

**MINUTES OF THE LANDMARKS PRESERVATION COMMISSION
AT THE CITY OF WEST PALM BEACH CITY CENTER
401 CLEMATIS STREET, WEST PALM BEACH**

WEDNESDAY, MAY 20, 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 (tape or CD) of the meeting by contacting Cindy 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: (9:30:59 a.m.)

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

II. ROLL CALL: (9:31:07 a.m.)

All regular and alternate members of the Landmarks Preservation Commission were present at roll call.

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

III. APPROVAL OF THE MINUTES OF THE APRIL 16, 2009 MEETING: (9:31:43 a.m.)

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

IV. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (9:31:52 a.m.)

By Mrs. Delp

- V. **COMMENTS FROM THE PUBLIC: (Please limit comments to 3 minutes) (9:32:14 a.m.)**
None

VI. **APPROVAL OF THE AGENDA: (9:32:16 a.m.)**

The LPC agreed to change the title of the previous agenda item from “Comments from the Public” to “Comments from the Public and Commissioners” for future LPC agendas.

MOTION BY MRS. GOLINO FOR APPROVAL OF THE AGENDA.

MOTION SECONDED BY MR. HANLEY.

MOTION CARRIED UNANIMOUSLY.

VII. **PUBLIC HEARINGS: (9:33:34 a.m.)**

A. Application for Certificate of Appropriateness #5-09,
Exterior Elevation As Builts

Owner: Frank Frankel

Applicant: Frank Frankel

Address: 249 Brazilian Avenue

Architect: MP Design & Architecture Inc.

Project Description: Request approval for exterior elevation as-builts, which is further described as: Exterior Elevation As Builts - Change entry door; add cast stone headers and engaged columns to existing windows to match existing; add stone surrounds at front entry loggia arches; add cast stone surrounds at arch top windows above front entry; add barrel tile cap at top of parapet wall; replace cast stone plaques on south elevation; and, other associated changes as presented

CALL FOR DISCLOSURE OF EX PARTE COMMUNICATION: Mr. Pandula and Mr. Hanley spoke with Michael Perry of MP Design and Architecture regarding the project. Mr. Rogers visited the site. Mrs. Golino visited the site. Mr. Roberts visited the site.

Mr. Perry introduced the project and briefly discussed the architectural history of the property, supplementing his information with photographic documentation. He discussed the changes which the current owner has effected to the various facades of the house.

It was noted that these changes were effected without a Certificate of Appropriateness, and some of the work was done without a building permit. The matter eventually went to Code Enforcement who requested the owner to come to the LPC for approval of the changes after the fact. Building Official Jeff Taylor explained that the project had a permit for interior renovation, but the exterior work

was done without a permit. Mrs. Day explained that the front door configuration has been changed. She noted that the house, when designated, was very simple as opposed to its current condition (heavily ornamented). She mentioned that some of the changes which have been done might not have been approved by the LPC if the owner had applied for a Certificate of Appropriateness prior to making the changes. Despite Mrs. Day's concerns, the commission felt that the property, though changed, is much improved and in beautiful condition, and is a credit to the time and attention of the current owner. (It was noted that the house suffered a fire in 2005 and had been in very poor condition.) Mr. Frankel, the owner, testified as to the work done and stated that he had permits for the work.

MOTION BY MR. EIGELBERGER FOR APPROVAL OF THE PROJECT AS PRESENTED.

MOTION SECONDED BY MR. ROBERTS.

MR. RANDOLPH CLARIFIED THAT THE MOTION IS SUBJECT TO ALL OF THE BUILDING REGULATIONS OF THE TOWN.

Mr. Lindgren read two letters into the record in support of the project: One from Patricia Davis, who grew up in the home, and one from Cynthia Kasper, a neighbor.

MOTION CARRIED 5-2, WITH MR. PANDULA AND MRS. GOLINO VOTING AGAINST THE PROJECT.

Mrs. Lori Volk felt the LPC was sending a mixed message by approving over-embellishment of a landmark which was done outside of an approved Certificate of Appropriateness.

VIII. OTHER BUSINESS: (9:58:34 a.m.)

A. Informal Review: 440 Brazilian Avenue (In conjunction with a request for Variance #10-2009)

Attorney Maura Ziska and Michael Perry of MP Design and Architecture were present on behalf of the property owner. Ms. Ziska explained the variances requested (2 side yard setback variances). Mr. Perry discussed the architectural history of the home, and reviewed a photo board of the residence, as well as the site plan, landscape, streetscape, existing floor plans and existing and proposed elevations. Staff noted that two pieces of correspondence were received in opposition to the project: a letter from Arthur L. Kelly (431 Brazilian Ave.) and an e-mail from John Ballantine (440 Brazilian Ave.), and both were read into the record. Mrs. Day encouraged the LPC to look at the architecture proposed to see how it relates to the landmark. She particularly took exception to the hip and shed roofs proposed.

DECLARATION OF EX PARTE COMMUNICATION: Mr. Roberts visited the site and received the letters in opposition; Mrs. Golino visited the site and received the letters in opposition; Mr. Cooley received the letters in opposition.

After Mr. Perry's presentation, the LPC offered commentary regarding the project, and offered suggestions for a different design. There were enough reservations regarding the project, as presented, to cause the LPC to ask for more study of the entire design.

MOTION BY MR. EIGELBERGER FOR DEFERRAL OF THE INFORMAL REVIEW TO THE JUNE MEETING.

(It should be noted that this will require the matter to be deferred from the June Town Council meeting.)

**MOTION SECONDED BY MR. HANLEY.
MOTION CARRIED UNANIMOUSLY.**

B. [Discussion regarding "Deterioration by Neglect" with regard to the Royal Poinciana Plaza](#)

Mr. Page stated that Code Enforcement and the Town's Building Official have visited the property over the last 30 days, and each of them was available to provide an update today. Mr. Cooley stated that he feels that deterioration by neglect exists at the Plaza; that he had asked that this item be placed on the agenda; that he had walked the site with the Building Official; and, that there are more violations than were previously cited. Mr. Cooley listed those additional violations, and advocated for strict enforcement of the code. Jeff Taylor, Building Official, testified that he found no evidence of deterioration by neglect, as listed in the code, at the Plaza. *(Please note that Mr. Randolph made comments during discussion of this item. Mrs. Delp notes that there was apparently a problem with the microphone used by Town Attorney Randolph, as many of his comments are not audible on the recording of the meeting.)* Mr. Cooley asked that this item remain on the agenda so the LPC can monitor the situation for several months. Robert Walton, Code Enforcement Officer, testified that he had inspected the property with Dave Meavers, in charge of maintenance and construction at the Sterling Group. Code Enforcement had issued a letter for Code Violation Warning to the Plaza, and will follow up on it as well as the other violations noted by Mr. Cooley. Mr. Roberts cautioned that this property owner should be treated fairly and impartially, as many other buildings on Royal Poinciana Way have similar paint and repair needs as the Plaza. Mr. Kosoy, of the Sterling Group, responded to the violations noted, and asked that they not be treated any differently than other property owners.

MOTION BY MR. COOLEY TO KEEP THIS MATTER ON THE LPC AGENDA.

MOTION SECONDED BY MR. ROBERTS.

(Please note that after discussion, Mr. Cooley withdrew his motion.)

Mr. Randolph had previously noted that the terms “demolition by neglect” and “deterioration by neglect” have historically been used synonymously by the LPC, but the code only references “demolition by neglect”. He also noted that the Building Official has determined that there were no grounds for “demolition by neglect” at the Plaza. As such, to be fair to the property owner, it may not be appropriate to have the subject of “demolition by neglect” appear on the agenda month after month. The matter is in the hands of Code Enforcement who will monitor the situation.

MOTION BY MR. ROBERTS TO CREATE MONTHLY AGENDA ITEMS FOR MONTHLY UPDATES REGARDING CONDITIONS AT THE ROYAL POINCIANA PLAZA AND PUBLIX TO MONITOR BOTH SITES. MOTION SECONDED BY MR. COOLEY. MOTION CARRIED UNANIMOUSLY.

C. [Discussion regarding "50 year rule" as it applies to landmark designations](#)

Mr. Page explained that this item is on the agenda at the request of Mr. Cooley, and is in the aftermath of the landmark designation of 958 North Lake Way which was not ratified by the Town Council. Mr. Cooley stated that since the issue of age is going to be discussed at an upcoming Town Council meeting, the LPC should discuss it first and make a recommendation. Town Council President Rosow noted that this will be discussed at the July Town Council meeting, along with the issue of “owner consent” as it refers to landmarking. Most commissioners who commented were of the opinion that the ordinance, as written, does not address age or owner consent, and the ordinance should not be changed.

John Ripley, Preservation Foundation, commented that the Town Council should hear from the LPC regarding architectural styles which are worthy of landmarking, and that the Town Council should not make determinations as to which architectural styles are deemed appropriate for landmark designation in Palm Beach.

Mr. Randolph recommended that the LPC send a clear message to the Town Council regarding what were previous “practices” of the Town Council, particularly as they relate to age and owner consent. He also suggested that the Landmarks Manual be updated as a source of correct information upon which the public can rely. Patrick Flynn, of the Palm Beach Theater Guild also spoke to these issues. Mrs. Day responded that the Landmarks Manual is purely informational, and was never meant to be the “law”. The Landmarks Manual will be updated this summer with the assistance of the Preservation Foundation, together with any disclaimers which might be appropriate.

Lori Volk stated that the John L. Volk Foundation, with Attorney Mike Morell, had argued against the “50 year rule” before the Town Council nine years ago. She

advocated for a final settlement of the issues related the “50 year rule” and owner consent.

(Let the record show that Chairman Pandula left the meeting at 11:12 a.m.)

Attorney Mike Morell, present in the audience, addressed the LPC providing some history related to his 2002 presentation before the Town Council; speaking in support of the LPC ordinance as it exists; and, encouraging the LPC to hold future lawyers accountable for the difference between rule and policy. He left a copy of that 2002 presentation with Town staff. Mr. Morell encouraged the LPC to stick to the criteria in the ordinance, but always be sensitive to the balance between property rights and historical interests.

MOTION BY MR. COOLEY THAT THE LANDMARKS PRESERVATION COMMISSION IS ON RECORD THAT THERE SHALL BE NO “50 YEAR RULE”, NO REQUIREMENT FOR OWNER CONSENT, AND THAT NO ARCHITECTURAL STYLE SHALL BE EXCLUDED FROM CONSIDERATION FOR LANDMARKING.

MOTION SECONDED BY MRS. GOLINO.

MOTION CARRIED UNANIMOUSLY. (Note: *Mr. Pandula had already left, and Mr. Eigelberger was not present for this vote.*)

D. [Staff update: Conditions at Publix Parking Lot](#)

Mr. Lindgren stated that he and Code Enforcement have been in constant contact with Publix personnel. Irrigation is working well; additional hedge material has been planted; fertilization is done regularly; and, the hedge is filling in nicely.

E. [Staff update: Conditions at West Palm Beach Pumping Station at Coral Cut](#)

Mr. Lindgren reported that the City of West Palm Beach has cleaned up the site and has removed debris. Mr. Lindgren has also field verified the landscaping at the site against the last approved landscape plan. A gate has also been repaired.

IX. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR:

Mr. Roberts suggested that the Landmarks Manual, when revised, includes bulleted information from the last motion, i.e., no 50 year rule, no requirement for owner consent, and no exclusion of any architectural style.

Mr. Cooley submitted a list of properties on Royal Poinciana Way which he felt might be worthy of landmarking, and requested that discussion of these be placed on the June agenda.

Mr. Page stated that 18 months ago, the Town went through a Comprehensive Review of

Town Operations (CRTO), an exercise to identify potential cost savings. As a result of the CRTO, the Town Council has ordered that all minutes of the Town Council and its boards and commissions be abbreviated. This will produce a dramatic change in the level of detail in the minutes and the length of the minutes, but with new technology, persons who would like to listen to the meeting, at any time after the meeting, will be able to access the full recording of the meeting on the Town's website.

Mr. Page noted that Mr. Pandula will ask the Department of Transportation to plan to return to the LPC regarding the new North Bridge, aka, the Flagler Memorial Bridge. Representatives had previously come to the April LPC meeting which was held at the Preservation Foundation for a preliminary presentation.

X. **ADJOURNMENT: (11:31:04 a.m.)**

The meeting was adjourned at 11:31 a.m. by unanimous agreement.

The next meeting of the Landmarks Preservation Commission will be held on Thursday, June 18, 2009 at 9:30 a.m. at the City of West Palm Beach, City Center, 401 Clematis Street, West Palm Beach in the Commission Chambers.

Respectfully submitted,

Charles S. Roberts, Secretary

LANDMARKS PRESERVATION COMMISSION

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