

TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

LANDMARKS PRESERVATION COMMISSION

WEDNESDAY, FEBRUARY 18, 2009 at 9:00 a.m.

AT THE TOWN COUNCIL CHAMBERS, 360 SOUTH COUNTY ROAD, PALM BEACH

Please be advised that in keeping with a directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording (tape or CD) of the meeting by contacting Cindy Delp, Secretary to the Landmarks Preservation Commission at (561) 227-6408. As a point of reference, you will find the recording times listed at various places throughout the minutes.

I **CALL TO ORDER:** Chairman Pandula called the meeting to order at 9:03 a.m.

II **ROLL CALL:**

MEMBERS PRESENT:

Eugene Pandula, Chairman
William Lee Hanley, Vice Chairman
Patrick Segraves, Secretary (arrived just after Roll Call)
Robert Eigelberger, Member
Eileen Bresnan, Member
Hazel Rubin, Member
Charles S. Roberts, Member
D. Imogene Willis, Alternate Member
Dudley L. Moore, Jr. Alternate Member
Wallace Rogers, Alternate Member

STAFF PRESENT:

John C. Randolph, Town Attorney
John S. Page, Director of Planning, Zoning & Building
John Lindgren, Planning Administrator
Jane S. Day, Staff Preservation Consultant
Cynthia M. Delp, Recording Secretary

*Let the record show that a court reporter, Steven Silverman, was also present regarding the Royal Poinciana Plaza.

III APPROVAL OF THE MINUTES OF THE JANUARY 21, 2009 MEETING:

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

IV ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY:
By Mrs. Delp

V COMMENTS FROM THE PUBLIC: (Please limit comments to 3 minutes)
(0:01:17.0)

Attorney **John Eubanks**, on behalf of the Palm Beach Towers Condominium, addressed the commission relative to the question as to whether the Certificate of Appropriateness application for the Royal Poinciana Plaza was properly before the LPC. He maintained that the application was not complete; that the Code, as written, does not allow for this application to be heard; that this application violates the 1979 agreement; and, that a "conditional approval" is not permitted, as the three choices available for any Certificate of Appropriateness application are to approve, deny or defer the application. Mr. Eubanks submitted several exhibits for the record.

Mr. Pandula asked that the issue of procedure be addressed first by anyone from the public and then by staff.

Laurie Volk testified questioning whether the LPC had substantial competent evidence to go forward today with this application. She questioned why staff would elect to "go outside" the requirements of the Comprehensive Plan. She urged the LPC to follow correct procedure.

Lowell Levine apologized for an earlier outburst (prior to the meeting). He explained that he is a tenant at the Royal Poinciana Plaza, a tenant along with several other tenants who are leaving the Plaza in a few days. Other tenants have left the Plaza prior to this and more will leave in the future. "Gentlemen, listen to me. This is the biggest scam that you'll ever see as far as trying to get a playhouse on this premise or the 3/2 vote in November to be reversed." "If they do not get what they want, and listen to me carefully, they are giving the building back to Spiegel." Mr. Levine stated that the Sterling Group does not treat tenants well. He cautioned that the members of the LPC will be individually sued if they approve demolition of the playhouse, and the Town Council would likewise be sued if they decide to reverse the 3/2 decision.

Timothy Frank, Vice President of Pro Technik Management and Consulting Services, testified to his curriculum vitae, and submitted his resume for the record. Mr. Frank echoed the comments of Mr. Eubanks, maintaining that the application, itself, is deficient and not code compliant. Further, the application is not specific enough. He felt the application should be returned to the applicant, and the applicant should return with elevations, plans and

specifications which have been professionally prepared and are suitable for review.

John Grosskopf, General Manager of Palm Beach Towers, felt strongly that the LPC would be opening up "Pandora's Box" if they agree to review this application today. This applicant should be treated no differently than any other previous or future applicant, and should be held to the same standards.

Patrick Flynn, President of the Palm Beach Theater Guild, stated that the mission of the Guild has advanced from saving the playhouse to opening the playhouse. The Guild has a plan for re-adaptive use of the playhouse changing the Theater from a touring house to a regional theater. He stated that if the LPC has jurisdiction over the Plaza, the LPC is allowing demolition by neglect at the playhouse. As such, he advocated the institution of a heavy daily fine to the owners. Mr. Flynn testified that the applicant has not met the threshold requirements to have an application before the LPC, and that the plan submitted completely disregards the action of the LPC and the Town Council for landmark designation of the Royal Poinciana Plaza.

Ned Barnes asked if Mr. Pandula would allow public comments later in this hearing. Mr. Pandula responded affirmatively, but again stated that he would like to handle the procedural issues first.

Bonnie Dearborn, spoke on behalf of the Palm Beach Theater Guild, and specifically regarding the demolition of the theater. She testified as to her qualifications and experience in historic preservation. She maintained that the application is not complete; that it requires zoning and Comp Plan changes; and that she was surprised that the application was before the LPC for review.

John Little, Attorney, representing the applicant, testified that this is a unique project and the applicant is here today in good faith respecting the instructions of the Town Council to come to the LPC for input. The applicants had previously met with staff and were advised to start the process at the LPC level. The applicant recognizes that multiple decisions are required from multiple bodies prior to effecting any plan. He agreed that the LPC has options to approve, deny, or defer an application, but it is also reasonable that the LPC might approve an application with conditions. Staff has developed a list of conditions that the applicant must meet relative to this project. The applicant is seeking approval of this project with conditions for land use, zoning, and the 1979 agreement. The LPC is simply the starting point.

Lillian Jane Volk, former LPC Chairman and widow of John L. Volk, architect of the playhouse, quoted Chief Justice John Roberts of the United States Supreme Court, "Nothing can destroy a government more quietly than its failure to observe its own laws or its disregard of the charter of its own existence." She felt that this was applicable to today's review of the applicant's plan for the playhouse. Mrs. Volk maintained that this Certificate of Appropriateness is being sought for demolition, not preservation, to allow for condominiums and money making. The playhouse has been neglected and allowed to sit empty for many years. Use of the theater has been discouraged by extremely high rental fees. She questioned why the Town has allowed

this neglect to continue for so many years, when other property owners are held to a higher standard. She called for the restoration of the existing playhouse and the entire Plaza, particularly noting that a change in paint color is desperately needed. "The Theater and Plaza was built to be here for us and for our edification of future generations until greedy developers would seize it for their own monetary benefits." She urged the LPC to read her husband's own words relative to the Theater and Plaza (book located at Four Arts library) before making demolition possible.

Judy Goodman, 350 Seabreeze Avenue, testified that she was the original consultant for the theater in 1979 who conducted the feasibility study for a performing arts center in this area. The study was published and ultimately led to the construction of the Kravis Center for the Performing Arts. However, five years earlier, in May of 1974, Mary Stuart Howes, commissioned an earlier feasibility study to develop a new cultural center because the Royal Poinciana Playhouse was deemed deficient in certain ways. The 1974 report found that the playhouse had modest stage facilities which were rapidly deteriorating; the equipment was not in ideal condition; the playhouse will have to be remodeled extensively in the next decade; the theater is beginning to lose money, so the remodeling may be difficult to finance. She asked the LPC to consider this application as a possible correct course.

Victor Principe, resident of West Palm Beach and member of a historic preservation commission in Long Island, New York, referred to this application as fraudulent and incomplete. The fact that the LPC would even consider this application is "symptomatic of what's going on in our country today, and why we find ourselves in the economic mess that we're in. Basically, process is ignored as is the good of the people. It's just thrown off to the side so that people can make as much money as they possibly can..."

Mr. Randolph, Town Attorney, stated that the questions being raised about procedure are legitimate. Ultimately, after very careful consideration, staff determined that the situation in this case is unique, and at least deserving of being passed on to the LPC as to whether to consider a conditional Certificate of Appropriateness or whether further information was needed, or whether some other course of action was appropriate. He noted that the Town Council, in ratifying this property as a landmark, stated that it wanted the LPC to address this situation prior to the Town Council having to give consideration to zoning amendments, Comp Plan amendments, the 1979 agreement, and the like. "After all, it did no good to go down those roads if Landmarks had not given its indication to what it would allow to be done with the property. Second, the staff gave consideration to the fact that a Certificate of Appropriateness will not issue as a result of these proceedings. The most that could happen is the issuance of a conditional Certificate of Appropriateness. In other words, certain conditions, which you will hear from Mr. Page in a moment, would have to be met prior to a Certificate of Appropriateness being issued, and those conditions would not necessarily be in your hands, but in the hands of the Planning and Zoning Commission, the Town Council, and others with the ultimate ability for you to look at subsequent plans after that has taken place, which would be more detailed, and would allow you to make a more informed decision on a final Certificate of Appropriateness." He noted that while some fear the demolition of the playhouse, the 1979 agreement prohibits

demolition of the theater, and even if for some reason, the LPC approved demolition of the theater, the demolition could not occur unless and until the Town Council agreed to amend the 1979 agreement. The same is true for residential construction at the Plaza. No residential construction, even if approved by the LPC, could occur without the Town Council first amending the zoning and the Comp Plan. "So, no action of this commission relating to this application will be final. Indeed, it would be subject to well defined conditions, and well thought out conditions being met. The staff has assembled a list of the types of conditions which would be required to be met if you were to indicate that as a commission you were inclined to grant a Certificate of Appropriateness. You are going to be provided a list of those conditions, but we stress the fact that those may not be the only conditions that should be placed on the property." Mr. Randolph reminded the LPC that the discretion rests with the LPC, but the Town Council and the applicant are looking for some feedback from the LPC. As a quasi-judicial hearing, he asked the LPC to give consideration to the evidence presented and the criteria in the LPC ordinance; to remember that the LPC can request additional information; that the matter could be deferred for more information; and, if the LPC does not feel comfortable issuing a conditional Certificate of Appropriateness, another course of action may be taken.

John Page, Director of Planning Zoning & Building, read the aforementioned conditions into the record. The suggested list of conditions is as follows: (0:38:00.0)

1. State and Town-approved Comprehensive Plan amendments that allow for all proposed redevelopment.
2. Town Council approval of re-zoning of the site to accommodate all anticipated land uses.
3. Building height compliance with newly-adopted regulations.
4. Residential density compliance with newly-adopted regulations.
5. Conformance with Town-approved off-street parking regulations and/or variance(s) approval.
6. Compliance with all applicable Town Codes and/or variance(s) approval.
7. Satisfaction of traffic concurrency requirements from the Town and County.
8. Town Council approval of required site plan, special exceptions or variances needed, and a traffic circulation plan.
9. Application submission and Landmarks Preservation Commission approval of all architectural elements, including style, scale, design and general arrangement, all requirements related to historic preservation; massing and spatial relationships of all buildings; all exterior building treatments, including, but not limited to materials, type and style of roofs, windows, doors and signs; landscaping and exterior lighting plans; and conformance to all applicable Code provisions and/or variance(s) approval.
10. Town approval of drainage and paving plans.
11. Conditional approval of Certificate of Appropriateness does not limit the Landmarks Preservation Commission from altering or attaching additional conditions at time of final approval.
12. Commencement of construction within five (5) years of issuance of a conditional Certificate of Appropriateness or approval by the Town Council of an extension of time.
13. Provision of status reports to the Landmarks Preservation Commission at least every six months.
14. Issuance of Certificate of Appropriateness applies only to applicant, (Sterling Palm Beach, LLC, Sidney Spiegel TR #31520371 and Island Properties of Palm Beach, Inc.) and may not be assigned without Town Council approval.
15. Execution of Agreement from applicant that issuance of a Conditional Certificate of Appropriateness, and all subsequent approvals do not constitute "additional development opportunities" as referenced in the 1979 Agreement, until all parties are in concurrence as to the changes in the agreement. Any future amendment of the 1979 Agreement shall be in the sole and absolute discretion of the Town Council.
16. The Town Council reserves the right to modify or add conditions related to this project, at any time during consideration of subsequent approvals.

17. In consideration of the phasing of the development, bonds in an amount satisfactory to the Town Council will be required to ensure completion of the project.

At this point, Mr. Hanley questioned why this matter was not carried on the agenda as an Informal Review, rather than a Certificate of Appropriateness, as a means to discuss the issues and offer feedback regarding the project to the applicant and the Town Council. He stated that he could not recall, in his tenure on the LPC, any other occasion where the LPC suddenly had such a large scale project before them for Certificate of Appropriateness, without having first had an Informal Review of the matter. He suggested that this matter be reviewed as an Informal Review today as a way to proceed. Mr. Randolph responded that there is no reason to prevent the LPC from handling this item as an Informal Review today. Mr. Hanley's comments represent the commencement of a lengthy discussion by the members as to whether to review the matter as an Informal Review, or review it as a Certificate of Appropriateness, recognizing that a deferral would be highly likely. (Individual comments can be heard via the meeting audio.) Chairman Pandula commented that the advantage of reviewing this project as an Informal Review is that it eliminates the issues concerning process or procedure, and as such, is fair to all other applicants. The conversation regarding the project will be the same regardless of whether it is an Informal Review or a Certificate of Appropriateness.

Addition to these Minutes as approved at the March 18, 2009 meeting:

Mr. Hanley requested that there be an addition to the February 18, 2009 Minutes reflecting that he had expressed concern that if the LPC heard the matter of the Royal Poinciana Plaza as a Certificate of Appropriateness, based upon an application which was considered incomplete, the LPC might be subject to legal challenges. He felt this was the main reason that the LPC voted to hear the application informally, and not as a Certificate of Appropriateness.

The commission took an informal vote on how to proceed, as follows: (1:00:42.0)

Mr. Roberts:		Conditional (Formal Review)
Mrs. Bresnan:	I	Informal Review
Mr. Segraves:		Formal Review
Mr. Pandula:	I	Informal Review
Mr. Hanley:	I	Informal Review
Mr. Eigelberger:		Formal Review
Mrs. Rubin:		Informal Review

4 Informal vs. 3 Formal. The matter will be reviewed as an Informal Review today.

VI APPROVAL OF THE AGENDA: (1:02:41.3)

Mr. Pandula noted that since the agenda was published, another item has been added to Other Business, that is placing 271 El Vedado Road "Under Consideration" for landmark designation.

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

At this point, Mr. Kosoy of the Sterling Group, asked for a 10 minute recess to confer with his associates as to how they want to proceed. That time was offered to the Sterling Group, but the agenda moved forward on to "Other Business", and then on from there, out of the regular order.

VIII **OTHER BUSINESS:** (1:03:54.0)

A. Discussion related to the National Register Nomination of the Palm Beach Hotel

Mrs. Day noted that Michael Zimny has taken over as the Certified Local Government Chairman at the Department of State Division of Historical Resources. A National Register nomination for the Palm Beach Hotel is on their docket. Since the Town of Palm Beach is a Certified Local Government, the State is asking the LPC to comment regarding whether or not the building is worthy of listing on the National Register of Historic Places. The building is already locally landmarked. Residents of the Palm Beach Hotel are in support of the nomination.

Mr. Rogers, a resident at the Palm Beach Hotel, stated that the condo's residents are solidly behind the National Register nomination.

MOTION BY MR. EIGELBERGER THAT THE LANDMARKS PRESERVATION COMMISSION IS IN FAVOR OF THE NATIONAL REGISTER NOMINATION OF THE PALM BEACH HOTEL.

**MOTION SECONDED BY MRS. BRESNAN.
MOTION CARRIED UNANIMOUSLY.**

B. Staff update: Conditions at Publix parking lot (1:06:48.1)

Mr. Lindgren stated that since the last meeting, he has been in contact with persons at Publix. He has told them that they need to tell the Town how they plan to increase the landscape buffer at the site, and to indicate when this work would be done. Mr. Lindgren will continue to press Publix for an answer, and failing that, it may become a Code Enforcement issue.

C. Staff update: Conditions at West Palm Beach Pumping Station at Coral Cut (1:08:53.7)

Mr. Lindgren stated that a previous staff approval was found for landscape at this site, though he has not had an opportunity to make a site visit to confirm its installation. Since the property from the building eastward belongs to the Town, Mr. Lindgren will contact Public Works to determine who is responsible for the landscaping.

- D. 271 El Vedado Road - placement "under consideration" for landmarking
(1:10:04.8)

Mr. Pandula stated that the property owner supports a landmark designation for this property. This is a Mediterranean Revival home from the early 20's which is in pristine condition, and which appears to be an E. B. Walton design.

MOTION BY MR. ROBERTS TO HAVE MRS. DAY CONTINUE TO STUDY THIS PROPERTY AND TO PLACE 271 EL VEDADO ROAD "UNDER CONSIDERATION" FOR LANDMARK DESIGNATION.

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

Mrs. Day reminded the members that three new Designation Reports have been distributed to them for designation hearings which will occur at the March LPC meeting. She also noted that the property at 450 Royal Palm Way will have its Designation Ratification hearing at the Town Council meeting in March.

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

(1:12:42.9)

Mr. Page stated that due to the ongoing remodeling of Town Hall, meetings which are normally held in the Town Council Chambers will be held offsite. **Beginning in April, the Landmarks Preservation Commission meetings will be held at the Preservation Foundation at 311 Peruvian Avenue, and the meetings will begin at 9:30 a.m.**

MOTION BY MR. EIGELBERGER APPROVING THE CHANGE IN MEETING TIMES.

**MOTION SECONDED BY MRS. BRESNAN.
MOTION CARRIED UNANIMOUSLY.**

(1:13:54.3)

Mr. Pandula announced that this meeting was Mr. Segraves' last meeting due to term expiration. Mr. Segraves was recognized for his service and contributions to the commission and the Town. Mr. Segraves received a round of applause.

(1:15:00.0)

Mr. Page reported that both the United States Post Office and 236 Worth Avenue (Facade Only), two LPC recommended designations, were ratified as landmarks by the Town Council.

(1:15:28.5)

John Ripley, Preservation Foundation, brought up the subject of the Seagull Cottage. He noted that part of the agreement that the Preservation Foundation and the LPC made with the Chapel was that Seagull Cottage (now under temporary landmark designation) would be upgraded to landmark status for perpetuity. The existing temporary designation was for a period of 25 years and will expire in 2010. After discussion, it was determined that a new report should be done, and the designation hearing process should be followed.

MOTION BY MR. EIGELBERGER TO PLACE SEAGULL COTTAGE "UNDER CONSIDERATION" FOR LANDMARK DESIGNATION.

**MOTION SECONDED BY MRS. RUBIN AND MR. ROBERTS SIMULTANEOUSLY.
MOTION CARRIED UNANIMOUSLY.**

V COMMENTS FROM THE PUBLIC: (Please limit comments to 3 minutes)

(1:19:00.0)

Ned Barnes, Palm Beach Civic Association, (PBCA) submitted a statement from the association, for the record, regarding the Royal Poinciana Plaza project. He thanked the members of the LPC for taking on this challenging assignment for this very important location in Town. The PBCA "believes the developer's plan for redevelopment of the Poinciana Plaza has merit and deserves further study," but "does *not* contain sufficient detail to make informed decisions about the Plaza's future. Therefore we urge the Landmarks Preservation Commission to (1) accept these proposals as a good starting point for further negotiations, (2) require additional information from the developers, and (3) engage in negotiations on a firm time line hopefully to reach an agreement that provides maximum benefits and protection for Palm Beach residents." Please note that the submitted statement also includes concerns regarding height, density, and visual appearance issues, waterfront access issues, theater issues, and development concerns. (Copy of statement on file at the Planning, Zoning & Building Department)

Bill Metzger, 277 Esplanade Way, testified to his background and experience in the performing arts. Mr. Metzger read an e-mail he had sent to the Town Council via Councilwoman Coniglio last November wherein he offered his assistance "in a task force or advisory group to help coordinate the interests of the Town, the owners and developers, performance groups, and Town's people with the purpose of achieving a mutually satisfactory solution for such a venue."

Rena Blades, CEO for the Palm Beach County Cultural Council, stated that local theater experts have examined the current theater and believe that "it is not a model that can operate in a sustainable manner due to the number of seats and the aged condition." She commented that an appropriately sized theater which respects the Town's history would be preferable and feasible. She urged the LPC to contract for an independent study on the feasibility of the theater.

Anthony J. Palmerio, gave this credentials with regard to the performing arts. He spoke regarding a recent *New York Times* study of regional historical theaters which he felt should be

read by all parties concerned. He noted that in every instance the theater's budget was grossly exceeded. He maintained that an increase in theater size does not necessarily yield an increase in quality. Mr. Palmerio stressed the importance of good theater management.

At this point, Mr. Pandula felt it would be appropriate to move on to the actual Public Hearing for the Royal Poinciana Plaza. To repeat, the matter was being heard on an informal basis only.

VII **PUBLIC HEARINGS:** (1:30:16.0)

A. Application for Certificate of Appropriateness #2-09,
Restoration/Construction of New Buildings/Demolition (interior)
Demolition (exterior)

Owner/Applicant: Sterling Palm Beach, LLC (Lessee) and
Sidney Spiegel TR #31520371 and
Island Properties of Palm Beach, Inc.

Address: 340 Royal Poinciana Way
The Royal Poinciana Plaza

Architect: Ann Beha Architects

Project Description: As follows:

Request approval for restoration, construction of new buildings, demolition (interior) and demolition (exterior) which is further described as: Demolition: Based upon the existing site plan, we intend to demolish: (I) all but the eastern decorative facade of the Theatre; (ii) the Celebrity Room; (iii) the Hibel building; (iv) the Slat House* and (v) the Gucci building. Construction: We intend to build in the location of the Theatre, Celebrity Room and Hibel buildings the following: (I) a waterfront park that will be accessible via the Volk Playhouse Gateway which utilizes the eastern facade of the existing theatre; (ii) two five-story Crescent residential buildings (one of which will contain a ground level waterfront restaurant) and (iii) a Banyan residential building overlooking the new Banyan Park designed around the historic Banyan tree (Mysore Fig). In the location of the Slat House, we intend to build (I) a new 350 seat performing arts venue with office space above, (ii) a multi-level parking garage with underground parking and (iii) the mixed-use Golf View building (also with underground parking). The Gucci building will be replaced with a fountain in connection with upgrading the landscape area between the two parallel buildings. The two parallel buildings will remain intact and be restored and revitalized. (*the Cupola on the Slat House will be saved and used on a gazebo elsewhere on the property.)

Just after Mr. Pandula read the Project Description, Mr. Roberts brought up the subject of the independent feasibility study for the theater which has been recommended by the Civic Association and others. Mr. Pandula stated that he had spoken in support of such a study to the Town Council last week. At that time, the Town Council instructed that the LPC should proceed with today's meeting. Mr. Moore also supported the idea of an independent study, and brought up the issue of who would fund the study. Mr. Pandula noted that it had been suggested that the

costs of such a study be split between the Town, the Theater Guild, and the applicant, if the study is needed. It was further suggested that all parties would have to agree to be bound by the determination of the study. Mr. Pandula reiterated that the Town Council has asked the LPC to proceed as best as possible, without an independent study having been done. Mr. Randolph interjected that the LPC can recommend such a study to the Town Council at any point.

Mr. Randolph asked the applicants if they have made a determination as to how they wish to proceed.

John Little, Attorney for the applicant, stated that they are here today per the Town Council's directive to begin the dialogue. He asked whether, at the end of today's presentation, the members would give feedback to the applicant. If so, the applicant will proceed with the presentation. Without receiving any feedback, making the presentation would be for naught. Mr. Pandula assured Mr. Little that feedback would be given.

At this point, there was a short recess from 10:45 a.m. to 10:57 a.m., at which point the meeting was reconvened. (1:41:25.2)

CALL FOR DISCLOSURE OF EX PARTE COMMUNICATION

Mr. Roberts: Spoke with Pat Flynn, the Sterling Group and their consultants; has met with Palm Beach Towers and Tim Frank and John Grosskopf, and many in the audience over the last several months.

Mrs. Bresnan: Met with the same persons and groups as Mr. Roberts regarding the project.

Mr. Segraves: Met with Adam Kosoy and David Munder at the site.

Mr. Pandula: Met with the Sterling Group at the site; met with the Palm Beach Towers Condominium Association; several phone calls from Pat Flynn; and received copies of correspondence from the Palm Beach Theater Guild, the Volk Foundation, and Mr. Eubanks from Moyle, Flanigan, and received two telephone calls, one from Mr. Levine, and one from Rachel Lorentzen.

Mr. Hanley: Has met with the Sterling Group; has spoken with the Theater Guild; has met with Palm Beach Towers; has had conversations with the Preservation Foundation; and has spoken with many persons in the audience over the last two years.

Mr. Eigelberger: "Well I guess I've done all those as well. Ditto"

Mrs. Rubin: Has met with the Palm Beach Towers Group and has spoken with John Grosskopf and Tim Frank; has met with the Sterling Group at the theater and at their offices

Ms. Willis: "I too have talked with all of these people including the Towers Condominium and have had heavy duty correspondence regarding the theater and the Sterling Group, and have investigated it at great length.

Mr. Moore: Spoke with the Sterling Group at the site

Mr. Rogers: Visited the site independently and has also gone through the theater with the Sterling Group and over the past several months.

Lee Munder stated that he and his family and the Sterling Group are partners in the Royal Poinciana Plaza, and are here to preserve and honor the past, and revitalize the future of the

Royal Poinciana Plaza. He noted that he and his associates were present today at the specific encouragement of the Town Council, many civic groups and neighbors. Mr. Munder requested no favors or special treatment regarding this project, but requested guidance to go through the process, and feedback from the commission on this conceptual plan. He added, however, that since they have contracted with many experts to provide today's presentation, they would like to proceed without additional costs. As such, Mr. Munder remarked that it was an undue burden to ask the applicant to pay for the suggested independent study. He stated that he and his associates are looking for some sort of commitment (from the Town) , and are seeking a "win for the community."

Mr. Munder introduced Ann Beha, architect for the project, and provided some background information on Ms. Beha and her award winning architectural firm, which has worked extensively with performing arts venues.

Ann Beha, Architect, introduced other members of the team as follows, and addressed the scope of this type of project.

Morgan Wheelock, Landscape Architect for the project
Duncan Webb, Webb Management Services, Feasibility Consultant
Stephen Placido, addressing technical issues regarding the Theater
Steve Ryan, Venue, Performing Arts Cost Estimators

Duncan Webb, Webb Management Services, stated that he is a management consultant for the development and operation of performing arts facilities. He noted that this is the third time he has been re-engaged on this building, the first in 2002 by the Civic Association, the second in 2004 by Mr. Cohen who had ideas for the site, and third, currently by the Sterling Group. He made it clear, for the record, that his firm has no vested interest in the outcome of their work. After study of the Royal Poinciana Theater in its existing size and condition, and with options to utilize the existing building in its current form, utilize the existing building after major modifications, or build a new Theater facility, Mr. Webb advocated for a 250-350 seat venue which would be very flexible as to use (live performance, film and special events). This would either require a major modification to the existing building, or a new facility. He presented a Power Point presentation of his study findings. (Paper copy available at Planning, Zoning & Building Dept.) " A smaller and more flexible space is the answer."

Stephen Placido, Vice President of TSG Design Solutions, Theater Consultants, provided his experience and background in the performing arts. He was hired by the Sterling Group to assess the feasibility of renovating the playhouse and some of the theater systems. It was Mr. Placido's opinion, after study, that due to the theater's architectural and technical limitations, the existing facility will no longer support modern theater. Renovation would be costly and not viable at current seating capacity. He presented a Power Point presentation of his study findings. (Paper copy available at Planning, Zoning & Building Dept.)

Steve Ryan, Venue, Performing Arts Cost Estimators, provided his experience and background in the performing arts. After study, an overall project cost was determined to be between

\$13,900,000 to \$ 17,500,000 to renovate the existing theater for its 800+ seats.

Ann Beha, Ann Beha Architects, presented a lengthy Power Point presentation dealing with the architectural aspects of the project. (Paper copy available at the Planning, Zoning & Building Dept.). The project features as outlined are as follows: A dignified entry to the Town of Palm Beach; a successful arts venue; green space and gardens; restored buildings; access to the waterfront; improved parking; a vibrant center for the community; and compatible new construction. She spoke at length regarding the history of the site and the playhouse, and the existing condition of the buildings and site.

Let the record show that Mr. Rogers left the meeting at 11:50 a.m.

Morgan Wheelock, Morgan Wheelock Landscape Architects, stated that he studied the architectural style at the site, Regency architecture, and landscaping of the Regency period (late 18th century/early 19th century) to develop the landscape plan for the site. Landscape of the Regency period is very geometric. The landscape plan, as developed, focuses on four different areas: 1) Opening the view to the waterfront and producing a garden; 2) Create an oval entryway on the North with an allee view through to the south facade; 3) Create a park around the existing Banyan tree; and 4) Attempting to invent a dialogue between Cocoanut Row and the facades of the buildings and Royal Poinciana Way and the central facade of the Volk building.

Ann Beha, Architect, discussed the proposed uses for the site as follows: 350 seat playhouse; valet, underground and deck parking; minimal surface parking; gardens, green space and waterfront access; waterfront restaurant; Town serving retail and office space; and no more than 30 luxury residences.

Morgan Wheelock, Landscape Architect, continued with his presentation, reviewing the proposed site and arrangement of proposed buildings. Mr. Wheelock presented a Power Point presentation. (Paper copy available at Planning, Zoning & Building Dept.) Residential buildings are found on the perimeter of the site, two at the lakefront, one at the Banyan tree park, and one at the southeast corner overlooking the Breakers Golf Course. Commercial buildings are located in the center of the property. The proposed playhouse and parking structure are located at the south side of the property between the Banyan Park and the Golfview Building. Various garden areas have been created, along with the new Banyan Park and the new park along the lake. The bike path winds through the north edge of the site. Parking lots are richly landscaped. The proposed playhouse spills out onto a palm studded terrace which melts into Banyan Park. Various water features are proposed for the site, three in the middle commercial area, one at the oval entrance off Royal Poinciana Way, one along the lake between the two residence buildings, and one to the west of Banyan Park. Mr. Wheelock referred to this project as "an amazing gift to the Town" which increases the landscaped area from 3.1 acres to 6.7 acres.

Ann Beha, Architect, returned to the podium to continue with the Power Point presentation relative to the existing and proposed theater. (Paper copy available at Planning, Zoning &

Building Dept.) She reviewed an ample assortment of photographs of the various facades and exterior views of the existing Royal Poinciana Playhouse. The newly proposed theater, with reduced 350 seat capacity, would be adjacent to a parking structure, and would provide a venue for theater performance, music performance (live jazz, chamber music, vocalists), dance, film (film series, special presentations), lectures, Town and community meetings, and cabaret performance. She continued with the presentation discussing Building Restoration of existing main commercial buildings. The proposal would bring back the open, axial walkways, original paint color, awnings, and many of the window designs. The articulated Regency facade of the existing playhouse will become an arched gateway to the lakeside park and garden area. Moving on to the residence buildings, Ms. Beha stated that each of the buildings will hold 6-8 residential units. They will be five-story buildings with a solid stone base. A waterfront restaurant will occur on the first floor level of the northernmost residence building along the lake. Only preliminary colored renderings were shown as a final design is yet pending. Ms. Beha presented an animated walkthrough of the site from a person's perspective. This concluded the applicant's presentation.

Let the record show that Mr. Moore left the meeting at this point.

Mr. Pandula congratulated the design team on a very sophisticated and articulate presentation. He asked for comments and questions from the LPC members.

Mr. Roberts: Commented that the Town is so lucky to have this design team doing something so fantastic for the Town; the proposal recognizes the architect, John Volk, for the great buildings at the site, but replaces the existing playhouse which is not architecturally significant; really likes the plan with its increased green space, but admits some revisions to the plans may be necessary; the applicant needs direction from the LPC; the Sterling Group did not run this building down; as a taxpayer and citizen, he would like to enjoy the Plaza again.

Mrs. Bresnan: Commented that she is concerned about density and height issues; the condos look massive with 5 stories; questioned the safety of underground parking with respect to water issues; will there be doormen for the buildings?; where do cars for the residences go?; would like to see some strong assurance, prior to removing the existing theater, that the theater will be done in advance of the condos.

Mr. Segraves: Commented that he likes the conceptual plan; also concerned regarding height of condos and density; need more study on Cocoanut Row entrance; need study regarding softness of landscape against Lake Worth; likes the concept; likes the direction; applauds the design team.

Mr. Pandula: Agrees with most of what's been said already by other commission members; this is classic example of pure architectural historic preservation fighting reality, viability, and modern day use; the design shows a good understanding of Regency design; has concerns about demolition of the existing theater; has questions regarding massing and height of the proposed residences; has questions about activities at the south edge of the property; on the whole, a really

nice job.

Mr. Hanley: Commented that this was well thought out; very concerned about massing the of the two west residences...they are overpowering and detract from the remaining element (per the proposal) of the existing theater, the articulated facade; concerned about how the plans for the bridge impact especially the north edge of the property as proposed; the parking garage is a problem for many people, especially women, due to security issues; questioned whether the park along the lake will be deeded to the Town; if so, who maintains it and provides security for it?; as a whole, an extraordinary exercise; good job to date; as for the existing theater, everyone can hire their own expert; had the theater been properly maintained, it may have been leasable; putting the Theater aside, compliments to the design team for a very well presented architectural and development exercise.

Mr. Eigelberger: Questioned the square footage volume existing vs. proposed; asked about footprint comparisons also; concerned about parking on roof level of parking garage; inquired about whether all walls of parking garage will be "green"; will parking be paid or free; renting the theater is not our job; we are design consultants for the Town Council, and our job is to preserve the best of the architecture in the Town; this group has done a brilliant job; three sides of the existing theater are very ugly; this is a great plan for a property which is an eyesore now, the green space is being doubled, and parking is going underground; it's a great plan.

Mrs. Rubin: Works at the Royal Poinciana Plaza and would love to see something beautiful there; the plan is brilliant; there is a point at which things become obsolete; the proposal will improve Palm Beach; be sensitive to Palm Beach Towers; concerned regarding cars on Cocoanut Row; concerned about how the bridge will affect the landscape plan; a beautiful and welcoming plan; a nice design for outdoor seating; a win/win situation; looks forward to working with the applicant to tweak the plans as needed.

Mr. Pandula asked the applicant if the design team has heard sufficient comments from the commission. Mr. Kosoy responded affirmatively, and that they will address the issues mentioned and look forward to working with the LPC in the future.

*The meeting recessed for lunch and reconvened at 2:05 p.m.
All members returned to the meeting, except Mr. Rogers and Mr. Moore.*

Comments from the Public: (3:27:00.0)

Patrick Flynn, Palm Beach Theater Guild, stated that the Guild has a business plan for Re-adaptive Use of the Playhouse to change the theater from a touring house to a regional subscription theater. (This was submitted for the record, but it should be noted that the LPC members had never seen it.) Mr. Flynn stated that Mr. Webb never addressed such a re-adaptive use business model in his presentation earlier. Also, Mr. Webb only spoke about Town-serving with regard to the theater. Mr. Flynn maintained that a regional theater allows forecasting of income and expenses. It would be an Equity facility, but would not have union tech people and

stage hands which would serve to cut expenses. The Guild has already lined up performance partners to use the playhouse at its existing 800+ seats (Palm Beach Atlantic University, ballet, symphony, opera). Mr. Flynn would like to have his contractor, Conkling & Lewis, come in to discuss upgrades to the theater. The contractor has given him an estimate of the amount of money it would take to get the theater open and running. Most of this money has already been raised. The Guild's plan restores the existing theater, and Mr. Flynn requested a chance to do just that. He noted that the covenant requires that the theater be maintained and leased. Mr. Flynn maintained that this is a beautiful theater and it is needed in the Town; and, that the Guild has a good plan for the theater and it will work if they are given a chance.

At this point, Mr. Roberts questioned Mr. Flynn's low estimate to renovate the theater, since Mr. Roberts' own contractor had provided him a similar estimate for the theater which contrasted sharply. Mr. Pandula noted that this is precisely why an independent feasibility study is needed...one which compares "apples to apples", which according to Mr. Pandula, the two cost comparisons do not. Mr. Flynn was advised to take another look at his figures for future conversations.

Bradford Kenney, Executive Artistic Director of the Ogunquit Playhouse in Ogunquit, Maine, stated that the Ogunquit has 700 seats and is experiencing enormous growth in budget, sponsorship, and audiences. Similarly, to the Royal Poinciana Playhouse, the Ogunquit is an old building, and it had similar issues with technical systems needing to be updated. Shows running at the Ogunquit are adapted for the facility's current capabilities, using creativity and ingenuity. He noted that if the Royal Poinciana requires improvements, not all of the improvements need to be done at the same time. As with the Ogunquit, the community will have to come together to achieve the theater that Palm Beach deserves. He offered his assistance to the Guild as they proceed.

Paul Noble, 2175 Ibis Isle Road, stated that Palm Beach is missing a venue for premiers, film festivals, and special events. He recommended a two step introduction of film to the Royal Poinciana Playhouse, to be interspersed between stage productions, ballet, symphony and opera. He felt that \$150,000 would cover the cost to make film a reality at the playhouse with updated technology.

Bonnie Dearborn, returned to the podium on behalf of the Palm Beach Theater Guild. She submitted a report for the record entitled *The Local Historic Designation of the Royal Poinciana Playhouse and Royal Poinciana Plaza* by Ellen J. Uguccioni. Ms. Dearborn stated that she studied the Town's LPC ordinance with respect to demolition. She noted further that the playhouse, in and of itself, meets all 4 criteria for landmark designation, as prescribed by ordinance, and this should be given careful consideration prior to entertaining a plan to demolish it. Ms. Dearborn discussed Volk's design of the theater, both interiorly and exteriorly. "It's still an elegant building, despite all the changes." "It is one, if not the only one, performing arts theater of its size in the region that embodies outstanding qualities which exhibit not just a specific Regency architecture, but aesthetics, technical functionality, and celebratory history." Ms. Dearborn urged the LPC to move on the path toward a serious rehabilitation of the theater.

① Cost estimates for that rehabilitation will be much higher if the goal is full ADA compliance, but Ms. Dearborn noted that because of the theater's landmark status, only partial compliance may be required. In conclusion, Ms. Dearborn stated that salvaging only the east facade of the theater is an insult to John Volk; that the property owner violated the 1979 agreement by not maintaining the theater and keeping it viable; and, that the existing theater should be incorporated into the new development.

Mr. Pandula raised the question as to where the responsibility lies when a building is not fully ADA compliant. This question requires further investigation.

Pam Henderson, resident of Lantana who is employed at 300 Royal Palm Way, spoke on behalf of the Palm Beach Chamber of Commerce Board of Directors. She stated that all 15 members unanimously support the applicant's project because it will improve the area's appearance, provide a new cultural venue, and compliment and energize the retail area.

John Ripley, Preservation Foundation, applauded the LPC for their approach to this matter; thanked Mr. Segraves for his service to the LPC; and, noted that this is a great first step in this review process. He cautioned them to move forward judiciously and to not take any action that would be precedent setting. He wondered what the next step would be for the Sterling Group. **Mr. Roberts** stated that he wondered that as well and would like to hear from the Sterling Group as to how they will proceed.

① **Robin J. Disston**, Greenwood Drive in West Palm Beach, stated that as a builder, he is concerned about "digging a hole in the ground for parking" in light of the water table. As such, he felt a full report relating to that subject would be in order. The ultimate height of the parking structure will be impacted by how far down the building can be placed. He felt that the parking structure should have a facade all the way around it so that the residents of the Palm Beach Towers are not impacted by squealing tires and headlights. While he complimented the presentation made by the Sterling Group, he noted that it concentrated on use of the theater by Palm Beach residents. Mr. Disston maintained that persons who reside in other neighboring communities will also patronize the theater in Palm Beach.

Laurel Baker, Palm Beach Chamber of Commerce, focused on "tourism, town-serving, and tomorrow" along with tolerance. "There's nothing here that people want to come to, and if the businesses start closing down, you have no town-serving. It's a domino effect. Wherever the people come from, let them have something to come to." She asked the LPC to remember that the project concerns more than the theater. It concerns 12 acres of potential income for a Town complaining about an insufficient budget. She stated that if someone is willing to make such an investment into this site, the LPC should not tolerate arguments that say that the investor should not be allowed to make money. "Have a good time with this because you can really establish yourselves as the true leaders of this community."

① **John Grosskopf**, General Manager of Palm Beach Towers, attempted to clear up some information. He noted that the Palm Beach Towers has only 6 stories, not 7 as presented by the

applicant. He gave a quick presentation of the Plaza through the eyes of Palm Beach Towers, referencing the applicant's proposal. He made several points as follows: Green space as presented will be impacted by changes to the bridge; proposed buildings look too massive; the public park along the lake is a major security problem for Palm Beach Towers; the residence west of Banyan Park, Banyan Park, the performing arts center, and the parking garage are right at the property line; "they put their back yard right in our front yard;" the four-story parking garage with open sides is a source of sound, smoke, lights; persons exiting the theater will use the small exit out onto Coconut Row which will cause a traffic jam during rush hour; the Towers was there two years prior to the Plaza; the implementation of this proposal will decrease the property values at Palm Beach Towers, and will negatively impact the tax base of Palm Beach. **Mr. Roberts** acknowledged that Mr. Grosskopf has made many good points, and the Sterling Group needs to address these concerns.

Rachel Lorentzen, 216 Garden Road, explained that she has an arts and real estate background. She stated that "the arts are a very important part of a sophisticated community." She noted that the Sterling Group are good citizens, residents of the Town and care about the community; that they may have paid too much for the property; the Town should want to have the arts as a focal point; there will have to be a compromise of some sort to keep the arts on site and still allow the site to be profitable; this is not the time to tear down wonderful, old buildings...they should be refurbished; the owner needs help too; "I hope that we can come to a good solution for all, but not a quick solution to tear down something that we will later be sorry we lost."

Patrick Flynn stated that the Guild would like access to the theater so their contractor can fully assess the extent of rehabilitation needed.

Laurie Volk, Vice Chairman of the John L. Volk Foundation, entered a letter from the John L. Volk Foundation into the record (letter previously distributed to LPC) which objects to the hearing today. She referred to the LPC ordinance and the 1979 agreement and urged the LPC to take action to stop the demolition by neglect of the playhouse. Referring to the applicant's presentation, Ms. Volk noted that the theater at the Society of the Four Arts and the newly renovated Parker Playhouse were not included. "What is happening here today is the fact that we are asked to overlook the fact that there are rules and regulations and they are all there before you." Ms. Volk contended that the applicant did not present substantial competent evidence that is required for a quasi-judicial hearing. She maintained that the process is flawed, whether formal or informal; that the theater building should be brought up to minimal standards, before continuing to talk about this project; "let's truly work together in the Sunshine; "this should not be an act that is considered arbitrary and capricious."

Brian Kosoy responded that they have spent money on the Theater building to maintain it, keep it air conditioned, and water tight. He noted that for the last six months, the Sterling Group has not had as much communication as they would have liked with the Towers, that is, until yesterday when he felt there was a productive meeting. He hoped it would be the first of many to work through the issues.

Mr. Roberts brought up the issue of whether the underground parking will be possible. Mr. Kosoy responded that it is possible, but quite expensive. Currently, the plan includes the garage going one story under grade, but engineering is pending. Mrs. Brennan remarked that existing underground parking in the Town has its problems with flooding.

John Eubanks, Attorney, entered his letter dated February 13, 2009 into the record.

Mr. Pandula, was assured by Mr. Kosoy that the LPC had provided the feedback they needed. Mr. Kosoy thanked the LPC for their efforts today. Mr. Pandula advised them that at such time that they need LPC input in the future, they should get on the LPC agenda and come back to the LPC. Mr. Kosoy was unsure what their next step will be or is required to be. Mr. Pandula stated that the LPC had gone as far as they could go today.

X **ADJOURNMENT:**

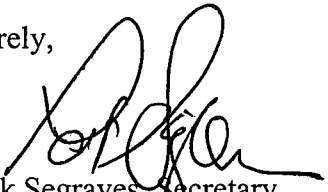
MOTION BY MR. HANLEY FOR ADJOURNMENT AT 3:30 P.M.

MOTION SECONDED BY MR. EIGELBERGER.

MOTION CARRIED UNANIMOUSLY.

The next meeting of the Landmarks Preservation Commission will be held on Wednesday, March 18, 2009 in the Town Council Chambers, 2nd floor, 360 South County Road, Palm Beach.

Sincerely,


Patrick Segraves, Secretary
LANDMARKS PRESERVATION COMMISSION

cmd

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

ATTENDANCE RECORD 2009

MEMBERS	1/09	2/09	3/09	4/09	5/09	6/09	7/09	8/09	9/09	10/09	11//09	12/09
Eugene Pandula	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
William Lee Hanley Jr.	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Patrick Segraves	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Robert Eigelberger	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Eileen Bresnan	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Hazel Rubin	<u> U </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Charles S. Roberts	<u> P </u>	<u> P </u>	<u> P </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

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

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

RECORD OF VOTING CONFLICTS 2009

[illegible][illegible]

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