a plan to move the gates will be entertained. Comments were mixed on the proposed movement of the gates, and having heard the commission's comments, Mr. Solo will return to the commission next month formally for approval of a revised design.

(c) Royal Park Bridge note
Mrs. Blades stated that Nancy Murray, the President of the Garden Club, wished to issue an invitation to a meeting she is hostessing about the Royal Park Bridge on December 20, 1999 at 10:30 a.m. on the 3rd floor of the Four Arts Building in the Board Room.

(d) Invitation from Mr. Smith to a holiday party this evening at Bice from 5:00 p.m. to 7:00 p.m.

① (e) Preservation Celebration: Mr. Frank
Mr. Frank met with the Everglades Club. Initial meetings were favorable, but the Club was concerned about being overrun. To alleviate this concern, it was suggested that admission might be gained by ticket only. The event could be handled at both the Everglades Club and Via Parigi to help disperse the crowd. An information package relative to past celebrations has been submitted to the Everglades Club for review. The event is tentatively scheduled for the Wednesday or Thursday following Easter.

VIII Adjournment:

MOTION BY MRS. DOWDLE TO ADJOURN AT 12:10 P.M.

MOTION SECONDED BY MRS. WILKEY.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Landmarks Preservation Commission will be held on WEDNESDAY, JANUARY 19, 2000 in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach at 9:00 a.m.

Respectfully submitted,

① 

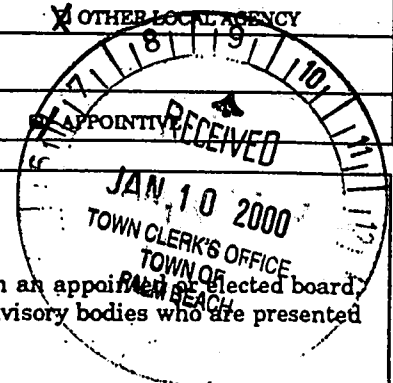
Elizabeth Dowdle, Secretary

LANDMARKS PRESERVATION COMMISSION

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FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

NAME—FIRST NAME—MIDDLE NAME SMITH, JEFFREY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE L. P. C.	
MAILING ADDRESS 241 SANFORD AVE		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY PB	COUNTY	☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 12/15/99		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	



WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

You must abstain from voting and disclose the conflict in the situations described above and in the manner described for elected officers. In order to participate in these matters, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Jeffery W. Smith, hereby disclose that on 12.15, 19 99:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of M/M DUNCAN MOORE, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Relative to Certificate of Appropriateness #31-99
for 220 El Bravo Way for approval of landscape lighting.

12.15.99
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME SMITH, JEFFERY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE L. P. C.	
MAILING ADDRESS 241 SANFORD AVE		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY PB	COUNTY	☐ CITY ☐ COUNTY ☒ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 12/15/99		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

WHO MUST FILE FORM 8B

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

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DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JEFFERY W. SMITH, hereby disclose that on 12.15, 19 99.

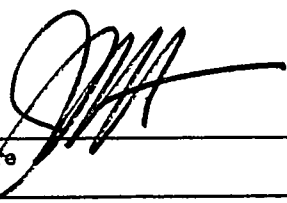
(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☒ inured to the special gain or loss of ME/M DUMLEY MOORE, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

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