



TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

LANDMARKS PRESERVATION COMMISSION

9:00 a.m., WEDNESDAY, NOVEMBER 18, 1992

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

I. Call to Order: The meeting was called to order by Chairman Lillian Jane Volk at 9:02 a.m..

II. Roll Call:

PRESENT: Lillian Jane Volk, Chairman
Elise P. Mackintosh, Vice Chairman
Sally Gingras, Secretary
William S. Gubelmann, Member
Anne G. Metzger, Member
Jacqueline Albarran de Mendoza, Member
Leslie Divoll, Member
Arthur Silverman, Alternate Member
John C. Randolph, Town Attorney
Robert L. Moore, Director of Planning, Zoning & Building
Timothy M. Frank, Planner/Projects Coordinator

ABSENT: Wilmer J. Thomas Jr., Alternate Member
Jane R. Grace, Alternate Member

RECORDING SECRETARY: Cynthia M. Delp

Let the record show that Mr. Moore, Mrs. Metzger, Mr. Gubelmann, Mrs. Divoll, and Mrs. Mackintosh arrived a few minutes after roll was called. Let the record further show that Mrs. Metzger left the meeting at 11:10 a.m.

Mr. Silverman did not participate in the voting process after all of the members had arrived.

III. Approval of the Minutes of the October 21, 1992 Meeting:

Mrs. Delp had distributed a list of corrections to the October Minutes, as follows:

Corrections to October 21, 1992 Minutes

Page 3: (Mid-page) "Mr. Bell will provide a new drawing for the rear building facade reflecting all the ~~of~~ openings in the size and shape they were approved."

Page 5: (Mid-page) "One niche on the second floor level, though it will retain matching moulding, will be closed because a closet occurs on the interior."

Page 5: (Last paragraph) "'Moving on to Item 4, Mr. Smith
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presented the request for a chimney on the west facade, which will, except for its top, which is deliberately different, nearly duplicates the chimney on the east facade."

Page 5: (Last line) "MOTION CARRIED 5-1-0; MRS. DIVOLL CASTED THE NEGATIVE VOTE."

Page 9: (First sentence) "Staff is in receipt of the report from our archaeological consultant." ~~which-will-be-incorporated into-our.~~

Page 9: (2nd last paragraph, 4th line) "i.e., the typical misconceptions associated with ~~landmarked~~ landmarking,"

MOTION BY MR. SILVERMAN TO APPROVE THE MINUTES AS AMENDED.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

IV. Public Hearings:

A. Application for Certificate of Appropriateness No. 59-92, Second story addition

Owner/Applicant: Uta K. Ortis-Patino c/o Robert Bell

Address: 598 South County Road

Architect: Robert L. Bell

Project Description: Request approval of second floor addition over existing single story flat roofed structure off northeast corner of existing two story residence; stucco finish and cement tile roofing to match

As Mr. Robert Bell, Architect, had requested removal from the agenda...

MOTION BY MR. SILVERMAN TO REMOVE THIS ITEM FROM THE AGENDA.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

B. Application for Certificate of Appropriateness No. 61-92, Signage

Owner: Via Mizner Associates Limited Partnership
by Via Mizner of Worth Avenue, Inc.

Applicant: Casa Casa, Inc.

Address: 64 Via Mizner

Project Description: Request approval for four signs: two 15"x9" and two 32" x 20" oval signs made of handmade painted pottery with cream colored background, blue border, blue and yellow flowers, and blue lettering reading Casa Casa on the top line and 64 Via Mizner on the bottom line.

Mr. Jim Remez, from Via Mizner, appearing on behalf of this Via Mizner tenant, stated that the applicant had changed the signage request from that listed above. The revised request is for a total of three oval wooden signs, painted blue, with a white border and white lettering. The blue will match the blue of the existing awning. The sign at the main door will be 9"x12", and the other two will be 20"x32", and will be placed on the front facade. The signage will read: CASA - CASA (1st line) and Furniture and Accessories

(2nd line).

C. Application for Certificate of Appropriateness No. 62-92, Roofing

Owner/Applicant: Ms. Gay Cinque

Address: 236 Phipps Plaza

Contractor: J. Roberts Construction Inc.

Project Description: Request approval to change roof material from clay barrel tile to clay S tile

As the contractor had not yet arrived...

MOTION BY MR. GUBELMANN TO DEFER TO LATER IN THE AGENDA.

MOTION SECONDED BY MRS. DIVOLL.

MOTION CARRIED UNANIMOUSLY.

D. Application for Certificate of Appropriateness No. 63-92, Window/door changes

Owner/Applicant: Ms. Jeanne Marks

Address: 264 S. County Road

Architect: Jeff Ornstein

Contractor: David Palmer

Project Description: Request approval to add means of egress by replacing existing single hung aluminum window on south elevation with a french door; also change front entrance door to french door.

Mr. David Palmer, General Contractor, presented these changes for "264 The Grill", a restaurant. Upon inspection by the Fire Marshal, it was determined that another means of egress was required for the restaurant. This prompted the change of the existing aluminum window, on the south elevation near the kitchen, to a new french door. The existing wooden Spanish front door will also be changed to a single ten lite french door. Currently above the front door, there was a glass transom which was boarded up and painted over. This plan calls for removal of those boards and restoration of the glass transom, as well as removal of the surrounding conduit. French doors were chosen so that more light would enter the restaurant. The contractor stated that every attempt will be made to clean up the outside areas. This would include removal of old restaurant equipment, and removal of an old roof structure in the rear of the restaurant.

MOTION BY MRS. GINGRAS FOR APPROVAL AS PRESENTED.

MOTION SECONDED BY MR. GUBELMANN.

MOTION CARRIED UNANIMOUSLY.

E. Application for Certificate of Appropriateness No. 64-92, Signage

Owner: Power-Love Associates

Applicant: Sherry French Gallery, Inc.

Address: 256 Worth Avenue

Project Description: Request approval of identification signage to read - "Sherry French Gallery" in the lower left hand corner of five windows, and on the glass of the main entrance door.

The applicant was not present, but sample signage had been delivered. Signage will read "Sherry French Gallery" (1st line) and "New York - Palm Beach - Boca Raton" (2nd line). The signage is in keeping with the Town's Sign Code.

MOTION BY MRS. ALBARRAN DE MENDOZA TO APPROVE AS PRESENTED.
MOTION SECONDED BY MRS. GINGRAS.
MOTION CARRIED UNANIMOUSLY.

F. Application for Certificate of Appropriateness No. 65-92, Signage lighting

Owner: Via Mizner Associates Limited Partnership

Applicant: Scott Snyder Horticulture, Inc. dba Gardenstyle

Address: 99 Via Mizner

Project Description: Request approval for signage lighting.

The applicant was not present at this time, however, he had submitted a photo of his existing signage on the building, and a photo of the desired type of lighting. Mr. Frank stated that the Commission had approved this type of lighting previously on Ristorante Mario. Some of the Commissioners were reluctant to approve the lighting based on the materials submitted. In hopes that the applicant would yet arrive...

MOTION BY MR. GUBELMANN TO DEFER TO THE END OF THE AGENDA.
MOTION SECONDED BY MRS. METZGER.
MOTION CARRIED UNANIMOUSLY.

V. Designation Hearings:

(Please note that the following transcriptions of the Designation Hearings are recorded partially verbatim and partially in paraphrase. Those portions which are verbatim are identified by the speaker's name at the left margin.)

ITEM 1: 126 SOUTH OCEAN BOULEVARD

OWNER: ESTATE OF MR. J. H. LAUDER & MRS. ESTEE J. LAUDER
(Deferred from the January 17, 1992 meeting.)

Mr. Frank verified that proof of publication was secured and proper legal service had been accomplished. Mrs. Delp administered the oath to Mr. Frank, Mr. Moore, and Ms. Jane Day, Staff's Preservation Consultant.

MR. FRANK: Thank you, Mrs. Volk. The subject property, 126 South Ocean Boulevard, I believe we had given the presentation last year, and read this into the record, but since this is a new season, we will give the presentation again. We would also like to mention at this point in time that we have found out additional information since the original Designation Report was prepared. With us today is Mrs. Jane Day of Research Atlantica, and she will act as our consultant, and she will be assisting us with the preparation of these reports and these presentations, both in front of this Commission and the Town Council. The subject property, 126 South Ocean Boulevard, meets the following criteria for designation:

(b) Is identified with historic personages or with important events in national, state or local history...in this case it is Estee Lauder.

(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...in this case, it's Wyeth and King and the biography has been attached to the Designation Report.

At this point, I'd like to turn it over to Mrs. Day.

MRS. DAY: Good morning, Madame Chairman, members of the Landmarks Committee. As Tim said, my name is Jane Day. I am President of Research Atlantica Inc., a historic preservation research firm in Boca Raton, Florida. I am very happy to be here before you this morning. I hope, however, you will bear with me for these first few reports. They were not prepared by my office, and we are in the process of updating and adding information to them as we find that information. As Mr. Frank said, this house at 126 South Ocean Boulevard was designed and built by Wyeth and King in 1938, and built for Mrs. [Shaunessy]. Estee Lauder and her husband bought the property in 1964, and it meets the criteria for designation on three counts. First of all, "Identified with an historic personage", Estee Lauder is an important example of a successful businesswoman in 20th century America. That, with her cosmetic firm which she developed in the 1940's and 50's, and she's also an important personage in Palm Beach, and her contribution to the social scene in this community. Those of us that work in womens' studies and with womens' issues are always looking for good examples of women that represent the success stories, and Miss Lauder is certainly one of these people. As far as architectural types are concerned, this is a good example of a Neo-Classical design. As you can see, the house sits on South Ocean Boulevard. It is at the westward curve of Ocean Boulevard and Barton Avenue. It maintains a very important place on the Boulevard, as this is what you can see from up to 6 to 8 blocks coming from the south, north on Ocean Boulevard. The primary entrance to the house is this center Greek portico with Ionic columns. It has a pediment above, a fanlight within the pediment, and it is a very true representation of this Neo-Classical form. It is the major part of the facade, and the whole facade is symmetrical. It is a masonry building. It has a hip

roof with cement tiles, and although it is U-shaped, from the street and the public view, what you see is the south facing main Neo-Classical facade. Here again, is the whole facade. (referring to the slide presentation) There is a wrought iron fence around the property. There are two chimneys to the east and one chimney to the west. The windows are shuttered, and they are also very typical of the Neo-Classical style. They are six over one wooden double hung sash windows. The architects did something more unique here. They did not just repeat the six over six double hung sash windows. On the first floor, there are six over twelve lites, which makes them appear as if they are french doors, when, in fact, they are really windows. There is a pool and tennis court to the west of the building, and I realize that this is not the best photograph of that, but we were working from the public view and not from being on the property. You can see also, in this picture, that above each of the windows is a decorative lintel, and they have used a Greek design in that lintel. Behind the property is the staff quarters and a four car garage. This is to the west of the property, and would also contribute to the landmark designation. It has gable roofs. It has the same six over six double hung sash windows, and gable end dormers that surround the top of the building. Here again, we have the front facade. One of the things under criterion (d) is "that it is a good representation of the work of a master architect in Palm Beach", and in this case, we have Wyeth and King. What Wyeth and King did here is they took Neo-Classical architecture, which was popular throughout the country from 1895 through about 1950, and they adapted it to Palm Beach. We have this south facing facade that is very typically Neo-Classical, however, the whole building, as you can see in your report, is U-shaped and the other main facade faces the beach. This is something that would be typical of Palm Beach and is an important adaptation of the Neo-Classical style to our local architecture. If any of you have any questions, I'd be happy to answer them.

MOTION BY MRS. MACKINTOSH TO MAKE THE DESIGNATION REPORT A PART OF THE RECORD, AND TO INCLUDE THE ADDITIONAL INFORMATION PRESENTED BY THE CONSULTANT.

MOTION SECONDED BY MRS. DIVOLL.

MOTION CARRIED UNANIMOUSLY.

Let the record show that Mr. Charles Lubitz, Attorney for Mrs. Lauder, announced his presence in the audience, but gave no testimony.

MOTION BY MRS. DIVOLL THAT THE PROPERTY AT 126 SOUTH OCEAN BOULEVARD BE RECOMMENDED TO 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. METZGER.

MOTION CARRIED UNANIMOUSLY.

ITEM 2: 260 VIA BELLARIA

OWNER: MR. FREDERICK M. SUPPER

(Deferred from the April 15, 1992 meeting.)

MOTION BY MR. GUBELMANN THAT LANDMARKING CONSIDERATION OF 260 VIA BELLARIA BE DEFERRED TO THE DECEMBER MEETING SO THAT THE REPORT CAN BE CORRECTED, WITH THE PROVISIO THAT THE OWNER RECOGNIZES HE IS WAIVING HIS RIGHT BY ORDINANCE REQUIRING THE COMMISSION TO ACT WITHIN 30 DAYS.

MOTION SECONDED BY MRS. METZGER.

MOTION CARRIED UNANIMOUSLY.

ITEM 3: 120 SEABREEZE AVENUE

OWNER: MS. DONNA W. LONG

(Deferred from the April 15, 1992 meeting.)

MOTION BY MRS. ALBARRAN DE MENDOZA THAT LANDMARKING CONSIDERATION OF 120 SEABREEZE AVENUE BE DEFERRED TO THE FEBRUARY MEETING TO DETERMINE THE SIGNIFICANCE OF CHANGES WHICH HAVE BEEN MADE TO THE PROPERTY, WITH THE PROVISIO THAT THE OWNER RECOGNIZES SHE IS WAIVING HER RIGHT BY ORDINANCE REQUIRING THE COMMISSION TO ACT WITHIN 30 DAYS.

MOTION SECONDED BY MRS. GINGRAS.

MOTION CARRIED UNANIMOUSLY.

ITEM 4: 210 VIA DEL MAR

OWNER: MR. STEPHEN PHILLIPS

(Deferred from the April 15, 1992 meeting.)

Mr. Frank stated that the owner, in this case, has requested a deferral to such time as the Town has resolved the issue of enacting an ordinance which would offer a property tax credit for certain renovations to landmarked properties. Mrs. Betsy Burden, Attorney for the property owner, was present and reiterated that request. Staff felt it was appropriate to grant a courtesy deferral to the applicant, provided that Mrs. Burden understood that the further hearing of this matter is not dependent on the Town's enacting the aforementioned suggested ordinance.

MOTION BY MR. GUBELMANN THAT LANDMARKING CONSIDERATION OF 210 VIA DEL MAR BE DEFERRED TO THE JANUARY MEETING, WITH THE PROVISIO THAT THE OWNER RECOGNIZES HE IS WAIVING HIS RIGHT BY ORDINANCE REQUIRING THE COMMISSION TO ACT WITHIN 30 DAYS.

MOTION SECONDED BY MRS. DIVOLL.

MOTION CARRIED UNANIMOUSLY.

○ IV. Public Hearings - Continued

C. Application for Certificate of Appropriateness No. 62-92,
Change of roofing material

Mr. Jay Roberts, General Contractor, appeared on behalf of the applicant, Mrs. Cinque, who needs to replace her roof due to leaks. The existing roof is barrel tile, and the owner is requesting Spanish S tile. Although the owner would actually prefer the barrel tile, the additional cost would be approximately \$ 10,000.00.

Mrs. Albarran de Mendoza stated that the problem with the Spanish S tile is that it is lower in profile and smaller in sections than the barrel tile, so the end result is busier and flatter in appearance than the preferable barrel tile. Additionally, only one other building in Phipps Plaza has used Spanish S tile, and the Commissioners expressed their collective opinion that its use on that building was likewise inappropriate. Mrs. Divoll's comment was that in the case of changes within Phipps Plaza, the character of the area must be considered, as well as the cumulative effect that such departures from the original would produce.

○ Mr. Roberts also sought approval for an exterior color change to the courtyard area to a tone darker than the existing color. (Paint sample submitted.) Although this was not advertised, the Commission had no problem with hearing it.

As a compromise on the roofing issue, it was suggested that the first few roof courses be done in the appropriate barrel tile, and that the rest of the roof be fully repaired, except for the placing of the remaining tiles which could occur next year.

MOTION BY MRS. DIVOLL TO APPROVE RE-ROOFING TO INCLUDE WATERPROOFING THE ENTIRE ROOF AND PLACEMENT OF THE FRONT ROOF COURSES IN BARREL TILE (IN KIND) AND THE COLOR CHANGE FOR THE COURTYARD.

MOTION SECONDED BY MRS. GINGRAS.
MOTION CARRIED UNANIMOUSLY.

If, of course, the owner is not in agreement with this solution to the roofing matter, Mr. Roberts will need to return to the Commission.

V. Other Business

○ A. Discussion regarding Draft Ordinance relative to Hardship Provisions for the Landmarks Preservation Ordinance.

Mr. Randolph had prepared this Draft Ordinance (to be referred to as the "Draft" for purposes of these Minutes)

after reviewing the Orlando, San Antonio and Chicago ordinances, taking the best portions of all three and including it with our Ordinance. In the Draft, Page 1, Section 1, is taken verbatim from the existing Ordinance, and the only change proposed is in (d) "the following should shall be considered:"

Regarding Page 2, the first paragraph, as follows:

"In the event a determination is made by the Landmarks Preservation Commission, that a demolition permit will not be granted on the basis of those items specified above, the applicant may within thirty (30) days of notice of the decision of the Commission apply for an economic hardship exception on the basis that the denial of the permit will result in the loss of all reasonable and beneficial use of or return from the property."

The intent of this paragraph is that if an applicant is not successful in gaining permission to demolish by the considerations listed in the Draft's Section 1, he has the right to apply for an economic hardship exception as an alternative route to the desired demolition. You will note that the Draft, as written, specifies a time limit of "within thirty (30) days of notice of the decision..." Mr. Randolph asked the Commission to consider whether this time limit provision is necessary at all, and if it is not necessary, would the Commission allow an applicant the ability to come forward at the same meeting (when seeking demolition approval) using the Page 1, Section 1 considerations first, and if that was not successful, then apply for an economic hardship exception. On the other hand, if specifying a time is desired, the Commission might want to consider allowing a few months, rather than just thirty (30) days. In essence, the question here is whether to require an applicant to return to the Commission for a second hearing after a specified time period has elapsed, if not successful in the first attempt under the considerations listed on Page 1, Section 1; OR to allow an applicant to pursue both available avenues toward demolition approval at one meeting.

Mr. Randolph asked for the Commission's input on this portion of the Draft. Mrs. Volk's comment was that although requiring two hearings would lengthen the process, the additional time could prove to be advantageous in avoiding a demolition, as properties can change hands very quickly, and one owner's opinion is not necessarily the same as that of another. She felt that as much time as could be allowed should be allowed, because when a building is demolished, it is gone forever. Mrs. Divoll commented that other Landmarks Commissions throughout the country have advised "don't ever consider objective criteria at the same time as hardship". She felt that allowing an applicant to pursue both available avenues toward demolition at the same meeting would be "mushing the two together". Mrs. Metzger agreed they should be kept separate.

Mrs. Divoll asked whether an applicant could be limited to a specific number of requests for demolition per year, to avoid an applicant building various economic hardship arguments time and time again, over a short period of time. Mr. Randolph was not in favor of such a limitation, but felt that this might be resolved by requiring an

○ applicant, if returning to the Commission seeking an economic hardship exception, to submit new and different data than had previously been considered.

Mrs. Divoll asked whether these requests for demolition would be seasonal or year-round, and whether a "season", where such demolition requests could be heard, should be defined. Mr. Randolph stated he felt the demolition could not be precluded from occurring year-round. Mrs. Albarran de Mendoza, however, felt that a "season" should be established, so that more LPC members would be in attendance at the meetings where such requests might be heard. She advocated creating a "season" for demolition requests using the same period of time as our "Designation Season", November through April. Mr. Randolph stated he would look into establishing a "season" for hearing demolition requests.

Mr. Randolph went on to explain that after today's hearing, this Draft Ordinance will be sent to the Zoning Commission on Tuesday, November 24th, and then to the Town Council. It will not, after today, return to the LPC for discussion and revision, and may, in its final form, be different, or may not include, some of the recommendations made at today's meeting. The review of this Ordinance, pursuant to State law, has been legally advertised for both the Zoning Commission Hearings and the Town Council meeting, and will receive final action at the Town Council level. The purpose of today's discussions with the LPC is advisory to the Town Council.

○ Mr. Moore suggested that if the LPC is going to advise the Town Council that demolitions should only be done during certain months of the year, they should consider whether this would be intended for full demolitions, or partial demolitions, which often occur during the off-season in association with renovations. He suggested that if a "season" (November through April) for demolition requests were to be established, that it be limited to full demolition requests, and not partial demolitions. This brought up the question of definition of "partial" demolitions. It was suggested that if the demolition would involve 50% or more of the cubic footage of the structure, the matter would have to be heard during the "season".

The next topic for discussion involves the following portion of the Draft found on Page 2, as follow:

"Following recommendation of demolition, the applicant must seek approval of replacement plans based on the standards set forth in this ordinance, prior to receiving a demolition permit. Replacement plans for this purpose shall include, but not be limited to, project concept, preliminary elevations and site plans, and adequate working drawings. Once the Commission has approved the permit for replacement construction, said demolition permit may be issued without further action."

○ "Permits for demolition and construction shall be issued simultaneously, if the requirements set forth herein are met, and the property owner/applicant provides financial proof of his or her ability to complete the project. When the Commission recommends approval of demolition of buildings of historic or architectural significance, permits shall not be issued until all plans for the site have received approval from all appropriate Town departments."

Mr. Randolph explained that this provision came from the San Antonio Ordinance, and it was inserted into this Draft for discussion purposes. It would require that prior to issuance of a demolition permit, an applicant would have to seek approval of replacement plans for a new structure, following recommendation of demolition of the old structure. Mr. Randolph stated that there are certainly disadvantages to this provision, i.e., if an applicant has a house or business that no longer has an economic or viable use, but he felt he could sell the land, is it reasonable to compel a property owner, in order to seek demolition, to show what use will occur on the land in the future, if indeed the land continues to be landmarked, and review of future buildings would be done by the LPC anyway.

If only a facade of a structure is landmarked, however, and the structure was approved for demolition, no landmarked portion of property would remain. Thus, LPC jurisdiction would end with the demolition of the structure.

If, however, a property is included within a historic district, the LPC would retain jurisdiction over the land and future development.

Mrs. Divoll commented that if a property owner suggests that he cannot achieve "all reasonable and beneficial use of or return from the property," as it stands, but he could make reasonable use of it with something else on it, she would be very interested to hear what the property owner feels he could do with it. Furthermore, if a building on a site has been deemed important enough by the community to be designated a landmark, then the presence of a building on the site is important to the community. She questioned whether the presence of an empty lot on a given streetscape for an undetermined period of time is preferable to having a structure on the lot, when considering the continuity of structures on the street, and the cumulative effect of changes made on the street.

Various commissioners cited the example of Middle Road, which although is currently not a historic district, has been suggested as a future historic district. They felt that if one of the historic homes on Middle Road were to be demolished and then left as an empty lot, the loss of a building and lack of a replacement would have significant impact on the streetscape.

Mr. Randolph questioned whether it was important for the LPC to retain jurisdiction over a property, if the owner has a economic hardship and the reason for designation was based on the structure and not the land. Mrs. Gingras responded that it is important to know, before a demolition is approved, what the plan for the future use of the property actually is so that the property, if it cannot be sold, does not sit vacant for a few years.

Mr. Frank commented that the verbiage under discussion came from the San Antonio ordinance, where they rely heavily upon districts, and maintaining the continuity of districts. Unlike San Antonio, the Town of Palm Beach, however, has ARCOM to take over if the LPC's jurisdiction has been relinquished. Staff attempted to assure the Commission that ARCOM would certainly consider the surrounding

properties when considering approval of any new structure.

Mr. Randolph questioned if an owner has demonstrated a genuine economic hardship, and the Commission is then required by Ordinance to grant approval for demolition, how the Commission could tie the demolition, based on economic hardship, to what some future owner may want to do with the property. Furthermore, if someone has demonstrated a genuine economic hardship, the likelihood will be that he does not have the resources to plan for a new structure, and in so doing, present the plans for development of the site. The likelihood will be that this owner would want to sell the land, after the structure is demolished. In fact, the logical next step by the property owner who has proven an economic hardship, and has demolished the structure, would be to apply for de-designation of the remaining land.

Mr. Randolph felt that the language, as it appears in this section of the Draft, was inappropriate for our Ordinance. He suggested that future plans for the site might be considered in review of whether an economic hardship exists, but once that hardship has been determined as genuine, he did not feel the Commission could compel an owner to produce plans for future development of the site.

Mrs. Divoll commented that the ordinance should be worded so as to avoid individuals who are seeking demolition to attempt to prove their case for demolition by "rustling up some plans to show how they could make money on the site."

Mr. Randolph reiterated that the applicant must show that "the denial of the permit (for demolition) will result in the loss of all reasonable and beneficial use of or return from the property," as stated in the Draft, in order to apply for an economic hardship exception.

Mrs. Divoll questioned whether existing designation reports could be updated and strengthened by adding additional criteria for designation. Mr. Randolph's reply was that for historical purposes, the files can be updated from time to time, but to change an existing designation report by adding or substituting criteria for designation cannot occur without the appropriate hearing process and/or an amendment to the existing LPC ordinance.

The next subject for discussion was the list of "Criteria" attached to the Draft. Mr. Randolph explained that he had not inserted these into the Draft for specific reasons. Although the ordinance would be stronger, in his opinion, if the criteria were included, the disadvantage of including them is that any time one of the criteria were to be changed, it would require changing the Ordinance, which is a lengthy process. The alternative, to establish this list of "Criteria" in conjunction with the Ordinance, but not included in the Ordinance, would allow changes to the criteria merely by an approved motion at the LPC level, and would not require an Ordinance change.

Mr. Randolph did not see any reason not to include them in the Ordinance as he felt their inclusion would strengthen the Ordinance. The Commission was in agreement with this.

The discussion reverted back to the issue of whether to require replacement plans prior to issuance of a permit for demolition. Some of the Commissioners advanced the idea that if a person secured approval for the demolition from the LPC, holding on to the right to demolish the structure at some later date, that the building be kept in place until such time as plans have been submitted for future development of the site. Then, in order to alleviate the tax burden of the standing structure for the affected property owner, it was suggested that an inquiry be made of the tax assessor to determine whether the structure could be valued at "0", in light of the pending demolition. Staff was unaware of any precedent for such an arrangement, except in the case of condemned property.

Mr. Randolph summarized the Commission's comments regarding this section of the Draft: If legally sustainable, the Commission would prefer to include language which would require that before a demolition permit be issued, that future plans for the property will be shown, regardless of whether they choose to demolish the structure, and market the land, or whether the plans are those of the current or future owner.

Regarding the attached "Criteria," Mrs. Divoll discussed "A" as follows: "The applicant's knowledge of the landmark designation or historic district designation at the time of acquisition and whether the property or district was designated subsequent to acquisition." She stated that the applicant should be aware of all aspects of the property which he purchased, and to include such verbiage might provide an avenue of defense toward the case for demolition. Mrs. Polly Earl, who was in the audience, had similar concerns regarding Criteria "A". Mr. Randolph suggested a revision to the wording "applicant's knowledge of the", in favor of "presence of the".

Regarding Criteria "C", (a) and (c), Mrs. Divoll suggested the following: (a) Change "Any" to "Any and all"; and (c) change "Any" to "all". Further she suggested an addition of "All contracts for purchase to be presented", as item (d).

Regarding Criteria "D", Mrs. Divoll advocated specifying who should prepare estimates of cost and/or market value, and perhaps limiting to State regulated professionals, those who could provide testimony as to the economic feasibility of rehabilitation or use of the existing structure. Mr. Randolph was not in favor of limiting those whom an applicant might bring forth to testify on his behalf. He felt the applicant should be given the opportunity to bring in anyone he might choose to testify, as the LPC has the ultimate ability to determine the credibility of all witnesses. With respect to "D", #3 & #6, Mr. Randolph did stated that he would add that this information be submitted by a qualified appraiser, one of whom might be the current County tax appraiser.

Mrs. Polly Earl addressed the Commission. She applauded the efforts of the LPC in this endeavor to improve the Ordinance. As stated earlier, she expressed concerns regarding Criteria "A". She felt its inclusion, as written, would weaken the ordinance. Mr. Randolph reiterated his proposed change to this criterion. Mrs. Earl felt that

the inclusion of information as to when the property was designated, as part of the Criteria, might be a point of contention for the applicant toward the requested demolition.

Although Mr. Randolph was in favor of retaining Criterion "A", various Commissioners expressed their opinion that it should be stricken altogether.

Mrs. Winifred Anthony Stearns, who was present in the audience, addressed the Commission regarding this Draft ordinance. She stated that the Commission has only addressed economics in their discussion today. She referred to hardship as "a loss of constitutional rights", and related this to her family's particular situation with the "Anthony House" at 6 South Lake Trail. Her family, of course, had opposed the designation of the property, but the designation did come to pass despite their objections. It became a real problem, in her opinion, for her family upon the death of their mother, as the property did not sell, and a large sum was due in estate taxes. Eventually, the property was un-designated, and demolished, but Mrs. Stearns asked the Commission to realize that when they landmark a property against the wishes of the property owner, they are taking away that owner's constitutional rights. She advocated more thoughtfulness toward the property owners when considering this Draft ordinance. She felt that the Draft, as written, places too onerous a burden for the property owner, if that owner decides to seek demolition on grounds of hardship.

PUBLIC HEARINGS: (CONTINUED)

Continuation of Certificate of Appropriateness No. 65-92, 99 Via Mizner: Ms. Pat Butler, a representative of Mr. Scott Snyder, was present at this time. She stated that the proposed lighting will be painted dark green and will not easily be seen. Some Commissioners expressed the concern that the lighting would be positioned so far up under the eave that it might not illuminate the sign or would hide it. Ms. Butler stated that if the lighting is not suitable, it will, of course, be removed.

MOTION BY MR. GUBELMANN TO APPROVE THE SIGNAGE LIGHTING AS REQUESTED.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED 6-1-0. MRS. MACKINTOSH CAST THE NEGATIVE VOTE.

OTHER BUSINESS:

B. Town Hall Lamps

Mrs. Volk had provided the original Volk sketch of lights which are currently being used on the Town Hall. Copies of same were distributed to the Commission. The lamps which need to be replaced are not, however, of this type. They had deteriorated badly, and the Town's electrical inspector will not permit the same type fixture to be installed, as they are not UL approved for exterior lighting. Instead, for the affected Town Hall

locations, the Volk fixtures will be fabricated in a smaller size, and will receive UL testing for the necessary approval.

MOTION BY MRS. ALBARRAN DE MENDOZA TO APPROVE THE VOLK FIXTURES FOR THE AFFECTED LOCATIONS OF TOWN HALL.

MOTION SECONDED BY MRS. DIVOLL.

MOTION CARRIED UNANIMOUSLY.

C. Archeological Survey/Preservation Plan

Copies of the Drafts of the Archeological Survey and Preservation Plan were distributed to the Commission for their review and comment at next month's meeting. Mr. Frank expected that the final revision of same would be ready sometime next month.

VII. Adjournment

MOTION BY MRS. GINGRAS TO ADJOURN THE MEETING AT 11:40 A.M.

MOTION SECONDED BY MRS. MACKINTOSH.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Landmarks Preservation Commission will be heard on WEDNESDAY, DECEMBER 16, 1992 at 9:00 a.m., in the TOWN COUNCIL CHAMBERS, 360 SOUTH COUNTY ROAD, PALM BEACH.

Respectfully submitted, *with correction*


Sally Gingras, Secretary

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