

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

LANDMARKS PRESERVATION COMMISSION

9:00 a.m., WEDNESDAY, APRIL 20, 1994

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 9:03 a.m.

II. Roll Call:

PRESENT: Lillian Jane Volk, Chairman
Elise P. Mackintosh, Vice Chairman (arrived 9:07 a.m.)
Sally Gingras, Secretary
William S. Gubelmann, Member
Anne G. Metzger, Member
Jacqueline Albarran de Mendoza, Member
Arthur Silverman, Member
Jane R. Grace, Alternate Member
Elizabeth Shields, Alternate Member
Tracy Biagiotti, Representing Town Attorney
John C. Randolph, Town Attorney (arrived 10:03 a.m.)
Timothy M. Frank, Planner/Projects Coordinator

ABSENT: Anne Sory Keresey, Alternate Member (Excused)

RECORDING SECRETARY: Cynthia M. Delp

Let the record show that Anne Sory Keresey was absent due to illness, an excused absence.

Let the record show that a court reporter, Maureen Booth, was present to transcribe the Designation Hearing for Brazilian Court Hotel.

III. Approval of the Minutes of the March 16, 1994 Meeting:

MOTION BY MR. SILVERMAN TO APPROVE THE MINUTES AS MAILED.
MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.
MOTION CARRIED UNANIMOUSLY.

IV. Public Hearings:

- A. Application for Certificate of Appropriateness No. 5-94, Service gates, south property wall replacement, and statue restoration

Owner/Applicant: Mr. Donald J. Trump

Address: 1100 South Ocean Boulevard

Project Description: Request approval of new service gates off Southern Boulevard, removal of portion of south property wall and replace same wall with curved wall sections at service entrance, restoration of statues at main entrance,

and other associated changes as presented.

(Please note that this application was deferred from the March 16, 1994 meeting.)

Pursuant to the Commission's comments at the March meeting relative to the new service gates, Mr. Wes Blackman, Project Coordinator at Mar-a-Lago, presented two new design alternatives at today's meeting. One design would remove both pedestrian gates, leaving just the large vehicle gates. The favored design, however, employs one pedestrian gate in combination with the large vehicle gates. The pedestrian gate is located in the wall which is perpendicular to the service gate. This change in design has reduced the total expanse of the gate from 76 feet to 70 feet, a total reduction of 6 feet.

Regarding the restoration colors of the statues, Mr. Blackman stated that they had succeeded in contacting Mr. Dudley, Mrs. Post's attorney, to try to obtain original photos of the statues. Mr. Dudley, however, was in poor health and could not locate the photos.

Mr. Richard Haines, the artist who will restore the statues, presented two colored renderings of the statues. One had been presented at last month's meeting, but at that time the Commission thought the colors were too bright. The second rendering used the same colors in more muted or dull tones. Colors chosen are blue, yellow, brown, and rust with gilding used only on the post and as an accent. Most of the Commissioners were in favor of the muted colors, but three of the Commissioners preferred the brighter colors largely due to the fact that the muting of the colors resulted in too much of a similarity in color between the skin and the sleeve of the garment. Mr. Haines promised that he would adjust the colors of the skin and the sleeve accordingly so that the skin would be lighter in color than the sleeve.

MOTION BY MR. SILVERMAN TO APPROVE THE SERVICE GATES AS PRESENTED WITH ONE PEDESTRIAN GATE SITUATED IN THE WALL WHICH IS PERPENDICULAR TO THE SERVICE GATES.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

AND

MOTION BY MR. GUBELMANN TO APPROVE THE RESTORATION OF THE STATUES USING THE MUTED COLORS OF BLUE, YELLOW, BROWN AND RUST, AS SHOWN, AND GILDING TO BE USED ONLY ON THE POST AND AS AN ACCENT ON OTHER PARTS OF THE STATUES, WITH THE PROVISIO THAT MRS. VOLK AND MR. FRANK MONITOR THE RESTORATION OF THE STATUES AS TO APPROPRIATENESS OF COLORS.

MOTION SECONDED BY MR. SILVERMAN.

MOTION CARRIED UNANIMOUSLY.

B. Application for Certificate of Appropriateness No. 10-94,
Identification Signage

Owner: Paramount Partners

Applicant: John Haynsworth Creative Photography

Address: 139 North County Road, Ste. 3/4

Contractor: Sign Craft

Project Description: Request approval of identification signage for two windows. Signage to consist of white vinyl letters applied to exterior of windows to read "John Haynsworth" (6" letters) on first line and "Creative Photography" (2.5" letters) on second line, and other associated changes as presented.

Mrs. Albarran de Mendoza re-stated her continuing conflict with matters concerning the Paramount, as her husband is the attorney for the owners of the Paramount Centre. (Voting Conflict form on file for this previously declared conflict.) Mrs. Grace will vote in her place.

As this application had been reviewed informally last month,

MOTION BY MRS. MACKINTOSH TO APPROVE THE SIGNAGE AS PRESENTED.

MOTION SECONDED BY MR. GUBELMANN.

MOTION CARRIED UNANIMOUSLY.

C. Application for Certificate of Appropriateness No. 11-94,
Landscape Plan

Owner/Applicant: Mr. and Mrs. Alberto Vitale

Address: 135 Grace Trail

Architect: Smith Architectural Group

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

Mr. Ken Brower, from Smith Architectural Group, presented a landscape plan and accompanying photos of the landscape which had already been installed. He explained that Mr. Vitale had gone to great lengths to preserve the existing landscape, and then added beautiful and natural plant materials to the existing. The new landscape will include a fruit orchard on the north end of the property with grapefruit, passion fruit, key lime, and orange trees.

MOTION BY MR. GUBELMANN TO APPROVE THE LANDSCAPE PLAN AS PRESENTED.

MOTION SECONDED BY MRS. MACKINTOSH.

MOTION CARRIED UNANIMOUSLY.

D. Application for Certificate of Appropriateness No. 12-94, Addition

Owner/Applicant: Town of Palm Beach
Address: 345 South County Road
Architect: Digby, Bridges & Marsh & Assoc. Inc., P.A.
Project Description: Request approval of 330 sq. ft. addition to east elevation of Police facility, and other associated changes as presented.

Mr. James Bowser, Town Engineer, presented this request to expand the existing Communications area in the Police Department. To accomplish this, a section of the east facade (including four arched openings) will be "pushed out" to the edge of the existing veranda, and then enclosed to create an additional 330 square feet of interior space. An existing set of exterior stairs, which once led up to one of the four openings, will be removed.

MOTION BY MRS. ALBARRAN DE MENDOZA TO APPROVE THE ADDITION AS PRESENTED.

MOTION SECONDED BY MR. SILVERMAN.

MOTION CARRIED UNANIMOUSLY.

E. Application for Certificate of Appropriateness No. 13-94, Miscellaneous changes

Owner/Applicant: First Union National Bank of Florida
Address: 255 South County Road
Architect: Lewis & Associates
Project Description: Request approval of the following:
1. Widen east elevation entrance to trust department and make same handicapped accessible.
2. Restore north end colonnade through building from west to east as it originally existed.
3. Add doors to north space on west elevation.
4. Other associated changes as presented.

Mr. Hap Lewis, of Lewis & Associates, admitting that the plans for this project arrived late, requested permission to present this project today. As the Commission allowed him to proceed, Mr. Lewis stated that the Bank is consolidating its banking operations in the south portion of the building. The north portion of the building will be converted to three retail spaces downstairs, and professional offices upstairs.

The existing door to the Trust Department will be widened, enhanced architecturally and made ADA accessible. The architecture there will be embellished picking up details from the corner of the building. The handicap ramp, which begins at the parking lot on the east side, will have decorative railing. Currently, a set of steps exists in this area. They will remain, but will be widened.

The north end colonnade will be restored to duplicate the colonnade of the 1930's. This restoration will re-open the colonnade, defining the bank area from the other commercial spaces, and providing access to the bank's east parking area. Restoration will include cast stone for the arch at the opening, and aluminum gates to look like wrought iron for security at night.

At the north end of the building, the existing doors there will be restored for the retail space. A pair of wooden doors will be placed in the existing middle arch.

MOTION BY MRS. ALBARRAN DE MENDOZA TO APPROVE THE RESTORATION AS PRESENTED.

MOTION SECONDED BY MRS. METZGER.

MOTION CARRIED UNANIMOUSLY.

F. Application for Certificate of Appropriateness No. 14-94, Property wall extension

Owner/Applicant: Mrs. Merrilyn B. Reynolds

Address: 252 El Bravo Way

Engineer: Botkin & Rheault, Inc.

Project Description: Request approval to extend west property wall to obscure air-conditioning units, and other associated changes as presented.

Mrs. Albarran de Mendoza re-stated her continuing conflict with respect to this property, as she is the architect for the property. Voting Conflict Form on file for this previously declared conflict. Mrs. Grace will vote in her place.

Mrs. Merrilyn Reynolds, the property owner, presented this request to extend the existing west property wall twenty-five (25') to conceal some air-conditioning units from the property to the west, where a new house is being built.

MOTION BY MRS. MACKINTOSH TO APPROVE THE WALL EXTENSION AS PRESENTED.

MOTION SECONDED BY MR. SILVERMAN.

MOTION CARRIED UNANIMOUSLY.

G. Application for Certificate of Appropriateness No. 15-94, Pool and deck

Owner/Applicant: Ms. Ivana Trump

Address: 102 Jungle Road

Architect: Smith Architectural Group

Project Description: Request approval of the following:

1. Pool Deck
2. New door from garage to pool area
3. Other associated changes as presented.
 - A. Swimming Pool
 - B. South Property Walls

Mr. Ken Brower, of Smith Architectural Group, began with the presentation of the pool, which will be 36' long by 18' wide. The pool will take on an ornate design following the curved edge lines of the landscape and courtyard. Mr. Brower explained that this property which once ran from Jungle Road to Banyan Road, has now been split and the south portion has been sold. Any improvements on the south lot, with the exception of a pool, were demolished. That pool, however, belongs to the south lot, leaving Ms. Trump without a pool at 102 Jungle Road. Ms. Trump selected the ornate design of the pool from a magazine photo of an existing pool in Miami. The water line tile will be a four tile pattern. The marcite color will be a muted green, and the coping color will be cobalt blue. The existing brick decking will be replaced with new cast stone in a random pattern, in a color to match the beige of the stonework on the property now. There will be a new simple cypress door leading from the garage to the pool area. The Commission commented negatively regarding the dark blue coping as it is planned to be one foot wide, and they suggested cast stone instead.

MOTION BY MR. GUBELMANN TO APPROVE THE POOL DECK, THE CYPRESS DOOR AND THE POOL, AS PRESENTED, WITH THE PROVISIO THAT THE POOL COPING BE DONE IN CAST STONE RATHER THAN BLUE, AND THAT THE BLUE TILE BE LIMITED TO STOP AT THE EDGE OF THE POOL.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

The existing south property wall will be increased in length with an additional 33.9 feet to the west and an additional 65 feet to the east. At the east end of the wall, there will be a door in the wall, so that the property owner to the south can have access to the tunnel leading to the beach. Mrs. Albarran de Mendoza requested that some decorative treatment be done where the existing wall section meets the new wall sections, as the new wall will be shorter than the existing wall. Mr. Brower felt that his client would accommodate this request.

(Let the record show that Mr. Gubelmann declared a Conflict of Interest with respect to this matter as his company owns a neighboring property, 700 South Ocean Boulevard, and the proposed wall is visible from that property. Voting Conflict form on file. Mrs. Grace will vote in his place.)

MOTION BY MRS. ALBARRAN DE MENDOZA TO APPROVE THE WALL AS PRESENTED, WITH THE PROVISIO THAT SOME ARCHITECTURAL TRANSITION OCCURS WHERE THE EXISTING WALL JOINS THE NEW WALL SECTIONS.

MOTION SECONDED BY MRS. GINGRAS.

MOTION CARRIED UNANIMOUSLY.

10:10 a.m.: 5 minute recess

V. DESIGNATION HEARINGS:

Item 1: 301 AUSTRALIAN AVENUE

OWNERS: Resolution Trust Corporation
as Receiver for Sunbelt Savings, FSB
c/o Adorno & Zeder

Joe Marchesotti Co. Inc.

The Court Reporter's transcription will serve as the record of this Designation Hearing. (See attached)

Let the record show that during the course of this hearing, at 10:50 a.m., Mrs. Metzger left the meeting. Mrs. Grace will vote in her place.

(PLEASE NOTE THAT THE TRANSCRIPTION OF THE DESIGNATION HEARINGS TO FOLLOW IS DONE PARTIALLY VERBATIM AND PARTIALLY IN PARAPHRASE. VERBATIM PORTIONS ARE INDICATED BY THE SPEAKER'S NAME AT THE LEFT MARGIN.)

Item 2: 334 EL VEDADO ROAD

OWNER: Ms. Helga D. Marston

Mr. Frank verified that we had proof of publication and proper legal service relative to this matter. No witnesses stood to be sworn. Mr. Frank and Mrs. Day, of course, had previously been sworn. Mr. Frank stated that this property meets the following criteria for designation:

(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;

and

(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: Building Permit #139 of the Town of Palm Beach was issued to Clarence Mack for a residence and garage on January 3, 1939. 334 El Vedado was placed on Lot 47 of the Jungle Point subdivision. Although South Florida was in the midst of a depression, this house is different than others that we've seen that were built during this time period because Clarence Mack arrived in Palm Beach from Cleveland, Ohio after having sold a business there with money to invest. So, this is one of the larger, grander houses that was built during the Depression in Palm Beach. He is important because he was not only the architect, but also the builder and developer of the project. The house was originally called South Haven. As you can see from this slide, the house is a Neo-Colonial Revival design. It is typical of that style that was popular in the

United States from 1885 to 1955. This style is based on Georgian and Adam prototypes, has a regular fenestration and the footprint of this house is L-shaped in design. This is the north facade with the L-shape to the right of the screen. That's a garage and bedroom wing. There is a garage that extends to the north of the property, and the house, also, is situated on Lake Worth. You can't see a thing from public access. It has, like I said before, many of the design features that are typical of this style...the shuttered windows, the prominent front entry way with the fanlight over the top, double hung sash windows, six over six, and nine over nine. This is an unusual report that I gave you because very little is known about Clarence Mack. I spoke to Dr. Curl, Fred Eckel, people at Florida Atlantic University and they are still in the process of trying to find out about him. However, this house was also subject to additions by Marion Syms Wyeth and John Volk. That adds to the importance of the house. Some of the additions were as late as 1980 that John Volk did, but consequently, his biography has also been included in the report, and I just want to make note that it should be that this is a work by Mack with additions by Wyeth and John Volk. Are there any questions?

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

MOTION SECONDED BY MRS. GINGRAS.

MOTION CARRIED UNANIMOUSLY.

(Let the record show that the owner, Mr. Marston, was present in the audience, but did not comment.)

MRS. DAY: It's a lovely house, and it's been well kept, and it is an example of the total picture of what was happening in this time period that we've looked at all season. I don't think it's right to just focus on one thing or another. The last is an example of commercial. This is an example of a larger, grander, if you will, house than some of the others that we've looked at, but they all represent the 30's in Palm Beach.

MOTION BY MRS. MACKINTOSH THAT THE PROPERTY AT 334 EL VEDADO ROAD BE RECOMMENDED TO THE TOWN COUNCIL 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 MR. SILVERMAN.

MOTION CARRIED UNANIMOUSLY.

Item 3: 1498 NORTH OCEAN WAY

OWNER: Mr. Zachary and Ms. Nicole Shipley

Mr. Frank verified that we had proof of publication and proper legal service regarding this matter. Mrs. Delp administered the oath to Mr. Zachary Shipley, the property owner. Mr. Frank stated that this property meets the following criteria for designation:

(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;

and

(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: The house at 1498 North Ocean Way was designed in 1938 by Murray Hoffman. It was built on Lots 15 & 16 of the Boca Ratone Company Inlet Subdivision under Building Permit # 9138. The contractor was Smith & Yetter Company. Barbara Hoffstot, in her important book, Landmark Architecture in Palm Beach, stated that this was "an early and tentative application of modern design in Palm Beach". This house is important for its innovation and unusual character. As you look at the slide that you see before you, this is the view of the house that you get from the main public access right-of-way. The house is frame construction, and when the Master Site File form was originally done on this property, the person that originally recorded that even thought that this was a stucco finish with incised markings on it. In fact, it is not. It is cedar siding, but the cedar is so wide, it gives that appearance. That is unusual in an Art Deco or Art Moderne structure, and is one of the reasons that this house is unique. Also note the glass blocks on either side of the front door and above. It does, however, have some of the typical design features of this style, the eyebrow above the front door and then again on the second floor. It has a flat roof, and as far as we can tell from the plans, the chevron design on the front door is original. There is also a chimney in that view that is stuccoed, and accentuates the vertical feeling of the facade. The windows are casement as is typical of the Art Deco style. Over the years since the construction of the house, they have been replaced, but within the parameters of Art Deco, and as you see them here. The fenestration was not changed. It's almost impossible to see the south facade of this house, and that's why I showed you this picture. We did find out, however, that this is a section of the home that has been altered. There was an addition that was made in 1989/1990. It demolished the original garage and the addition extended westward to the property. We also looked into the elevation of the house and found that although the property is extremely low, Murray Hoffman was extremely innovative by building the house up on piers, so that although within the Town's Zoning Department, it looks like the property is below the seven and a half foot mark, an interview with the owner suggests that the house has been built up and that problem has been taken care of. Murray Hoffman is someone new that you have not looked at before this season, and I believe that he is important for a number of reasons. He was born in 1892, graduated from the Beaux Arts in Paris, Columbia School of Architecture, and got a further degree at Harvard. He served during World War I. He came to Florida to work in the architectural office of his uncle, Beryl Hoffman, who was quite well known in Dade County for designing Vizcaya and the Charles

Dearing Estate. Mr. Hoffman's son, Lindley, told me that his father felt he could never get out of the shadow of this uncle, and so gave up architecture, and as far as his son knew, this was the only example of Mr. Hoffman's architecture still standing in the Town of Palm Beach. That, however, is not enough to qualify someone, O.K., there's one example...we ought to keep it. It does, however, contribute to the uniqueness of this house. Mr. Hoffman went on to be a fine artist, doing painting in the style of the 1930's. According to his son, he did landscapes and portraiture work. Those paintings, some of them, have been bought by and are in the collections of the Brooklyn Art Museum and the San Francisco Art Museum. Mr. Hoffman also designed furniture in the Art Moderne style and I think that someone in the future who might like to study his work would find it interesting to look at not only his fine art, his furniture design, but also his architecture. Are there any questions?

MOTION BY MR. GUBELMANN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

MR. ZACHARY SHIPLEY, PROPERTY OWNER: My name is Zachary Shipley. I am the owner of this house. We would prefer that it not be recommended for landmarking. Our feeling is that the factual basis for landmarking is marginal. What doesn't come across in the pictures is that while this facade is as Murray Hoffman designed it, virtually the entire rest of the house has been rebuilt. We took down the entire west side of the house. It has very limited southern exposure, and we extended the house west and built a new garage, so as viewed from the south, probably only eighteen feet of the total facade or elevation that is seventy-five or eighty feet in length is original to the house and then this facade here that you see on the east side is about forty feet north to south. The windows have been somewhat altered, even since the time it appeared in Barbara Hoffstot's book, so that some of the windows have been changed in shape although they still have irregular spacing. Typical of the style prior to our modifying it, the windows had only one lite, but the lites have been divided by us when we replaced the windows because we preferred that look which is somewhat softer and it differs from the original stark appearance of the facade. We think that also there is a factual basis for challenge as to whether Murray Hoffman was, in fact, a master builder or master designer or master architect. We won't get into whether he's a master painter. We'll accept that his paintings are hanging in some public museums. I understand that none of his work has been proposed before the Landmark Commission before, and in fact, I'm not sure that anyone knows of any other structure that he's ever built, or where the furniture is that he's designed. So, we think there is a substantial factual basis for opposing this. More importantly, though, we love the Town. We belong to the Preservation Society. When we bought the house, there were already plans approved by ARCOM to demolish it and build something of a radically different appearance...an appearance we

thought was ugly. We went to considerable trouble and expense to get Jeff Smith, here in Town, and particularly John Cunningham in his office who had some familiarity with this style and the international style to extend the house in a way that was somewhat softer than the original start appearance, but it's still consistent. So when you look at it from the south, it has a shaded veranda. There's some lattice work on there, some features that are not at all consistent with Art Deco or Art Moderne, which is actually the style that I thought the house typified, if it typified anything. I think that actually it is a very pragmatic mix of styles using available materials, using some architectural concepts that were contemporary at the time. And it's not necessarily an especially good example of anything. It's the only structure that Murray Hoffman ever built. It is unusual in its appearance for the Town, but not to a point where I think it changes the character of the Town or contributes to the character of the Town. We feel that not only does it not...maybe it's on the border of deserving landmark status, perhaps not; perhaps it even demeans the landmark status compared to structures like Mar-a-Lago or the Brazilian Court that we've been talking about today. Our disposition is that we've put a great investment in the house. It's not a candidate for demolition or anything like that. There's nothing to be saved here. We're going to live in the house. We have three small children. They are in school here in the Town. So, some of the things that landmarking could accomplish are not here to be accomplished. Some of the basics for landmarking it are pretty weak in this case. And most important, we would like to be subject to the Architectural Commission, which is what the overwhelming majority of Palm Beach citizens are subject to. We prefer not to be subject to a special set of rules. We understand that this commission, as it is constituted right now, is very practical in its approach to those rules, and we fully appreciate that, but we are looking down the road, ten or fifteen or twenty years when we may be living in the house and trying to sell it, and we may find the commission members at that time exploit the authority that's enabled by the Landmarks statutes in a way that is much more burdensome than the way it is now. And so, we are respectfully asking that you positively act not to recommend the house for landmarking and let us continue to be subject to the same regulations that most residences are subject. If you can't do that, then I'm not sure what our next step will be. Our preference would not be to postpone this to November. We'd like to get done with this issue. And our preference would be to not get tangled up in a more complex conditional recommendation which, of course, I suppose, is a possibility. I can't say, as the gentlemen did earlier, said that if you insist on landmarking the property that we will vigorously oppose it, but I have to say that we'll consider that, and I think there is a substantial factual basis, and I think if you had twelve true citizens representative of Palm Beach County in a courtroom, perhaps you could persuade them that this case wasn't one where...we would want to test the authority of the Landmarks Commission. So, we're asking that you not recommend it.

MRS. VOLK: Thank you, Mr. Shipley. Is there anyone else from the public who wishes to speak? Barbara

Mrs. Barbara Hoffstot was sworn, and stated that this is a very important house, and that the mitred windows are some of the great features of the house.

MRS. JANE DAY: I believe from the public facade that you still have the same architectural integrity that you do at least from the photograph that was taken for Mrs. Hoffstot's book. There is no question that when you drive down the street and see this entrance that it is the same house, although I showed you that the additions that the Shipley's did and the south facade...you cannot really see from the public access because the lot is so well landscaped.

MR. FRANK: Mr. Shipley, would you be amenable to a partial designation of the east facade only?

MR. SHIPLEY: Well, as I said, we would prefer not being landmarked at all. We'd like to be subject to ARCOM like everybody else.

MR. FRANK: I picked that up in your conversation because when you were presenting, you mentioned that that, in your opinion, was the only facade that really retained the character.

MR. SHIPLEY: It seems like landmarking the house for this window, which, of course, is architecturally of interest, and one corner window...that seems like a pretty extreme step when you think of the opposition of the owner.

MRS. DAY: This is the same east facade that the picture that you saw earlier...the entrance is over to your right and it extends down this way with this fireplace.

MR. FRANK: So this facade has the chimney and the entranceway.

MRS. DAY: Right. And it is the exterior material that is important as well. It was unusual to have the house wood frame and designed in this style.

MR. FRANK: Mr. Shipley is well aware of that.

MR. SHIPLEY: There are a number of houses in the north end using that same siding in different styles.

MRS. DAY: Usually styles in Art Moderne, the Bauhaus, as Mrs. Hoffstot said, were all stuccoed or made out of some other material rather than wood. But I agree with Mr. Shipley. This could be a judgement call because of the things that were done on the east wing of the house. However, there are a lot of other houses in Town, including the one you looked at this morning to approve the pool that Mrs. Ivana Trump had, that when you look in the file for that, it's called "the little cottage that grew". It started as an Addison Mizner, and then every architect in Town seemed to have added a major addition to it. So, you as the Commission need to decide how you want to deal with additions, whether or not you feel this fulfills the criteria. Staff does, but we have owner objection here, so you

need to decide what you want to do.

MR. GUBELMANN: I'd like to make a comment. I think that really, from what I've...I don't know if Staff's been given access to the rest of the property so they can see what exactly has been done to the back side of the house in those parts that are not visible from the public right-of-way, but I think it looks like it's an important enough house to want to keep that part which is visible from the public right-of-way intact. AND I'D LIKE TO PROPOSE THAT WE LANDMARK THE EAST FACADE OF THIS HOUSE, ASSUMING EVERYBODY ELSE WOULD GO ALONG WITH THAT.

Mr. Gubelmann reiterated his motion...

I'D LIKE TO PROPOSE THAT WE RECOMMEND TO THE TOWN OF PALM BEACH FOR DESIGNATION AS A LANDMARK THE EAST FACADE OF THE PROPERTY LOCATED AT 1498 NORTH OCEAN WAY, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. MACKINTOSH.

MOTION CARRIED UNANIMOUSLY.

Mrs. Day stated that prior to this matter arriving at the Town Council, Staff will do more research on the architect, Murray Hoffman, and his other works. Mr. Frank stated that Staff would meet with the property owners to explain the ramifications of Mr. Gubelmann's motion.

MRS. VOLK: Mr. Shipley, the Landmark Commission is interested in the small houses, as well as the large ones and the diversity of style and architecture. That is one of the things that we have been approaching seriously this season, the smaller houses, not just the grand mansions.

MR. SHIPLEY: May I say one more thing?

MRS. VOLK: Yes.

MR. SHIPLEY: When we bought the house, we went to considerable trouble and expense on our own initiative to use the architecture that was there. It would have been, in many respects, especially considering the old structure was never treated by Mr. Hoffman in his lifetime, and he lived until 1983, as I understand it. It has a great deal of structural weakness. So, it would have been very easy for us to proceed with the proposed plan or a different plan to demolish it, and at considerable trouble, we did not do that. And the reward for our efforts is this burden. And I think you should consider not only the effect of what you preserve by a landmark designation, but the effect you have on the public at large and their feeling of a necessity to get on with it and knock something down lest it be landmarked. I think we are moving in that direction here. I urge you to consider that very seriously.

Item 4: 225 SEASPRAY AVENUE
OWNER: Mr. Marvin H. Morgaridge

Mr. Frank verified that we had proof of publication and proper legal service regarding this matter. Mrs. Delp administered the oath to Mrs. Polly Earl. Mr. Frank stated that this property meets the following criteria for designation:

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

and

(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;

MRS. JANE DAY: The house at 225 Seaspray Avenue is a good example of the bungalow style of architecture that was popular throughout the United States from 1905 to 1930. Although the exact date of construction of this house is unknown, the original Master Site File form says plus or minus 1910, and our first building permit on file is 1925. We know that it was built sometime during that time period. My guess is that it's the late teens, early 1920's that this house was actually built. Advertised as "the all American choice" the bungalow style of architecture spread from California throughout the United States during the early decades of the 20th Century. The style was popularized in the media by such well known magazines as "Good Housekeeping", "Country Life", and the "Ladies' Home Journal." They gave examples of this work, and in fact, Mrs. Polly Earl, of the Preservation Foundation, sent us a copy, and I've included it in your report, of the drawing of the cross gabled bungalow that this house is very reminiscent of. The major design features of this house are low pitched gable roofs, which this has, and a full width front porch supported by columns that taper to a narrower top than they are at their base. This house is constructed of hollow clay tile. The exterior is stucco. And notice on this facade, which is the south facade, that there are french doors on the property. French doors were a new innovation in the 1920's. We take them for granted now. The major design changes in this house over the course of its history have been the roof. It has been asphalt shingles. It has been a metal roof, and it's now a clay tile roof. I think that this is a very attractive addition, although it's not what the original was. Notice how the peaks of the roof line are emphasized. They give this bungalow an oriental flavor. That is also emphasized by the open trellis work on the east side of the porch. The windows are also important in a bungalow style house. They are often paired or in a ribbon effect, as you see on the south facade. This was to give ventilation in bungalows before the advent of air conditioning. One very nice thing that happened during the process is that the owner, who does not live in Palm Beach, called us after he received the report, and he believes he knows who the architect is. It is a man named William Ecker, who practiced in West Palm Beach. If that is so, it will be one of the few architects that we have a name for in any of these bungalow or early 20's style homes, and we are conducting more research to find out what we can about him, and to amend the report. Are there any questions on this?

MOTION BY MR. GUBELMANN THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MRS. GINGRAS.

MOTION CARRIED UNANIMOUSLY.

MRS. POLLY EARL: Madame Chairman, Members of the Commission, I am Polly Earl, Director of the Preservation Foundation. Briefly, I would like to say that the Preservation Foundation is wholly supportive of the Landmarks Commission's effort to recognize all of the varying styles of domestic architecture that typify our Town. We think this is a very important effort because it's going to preserve, for our children and our grandchildren, something of what everything looked like in the past in the Town, and not just the magnificent Mediterranean Revival creations from our major architects. And we think it's very important to continue to show our children what the streets really looked like. As far as this particular bungalow, I happen to like reading about bungalows, and this is a well recognized type of bungalow. I think bungalows are a little more popular on the west coast in California. People from California that I have shown this bungalow think it's a magnificent bungalow. It's a well recognized type. It sits, in Palm Beach, in the Poinciana Park subdivision, which happens to have been filed by my grandfather in the late teens. And, so, I think that it's quite probable that this is one of the first houses erected on those streets...Seabreeze, Seaspray...in that area there. I would commend this to you as a house well worthy of landmarking. Thank you.

MR. GUBELMANN: Mr. Frank, you say we've had response from the owner. Has he been generally favorable toward landmarking?

MR. FRANK: Yes. He's in favor of it. He's an architect and he lives in North Carolina.

MOTION BY MR. SILVERMAN THAT 225 SEASPRAY AVENUE BE RECOMMENDED TO THE TOWN COUNCIL 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 MR. GUBELMANN.

MOTION CARRIED UNANIMOUSLY.

VI. Other Business:

- A. Informal Review: 345 South County Road
Tile on risers at Police facility

Mrs. Barbara Hoffstot, representing the Preservation Foundation, addressed the Commission. In keeping with the Preservation Foundation's ongoing interest in the beautification of the Town Hall Historic District, the issue of the steps at the Police Facility is now under consideration. The steps are not very attractive, and the proposal is to place decorative tiles on the risers of the

steps. The Town Council has, at last month's meeting, conditionally agreed to the idea. Mrs. Hoffstot stated that they would like to go to the Town Council in October and ask for a permit to solicit for donations in a campaign called "Please Give Your Town a Tile." Individuals would be able to purchase one tile for approximately \$ 10.00, as a donation to the Town.

Mrs. Hoffstot submitted a brochure with various tile samples for the Commission's review and selection during the summer months. The specific tile has not been chosen yet, but the a Mediterranean tile was suggested by the Preservation Foundation. Mrs. Hoffstot added that there is discussion within the Town to re-design the steps. This change, of course, would occur prior to any tile installation.

Mrs. Hoffstot asked the LPC to select a tile prior to the October Town Council meeting. Mr. Frank stated that this is a Town building, and the Town will need to submit an application for Certificate of Appropriateness for approval of the tiles by the LPC.

B. Informal Review: 1300 South Ocean Boulevard
Upcoming renovations and improvements

Mr. Robert Deziel, Esquire, from Moyle, Flanigan, Katz, Fitzgerald & Sheehan, P.A., addressed the Commission representing 38 East Corporation, the new owner of this property, who wishes to restore and renovate this structure. This matter will be reviewed at the May 18, 1994 regular LPC meeting, but Mr. Deziel requested that the LPC meet at the site prior to that meeting so they can better understand the changes contemplated, and to best serve the interests of the LPC. May 4, 1994 was suggested as a date for the site visit. The meeting will convene at Town Hall in the Council Chambers, then adjourn to Casa Apava, and then re-convene at Town Hall for further discussion. Then, on May 18, 1994, the matter will be heard formally and will be subject to LPC action.

MOTION BY MRS. MACKINTOSH TO SCHEDULE A SPECIAL MEETING ON MAY 4, 1994 AT 9:00 A.M. TO CONVENE IN THE TOWN HALL, TOWN COUNCIL CHAMBERS, FOR PURPOSES OF REVIEWING PROPOSED CHANGES TO CASA APAVA, 1300 SOUTH OCEAN BOULEVARD.

MOTION SECONDED BY MRS. ALBARRAN DE MENDOZA.

MOTION CARRIED UNANIMOUSLY.

The May 4, 1994 meeting will be legally advertised to give proper notice to all interested parties.

C. Preservation Celebration

Mrs. Day stated that the plans for the Preservation Celebration are proceeding nicely. She announced that the Town has been awarded the Florida Trust Award for Historic Preservation, and that ceremony will be the opening

reception and awards ceremony at the Trust Conference that will take place at the Society of the Four Arts on Thursday, May 19, 1994 from 6:30 p.m. to 8:30 p.m. The entire LPC is invited to the Awards Celebration, and commissioners intending to attend should call Mrs. Delp before May 1 so that reservations can be made.

Then, on May 20, 1994, our Preservation Celebration will be held in Phipps Plaza from 4:00 to 6:00 p.m. It will include refreshments, musical entertainment, and a self-guided walking tour of Phipps Plaza with students from Florida Atlantic University stationed at different sites to answer questions relative to the buildings in Phipps Plaza.

Mrs. Day encouraged members of the Commission to attend the Trust Conference activities, and stated that she had applications for same.

VI. Adjournment

THE MEETING ADJOURNED AT 11:55 A.M. PURSUANT TO A MOTION BY MR. GUBELMANN.

The next meeting of the Landmarks Preservation Commission will be heard on WEDNESDAY, MAY 18, 1994 at 9:00 a.m., in the TOWN COUNCIL CHAMBERS, 360 SOUTH COUNTY ROAD, PALM BEACH.

Respectfully submitted,

① 
Sally Gengras, Secretary

cmd

TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION
DESIGNATION HEARING

IN RE: 301 AUSTRALIAN AVENUE
PALM BEACH, FLORIDA

Palm Beach, Florida

Wednesday, April 20, 1994

9:50 a.m. - 11:06 a.m.

- - - - -

COMMISSION MEMBERS 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
Arthur Silverman, Member
Jane R. Grace, Alternate Member
Elizabeth Shields, Alternate Member

Timothy M. Frank, Planner/Projects Coordinator
John C. Randolph, Town Attorney
Cynthia M. Delp, Recording Secretary

ALSO PRESENT:

Fleming, Haile, Shaw & Gundlach, P.A.;
J. Barry Curtin, Esquire
on behalf of the Applicant.

1 The above-styled cause came on for hearing before
2 The Town of Palm Beach, Landmarks Preservation
3 Commission, at the Town of Palm Beach Building
4 Department, Palm Beach, Palm Beach County, Florida, on
5 the 20th day of April, 1994.

6 + + + + + + + +

7 THEREUPON,

8 The following proceedings were had:

9 MS. VOLK: Landmarks Meeting is
10 reconvened. The Landmarks Meeting really is
11 reconvened. Designation hearings will now
12 begin.

13 The first item on the agenda this morning
14 is 301 Australian Avenue. Owners: Resolution
15 Trust Corporation as receiver for Sunbelt
16 Savings, c/o Adorno & Zeder.

17 Mr. Frank, have we approved of
18 publication and proper legal service?

19 MR. FRANK: Yes, ma'am, we do.

20 MS. VOLK: Would those who wish to speak
21 on this matter please rise and be sworn in?

22 (Jane Day and Tim Frank are sworn in.)

23 THE COURT: Let the record note that
24 these witnesses have been duly sworn.

25 Mr. Frank, what is the staff

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1 recommendation?

2 MR. FRANK: Thank you, Madam Chairman.
3 The subject property is -- as you've already
4 mentioned is located at 301 Australian
5 Avenue. We more commonly refer to it as the
6 Brazilian Court Hotel.

7 The staff has found that it meets the
8 following criteria for designation: Meeting
9 Criterian (A) that it exemplifies or reflects
10 the broad culture, political, economic or
11 social history of the nation, state, county or
12 town.

13 Staff has also found that it meets
14 Criterian (C) that it embodies distinguishing
15 characteristics of an architectural type or is
16 a specimen inherently valuable for the study
17 of a period, style, method of construction or
18 use of indigenous materials or craftsmanship.

19 Staff also finds that it meets Criterian
20 (D) that it is representative of the notable
21 work of a master builder designer or architect
22 whose individual ability has been recognized
23 or has influenced his age.

24 In this case, the architect is Rosario
25 Candela, and I would like Mrs. Volk to

1 continue with the presentation, please.

2 THE COURT: Mrs. Day.

3 MR. FRANK: Mrs. Day.

4 THE COURT: Our expert witness will
5 continue. Thank you.

6 MS. DAY: On December 21st, 1925, the
7 Brazilian Court Hotel announced it would open
8 its door on New Year's Day 1926. According to
9 the Palm Beach Post, the million dollar
10 complex was 225 feet by a 177 feet and was
11 comprised of a hundred and sixteen units.

12 As you can see from the slides on the
13 board, the hotel is a Mediterranean Revival
14 style building, and though I'm starting with
15 this slide because this is the view that is in
16 most publications of the hotel, this in fact
17 is the second courtyard that was added later
18 by Treanor and Fatio in 1936.

19 The original section of the hotel was
20 designed by Rosario Candela. Candela was a
21 well-known architect in New York who
22 specialized in luxurious apartment buildings
23 along Fifth Avenue. He was known in New York
24 as well as here for designing interior
25 courtyards so that there could be open space

1 within an urban atmosphere.

2 That's how this original section of the
3 hotel was built and that is one of the lovely
4 things about this hotel. Despite the fact
5 that it resides in a residential neighborhood,
6 there is still private exterior space for the
7 patrons of the hotel.

8 The hotel itself is constructed of hollow
9 clay tiles, and it ranges from two to three
10 stories in height. The exterior is covered in
11 stucco, and the roof although flat has the
12 curved Spanish tiles at the roofline. Windows
13 are double hung sashes as typical of this
14 style, and there are also casement windows on
15 some of them.

16 Also notice that the finish is irregular,
17 that there are different balconies that
18 punctuate the facade giving it its exquisite
19 street facade. Another example of the street
20 facade in the original Rosario Candela section
21 of the hotel. This is the Brazilian Avenue
22 side of the building. And this is the new
23 front entrance that was added in 1936 by
24 Treanor and Fatio.

25 As we have been looking at structures

1 through the depression years of the 1930's
2 this season, it is important to note that the
3 original hotel closed down in 1932. It wasn't
4 unique in town. The Royal Poinciana Hotel
5 also closed that year and business was off all
6 over the island.

7 However, the hotel was bought in the
8 thirties, and with some vision, the new owners
9 decided to add an addition and reopen the
10 hotel in 1936. Treanor and Fatio, well-known
11 Palm Beach architects, were hired to do this
12 work, and this is the new entrance from 1936.

13 You can get from one interior courtyard
14 to the other by these lovely archways. This
15 is from the Treanor and Fatio side looking
16 into the Rosario Candela courtyard. And this
17 is from the Rosario Candela courtyard looking
18 out.

19 As you can see, there's also cast stone
20 detailing, beautiful archways, and in fact it
21 is a very good example of the Mediterranean
22 Revival style. Curves, arches, stairways.
23 Here again you can see very clearly the double
24 hung sash windows, in this case four over
25 four.

1 And back to the original courtyard. Also
2 when that addition was added in 1936, a new
3 dining room was added because it was felt that
4 even though some people might not be staying
5 at the hotel, that they would in fact like to
6 come and dine there.

7 One of the other things that is important
8 about the hotel and the reason why we chose
9 Criteria A is that it represents an era in
10 Palm Beach. It was a very popular hotel.
11 Many well known celebrities stayed there.
12 Mrs. Post stayed there before Mar Largo was
13 completed, Richard Nixon stayed there, the spy
14 who inspired Ian Fleming in the James Bond
15 novels all stayed at this hotel when they
16 stayed in Palm Beach.

17 The hotel was closed from 1985 I believe
18 to 1986 and then reopened, and this next month
19 will be the headquarters of the Florida Trust
20 for Historic Preservation.

21 Are there any questions on the
22 presentation or the report?

23 MS. VOLK: Is there a motion that the
24 designation report be made part of the
25 record?

1 MR. SILVERMAN: I so move.

2 MS. VOLK: Second.

3 MS. METZGER: Second. All those in
4 favor, please say aye?

5 (All members present say aye.)

6 MS. VOLK: Are there any members of the
7 public who wish to speak?

8 MR. CURTIN: Yes.

9 MS. VOLK: Please come forward and
10 identify yourself.

11 MR. FRANK: Madam Chairman, this witness
12 hasn't been sworn.

13 MS. VOLK: Oh, would you please swear him
14 in, Cindy?

15 (Attorney Curtin is sworn.)

16 MR. CURTIN: Good morning, Members of the
17 Landmark Commission. My name is J. Barry
18 Curtin. I'm an attorney with offices at 440
19 Royal Palm Way, and I represent the receiver
20 of the Brazilian court Hotel, Mr. Kent Miller
21 as well as Mr. -- I have also spoken with
22 Mr. Bush Bowden, but I want to qualify my
23 representation. Mr. Bush Bowden is an agent
24 with a company called OMB Management which
25 currently has been retained by the RTC to

1 represent their interests both from a
2 management and a disposition standpoint, and
3 the comments that I make here today have been
4 reviewed with Mr. Bush Bowden and been
5 approved by him, although my actual client is
6 the receiver of the hotel. The receiver has
7 been a court-appointed receiver under the
8 interests of the Circuit Court of Palm Beach,
9 Palm Beach County that is.

10 My client does not oppose the landmarking
11 of the Brazilian Court Hotel. As a matter of
12 fact, we would actually encourage it.
13 However, that statement is subject to certain
14 qualifiers and conditions precedent that must
15 be met in order for them to agree to the
16 landmarking.

17 That sounds a little soberous and somber
18 and cautioning, and frankly it is, and I will
19 go into the reasons and explain them to you as
20 best I can. And then if you have questions,
21 please let's dialogue on it, because I think
22 that's the only way to get the thing -- to get
23 problems of an operational nature out in the
24 open so that perhaps we can go forward with
25 this board with a concrete recommendation to

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1 the Town Council so that something can be
2 done.

3 I mentioned that we have certain
4 qualifiers or reservations, and I guess the
5 simple issue is that the, the conditions that
6 the hotel currently operates under because it
7 is in an R-C zoning district makes it
8 extremely difficult to conduct the operational
9 business of a hotel.

10 And I know that there are other hotels
11 probably in the community that struggle under
12 the same problem and the Town Council has in
13 the past, in the fairly recent past, as
14 recently as January of 1993 attempted in some
15 way to alleviate these problems through what
16 at that time was a policy statement.

17 However, Mr. Randolph and I struggled
18 about a day ago or two days ago with just what
19 that policy statement is and how you go
20 forward with that, and frankly it's, it's a
21 conundrum. It's a legal conundrum. I have a
22 policy statement and a dollar bill, but if I
23 take that policy statement and a dollar bill
24 to the bank, I don't know whether I'll get one
25 hundred pennies or fifty pennies or

1 twenty-five pennies or maybe a hundred and
2 twenty-five pennies, but it's an awkward
3 mechanism and understand the hotel has been a
4 problem property.

5 The Brazilian Court Hotel was syndicated
6 after it was closed in 1984. It was
7 syndicated as an investment opportunity, and
8 the units sold anywhere between one hundred
9 and seventy thousand and two hundred and fifty
10 thousand dollars per hotel room. The hotel
11 room -- the hotel consisted of a hundred and
12 thirty-four rooms at that time and still
13 consists of that many.

14 All of the units were sold. The
15 aggregate sale price was in the range of
16 twenty-three million dollars. Now, that's
17 only eight years ago. I needn't tell you
18 today that the hotel is not worth twenty-three
19 million dollars. It's not worth half that.
20 So, you can see the operational and the
21 problems that have occurred in a situation
22 like this.

23 Now, obviously that's not this immediate
24 Board's problem or the Town's problems. It's
25 a problem of the Tax Act and a lot of other

1 things that go on, but, you know, I'm trying
2 to bring this home to you as here is the grand
3 old dowager that I think all of us who were in
4 the town -- I stayed there as a boy in seventh
5 grade with my parents. When I came down to
6 interview for a job in 1980, I brought my
7 one-year-old son and wife down here, and we
8 stayed there for a long weekend. And, you
9 know, I put all my clients up at the hotel and
10 friends if they ask for a recommendation. I
11 think it's a lovely place. I think many of us
12 share that sentiment. It represents much of
13 what is great and different and unique about
14 the Town of Palm Beach.

15 All of that being said, the hotel is a
16 twenty-three million dollar asset. Today it
17 is worth significantly less than that and the
18 management of the hotel is struggling. I did
19 not bring the manager with me although I
20 probably will to the Town Council so that they
21 can get a feel for the difficulties.

22 A simple difficulty, today they booked a
23 piece of business. You know, this is a
24 competitive market. There are eight or ten
25 hotels that try to take up the slack around,

1 you know, the real grand am of the town which
2 is obviously The Breakers.

3 The rest of the older hotels, many of
4 which are in somewhat incompatible
5 neighborhoods, residential neighborhoods, such
6 as The Chesterfield, The Brazilian Court and
7 others, they're there because they predated
8 zoning.

9 The Brazilian Court is a 1926 structure,
10 and after that, you know, we come along with
11 zoning. I mean zoning was only adopted,
12 Euclid versus Amblers, 1923, 1924, so it's
13 back in its infancy, and we haven't found a
14 way to bring it into the late twentieth
15 century. That's the problem that we're
16 struggling with.

17 Now, the issue that we need to deal with,
18 let me concretize the problem, although this
19 is theory, but how does it, how does it
20 function operationally. If the Town's
21 ordinance is as they're currently adopted, if
22 we were landmarked, recommended for landmarking
23 by you and landmarked by the commission at its
24 next hearing or the hearing thereafter which
25 would hear us, without a modification to the

1 existing town code, we would be in the
2 following position: We would if the hotel
3 were damaged or destroyed better than fifty
4 percent by either hurricane or fire -- and we
5 all only need to look down the road
6 seventy-five miles to know how -- what a
7 reality that is. If that were to happen, the
8 hotel if we were landmarked could be
9 reconstructed to its existing configuration,
10 okay, the exterior, we could replicate the
11 structure and obviously come before you to
12 make sure that it was done in an
13 architecturally and aesthetically appropriate
14 mode; however, we could not as a matter of
15 right occupy the hotel as a hotel. I think
16 Mr. Randolph and Mr. Frank will confirm that.

17 Why? Because there's a nonconforming use
18 ordinance in the town. I believe it's Section
19 810. Correct me, Skip, if I'm incorrect.
20 Section 810 says specifically that
21 nonconforming uses shall not be encouraged,
22 their survival shall not be encouraged. Magic
23 words. Their survival shall not be
24 encouraged. And if they are fifty percent
25 destroyed, they are to go out of effect, out

1 of use.

2 Well, you know, there goes the grand
3 dowager. The gracious hotel that we all know,
4 we cannot come back as a matter of right.
5 Now, I've been counsel to the hotel. I
6 represented -- my firm represented many of the
7 investors. We've been working for the hotel
8 since 1988. The hotel will be sold shortly to
9 someone. Right now it's principally opened by
10 the RTC. There are one or two hold-out units
11 to the best of my knowledge that have paid
12 cash and have not joined with the RTC, but at
13 some point, the RTC will take the whole bundle
14 back, and I suspect that's in the near
15 immediate future and will be put in the hands
16 of an owner/operator or something of that
17 nature. So, we represent at this point a
18 stand-in, but obviously the problems of the
19 hotel, no matter who owns it, needs to be
20 addressed and carried forward.

21 The hotel could not come back to life as
22 we know. There are a series of other
23 operating problems that govern the hotel's
24 existence. For example, today -- I started on
25 this tract -- there's a -- we had a chance to

1 book a piece of business, hotel word,
2 operating word, for the sale of the Mobil
3 Station over here. The Mobil Station is to be
4 sold for whatever reason. I guess it's a
5 closed bid auction of some kind. The owner
6 called an auction house. The auction house
7 called The Brazilian Court. The Brazilian
8 Court said, you know, we have a function room
9 here. You can come here, and we'll offer wine
10 and cheese, you can come here before and open
11 the bids and after -- it's not a, it's not a
12 tobacco auction. Apparently it's a sealed bid
13 auction and they open an envelope and that's
14 it.

15 Well, we're not in a commercial zone, so,
16 therefore, that operation couldn't occur at
17 the hotel, but it could occur at the Heart of
18 Palm and it could occur at The Breakers and I
19 don't know what other hotels it could occur
20 at.

21 Now, that's approximately a thousand or
22 twelve hundred dollar piece of business.
23 That's what we live for. The season's over.
24 It ended two, three, four, five days ago.
25 We're into what's called the shoulders of the

1 and it's very difficult.

2 We have a phenomenon in this town called
3 mall flight where the malls are competing with
4 us and they're drawing away business. Now,
5 how does this relate to the Architectural
6 Commission? I suggest to you it relates very
7 definitely to the Architectural Commission.

8 MS. VOLK: Landmark, landmark.

9 MR. CURTIN: Excuse me. The Landmark
10 Commission because we're an operating
11 business, and this graceful aging dowager
12 needs to be treated correctly, and I don't
13 think she should be treated with less than
14 proper dignity in her old age, and I suggest
15 that there are a number of other entities of a
16 similar nature that need similar treatment.

17 And I suggest that this is -- I want to
18 state this at the outset. I have an excellent
19 day-to-day dealing with Mr. Moore and
20 Mr. Frank and Mr. Randolph of the town.
21 They're excellent people. I've dealt with
22 each of them for nine or ten years now, and
23 this is in no way on a personal basis, but I
24 know that they are saddled with a series of
25 ordinances that create great difficulty for

1 season as a hotel operator.

2 Now, you can't afford to look away that
3 kind of business, because if you do, that's
4 what takes a so-called twenty-three million
5 dollar asset and reduces it to a six, seven,
6 or eight million dollar asset, and I suggest
7 as you look around the Town of Palm Beach --
8 and I represent a lot of -- I'm a, I'm a
9 business lawyer in the town. I represent a
10 lot of business interests in the town. I
11 represent companies from the Everglades Club
12 to many of the merchants on Worth Avenue, Maus
13 and Hoffman's and others on select matters.

14 Look at the number of vacancies. We all
15 know that. I have been a resident of the town
16 for fourteen years now. If you drive around,
17 you know, look at Dougherty's, it's been
18 vacant three or four years. I mean walk down
19 Worth Avenue. I mean we all see it. We know
20 our merchants. We can talk to these people.
21 It's a lovely town. I love it. I've raised
22 my child here. You know, I've bought and sold
23 three or four houses, but we're in the late
24 part of the 20th century, and we need to
25 figure out how to make a living at this time,

1 them to do the kind of accommodation that
2 we're talking about here, and this is
3 something that I think we need to address
4 concerning this landmark.

5 Now, I've mentioned to you the fifty
6 percent problem. All right. Now, that's --
7 you know, that's a situation that will, if not
8 clarified, will cost dollars to the hotel when
9 it is sold. It will sell at a lesser rate
10 because it cannot be reconstructed. So,
11 that's a very definite and specific reason for
12 the owners of this property now not to want to
13 be landmarked.

14 Now, there are a series of other reasons
15 to want to be landmarked. So, we've got a
16 whole series of gotchas. My word gotchas is
17 for little administrative code areas that
18 we'll get you here, but we'll give it to you
19 here. The point is that somehow this needs to
20 be done in an overall, orchestrated, concerted
21 fashion so that we can go forward and operate
22 a business.

23 And I suggest to you this is not just a
24 problem of the Brazilian Court Hotel; that
25 there are a number of other operating

1 businesses which are either currently
2 historically certified or would like to be or
3 should be or you would like to have them
4 certified, but because of these problems -- we
5 bucked this off three and four years ago, and
6 I think Skip can verify that, and it was only
7 when the theme of regulation came in and it
8 was interpreted, this, you know, you must be
9 at seven-and-a-half feet and if you're not at
10 seven-and-a-half feet because the hotel on the
11 average is only at four feet, so therefore if
12 we attempted to do anything beyond fifty
13 percent of the assessed value as determined by
14 the property appraiser's office, we couldn't
15 do it unless we jacked the entire hotel up to
16 seven-and-a-half feet, you know, economically
17 prohibitive and I mean just all kinds of
18 problem.

19 So, that's the plus for us for
20 certification. Again, another gotcha, okay?
21 How do we get through this regulatory
22 labyrinth, you know, with any kind of ability
23 to operate a business?

24 Now, I've cited to you some of the
25 existing ones. We have in addition to that,

1 Mr. Randolph and I struggled with this for
2 some time the other day, we have a series of
3 variances that have been granted to Brazilian
4 Court Hotel dating back to the late 1970's,
5 and some of the then commission members felt
6 that, you know, they were still very much of
7 the -- businesses like this should be town
8 serving in nature, and there was a series of
9 impositions on operation and operational hours
10 and what we could and could not do that were
11 put on the hotel that makes it a tremendous
12 struggle to operate our business.

13 Now, we finally worked out only because
14 Bob Moore is a can do kind of guy -- he could
15 have cost me this piece of business today, me,
16 the hotel, this piece of business today at the
17 Mobil Station. It's twelve hundred dollars.
18 What we had to do because of the town's
19 ordinances, we have to have people arrive at
20 the hotel, because understand they have
21 already -- they've already sent out the
22 advertisements so people come there. We have
23 to have the wine and cheese or whatever
24 they're offering at the hotel, and then they
25 walk to the Mobil Station where they open the

1 envelope whereafter they walk back to the
2 hotel. Now, is that disruptive or what?

3 But if the owner or someone else would
4 have put that piece of business with the Heart
5 of Palm, they could stay there and run their
6 business or if they had put it at The
7 Breakers, they could stay there, you know, and
8 just do the whole function in one room.

9 Now, it's relatively pleasant today and
10 hopefully from five to eight today the
11 downpour of rain won't occur, but it wouldn't
12 be a pleasant experience if, you know, it were
13 to rain at whatever the time, you know, this
14 three-block march is.

15 I'm just giving you that as one example
16 of the tremendous operating problems that go
17 on when you have what is basically a
18 commercial use, let's face it. The hotel, we
19 can call it residential, but it's really a
20 commercial use, but it's in a residential
21 neighborhood. The neighborhood is R-3. So,
22 how do we marry these two disparate things
23 together?

24 Well, it's been I can say very difficult,
25 very difficult, and the -- one of the

1 solutions that Skip and I struggle with and
2 one recommendation -- obviously your
3 recommendation, if it is to landmark the
4 hotel, must -- I would ask would include that
5 the, that the town code, particularly
6 concerning nonconforming uses be modified so
7 that this 810 I believe it is provision is
8 taken away so that it will permit the -- a
9 historically certified building, if it can be
10 rebuilt pursuant to the landmarking
11 requirements, that it can also concomitantly
12 be used for what it is rebuilt for, okay,
13 which cannot currently happen as the Town's
14 codes are today. All right. So, that's
15 condition 1.

16 Condition 2, and I recommend this because
17 of again what I call mall flight and what I
18 would suggest is the need to, to enshrine a
19 level of economic viability into the Town's
20 codes, particularly under the landmarking.
21 You need more incentives to make landmarking
22 attractive. You need to make it so that a
23 businessperson can come in here and recognize
24 that there's a legitimate quid pro quo beyond
25 architecture and aesthetics. There has to be

1 architect and aesthetics married to and
2 tightly coupled with economic viability.
3 We've been through four tough years. Anyone
4 here who works knows that.

5 It's time to address this and address it
6 in the landmarking ordinances, because let's
7 face it, a great deal of the town we are
8 attempting to preserve and those uses that are
9 commercial in nature need to at least
10 recognize that. I don't think these things
11 apply as much to residential properties
12 although I'm not here to represent that. My
13 focus today is obviously a commercial
14 property, the hotel, and that's what I'm
15 addressing.

16 I would recommend that in addition to the
17 ordinance modification, which I've just
18 suggested, that the town -- that it be
19 recommended that a special PUD ordinance be
20 developed for landmarked businesses so that
21 their operation needs can be accommodated.

22 Now, I would suggest to you that the PUD
23 -- I believe you all understand what a PUD
24 is, planned unit development. PUD is an
25 overlay zoning. You have -- let's -- we'll

1 take the Brazilian Court. The fundamental
2 zoning is R3. When you adopt a PUD, you place
3 that on top of the R3 zoning. It takes
4 precedence over and supercedes the R3 zoning;
5 and as long as it's in place, it has a
6 priority over that.

7 But if it's abandoned for failure of a
8 condition or either party chooses to abandon
9 it for whatever reason, then the underlying
10 zoning resorts back to form. So, it still
11 remains R3.

12 It's frankly a way around the issue of
13 spot zoning, which is, you know, taking a land
14 mass, taking one place and giving it a
15 different designation. But what the PUD
16 ordinance permits is that you can place
17 special conditions in which accommodate the
18 needs of a particular site and a particular
19 business.

20 Here's the Brazilian Court, hundred and
21 thirty-four rooms, that occupies a full half a
22 block plus. It has a parking lot across the
23 street and house across the way which is used
24 basically for business purposes, where
25 business offices are located.

1 Everything immediately surrounding is R3
2 zoning. R3 zoning is six units per acre. It
3 dates back to 1926. What do you do there?
4 It's been there for a long, long time, seventy
5 plus years.

6 A PUD would allow Mr. Randolph and I and
7 the other town people to modify these various
8 variance conditions, bring them congruent, and
9 together particularly under the policy
10 statement which the board made which, you
11 know, allows us to do all of the functions
12 which we have been doing over the recent past
13 and then we sat together and we put together a
14 Chinese menu of what these things were, you
15 know, Bar Mitzvahs, weddings. I mean, you
16 know, the list becomes unwieldly. The more
17 you try to define it, the more ridiculous
18 becomes.

19 The auction. We had silent auctions at
20 the hotel for years. Well, is this this type
21 of auction or that type of an auction? You
22 know, we get into this whole game. It will be
23 constantly that. I would suggest that a PUD,
24 which is a negotiated process, could
25 accommodate that.

1 Now, you have an ordinance that is
2 somewhat appropriate on the books. I'm not --
3 you know, the PUD is not a brand new concept
4 to the town. Obviously you -- they have four
5 different categories of PUD and PUD-4, PUD
6 Category 4 specifically provides -- I'm in
7 page -- I mean section 7.433, 43 -- well, it's
8 section 7.43 of the Planned Unit Development,
9 Special Exceptions, but Section 7.433 defines
10 PUD-4. The PUD-4 specifically states historic
11 preservation residential development. Okay.
12 That sounds like the Brazilian Court.

13 Now, you can argue about the word, is it
14 development; is it new or is it historic
15 preservation; residential prior development or
16 landmarked development? Okay. One or more
17 contiguous acres. We're more than one acre.
18 Undivided by any public right-of-way or
19 easement.

20 All right. Now, my point is that PUD-4
21 only accommodates from R-AA through R-B. It
22 does not include R-C, so without a zoning
23 modification or modification to the town code,
24 we could not be a PUD-4, but that would
25 certainly allow us to achieve the operating

1 flexibility and the concomitant economic
2 issues that I've discussed with you here
3 today.

4 The third point that I'd like to make is
5 that we will have to go back before the town
6 board, and if it's not the PUD vehicle, which
7 I would strongly urge you to think about, then
8 it will have to be through a series of
9 variance modifications, which Mr. Randolph and
10 I spoke about the other day.

11 Now, the problem, so that you understand,
12 we have variances that say that we cannot
13 advertise the restaurant and the various other
14 hotel operations without just advertising room
15 rates. So, we can't tell you whether we have
16 a Thanksgiving dinner going on there, et
17 cetera. We have restrictions as to
18 advertising when we have guest speakers. One
19 of the variance speaks to the fact that we can
20 only advertise guest speakers from March 1 to
21 April the 15th, a six-week period. I mean
22 they go from the sublime to the ridiculous. I
23 won't bore you with the details. But believe
24 me, they are equally as absurd.

25 You know today in today's market you

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1 cannot run a hotel with those kind of
2 restrictions. This isn't the day, you know,
3 where just the grandchildren come down to
4 visit the people who live in the homes, you
5 know, along the oceanfront for a spring week,
6 and they can all stay in The Brazilian Court.
7 We need to book bulk business.

8 The hotel on Monday night had, you know,
9 a large convention in there of people who were
10 on the average age of thirty to thirty-five to
11 thirty-eight years of age. The Historic
12 Preservation Society is coming -- State
13 Society is coming here sometime next month.
14 That's the kind of business that everybody
15 competes for today and we need to have the
16 flexibility to accommodate that kind.

17 Mr. Randolph and I, if we go forward to
18 the -- from this board with a positive
19 recommendation for landmarking, we'll have to
20 work out a variance modification application
21 to the Town Council. I needn't tell you as
22 people who sit here and listen to these
23 things, variances are a struggle to get. The
24 standard as to a hardship is very difficult to
25 sustain and maintain. If someone were to take

1 an appeal, I can't guarantee what the results
2 would be.

3 We're getting -- we already have a
4 variance, so we would be going forward for a
5 further variance modification, and I could
6 tell you and I would state for the record,
7 which is why I have a court reporter here
8 today, that the landmarking of the hotel under
9 the current town ordinances as they are
10 currently adopted would in fact be a hardship
11 for this hotel, and we would, if the town does
12 not modify the town codes to make some
13 accommodations for us, we would vigorously
14 oppose the landmarking.

15 Now, that statement is predicated upon
16 all the qualifiers I have given you. From a
17 standpoint, do we want to be landmarked and
18 accommodated and shifted? Absolutely. We
19 think it's appropriate for the hotel provided
20 you assist us with the operational problems in
21 your recommendation to Town Council, and the
22 Town Council in fact addresses and corrects
23 some of these operational problems.

24 It will in fact take some kind of a
25 zoning modification, whether that be a

1 modification to 810, whether that be a
 2 modification to the PUD code, which I would
 3 strongly encourage or, thirdly, that would be
 4 a variance modification to the series of
 5 variances that have been granted to the hotel
 6 dating back to the late seventies and right up
 7 into 1985 and '86.

8 Thank you. That's the conclusion of my
 9 presentation. If you have any questions, I
 10 would be happy to accommodate.

11 MR. GUBELMANN: Mr. Curtin.

12 MR. CURTIN: Yes.

13 MR. GUBELMANN: Sir, I can understand
 14 your inability to rebuild the hotel if it's
 15 damaged more than fifty percent under the
 16 nonconforming use code, but what difference
 17 does it make whether it's a landmark or not?
 18 I don't believe it has any bearing on it.

19 MS. VOLK: Yeah, it does.

20 MR. CURTIN: I believe it does, sir.
 21 Does somebody want to address that from the
 22 town?

23 MR. RANDOLPH: Actually, it being
 24 landmarked would assist -- this isn't the
 25 answer that you want to hear I don't think.

1 Right now without it being landmarked, in the
2 event it were destroyed by more than fifty
3 percent, he would not be able to rebuild. The
4 ordinance was amended recently so as to
5 provide an exemption for landmarked
6 structures; and if a building is landmarked,
7 they are exempt from that provision relating
8 to rebuilding. So, therefore, landmarking is
9 a benefit in that regard.

10 There was a little bit of a gliche I
11 think in the ordinance because although it
12 talked about giving an exemption to landmarks
13 for rebuilding if they're destroyed by more
14 than fifty percent, it didn't say anything
15 about use. Therefore, the way it reads on its
16 face, he could as he suggests rebuild the
17 building, but he couldn't reinstitute the use
18 for a hotel.

19 As a result of that interpretation that
20 the building department and I have placed upon
21 that reading of the ordinance, I believe that
22 we're going to suggest that the Zoning
23 Commission and the Town Council give
24 consideration to amending that during the next
25 zoning season so as to take care of that

gliche. Therefore, anything that was
landmarked would be exempt both from the
structural standpoint and from the use
standpoint.

MR. GUBELMANN: That makes sense. I
think most of Mr. Curtin's questions though
should be addressed to the Town Council and
the Zoning Commission not to us, the Landmark
Commission.

MS. VOLK: To the Town Council and the
Zoning Commission.

MR. CURTIN: Well, if I may, Mr.
Gubelmann respond to that, I think that -- two
points, as I look back on my notes, sometimes
when you extemporize, you have to make sure
that you cover all of your points.

There are certain provisions in the town
landmarking ordinance, most specifically I'm
referring to Section 16-33, which in my
version is on page 1324, and I believe it's
number F which it says, two of the landmark
ordinance stated goals are strengthen the
economy of the town and stabilize and improve
property values. Now, I suggest, and again
I'm here advocating one property, but

1 attempting to take as broad a view as I can,
2 my broad economic point is business needs to
3 be accommodated from an economic standpoint,
4 and to sit on this council and to take the
5 narrow aesthetic architectural point of view
6 and not recognize that your decisions have
7 implications that directly relate to operating
8 businesses which in turn create financial
9 problems, I'm citing here the fact that there
10 is a grand dowager in this -- that's before
11 you, that is, you know, a very attractive
12 piece of architecture, very acceptable to the
13 Landmark Commission I presume, that they would
14 prefer to see landmarked.

15 However, I've cited the twenty-three
16 million dollar situation. I've cited the fact
17 that, you know, the hotel has struggled. The
18 hotel has remained with a receiver. It's just
19 kind of turning around the horn. I have been
20 directly involved in the operational issues of
21 the hotel. I've been overseeing the receiver
22 and back until we had the investors until a
23 year-and-a-half ago was very instrumental in
24 selecting the current management committee. I
25 can tell you we went through three receivers

1 and a number of management committees that
2 were just drowning us in red ink, because the
3 hotel could not be operated intelligently.

4 We finally went out and found a company
5 that specializes in landmarked properties.
6 Grand Heritage Hotels, that series of
7 townhouses right across from the Indianapolis
8 State Building. They have the Ponchar Train
9 in New Orleans. They have the Union Station
10 in Nashville, which is a converted train
11 station. This is what they do, and we've
12 found them after a long struggle, and they're
13 willing to deal with the chauvinism and the
14 problems presented by a very, you know,
15 difficult, unique piece of architecture.

16 What are the amenities of The Brazilian
17 Court Hotel basically? Architecture and two
18 interior courtyards. It has a small
19 residential pool and nothing else to offer and
20 a hundred and thirty-four rooms.

21 Now, how do you remain competitive in
22 this marketplace given those facts? All
23 right. Well, obviously you partake of the
24 Town of Palm Beach and proximity to Worth
25 Avenue, and it's things of this nature that we

1 have to use to sell ourselves. And that needs
2 to be accommodated, that's my point, and to
3 stick -- anyone on this commission. I don't
4 mean this directed at you. To stick your head
5 in the sand and say this isn't an issue or
6 this isn't before us is I would suggest
7 fatuous. I think it needs to be addressed and
8 I think it needs to be addressed because
9 there's a specific statutory prohibition that
10 won't let us get on from here.

11 Number two, I strongly urge that if the
12 Landmarks Presevation Commission is serious
13 about its business, it needs to put added
14 economic incentives. I would recommend that
15 there be further tax incentives to make people
16 want to become landmarked. I mean I think
17 that there should be reasons here other than
18 just it would be nice. Because, understand,
19 there is an additional layer of regulation
20 that directly impacts the business use.

21 Now, that's fine for Mr. Randolph and I
22 because we make a living being called by phone
23 to come here and represent people, but there
24 are a heck of a lot of other people that, you
25 know, that's a cost of doing business to them,

1 and it might be easier if it were
2 facilitated.

3 Understand now the interior courtyard and
4 many of the other -- the changing of the color
5 paint is not regulated, but once we're
6 landmarked, it will be regulated. It's
7 another problem. It's another layer of
8 regulation. And where is the concomitant
9 benefit?

10 And that's I think something that all
11 businesses struggle with and some fight it and
12 some don't and some just, you know, put up
13 their hands because the fight -- the cost of
14 the fight isn't worth it.

15 In our case, we have to fight it because
16 basically even though -- there's a lot that
17 Mr. Randolph has pointed out, the FEMA
18 exception, and the fact that we can rebuild,
19 but, you know, if the town code is change, but
20 I'm saying these are problems that we've
21 discovered with this, and I submit to you that
22 there are others who are similarly situated,
23 and, you know, I think it should go forward to
24 the Town Council on a positive recommendation
25 of this nature.

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1 MR. GUBELMANN: I would just like to say
2 on a few occasions that we've had one of our
3 landmarked commercial properties, The
4 Chesterfield Hotel, The Breakers Hotel, that
5 have come before us for certificates of
6 appropriateness or variances, we have been
7 more than accommodating because they bring to
8 our attention they are an operating business
9 and this is what -- how things have to go.

10 I think really our -- we're not trying to
11 put our heads in the sand and ignore your
12 problems, I see you do have a great many
13 problems, but we as Landmark Commission can
14 recommend your property, The Brazilian Court,
15 to the Town of Palm Beach for consideration as
16 a landmark or we cannot recommend it, but I
17 don't think we can put all those provisos in
18 there that you be given tax benefits and that
19 you be given building exceptions, rebuilding
20 exceptions, and things like that. I don't
21 think that's our function. But if you think
22 we should do this, I'll be happy to take
23 Mr. Randolph's advice on that.

24 MR. CURTIN: Well, in response to that,
25 Mr. Gubelmann, and your point is well taken;

1 however, I do think that the code in the
2 landmark sections specifically provides that
3 you have the ability to make recommendations
4 for it and to address particular concerns, and
5 I'm quoting from the code, I'll give you the
6 section. It's Section 16-38, page 1331, of my
7 version, it says, where because of the unusual
8 circumstances applicable solely to the
9 particular applicant, strict enforcement of
10 the provisions of this article would result in
11 serious undue hardships particularly affecting
12 such applicant, the Commission, that's you,
13 shall have the power to vary or modify
14 adherence to this article. Guidelines may be
15 developed by the Commission.

16 Now, that's, Skip, page 16-38, if you
17 want to borrow my version, 1331. I think it's
18 precatory, but I think that the precatory
19 provision exists.

20 MS. VOLK: You say you're pleased with
21 the prospects, with the fifty percent ruling
22 that has been delivered so that a landmarked
23 building can be rebuilt?

24 MR. CURTIN: Correct.

25 MS. VOLK: We all are.

1 MR. CURTIN: That's correct, Mrs. Volk.

2 MS. VOLK: And Mr. Randolph has assured
3 us that in the zoning ahead that they are
4 going to reconsider this gliche, and the very
5 fact that he uses that term gliche signifies
6 to me that it's going to be changed.

7 I as an historic owner with a
8 nonconforming use am very interested in this
9 just as much as you are probably or more so,
10 but I believe I would recommend to you that
11 you trust that to happen.

12 I feel quite sure that this gliche will
13 be modified. At least you'd be better off
14 with a building that could be built back, and
15 that will, that will, that will work out to
16 the use that it's been, that it has been.
17 That is a very positive and assured thing.

18 MR. CURTIN: Well, --

19 MS. VOLK: Otherwise you have nothing if
20 the storm comes.

21 MR. CURTIN: Well, I don't know,
22 Mrs. Volk, that it is a positive and assured
23 thing, and what I'm saying here is -- because
24 understand The Brazilian Court was up once
25 before I think in 1990 or '91 for

1 recommendation for landmarking. I believe at
2 that time this board certified it forward.

3 It did not go forward because at that
4 time there were the hundred and thirty-four
5 unit owners and a whole series of other
6 issues, okay?

7 MS. VOLK: I remember.

8 MR. CURTIN: But one of the issues that
9 was considered at that time was what is the
10 benefits to us, and at that time, it was
11 deemed that it was not a benefit, that it was
12 an impediment. It was in a survey --

13 MS. VOLK: That was a recent survey?

14 MR. CURTIN: They surveyed the sale
15 opportunities. They surveyed the attitudes of
16 people who were looking at the property. What
17 I'm suggesting is that Mr. Randolph cannot sit
18 here and assure me or you that that will
19 happen. What I'm suggesting -- is that
20 correct, Skip?

21 MR. RANDOLPH: Yeah, it's not --

22 MR. CURTIN: I mean I suggest we get a
23 little wind in our sails here.

24 MR. RANDOLPH: It's not a positive and
25 assured thing that that ordinance will be

1 amended to add another exemption; however, it
2 is a positive and assured thing, that in the
3 event that this building is not designated a
4 landmark, that neither provision will comply,
5 neither the ability to reconstruct nor the
6 ability to carry on the use.

7 If it's not a landmark under the
8 ordinances as they exist now, in the event
9 it's destroyed by more than fifty percent, it
10 can neither be rebuilt nor reused, so I'm not
11 sure what the --

12 MR. CURTIN: But I think --

13 MR. RANDOLPH: -- how your argument lends
14 credence to what you're trying to do here,
15 because the only advantage of the ordinance
16 that's going to be reconsidered is in the
17 event you're landmarked because it is an
18 exemption for landmark.

19 MR. CURTIN: Well, I don't disagree,
20 Skip. I mean I think we started with the
21 predicate that we would prefer to be
22 landmarked than not with the current
23 condition, but what you've said, I'm fifty
24 percent better basically because I've got half
25 a loaf. No, I'm not.

1 Because why -- if I don't have the
2 guarantee of the use, why would I go out and
3 spend the money, you know, to do it? You've
4 given me one shoe, and I need a pair.

5 MR. RANDOLPH: But you can't -- right.
6 But this commission wouldn't be able to give
7 you that guarantee today, because it's going
8 to be up to the Zoning Commission and the Town
9 Council.

10 MR. CURTIN: Nobody said --

11 MR. RANDOLPH: We're going to be moving
12 forward, and as I understand now, it's going
13 to be the recommendation of the staff that it
14 be amended so as to allow the use to continue
15 for landmarks also.

16 MR. CURTIN: I recognize that, and what
17 I'm asking from this board is a recommendation
18 further, and I recognize it's only
19 recommendatory, but I tried to cite, and I'm
20 sorry to take as much time as I did, but just
21 to address the landmark issue and not address
22 the other issues is not going to do my client
23 justice or the ultimate owner of the hotel.

24 As Mr. Randolph will tell you, this is
25 the start of what effectively would be a

1 rezoning process or it's the initial step, and
2 you understand now with the court ruling you
3 cannot politic before or inform people of.
4 You must come before and thoroughly lay your
5 case out in the public forum, court reporter,
6 and the whole thing. This is a quasi-judicial
7 or at least the initial step is what is a
8 quasi-judicial process based on a case that
9 came down in late December of this year from
10 the Florida Supreme Court. So, unfortunately,
11 it makes these things longer. Rather than
12 just come in here and say I do, we now have to
13 go through all the qualifiers as to why and
14 how I do.

15 What I'm requesting, Mrs. Volk, and I
16 recognizing there are benefits and not -- but
17 I am requesting that the Landmark Commission
18 recommend this forward as a landmark, but with
19 the qualifier that the board -- that the Town
20 Council also consider modification to the
21 nonconforming use ordinance, a recommendation
22 that a PUD ordinance be considered for
23 landmarked properties, and I mean whether
24 that's totally viable or not, I can't sit here
25 and say to you.

1 But I'm saying you could bring it down to
2 R2, why not R3? It's already there. I'm just
3 saying that that provision I cited to you, R2
4 of the code. There is a PUD section 4. It
5 talks about the Historic Preservation
6 District. If it goes one further, it could
7 possibly incorporate The Brazilian Court, and
8 I think it's something that should be studied
9 as an incentive.

10 And lastly I mentioned to you this
11 provision in the code that specifically says
12 that, you know, where there are unusual
13 circumstances, and Mr. Randolph and I
14 discussed the other day the fact that this is
15 a hardship and that I would have to poster our
16 applicaton before the board requesting a
17 variance as a hardship and the hardship needs
18 to be addressed. We need remediation of what
19 existed in the past.

20 Is that, is that a fair statement, Skip?

21 MR. RANDOLPH: Yeah.

22 MS. VOLK: Thank you. Mr. Frank, were
23 you going to speak?

24 MR. RANDOLPH: Go ahead, Tim.

25 MR. FRANK: No, what did you want to

1 say?

2 MR. RANDOLPH: You indeed can put
3 conditions on any recommendation you have for
4 landmarking. You've done it before in regard
5 to facades, how much of the property would be
6 recommended for landmarking and that sort of
7 thing. My fear in your imposing conditions
8 such as those that have been requested upon a
9 recommendation for landmarking through the
10 Town Council is that if those conditions are
11 then not met, then does your recommendation
12 for landmarking go forward?

13 I think there's a good argument that it
14 does not because it came with a recommendation
15 that these be -- that the landmarking be
16 conditioned upon those things happening, and
17 you don't have any way of knowing whether
18 those things are going to happen in the
19 future.

20 Now, I understand the desire for the
21 applicant to have this to be recommended with
22 those conditions, but I'm not sure it's to the
23 benefit of the Landmark Commission and
24 ultimately to the Town Council to affix those
25 conditions to any motion that you make.

1 My suggestion would be that, that in the
2 event you choose to move forward with
3 landmarking, that you do so without imposing
4 conditions, and that if it's your desire that
5 and in a subsequent motion you simply
6 recommend to the Town Council that they give
7 consideration to the suggestions that have
8 been made today in due process, in due course,
9 that way you won't be tying up the property to
10 the conditions, but you'd still be passing on
11 -- you'd still be indicating to the applicant
12 that you understand his concerns and that you
13 would like the Town Council to give some
14 consideration to them if they deem fit.

15 MR. GUBELMANN: And we don't make one --
16 we don't make one motion dependent upon the
17 other. We make them separate.

18 MS. GINGRAS: Two separate motions.

19 MR. RANDOLPH: Yes. That's right.

20 MR. CURTIN: That would certainly be
21 acceptable to the applicant. I think that's a
22 positive suggestion and we concur.

23 MS. VOLK: Thank you. Is there a motion
24 to that effect?

25 MR. GUBELMANN: If somebody could make

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1665 Palm Beach Lakes Boulevard, Suite 1001
West Palm Beach, Florida 33401
(407) 471-2995

1 some sense out of Mr. Randolph's --

2 MR. RANDOLPH: First would be just your
3 normal motion.

4 MS. VOLK: Let's move along in that
5 case. Any other comments from the
6 commissioners regarding the designation of
7 this structure?

8 MS. DAY: May I make one more comment,
9 Mrs. Volk?

10 MS. VOLK: Yes.

11 MS. DAY: It was pointed out to me by
12 Mrs. Earl who was one of the planners of the
13 Florida Trust Meeting, and it is noted in the
14 report, but I just want to say it for the
15 public record, the management team that
16 Mr. Curtin spoke about is already marketing
17 the property as a historical hotel. They are
18 included in a Guidebook of American Hotels
19 published by the National Trust for Historic
20 Preservation and that is in fact the reason
21 the Florida Trust chose to have their
22 convention at this hotel.

23 MS. VOLK: Um-hum. Thank you. What we
24 need to have is a motion that moves that this
25 property, 301 Australian Avenue, is

1 recommended to the Town Council for
2 designation as a landmark for the Town of Palm
3 Beach and that the criteria as presented be
4 made a part of the record with the
5 recommendations if you feel that they are
6 viable, the section review, the consideration
7 of Section 810, nonconforming usage --

8 MR. RANDOLPH: Can I interrupt you a
9 moment?

10 MS. VOLK: Yes.

11 MR. RANDOLPH: I believe your first
12 motion should stop exactly where you were.

13 MS. VOLK: Yes.

14 MR. SILVERMAN: I move that 301
15 Australian Avenue be recommended to the Town
16 Council for designation as a landmark of the
17 Town of Palm Beach and that the criteria
18 presented be made part of the record.

19 MS. VOLK: Thank you, Mr. Silverman. Is
20 there a second?

21 MS. GINGRAS: Second.

22 MS. VOLK: All those in favor, please say
23 aye.

24 (All present say aye.)

25 MS. VOLK: All those opposed. So moved.

1 MR. RANDOLPH: Now, if it's your desire,
2 and I don't think you necessarily need to
3 renumerate in your motion, but if it's your
4 desire to recommend that the Town Council give
5 consideration to those items discussed by
6 Mr. Curtin today, you can do that.

7 MS. VOLK: How does the commission feel
8 about that?

9 MS. MACKINTOSH: It's a good idea.

10 MS. GRACE: Good idea.

11 MR. GUBELMANN: A good idea.

12 MS. VOLK: It is a zoning commission, but
13 I feel there's a hardship condition he speaks
14 about.

15 MS. ALBARRAN DE MENDOZA: Part of the
16 thing is that it's been a hotel.

17 MS. VOLK: Yes, it's been a hotel. Yes,
18 I agree with that.

19 MR. FRANK: We do have a court reporter
20 here and so, therefore -- and I think the
21 presentation was very eloquent if that can be
22 transferred to them.

23 MR. SILVERMAN: That's the way it should
24 be done.

25 MS. VOLK: Yes, all right.

1 MR. RANDOLPH: I mean the three, the
2 three are that, number one, we look at the
3 amendment to the exemption portion of the
4 ordinance so as to allow the use to continue.

5 MS. VOLK: Yeah.

6 MR. RANDOLPH: Number two, look at
7 perhaps amending that portion of the ordinance
8 relating to PUDs to see if that would be an
9 appropriate way to proceed either under a
10 PUD-4 or another type of a PUD. Or finally
11 that the Town Council give consideration to
12 appropriate variances which will allow the use
13 and the business to continue.

14 MS. VOLK: Right.

15 MR. RANDOLPH: Those I think sort of
16 capsulize the three thoughts, and I don't
17 think the motion has to be specific as long as
18 it refers to the -- to those suggestions that
19 were made today.

20 MR. GUBELMANN: I don't think we as a
21 Landmark Commission want to even think about
22 touching with a ten-foot pole the
23 recommendation that have been in residential
24 areas be able to advertise functions. That is
25 something council can do on their own without

1 our input. I think the other things are
2 okay.

3 MS. VOLK: What about the rest of the
4 commission? What is your feeling?

5 MS. ALBARRAN DE MENDOZA: Yeah.

6 MR. SILVERMAN: I think we should take
7 Mr. Randolph's suggestion then.

8 MS. VOLK: Suggestion.

9 MR. RANDOLPH: So the motion would be
10 that you recommend that the Town Council give
11 consideration to those items suggested to this
12 commission --

13 MS. VOLK: Consideration to those three
14 items as presented.

15 MR. RANDOLPH: -- as presented.

16 MS. GINGRAS: I so move.

17 MS. VOLK: Thank you. Second?

18 MR. GUBELMANN: Second.

19 MR. SILVERMAN: Second.

20 MS. MACKINTOSH: Lots of seconds.

21 MS. VOLK: Thank you. All those in
22 favor, please say aye.

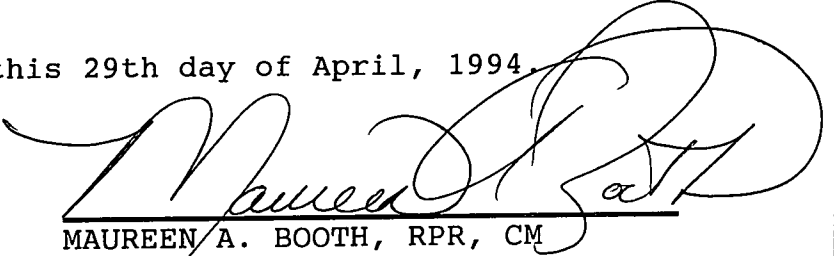
23 (Whereupon, the hearing concluded at 11:06 a.m.)
24
25

CERTIFICATE

STATE OF FLORIDA)
: SS.
COUNTY OF PALM BEACH)

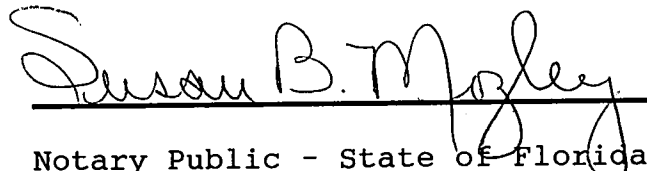
I, MAUREEN A. BOOTH, RPR, CM, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

Dated this 29th day of April, 1994.


MAUREEN A. BOOTH, RPR, CM

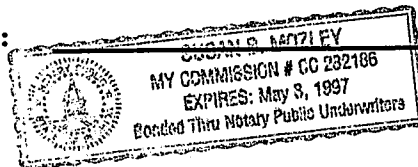
STATE OF FLORIDA)
: SS
COUNTY OF PALM BEACH)

The foregoing certificate was acknowledged before me this 29th day of April, 1994, by MAUREEN A. BOOTH who is personally known to me.


Notary Public - State of Florida

My Commission No. _____

Expires: _____



PALM BEACH REPORTING SERVICE, INC.
1665 Palm Beach Lakes Boulevard, Suite 1001
West Palm Beach, Florida 33401
(407) 471-2995

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

LAST NAME—FIRST NAME—MIDDLE NAME Albarran de Mendoza, Jacqueline		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Landmarks Preservation Commission	
LOCAL ADDRESS 204 Phipps Plaza		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY ☐ Town	
CITY Palm Beach, FL	COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach	
DATE ON WHICH VOTE OCCURRED April 20, 1994		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

MINUTES

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. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with 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

ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should 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:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

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

- You should 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 should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

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

- You should disclose orally the nature of your conflict in the measure before participating.
- You should 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 should incorporate the form in the minutes.

DISCLOSURE OF STATE OFFICER'S INTEREST

I, JACQUELINE ALBARRAN, hereby disclose that on APRIL 20, 19 94:

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

☐ inured to my special private gain; or

☐ inured to the special gain of _____, by whom I am retained.

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

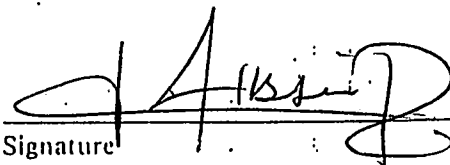
I AM THE ARCHITECT OF RECORD FOR
MRS MERRILYN REYNOLDS (CERT. OF AP. # 14-94)

Regarding hearing of Certificate of Appropriateness #14-94,
for 252 El Bravo Way. (PLEASE NOTE THAT MRS. ALBARRAN DE MENDOZA
PREVIOUSLY STATED HER CONFLICT WITH RESPECT TO THIS MATTER AT THE
OCTOBER, 1993 LPC MEETING. THIS IS A CONTINUING RENOVATION PROJECT.)

Date Filed

4/20/94

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), 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 \$5,000.

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>WILLIAM S. GUTBELMANN</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>LANDMARKS Preservation Commission</i>	
MAILING ADDRESS <i>235 S. County Road</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☐ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY <i>PALM BEACH</i>	COUNTY <i>PALM BEACH</i>	NAME OF POLITICAL SUBDIVISION: <i>Town of Palm Beach</i>	
DATE ON WHICH VOTE OCCURRED <i>20 APRIL 1994</i>		MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE	

MINUTES

WHO MUST FILE FORM 8B

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INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

ELECTED OFFICERS:

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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 STATE OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 19____:

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

____ inured to my special private gain; or

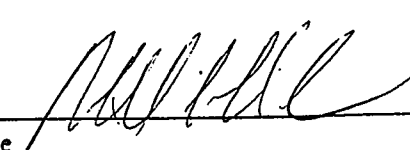
____ inured to the special gain of _____, by whom I am retained.

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

A COMPANY OF WHICH I AM AN OFFICER OWNS THE NEIGHBORING
PROPERTY AT 700 S. OCEAN BOULEVARD (CORNER BANYAN RD.) AND
I HAVE SIGHT OF THE WALL IN DISCUSSION FROM OUR PROPERTY.

Regarding hearing of Certificate of Appropriateness # 15-94,
102 Jungle Road.

20 APRIL 1994
Date Filed

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), 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 \$5,000.

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

LAST NAME—FIRST NAME—MIDDLE NAME Albarran de Mendoza, Jacqueline		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Landmarks Preservation Commission	
MAILING ADDRESS 204 Phipps Plaza		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: CITY COUNTY OTHER LOCAL AGENCY Town	
CITY Palm Beach, FL	COUNTY Palm Beach	NAME OF POLITICAL SUBDIVISION: Town of Palm Beach	
DATE ON WHICH VOTE OCCURRED April 20, 1994		MY POSITION IS: ELECTIVE APPOINTIVE ☒	

MINUTES

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DISCLOSURE OF STATE OFFICER'S INTEREST

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

☐ inured to my special private gain; or

☐ inured to the special gain of _____, by whom I am retained.

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

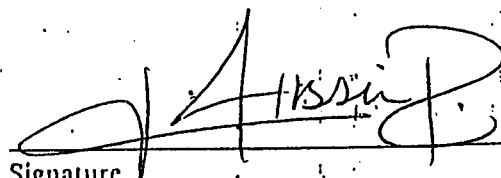
MY HUSBAND, MARIO MENDOZA, IS THE ATTORNEY
FOR "PARAMOUNT PARTNERS" (CERT. OF AP. # 10-94)

Regarding hearing of Certificate of Appropriateness #10-94, for
139 North County Road. (PLEASE NOTE THAT MRS. ALBARRAN DE MENDOZA
PREVIOUSLY STATED HER CONFLICT WITH RESPECT TO THIS MATTER AT THE
AUGUST, SEPTEMBER, AND OCTOBER 1993 MEETINGS. THIS IS A CONTINUING
RENOVATION PROJECT.)

Date Filed

4/20/94

Signature



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