TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES
LANDMARKS PRESERVATION COMMISSION
AT EMERGENCY OPERATIONS CENTER
3RD FLOOR, 355 S. COUNTY ROAD

TUESDAY, AUGUST 18, 2009, 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:(9:30:18 a.m.)

Chairman Pandula called the meeting to order at 9:30 a.m.

II. ROLL CALL:(9:30:33 a.m.)

All regular members and all alternate members of the Landmarks Preservation Commission were present, excepting Mr. Eigelberger (excused absence), Mrs. Rubin (absence pending classification) and Ms. Willis (excused absence). Please note that Mrs. Golino arrived at 9:38 a.m.

Staff members present were John C. Randolph, Town Attorney, Thomas Bradford, Deputy Town Manager, John Page, Director of Planning, Zoning & Building, John Lindgren, Planning Administrator, Jane Day, Staff Historic Preservation Consultant, and Cynthia M. Delp, Secretary to the Landmarks Preservation Commission.

III. APPROVAL OF THE MINUTES OF THE JULY 16, 2009 MEETING:(9:30:53 a.m.)

MOTION BY MR. COOLEY FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

IV. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY:(9:31:14 a.m.)

By Mrs. Delp

V. **COMMENTS FROM THE PUBLIC AND COMMISSION MEMBERS: (Please limit comments to 3 minutes) (9:31:26 a.m.)**

None

VI. **APPROVAL OF THE AGENDA:(9:31:34 a.m.)**

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

VII. **UPDATE/PRESENTATION RELATIVE TO WORTH AVENUE IMPROVEMENT PROJECT(9:31:46 a.m.)**

Mr. Page gave some introductory comments regarding this project and the creation of the ad hoc committee which was formed to review the project. He noted that the Worth Avenue Improvement Project Review Committee will meet one more time, on Monday, August 31, 2009 at 10:30 a.m. Today's presentation before the LPC was informational only.

Jorge Sanchez of Sanchez and Maddux, Landscape Architect for the project, presented the project to the LPC along with Hollis Tidwell of Bridges Marsh and Associates. Mr. Sanchez described the proposal and invited all LPC members to the August 31, 2009 meeting for further input.

VIII. **PUBLIC HEARINGS:**

A. Application for Certificate of Appropriateness #7-09,
Exterior Color Change (deferred from the June & July meetings)
Owner/Applicant: Sterling Palm Beach, LLC (Lessee) and
Sidney Spiegel TR #31520371 and
Island Properties of Palm Beach, Inc.
Address: 340 Royal Poinciana Way, Royal Poinciana Plaza
Architect: Ann Beha Architects
Project Description: Request approval for exterior color change which is further described as: Repaint Royal Poinciana Plaza. Color to be determined by the Commission. Other associated changes as presented.

CALL FOR DISCLOSURE OF EX PARTE COMMUNICATION

Mr. Pandula, Mrs. Golino and Mr. Roberts declared ex parte communications.

Adam Munder of the Sterling Group was present to request a deferral of this matter to the September 15, 2009 LPC meeting. The deferral would afford the opportunity for additional historical research into the exterior color of the Plaza. Also, the Sterling Group's architect, Ann Beha, will be present at the September meeting to reveal the results of their research.

MOTION BY MR. HANLEY FOR DEFERRAL TO THE SEPTEMBER MEETING.
MOTION SECONDED BY MR. COOLEY.
MOTION CARRIED UNANIMOUSLY.

Mr. Pandula noted that staff had received color samples from the Volk family which indicate what they recall to have been the original color of the building. Those samples are on file.

B. Application for Certificate of Appropriateness #10-09,
Owner: David H. Koch, Trustee of the David H. Koch 2003 Trust u/a/d 1/24/03
Applicant: Mr. and Mrs. David Koch
Address: 150 South Ocean Boulevard
Architect: Thomas M. Kirchhoff, AIA, P.A.
Project Description: Request approval to modify Clarke wall and gate elevation to raise gate height from previously approved 6'-0" to 7'-0". Modify pier height adjacent to gate from previously approved 7'-0" to 8'-0".

CALL FOR DISCLOSURE OF EX PARTE COMMUNICATION

There were no declarations of ex parte communication.

Architect Tom Kirchhoff explained the project. The property owner would like the gate and pier height increased for increased privacy from pedestrian traffic. Mr. Lindgren stated that the project meets the requirements of the zoning code. It was noted that no objections from neighbors were received by the Town. Mr. Roberts congratulated Mr. Kirchhoff for receiving the Ballinger Award for this project.

MOTION BY MR. HANLEY FOR APPROVAL OF THE PROJECT.
MOTION SECONDED BY MR. ROBERTS.
MOTION CARRIED UNANIMOUSLY.

C. Application for Certificate of Appropriateness #11-09,
Landscape/Hardscape and exterior demolition
Owner/Applicant: James B. Patterson
Address: 710 S. Ocean Boulevard
Architect: Bridges, Marsh & Associates, Inc.
Project Description: Request approval for landscape/hardscape and exterior demolition which is further described as: This Application for Certificate of Appropriateness is to raise the elevation of the east and north yard by approximately five feet and for the demolition of the existing pool house, which was not a part of the original landmarked residence. Other associated changes as presented.

CALL FOR DISCLOSURE OF EX PARTE COMMUNICATION

Mr. Pandula declared ex parte communication with Mr. Hanlon.

Attorney M. Timothy Hanlon and Jorge Sanchez of Sanchez and Maddux

Landscape Architects presented this request on behalf of the applicant. Regarding removal of the pool home, Mr. Hanlon stated that it has no architectural or historical value, and removal of the structure would not negatively impact the existing landmark. This was affirmed later in the meeting by Mrs. Day. Mr. Sanchez discussed the increase in the elevation of the land as well as other site plan improvements contemplated. Mr. Page clarified that the only two items which were advertised for today's meeting were the demolition of the pool house and the change to the elevation of the land.

Commission members felt that the change in the elevation of the land changes the relationship of the building to the property. They also requested a full presentation relative to the site after proper advertisement of the project.

After discussion, Mr. Hanlon effectively removed the site issues from today's application for Certificate of Appropriateness, leaving only the demolition of the pool house for action. Site issues will return to the LPC in the future.

MOTION BY MR. ROBERTS FOR APPROVAL OF THE DEMOLITION OF THE POOL HOUSE.

MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

IX. OTHER BUSINESS:

A. Informal Review: 120 North County Road, Palm Beach Orthodox Synagogue, Inc. (In conjunction with Special Exception #10-2009 w/Site Plan Review and Variances

Addition of gabled parapet located at the center of the existing building on East facade. New barrel tile gable roof behind proposed parapet to attach to existing barrel tile roof. New signage and symbol to be added below new parapet. All details to match existing.

No person was in attendance to present this informal request when the item was called, or at the end of the meeting. The following motion was made at the end of today's meeting relative to this informal review:

MOTION BY MRS. GOLINO TO DEFER THE INFORMAL REVIEW TO THE SEPTEMBER MEETING.

MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.

B. Discussion relative to letter from James R. Brindell regarding landmarking procedures

Mr. Page had written a memorandum dated August 3, 2009 in response to Mr. Brindell's letter dated June 11, 2009 which suggested certain changes to LPC procedures. (Both pieces of correspondence had been distributed to the members to prepare them for discussion of this item.) In summary, Mr. Brindell has raised

the following issues:

1. Persons whose homes are listed in the Historic Sites Survey report should receive a copy of the portion of the report related to their properties, and a copy of that report should likewise be found in the Town's property files.

2. When the Town staff, landmark consultant, or a Landmarks Commission member is going to propose that a property be placed "under consideration", written notice should be provided to the affected property owner prior to the meeting at which such proposal will be considered.

3. Establish a limit on the length of time that a property can be left "under consideration" without a formal designation hearing being held and a decision rendered.

Mr. Page prepared the staff's response to the above three issues:
1. No change to policy recommended.
2. Endorse the change.
3. Endorse the change, and complete the process in less than a year, unless all parties agree to a delay.

Regarding suggestion #1, Mrs. Day stated that the Master Site Files exist to survey the Town and gather information about properties. She reported that no other municipalities that she has surveyed mail copies of the Master Site Files to the owners. Mrs. Day noted that she is in the process of updating the Town's Master Site Files and when this is completed, it will be advertised that the files are available in Town Hall.

Regarding #2, LPC members typically mention, during the course of a meeting, that a property might be worthy of study for possible landmarking. This causes Mrs. Day to do a cursory review of the property which typically, in most cases, includes speaking with the property owner. As such, the property owner is informally made aware of the LPC's interest in the property.

Most of the LPC members preferred to maintain the existing process feeling that it was a friendlier way to make initial contact with a property owner versus mailing a letter which could result in unnecessary litigation. It was also felt that the receipt of such a letter might result in a property owner rushing toward demolition via the Architectural Commission, since the ARCOM ordinance has no criteria for denial of demolition. In short, most of the members felt that the program has worked beautifully for so long and should not be changed. Mr. Cooley, however, felt that the property owner should be formally notified to fulfill due process. It was noted that a property owner has the right to an appeal process through the Town Council.

Regarding #3, the LPC typically finishes the designation process within a year, unless there are extenuating circumstances. It was noted that with an established time limit to finish the process, there will also have to be limits to the number of properties places "under consideration" in a given year.

Attorney Randolph expressed more concern and support for suggestion #3, feeling that time limits should be instituted to avoid a property being "held up" for too long a time period.

Mr. William Feldkamp, having served on ARCOM for 5.5 years, stated that ARCOM, in review of so many demolition requests, looks to the LPC to "grab them (the properties) and place them under consideration" so they do not have to approve the demolition. As an aside, Mr. Pandula and Mr. Feldkamp mutually agreed that it would be helpful for both commissions to discuss the concept of establishing ARCOM demolition requirements in an effort to protect more buildings.

Robert Moore testified that in his former capacity as Director of Planning, Zoning & Building, he used to listen to the complaints of property owners and their lawyers when properties were placed "under consideration" without formal notice that the matter would be considered. As such, he advocated giving property owners some sort of advance notice.

Mr. Diamond, speaking for himself, agreed with Mr. Cooley and advocated for due process and transparency.

John Ripley, Director of the Preservation Foundation, advocated for more education, not regulation. While he felt it might be a good idea to notify the property owner as suggested in #2, this should not set the stage for two designation hearings.

Most members agreed that, since the process works well, there was no need to change the process or the LPC ordinance now out of fear of legal action.

Attorney Michael Morell offered his comments on the various suggestions.

MOTION BY MR. ROBERTS THAT THERE BE NO CHANGES TO POLICIES AND PROCEDURES BECAUSE THEY WORK BEAUTFULLY; AND IF IT DOES NOT, THE MATTER WILL END UP IN COURT ANYWAY; AND; THAT TO EFFECT THE SUGGESTED CHANGES WOULD ADD WORKLOAD AND TAKE RISKS WITH THE BURT HARRIS ACT.

MOTION SECONDED BY MR. HANLEY.
AFTER DISCUSSION, MOTION CARRIED 6-1, WITH MR. COOLEY OPPOSING.

X. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR:(11:18:30 a.m.)

Mr. Hanley thought that more discussion and coordination regarding demolitions would be a good idea for the future to be fair to property owners, the LPC, and ARCOM.

Mrs. Day pointed out the September issue of Architectural Digest wherein the Campion Platt home on Seaspray Avenue is featured and the LPC is credited with good work. Mr. Roberts asked staff to forward the article to the Town Council, ARCOM and the LPC.

XI. **ADJOURNMENT:**(11:22:27 a.m.)

MOTION BY MR. HANLEY TO ADJOURN THE MEETING AT 11:22 A.M.
MOTION SECONDED BY MRS. GOLINO.
MOTION CARRIED UNANIMOUSLY.

The next meeting of the Landmarks Preservation Commission will be held on TUESDAY, SEPTEMBER 15, 2009 at the Emergency Operations Center, 3rd floor, 355 S. County Road, Palm Beach.

Respectfully submitted,

Charles S. Roberts, Secretary
LANDMARKS PRESERVATION COMMISSION

cmd 9-15-09

TOWN OF PALM BEACH **ATTENDANCE RECORD 2009**
LANDMARKS PRESERVATION COMMISSION

MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11//09	12/09
Eugene Pandula	_P__	_P__	_P__	_P__	_P__	_P__	_U__	_P__	____	____	____	____
William Lee Hanley Jr.	_P__	_P__	_P__	_P__	_P__	_P__	_P__	_P__	____	____	____	____
Patrick Segraves	_P__	_P__	_P__									
Robert Eigelberger	_P__	_P__	_P__	_P__	_P__	_E__	_P__	_E__	____	____	____	____
Eileen Bresnan	_P__	_P__	_P__									
Hazel Rubin	_U__	_P__	_P__	_P__	_P_	_P__	_P__	__A_	____	____	____	____
Charles S. Roberts	_P__	_P__	_P__	_P__	_P__	_P__	_P__	__P_	____	____	____	____
Joanna Golino	_n/a_	_n/a_	_E__	_P__	_P__	_P__	_P__	__P_	____	____	____	____
William Cooley	_n/a_	_n/a_	_P__	_P__	_P__	_P__	_P__	__P_	____	____	____	____

ALTERNATE MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11//09	12/09
D. Imogene Willis	_P__	_P__	_P__	_P__	_P__	_P__	_P__	_E__	____	____	____	____
Dudley L. Moore	_P__	_P__	_P__	_P__	_P__	_P__	_P__	_P__	____	____	____	____
Wallace Rogers	_P__	_P__	_P__	_P__	_P__	_P__	_P__	_P__	____	____	____	____

LEGEND: P=Present. E=Excused, U=Unexcused,A=Absence Pending Classification as "excused" or "unexcused"

TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION

RECORD OF VOTING CONFLICTS 2009

MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11//09	12/09
Eugene Pandula												
William Lee Hanley Jr.												
Robert Eigelberger												
Hazel Rubin												
Charles S. Roberts						V						
Joanna Golino												
William Cooley												

Patrick Segraves & Eileen Bresnan (members through March): No conflicts

ALTERNATE MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11//09	12/09
D. Imogene Willis												
Dudley L. Moore												
Wallace Rogers												

LEGEND:
V = One Voting Conflict during a meeting
V2 = Two Voting Conflicts during a meeting
V3 = Three Voting Conflicts during a meeting
VPD = Voting Conflict Previously Declared (This category to be used when a conflict has Been declared at a previous meeting, and the Changes being reviewed are part of an ongoing project. ONLY COUNT ORIGINALDECLARED CONFLICT PER JCR, TOWN ATTORNEY)