LANDMARKS PRESERVATION COMMISSION
AT THE TOWN COUNCIL CHAMBERS
2ND FLOOR, TOWN HALL
360 S. COUNTY ROAD, PALM BEACH

WEDNESDAY, NOVEMBER 17, 2010, 9:30 a.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be “abbreviated” in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town’s website at www.townofpalmbeach.com or may obtain an audio recording (CD) of the meeting by contacting Cynthia M. Delp, Secretary to the Landmarks Preservation Commission at (561) 227-6408. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. CALL TO ORDER:(9:31:59 a.m.)
Chairman Pandula called the meeting to order at 9:31 a.m.

II. ROLL CALL:(9:32:04 a.m.)
The following members of the Landmarks Preservation Commission were present: Eugene Pandula, Chairman, William Lee Hanley Jr., Vice Chairman, William O. Cooley, Secretary, Members Charles S. Roberts, Dudley L. Moore Jr., and William P. Feldkamp and Alternate Members - D. Imogene Willis, Wallace Rogers, and Rachel Lorentzen. Absent: Edward Austin Cooney, Member (excused).

Staff members present were John C. Randolph, Town Attorney, John Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, Jane S. Day, Ph.D., Staff Preservation Consultant, and Cynthia Delp, Secretary to the Landmarks Preservation Commission.

III. APPROVAL OF THE MINUTES OF THE OCTOBER 20, 2010 MEETING:
MOTION BY MR. COOLEY TO APPROVE THE MINUTES.
MOTION SECONDED BY MS. WILLIS.
MOTION CARRIED UNANIMOUSLY.

IV. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY:(9:32:56 a.m.)
By Mrs. Delp at this time and as necessary throughout the meeting.

V. **COMMENTS FROM THE PUBLIC AND COMMISSION MEMBERS: (Please limit comments to 3 minutes)(9:32:58 a.m.)** None

VI. **APPROVAL OF THE AGENDA:(9:33:03 a.m.)**

MOTION BY MR. MOORE FOR APPROVAL OF THE AGENDA.
MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

VII. **DESIGNATION HEARING:(9:33:25 a.m.)**

ITEM 1: 105 BANYAN ROAD (deferred from the April 21, 2010 hearing)

Owner: Ms. Barbara Dooley

Architect Jeffery W. Smith representing Ms. Dooley requested that in light of the upcoming postponement of the application for Certificate of Appropriateness for this address, the owner requests deferral of the landmark designation hearing as well.

It was noted that the property is still under consideration and all changes to the property would still have to be approved. It was also noted that certain work is underway at the site and permits have been obtained subsequent to staff approval obtained. Mr. Smith briefly explained the scope of the project which will be reviewed next month.

MOTION BY MR. ROBERTS FOR DEFERRAL FOR ONE MONTH UNTIL MR. SMITH CAN BRING IN ALL THE PLANS.

MOTION SECONDED BY MR. FELDKAMP AND MR. MOORE.
MOTION CARRIED UNANIMOUSLY.

Next month, the designation report will be heard first, and then the Certificate of Appropriateness.

VIII. **PUBLIC HEARINGS:(9:38:00 a.m.)**

A. Application for Certificate of Appropriateness #COA - 027 - 2010
Demolition (interior and exterior)
Owner/Applicant: Mrs. Barbara Dooley
Address: 105 Banyan Road
Architect: Smith Architectural Group Inc.
Project Description: Request approval for demolition (interior and exterior) which is further described as: A proposed demolition of 3,626 square feet of the existing west side structure.

Call for disclosure of ex parte communication : Mr. Cooley and Mr. Rogers made ex parte declarations.

Mr. Lindgren explained that the applicant has requested a one month deferral as the application has been revised to include both demolition and new construction.

MOTION BY MR. COOLEY FOR A ONE MONTH DEFERRAL (TO DECEMBER).

MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

B. Application for Certificate of Appropriateness #COA - 024 - 2010 (deferred) Landscape/hardscape/shutters/grilles/door
Owner/Applicant: Harriet Cohen, James S. Cohen & Robert B. Cohen
Address: 691 North County Road
Architect: Thomas M. Kirchhoff, AIA, P.A.
Project Description: Request approval for landscape/hardscape,shutters and grilles, and French door which is further described as 1) addition of shutters and grilles consistent with original design concept; 2) French doors and associated balcony in lieu of windows; 3) floor finish design for pool loggia; and other associated changes as presented.

At the October meeting, the following motions were made and carried: (1) MOTION FOR DEFERRAL FOR THIRTY DAYS (TO THE NOVEMBER MEETING) FOR FURTHER STUDY TO REVISE THE DRAWINGS TO ARRIVE AT A SET OF DRAWINGS THAT CAN BE APPROVED WHICH REFLECTS OUR DISCUSSION TODAY. (2) MOTION FOR APPROVAL OF THE NEW WINDOW DESIGN AND BALCONY AT THE BREAKFAST ROOM AREA. (3) MOTION FOR DEFERRAL OF ANY VOTE ON THE WINDOW SHUTTERS AND GRILLES ON THE ENTIRE PROJECT WITH THE ENCOURAGEMENT THAT AS YOU RESTUDY THEM, YOU LOOK CLOSELY AT THE ORIGINAL DESIGN OF THE BUILDING AND THINK ABOUT MATCHING THE ORIGINAL DESIGN OF THE SHUTTERS AND THEIR LOCATIONS, AS WELL AS REPLACEMENT OF THE GRILLES IN THEIR ORIGINAL LOCATIONS, ALL AS ONE WHOLE, AND ALSO TO REQUEST THAT YOU CONSIDER REVISING THE FOUR OCEANFRONT WINDOWS ON THE BOTTOM FLOOR THAT ARE NOW FULL LENGTH ALUMINUM STOREFRONT; AND (4) MOTION FOR DEFERRAL OF JUDGEMENT ON THE MOROCCAN TILE MOTIF FOR THE POOL LOGGIA AND ASK YOU TO RESTUDY THAT. PLEASE BE ADVISED THAT THIS IS A TAX ABATEMENT PROJECT.

Please be advised that the architect has requested deferral of the shutters and grilles to the December meeting.

Call for disclosure of ex parte communications: Mr. Roberts made an ex parte declaration.

Chairman Pandula stated that this is a tax abatement project. Architect Thomas Kirchhoff presented this project. He explained that deferral of the shutters and grilles is being requested because the owner has agreed to go with louvered shutters (as requested by the LPC), but is still deciding on the material for those (aluminum or wood). Under other associated changes, Mr. Kirchhoff presented a step back of the roof at the breakfast room (previously approved) to avoid the need for a variance. With regard to the pool loggia tile work, Mr. Kirchhoff re-stated the owner's request for the Moroccan tiles as originally presented and offered his justification for the tiles. After discussion, the following motions were made:

MOTION BY MR. FELDKAMP FOR APPROVAL OF COA-024-2010 AS PRESENTED.
MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. ROBERTS FOR DEFERRAL OF THE SHUTTERS AND GRILLES TO THE DECEMBER MEETING.
MOTION SECONDED BY MR. FELDKAMP.
MOTION CARRIED UNANIMOUSLY.

VIII. OTHER BUSINESS:(9:51:22 a.m.)

A. Discussion: Town demolition approval procedures

Mr. Cooley explained that he had requested that this be placed on the agenda upon reading that 45 Cocoanut Row was scheduled for demolition, and wondering if the LPC could sit down with the Breakers to discuss saving some portion of the building, and/or to call a special meeting of the LPC. After discussion with staff and the Town Attorney, Mr. Cooley stated he would like to make a recommendation to the Town Council that a procedure be created, in cases of emergency, to allow the LPC to call a special meeting to save a building that is in jeopardy.

Mr. Feldkamp thanked Mr. Cooley for bringing this subject to the forefront, as he recalled his service on ARCOM, where such demolition requests are reviewed.

Staff confirmed that demolition of 45 Cocoanut Row had been approved by the Architectural Commission.

Some discussion ensued relative to the PUD agreement with the Breakers, but Mr. Randolph felt any such discussion relative to the PUD should be discussed at a Town Council meeting. Further, he stated the LPC could recommend an amendment to the LPC ordinance which would allow the Chairman to call a special meeting, if needed. Mr. Randolph commented that it was allowable to ask the Breakers to speak with the LPC, within an LPC meeting, regarding the 45 Cocoanut Row building, but only on a voluntary basis. Thirdly, the larger question is how to deal with these situations in the future; i.e., when ARCOM approves a demolition, but the LPC believes the building should be saved. He noted that this subject had been discussed by the Town Council at length a few years ago. At that time, the Town Council elected to be more pro-active with regard to landmarking, discussing whether Dr. Day should survey all the homes in Town to see if the list of buildings to be considered should be expanded. Concerns were expressed at that time about clouding title to properties without giving notice. As a result, the Town

Council did not feel it was appropriate to expand the list in that way. In summary, Mr. Randolph stated that there is nothing that precludes the LPC from having a discussion and making recommendations to the Town Council in that regard.

Chairman Pandula reported that Dr. Day is completing her regular survey of all Town buildings, as required by the Comprehensive Plan, and she will present that report to the LPC at the December meeting. Chairman Pandula discussed the progress made toward landmarking since 1979, noting that most the "golden age" buildings have already been identified, but also noting that there are other styles of architecture present within the Town which also deserve preservation. He called for more education so people understand the value of the more modern architectural styles. Chairman Pandula was unaware of the number of buildings which Dr. Day's survey will list, but commented that undertaking a large number of landmark designations may trigger budgetary concerns as well as property rights issues.

Dr. Day commented that for her survey, she examined Town properties with the most conservative eyes so only the most worthy of the structures would be listed. She reported that 42 buildings, some with famous architects, have been lost since the last survey. She stated that unfortunately, ARCOM has no criteria in its ordinance to deny demolitions, regardless of the information contained in ARCOM's required demolition report. Addressing the completion of survey forms for Town properties, she indicated that she must respond to whether a structure is "potentially eligible for local register", and it is in this respect that she is making very conservative assessments. Even if the property is viewed as "potentially eligible for local register", much more study is needed at some future point to determine whether that property should be landmarked. In general, Dr. Day praised the architectural fabric of the Town of Palm Beach and encouraged preservation within the Town to preserve the character of Palm Beach.

In response to Mr. Robert's request to find a way to deal with this situation, Mr. Randolph responded that the LPC could make a recommendation to the Town Council to change the process so that ARCOM could only consider demolition requests for properties which are not 1) landmarked, or 2) "under consideration" for landmark designation, or 3) listed as "potentially eligible for local register". He recognized that this could prompt notification and due process issues.

MOTION BY MR. ROBERTS TO SEND A RECOMMENDATION TO THE TOWN COUNCIL TO IMMEDIATELY (WITHIN NEXT 60 DAYS) MOVE FORWARD WITH CREATING THE ABILITY TO LIST JANE'S LIST THAT SHE WILL PUBLISH NEXT MONTH, AND….

Dr. Day asked that this motion not be made as she felt it was premature. She felt the commission should wait to receive the final report next month before taking action.

After further discussion, Mr. Randolph opined that the fact that a property is included on a list will not affect that owner's property rights and values unless and until there is an ordinance that states that if that property is on the list, the property will be affected, regulated or prevented from demolishing. He also added that properties should not be placed on such a list indefinitely, i.e., a property cannot be tied up too long, and Town staff, such as it is, cannot handle a large number of designations in a short amount of time.

MOTION SECONDED BY MR. COOLEY FOR DISCUSSION PURPOSES.
(No vote occurred.)

MOTION RE-STATED BY MR. ROBERTS THAT WE (LPC) SEND TO TOWN COUNCIL THE REQUEST THAT THEY ASK THE TOWN ATTORNEY TO MOVE FORWARD WITH AMENDING WHATEVER LAWS OR POLICIES THAT NEED TO BE DONE; THAT THIS LIST HAVE THE LEGAL ENFORCEMENT THAT IT NEEDS TO HAVE SO THAT SHOULD SOMEBODY ATTEMPT TO DO A DEMOLITION ON ONE OF THESE BUILDINGS ON DR. DAY'S LIST, THAT IT DOES COME BEFORE LANDMARKS PRIOR TO ARCOM BEING ABLE TO ACT ON IT.

Mr. Randolph advised against making a motion that is tied to a list.

MOTION SECONDED BY MR. COOLEY PROVIDED THE MOTION MADE NO REFERENCE TO DR. DAY'S LIST. (No vote occurred)

MOTION RE-STATED BY MR. ROBERTS TO MOVE FORWARD WITH THE STUDIES, THE LEGAL ISSUES, THE EVALUATION BY COUNCIL TO MOVE TOWARD GETTING THE NECESSARY LEGAL CHANGES TO PROTECT OUR PROPERTIES WHICH ARE POTENTIALLY LANDMARKABLE AND THAT WE HAVE A MECHANISM IN PLACE THAT ALLOWS LANDMARKS TO MAKE THAT DECISION RATHER THAN ARCOM BEING FORCED TO ISSUE A DEMOLITION PERMIT.

SUBSTITUTE MOTION BY MR. FELDKAMP THAT THE LANDMARKS COMMISSION RECOMMEND TO TOWN COUNCIL THAT THE ATTORNEY BEGIN FINDING WAYS TO PROTECT POTENTIALLY LANDMARKABLE STRUCTURES FROM DEMOLITION UNTIL THEY HAVE BEEN REVIEWED BY THE LANDMARKS COMMISSION.

MOTION SECONDED BY MR. COOLEY WHO ACCEPTED THE SUBSTITUTE MOTION.

MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. COOLEY TO ASK THE TOWN COUNCIL TO SET UP, IN THE ORDINANCE, A MECHANISM FOR US (THE LPC) TO HAVE A SPECIAL MEETING FOR AN EMERGENCY MATTER AT THE CALL OF THE CHAIRMAN, OR VICE CHAIRMAN, OR TWO MEMBERS, OR WHATEVER MECHANISM THEY CHOOSE.

MOTION SECONDED BY MR. MOORE.
MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. COOLEY TO CONTINUE THIS MEETING FOR ONE WEEK AND ASK THE BREAKERS IF THEY WOULD BE KIND ENOUGH TO COME IN AND HAVE A CHAT WITH US ABOUT 45 COCOANUT AND IF THERE IS A POSSIBILITY OF SAVING A PORTION OF IT AND MAYBE WE COULD GET A COMMUNITY EFFORT BEHIND A PRESERVATION EFFORT AND A LOCATION FOR IT.

Mr. Page reported that the Breakers has already applied for a demolition permit for this building and has posted the appropriate demolition bond. Local code prohibits demolition between December 1 and March 1, and the Breakers is aware of that. As such, they intend to take the structure down prior to December 1.

Robert Moore, former Director of Planning, Zoning & Building, agreed that the Breakers has submitted for that permit and that they intend to demolish prior to December 1. He commented that the building is in terrible shape, and it would be "good money after bad" to even save part of it. He clarified that he was not authorized to speak for the Breakers today, and was just providing some information.

The issue of PUD rights of the Breakers came up again, but again, Mr. Randolph advised that this was not appropriate for discussion today. Councilman Diamond asked staff to place this on the Town Council agenda next month, or have some other means to clarify this issue.

Chairman Pandula was not in favor of the motion as stated. Instead, he encouraged Dr. Day to have a conversation with the Breakers. Further, he established that the LPC has no jurisdiction over 45 Cocoanut Row or the Breakers Cottages at this time.

MOTION DIED FOR LACK OF A SECOND.

MOTION BY MR. COOLEY THAT DR. DAY AND CHAIRMAN PANDULA VISIT WITH THE BREAKERS AND ASK THEM IF THEY WOULD CONSIDER A TIME OUT ON THE BUILDING SO WE COULD DETERMINE WHAT IS 100 YEARS OLD IN THERE AND WHAT HAS BEEN ADDED ON RECENTLY AND SEE IF THERE IS ANY WAY TO PRESERVE THIS THING.

MOTION SECONDED BY MS. WILLIS.
MOTION CARRIED UNANIMOUSLY.

IX. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR: (10:57:50 a.m.)

Mr. Page reported that at last week's Town Council meeting, the Town Council decided to prepare a traffic study relative to Royal Poinciana Way and the concept of removing the existing median cut in the 200 block of Royal Poinciana Way to add more parking. This area is under the LPC's jurisdiction.

Mr. Page announced that the Town has elected to re-create a hybrid board composed of four LPC members, three ARCOM members, and two representatives of the Worth Avenue Merchants Association to review remaining aspects of the Worth Avenue Improvements project. Chairman Pandula will name those members on or before December 10, 2010. Approximately six meetings may be required. If any LPC members are interested in serving, those members should contact Chairman Pandula.

Mr. Page read a very nice letter into the record from Nancy Murray, President of the Bath and Tennis Club, Inc. wherein she thanked the Landmarks Preservation Commission for their help during the restoration project at the club which resulted in a more superior project.

Dr. Day stated that she has been in Tallahassee for the last two days presenting the grant application for the Memorial Fountain project. She reported that the Town's project was ranked #13 of 57 projects. As such, she felt that chances were good that the Town's grant application would be successful, provided that historic preservation is funded by the State. She recognized the support of Mr. Cooney and Mr. Ives, of the Preservation Foundation, at the Tallahassee forum. Dr. Day stated that it is imperative, in the next few months, that State legislators be contacted and asked to fund historic preservation.

There was some discussion regarding attendance at special meetings, if called, and whether absences from such meetings are counted or excused. Mr. Randolph will look into the ORS rulings regarding such matters.

X. ADJOURNMENT: (11:10:32 a.m.)

MOTION BY MR. COOLEY TO ADJOURN AT 11:15 A.M.
MOTION SECONDED BY MR. MOORE.
MOTION CARRIED UNANIMOUSLY.

The next meeting of the Landmarks Preservation Commission will be held on Thursday, December 16, 2010 at 9:30 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,

William O. Cooley, Secretary
LANDMARKS PRESERVATION COMMISSION

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