



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

WEDNESDAY, APRIL 18, 2012, 9:30 a.m.

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

I. CALL TO ORDER:(9:32:30 a.m.)

Chairman Cooney called the meeting to order at 9:32 a.m.

II. ROLL CALL:(9:32:43 a.m.)

Edward Austin Cooney, Chairman	PRESENT
William P. Feldkamp, Vice Chairman	ABSENT (unexcused)
Dudley L. Moore, Jr., Member	PRESENT
Jacqueline Albarran, Member	PRESENT
William J. Strawbridge Jr., Member	PRESENT
Leslie Diver, Member	PRESENT
Elizabeth S. Murphy, Member	PRESENT
Jorge Sanchez, Alternate Member	PRESENT (voting member today)
Elizabeth Marshall, Alternate Member	PRESENT
Anne Fairfax, Alternate Member	PRESENT

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

Let the record show that a court reporter, Donna Harshaw, Mudrick Court Reporting Inc., was present for the designation hearing for 272 Wells Road at the request of the Preservation Foundation.

III. APPROVAL OF THE MINUTES OF THE MARCH 21, 2012 MEETING: (9:33:05 a.m.)

MOTION BY MR. MOORE FOR APPROVAL OF THE MINUTES.

MOTION SECONDED BY MRS. ALBARRAN.

MOTION CARRIED UNANIMOUSLY.

IV. APPROVAL OF THE AGENDA:

Chairman Cooney stated that there are a few changes to the agenda. He called upon Attorney Harvey Oyer to address the commission with regard to a deferral request for the landmark designation hearing for 240 Jungle Road. Mr. Oyer testified that he had just been hired by the property owner. As such, he requested deferral to the November meeting on the owner's behalf.

MOTION BY MR. SANCHEZ FOR DEFERRAL OF THE DESIGNATION HEARING FOR 240 JUNGLE ROAD TO THE NOVEMBER MEETING, WITH THE PROVISIO THAT THE OWNER RECOGNIZES THAT SHE WAIVES HER RIGHT BY ORDINANCE REQUIRING THE COMMISSION TO ACT WITHIN 30 DAYS.

MOTION SECONDED BY MS. DIVER.

MOTION CARRIED UNANIMOUSLY.

Mr. Cooney also announced that the Informal Review item will be discussed in advance of the designation hearings. There will also be an informal presentation relative to 181 Clarendon for commission feedback.

MOTION BY MRS. ALBARRAN FOR APPROVAL OF THE AGENDA AS AMENDED.

MOTION SECONDED BY MR. MOORE.

MOTION CARRIED UNANIMOUSLY.

V. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY: (9:41:08 a.m.)

Mrs. Delp administered the oath as necessary throughout the meeting.

VI. COMMENTS FROM THE PUBLIC AND COMMISSION MEMBERS: (Please limit comments to 3 minutes):

Alex Griswold, 260 Park Avenue and 340 Island Road, addressed the commission on behalf of Page Lee Hufty. He requested that the commission ask the property owner of 330 Island Road, and his architect, Eugene Pandula, to carry out the agreement made at the November 16, 2011 meeting relative to erecting a 7 ft. wall between the properties. He submitted a transcript of that meeting. Though the building of the wall was not immediate, when it was constructed it stopped short on both ends. Mrs. Albarran recalled that a wall was promised, not a chain link fence. Staff will review the audio of the meeting to research this matter and will follow up with the commission.

VII. PUBLIC HEARINGS: (9:41:29 a.m.)

A. Application for Certificate of Appropriateness #001 - 2012

Stair Layout, Doors/Windows, Roof, Landscape

Owner/Applicant: The Palmerial Revocable Trust, Maura Ziska as Trustee

Address: 801 S. County Road

Architect: Michael J. Johnson Architect

Project Description: Request approval for restoration, rehabilitation, reconstruction, new accessory structure, landscape/hardscape, and interior demolition which is further described as: New stair layout at South courtyard; reconfiguration of select windows and doors; reconfiguration of existing garage; new loggia structure and lap pool; restoration of existing pool house; removal of existing awning at pool house; new landscape/drainage plan; relocation of existing gate at

South end of property; and, other associated changes as presented. Please note that this is a tax abatement project.

At the January meeting, the project was not heard, but was deferred to the February meeting at the request of the applicant. At the February meeting, there was a motion for APPROVAL AS SUBMITTED, SUBJECT TO THE ARCHITECT RETURNING FOR THE FOLLOWING SEVEN (7) ITEMS, AND THE SEVEN ITEMS ARE: 1. The great room east facing windows, the Gothic windows, return to the earlier approved version; 2. That the architect study the fanlight in the breakfast room for conformity with Fatio; 3. That at that entrance loggia, the two side knee walls would remain; 4. That you would comply with ordinances regarding the sight line issue at Via La Selva; 5. Consider relocation of the spa; 6. Reduce the size of the west windows in the great room as discussed with our architect; 7. When you return, give us a streetscape drawing showing the Nidel house, how it relates to the new loggia, and how the landscaping relates to the neighbor; And, (motion amended to include #8) 8. That the landscape architect review other options for the entrance driveway material. Please be advised that the motion was changed from approval to deferral subject to the client coming back regarding the specific eight (8) items only. At the March meeting, there were motions to approve Items 1, 2, 3, 5, 6, and 8. (Item 4 refers to meeting code requirements.) There was one additional motion: To defer the landscape portion only of this project, subject to the following four (4) items that you would come back with: (5th item added as well) 1. Installing the green space above the garage; 2. To consider other plant material other than Ficus at the Nidel property line; 3. To come back with a landscape plan accommodating the sight triangle which is required; 4. Consider lowering the pool loggia by 1.5 to 3 feet, or as much as possible; and, 5. Study the architecture of the garage doors.

Call for disclosure of ex parte communication: Disclosures by several members

ATTORNEY PRESENT FOR THE APPLICANT: Attorney Maura Ziska
ARCHITECTURAL PRESENTATION BY: Michael Johnson, Architect and Daniel Menard, La Berge and Menard, Design Architects
LANDSCAPE PRESENTATION BY: Don Skowron
OTHERS WHO TESTIFIED: Dr. Nidel, neighbor

Mr. Menard provided a history of the loggia/garage project from the point that the project was first heard to today's meeting. He explained that since last month, the loggia was dropped by 3 ft. and was moved 5 ft. further to the east, in an attempt to respond to the commission's comments. Mr. Skowron called attention to changes made since last month: abandoned plan for Ficus in favor of a different native plant which is close in form to Ficus; new green space over the garage; a reduction in the property wall height from 6 ft. to 30" along South Ocean Boulevard; and, the front hedge reduced to 30". Sight triangle landscaping will return to the LPC for review.

A very lengthy discussion took place between commission members, and the applicant's architects. During the discussion, the idea of moving the loggia back to the north, to the location as originally proposed, was mentioned, and most members agreed that would be preferable, especially in consideration of the Nidels. The details of a proposed compromise were discussed, but no agreement could be made without consulting the property owner. The Nidels were pleased with the suggested compromise options. Ms. Ziska asked for some time to discuss this with her client. As such, the commission moved on to Item B, for the Everglades Club.

After Item B (below) and after the short recess which followed, Item A for 801 South County Road was re-called. Ms. Ziska indicated that she had spoken with the owner who agreed to a

compromise: to place the lap pool outside on the east side of the loggia, and to move the loggia approximately 20 ft. to the north, and go back to four arches, which would decrease the loggia's length.

MOTION BY MRS. ALBARRAN FOR APPROVAL OF THE PROJECT WITH THE PROVISIO THAT THE LOGGIA BE TAKEN DOWN TO FOUR ARCHES; THAT IT, OF COURSE, MAINTAIN THE 18" LESS OF ROOF HEIGHT THAT IT HAD; THAT IT BE PLACED AT THE LEVEL THAT YOU SHOW ON THE PLANS AS THE TOP OF THE GARAGE, WHICH MEANS THAT IT HAS GONE DOWN 18" FROM THE EXISTING PATIO; THAT THE POOL BE ON THE LAWN; THAT YOU HAVE THE STEPS, AND THEN ABOUT 6 FEET OF BUFFER, AND THEN THE START OF THE PAVILION; AND, TO RETURN WITH FINAL LANDSCAPE PLAN; AND, LOGGIA TO REMAIN 5 FEET FURTHER TO THE EAST AND CREATE A LANDSCAPE BUFFER.

MOTION SECONDED BY MS. DIVER.

MOTION CARRIED UNANIMOUSLY.

B. [Application for Certificate of Appropriateness #004-2012](#)

Sign

LPC TO MAKE RECOMMENDATION RELATIVE TO VARIANCE

Owner/Applicant: The Everglades Club

Address: 347 Worth Avenue

Architect: Smith and Moore Architects, Inc.

Project Description: Request approval for sign which is further described as: Satin black painted aluminum signage letters and logo on building facade. *Variance requested to allow the sign to be located higher than the first floor elevation of the building which is not permitted by code.*

Please note that at the March meeting, there was a motion that implementation of the proposed variance, with the height of the lettering reduced to 10 inches, will not cause negative architectural impact to the subject landmarked structure.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Harold Smith, Smith and Moore Architects, Inc.

Mr. Page reported that the Town Council approved the variance for the sign, subject to the 10" stipulation. Mr. Smith presented the signage again, with 10" letters. There was a suggestion to center the lettering over the middle column, allowing the logo to shift further to the west.

MOTION BY MRS. ALBARRAN FOR APPROVAL WITH THE CHANGE THAT THE LETTERING ITSELF BE CENTERED ON THE BUILDING, WHICH MEANS THAT CENTER COLUMN, AND THAT THE LOGO BE FLOATING OFF ON THE SIDE WITH THE SAME SEPARATION AS IT HAS NOW.

MOTION SECONDED BY MR. SANCHEZ.

MOTION CARRIED UNANIMOUSLY.

Let the record show that there was a short recess from 10:40 a.m. to 10:48 a.m.

C. Application for Certificate of Appropriateness #005-2012
Rehabilitation, Addition, Demolition, Landscape/Hardscape

Owner/Applicant: Virginia L. Mortara

Address: 319 El Vedado Road

Architect: Smith and Moore Architects, Inc.

Project Description: Request approval for rehabilitation, addition to historic structure, interior and exterior demolition, and landscape/hardscape, which is further described as: Entry portico and stair addition; rear stair addition; door and window replacement; garage door replacement; shutter replacement; electronic shutter removal; roof replacement; painting of building exterior; replacement of exterior wood details; landscape and hardscape modifications; and interior alterations. Other associated changes as presented. *Please be advised that this is a tax abatement project.*

Call for disclosure of ex parte communication: Disclosures by several members

ARCHITECTURAL PRESENTATION BY: Harold Smith and Daniel Kahan, Smith and Moore Architects, Inc.

LANDSCAPE PRESENTATION BY: Don Skowron

Mr. Smith reviewed the existing conditions at this residence, both interiorly and exteriorly, and provided a detailed presentation of the proposed changes to both areas, in accordance with the submitted plans. He explained that a very important aspect of the project is to create a new offset entry with portico so the front entrance is clearly identifiable. Other details include: mahogany entrance door; pale yellow exterior with white details; a blend of red concrete roof tiles; new garage doors to match existing; removal of shutter boxes, electrical conduits, and window a/c units; and replace windows and doors. Mr. Skowron described the landscape/hardscape plans in accordance with the submitted plans. Details include: remove asphalt driveway in favor of a travertine driveway with grass joints; new steps leading to the defined front entrance; removal of much Ficus in the front of the house in favor of more tropical material; retention of existing perimeter hedge; new sliding gates at each curb cut; new and relocated landscape material; re-design of the rear yard to become more tropical and less formal; and new fountain wall.

Dr. Day congratulated the owners for having such a thoughtful plan for this rehabilitation project. She testified to her full support of the project as presented, and noted that the house is sinking and had been advertised as a tear down. She stated that the owners and their architects are saving this important structure on an important street.

Under commission comments: note that grass joints will not survive on the north side of the house; fountain details needed in the future; concern regarding turning radius in driveway; commend owner and architect for seeing the possibilities of this house; perhaps some banding at front door should be added; Town Council approval is required for the sliding gates; support for the proposed second level entry, but serious issues with the porch...look for the correct precedent...issue with column style...symmetry preferable with regard to front door; flared stair vs. switch-back stair; concern regarding turning radius and porosity of site; driveway slopes back creating flooding issues; where is the garden?...carve out more green areas...issue with mass of pool deck...enhance softness and porosity of site; the two espaliered elements compete with the building; the offset front door throws off the building; re-study the front door with possibility of creating one larger, double door on the ground level; this proposal (2nd level entry) protects the

most important room, the living room...important for tax abatement; preference for offset front door because of interior needs; and, lovely facade with flared stairs and offset entry.

MOTION BY MRS. ALBARRAN TO DEFER THE PROJECT FOR RE-STUDY.

Mr. Smith presented an alternate sketch showing a flared and curved front stair, with no portico, at the front entrance which inspired additional commission comments which were mostly favorable.

MOTION BY MRS. ALBARRAN TO DEFER THE PROJECT, AND TO PLEASE GO IN THIS DIRECTION THAT YOU HAVE JUST DONE WITH THE SKETCHES, WITH SOME OF THE COMMENTS, AND STILL HAVE A MEETING WITH A COUPLE OF THE COMMISSIONERS BEFORE YOU PRESENT; AND THAT THE LANDSCAPING RETURN, INCLUDING A DETAIL OF THE FOUNTAIN AND SIMPLIFIED LANDSCAPING ON EITHER SIDE; REMOVING THE GATES BECAUSE TOWN COUNCIL APPROVAL IS REQUIRED; AND RE-STUDY OF THE TURNING RADIUS; AND TO ACCEPT ALL OF THE OTHER ARCHITECTURAL ELEMENTS AS PRESENTED, BOTH INSIDE AND OUTSIDE, WITH THE EXCEPTION OF THE DOOR AND FINAL LANDSCAPE.

MOTION SECONDED BY MR. STRAWBRIDGE.

MOTION CARRIED 6-1, WITH MS. MURPHY OPPOSED.

VIII. OTHER BUSINESS:

[Informal Review: 1, 2, 3, and 4 Four Arts Plaza and 240 Cocconut Row](#)

Owner: The Society of the Four Arts, Inc., Ervin Duggan, President

1. Proposing to install (2) columns at the east end of driveway from Cocconut Row that are 13'-8" high (10' high to top of column plus a light fixture that is 3'-8" high). The location of these columns was shown on the previous Town Council/Landmark Submittal. The height exceeds 8', which requires a variance. The columns exactly match other existing columns along the Society of the Four Arts boundary.
2. Proposing to install a 300kw generator in lieu of the originally approved 80kw generator. Any generator of 100kw or higher requires a variance. The enclosure that the generator sits in was previously submitted and approved. The generator will sit in a level 2 acoustic enclosure in order to meet the Town of Palm Beach noise ordinance.

Call for disclosure of ex parte communication: No disclosures

ARCHITECTURAL PRESENTATION BY: Keith Spina, Glidden Spina Architects

Mr. Spina noted that both the gate posts and generator will require variance approval from the Town Council. After brief review of the project, the following motion was made.

MOTION BY MRS. ALBARRAN THAT WE APPROVE AS PRESENTED; THAT IMPLEMENTATION OF THE PROPOSED VARIANCE(S) WILL NOT CAUSE NEGATIVE ARCHITECTURAL IMPACTS TO THE SUBJECT LANDMARKED PROPERTY.
MOTION SECONDED BY MS. DIVER.

Under discussion, there was some discussion relative to a preference to duplicate the original entrance columns on Royal Palm Way.

MOTION CARRIED UNANIMOUSLY.

Re: Informal Review – 181 Clarendon Avenue

Architect Eugene Pandula asked for the commission's feedback relative to contemplated further changes to the loggia addition, i.e., expanding the loggia from 3 bays to 4 bays. The proposal was received favorably, but Mr. Pandula was asked to reconsider eliminating the previously approved double columns, since other changes are being proposed.

VII. DESIGNATION HEARINGS:

Item 1: 234 El Brillo Way

Owner: Marc P. Schappell and Thomas B. Anderson

Please be advised that the Notice of Hearing which was sent to the address of record for the owner was returned to the Town on March 14, 2012 and was marked Return to Sender. As such, at the March LPC meeting, staff recommended deferral of this hearing to the April meeting. There was a motion for deferral of the designation hearing for 234 El Brillo to the April meeting, with the proviso that the owner is waiving his right by ordinance requiring the commission to act within 30 days. Please note that the owners were present in the audience at the April meeting in support of the landmark designation.

Dr. Day testified to the architect, architecture and architectural history related to this 1940 Howard Major designed home in the Monterey style. Her testimony revealed that this property meets the following criteria for designation as a landmark:

Sec. 54-161 (3) 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 craftsmen; and,

Sec. 54-161 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Chairman Cooney expressed the appreciation of the Landmarks Preservation Commission to the owners for their willingness to landmark their property.

MOTION BY MS. DIVER THAT THE DESIGNATION REPORT FOR 234 EL BRILLO WAY, AS PRESENTED, BE MADE PART OF THE RECORD.

MOTION SECONDED BY MRS. ALBARRAN.

MOTION CARRIED UNANIMOUSLY.

MOTION BY MS. DIVER THAT THE PROPERTY AT 234 EL BRILLO WAY BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE PART OF THE RECORD.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

Item 2: 240 Jungle Road

Owner: Elizabeth P. Miller & Gina D. Silvestri TR

Please be advised that the property owner had requested deferral of this hearing to the April meeting. There was a motion for deferral to the April meeting, with the proviso that the owner recognizes that he or she is waiving his or her right by ordinance requiring the commission to act within 30 days. Please be advised that the recently hired attorney for the property owner has requested a deferral of this matter, and has waived the owner's right by ordinance requiring the commission to act within 30 days.

Please note that the record of this hearing occurred at the beginning of the agenda. Ultimately, this designation hearing was deferred to the November 2012 meeting.

Let the record show that there was a short recess from 12:30 p.m. to 12:40 p.m.

Item 3: 350 Island Road

Owner: Jane W. Smith

Please be advised that this designation hearing was deferred from the February 14, 2012 LPC meeting.

Dr. Day stated that although this owner objects to the proposed landmark designation, [the LPC ordinance does not require owner consent], she wanted the owner to know that this 1940 Fatio residence is one of the most special Fatio homes she has seen. Fatio did very few homes in the modernist style, and this home is similar to the award-winning Reef at 701 North County Road. Dr. Day testified to the architect, architecture and architectural history related to this residence. She testified to her curriculum vitae, entering that information into the record. Her testimony revealed that this property meets the following criteria for designation as a landmark:

Sec. 54-161 (3) 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 craftsmen; and,

Sec. 54-161 (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Ronald Kolins, Attorney for the property owner, distributed a copy of the curriculum vitae of Dr. John Garner, expert witness for the property owner.

MOTION BY MS. DIVER TO INCLUDE DR. GARNER'S VITAE INTO THE RECORD.

MOTION SECONDED BY MR. MOORE.

MOTION CARRIED UNANIMOUSLY.

Mr. Kolins maintained that this house does not meet the criteria for landmark designation. He asked the LPC to be judicious in their deliberations and to consider the owner's private property rights. Mr. Kolins asserted that landmarking less than exemplary structures will diminish the landmark process in the Town of Palm Beach. He refuted aspects of Dr. Day's Designation Report for 350 Island Road. Mr. Kolins introduced Dr. John Garner, Professor Emeritus from the University of Illinois, as a nationally recognized expert. Dr. Garner presented a PowerPoint presentation and testimony to refute Dr. Day's Designation Report and recommended against landmark designation of this property.

Let the record show that Ms. Diver left the meeting at 1:18 p.m.

Call for disclosure of ex parte communication: Disclosures by several members

Mr. Page noted that a letter from Anne Blades was received expressing her opinion that this property should not be landmarked. After Dr. Garner's presentation, there was lengthy further testimony from Dr. Day, Dr. Garner, Mr. Kolins, and the commission members, who were divided in their opinions relative to this designation. During this testimony, Mr. Kolins entered some objections into the record, and Mr. Randolph responded to those.

Let the record show that Mr. Moore noted that Ms. Diver had left the meeting early, and Mr. Page offered to visit with Ms. Diver about attendance requirements

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

MOTION SECONDED BY MRS. ALBARRAN.

MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. SANCHEZ TO DENY THE RECOMMENDATION.

MOTION SECONDED BY MR. MOORE.

MOTION AMENDED BY MR. SANCHEZ THAT THIS PROPERTY NOT BE RECOMMENDED TO TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH,

...(discussion with Mr. Randolph) Mr. Randolph advised members regarding the principle of administrative res judicata with regard to the verbiage of the motion.

MOTION WITHDRAWN BY MR. SANCHEZ.

MOTION BY MR. STRAWBRIDGE THAT THE PROJECT (THE PROPERTY) MEETS THE CRITERIA FOR LANDMARKING AND THAT WE RECOMMEND SO TO THE TOWN COUNCIL, THAT IT BE LANDMARKED.

MR. COONEY PASSED THE GAVEL TO MR. MOORE TO SECOND THE MOTION.

MOTION FAILED 3-4, WITH MRS. ALBARRAN, MS. MURPHY, AND MESSRS. MOORE AND SANCHEZ OPPOSING.

MOTION BY MR. SANCHEZ THAT THIS PROPERTY NOT BE RECOMMENDED TO TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED BE MADE PART OF THE RECORD.

MOTION SECONDED BY MR. MOORE.

MOTION AMENDED BY MR. SANCHEZ TO INCLUDE THAT THE PROPERTY DOES NOT MEET THE CRITERIA, IN OTHER WORDS, DENYING IT.

MOTION CARRIED 4-3, WITH MS. MARSHALL AND MESSRS. STRAWBRIDGE AND COONEY OPPOSED.

[Item 4: 272 Wells Road](#)

Owner: Heather Wyser-Pratte

Please be advised that this designation hearing had originally been scheduled for April 20, 2011; then deferred to November 16, 2011; then deferred to February 14, 2012; and then deferred to April 18, 2012.

Dr. Day stated that this property has been under consideration for over a year and has been deferred several times at the request of the property owner; that she has been unable to see the property, except from the street, despite many conversations with the property owner; and, that she was disappointed with the Preservation Foundation, after they got involved to oppose this designation, that they did not invite Dr. Day to tour the property and did not inform Dr. Day of their plan to oppose it. She reported that it was only yesterday that she received good, first-hand information about the quality of the architecture at this residence from Chairman Cooney who was able to visit the property with Jeff Smith and Frank Chopin. Dr. Day stated that she does not think that her designation report for this property meets the level that is needed to designate this property. She testified that the property meets the first criterion for designation because it is one of only 3 Moorish Revival homes left in the town; that she would hate to see it demolished; that she would prefer that the designation be withdrawn without prejudice to avoid the administrative res judicata issue if some future owner comes forward to landmark it. According to the information Dr. Day received from Mr. Cooney, the architecture does not retain its integrity. Unfortunately, without an onsite visit, Dr. Day did not have access to that information when preparing the designation report, which was over a year ago.

Attorney Frank Chopin, representing the Preservation Foundation, responded that this is an issue of fundamental fairness; that the designation report was written over a year ago; that much time and effort was given to the review of the report, which he called “seriously flawed”; that the Preservation Foundation was prepared for a hearing today, and brought and paid for an expert witness for this hearing; that this property does not meet any of the criteria for landmarking; that the house on the property is not the house on Fatio’s plans of 1928; that it is not now appropriate to withdraw the property without prejudice; and, that the hearing should take place today, or if Dr. Day does not wish to defend the designation report, that there be a motion not to recommend this property to the Town Council for designation.

After further discussion, Dr. Day stated, “I cannot go forward with this designation report, knowing what I know...that I learned yesterday from photographs and eye witness testimony by my chairman. There is no way that I can defend this as an example of this architecture. It meets one of the criteria, but it has been the custom of the Town Council to ask us to have more than one of the criterion, so I would rather not put everyone through a difficult procedure, and I really don’t think that the Preservation Foundation wants to go on record either, fighting something when we don’t have the criteria, like they did with the Pendleton Avenue district and La Ronda. I don’t want those things.”

MOTION BY MS. MURPHY THAT 272 WELLS ROAD BE WITHDRAWN FROM CONSIDERATION OF LANDMARKING WITH PREJUDICE AS A DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE PART OF THIS RECORD.

SUBSTITUTE MOTION BY MR. MOORE THAT THE LANDMARK PRESERVATION COMMISSION RECOMMENDS TO THE TOWN COUNCIL THAT THE PROPERTY AT 272 WELLS ROAD NOT BE DESIGNATED AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.
MOTION SECONDED BY MRS. ALBARRAN.

Mr. Randolph clarified that the intent of this motion is to deny designation, but he clarified that a recommendation not to designate the property does not go to the Town Council. Mr. Moore’s motion was based upon testimony heard today from Dr. Day and also based upon his site visit. Mr. Randolph also clarified that this property cannot be considered again for designation, unless this property owner or some future property owner requests landmarking in the future.

MS. MURPHY WITHDREW HER MOTION.

THE MOTION WHICH WAS MADE BY MR. MOORE AND SECONDED BY MRS. ALBARRAN CARRIED UNANIMOUSLY.

Let the record show that Mrs. Albarran left the meeting at this point.

IX. COMMENTS OF THE LANDMARKS PRESERVATION COMMISSION AND PLANNING ZONING & BUILDING DEPARTMENT DIRECTOR: (2:37:10 a.m.)

Mr. Page reported that the Board of County Commissioners recently adopted an ordinance pertaining to full disclosure and transparency relative to lobbyists communicating with municipal staff, commission members and elected officials. He distributed a copy of the ordinance to the members. More information will be forthcoming. In the interim, Mr. Randolph asked the members to be precise in their ex parte disclosures.

In response to an additional question, Mr. Randolph discussed the result of an LPC motion not to recommend for designation, especially with regard to administrative res judicata. He re-stated that a designation attempt stops at the LPC level, and does not advance to the Town Council, if the LPC recommends against designation.

X. ADJOURNMENT:

Mr. Cooney adjourned the meeting at 2:53 p.m., without benefit of a motion.

The next meeting of the Landmarks Preservation Commission will be held on Wednesday, May 16, 2012 at 9:30 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,

Edward Austin Cooney, Chairman
LANDMARKS PRESERVATION COMMISSION

cmd